



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

ព្រះរាជាណាចក្រកម្ពុជា  
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង  
Trial Chamber  
Chambre de première instance

**ឯកសារដើម**  
**ORIGINAL/ORIGINAL**  
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TRANSCRIPT OF TRIAL PROCEEDINGS

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Case File N° 002/19-09-2007-ECCC/TC

3 February 2016

Trial Day 368

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

The Accused: NUON Chea  
KHIEU Samphan

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

Trial Chamber Greffiers/Legal Officers:  
CHEA Sivhoang  
Matthew MCCARTHY

Lawyers for the Civil Parties:  
CHET Vanly  
Marie GUIRAUD  
HONG Kimsuon  
LOR Chunthy  
SIN Soworn  
VEN Pov

For the Office of the Co-Prosecutors:  
Vincent DE WILDE D'ESTMAEL  
Travis FARR  
Nicholas KOUMJIAN  
SREA Rattanak

For Court Management Section:  
UCH Arun

I N D E X

Mr. MEAS Voeun (2-TCW-1008)

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**List of Speakers:**

Language used unless specified otherwise in the transcript

Speaker	Language
Mr. DE WILDE D'ESTMAEL	French
Judge FENZ	English
The GREFFIER	Khmer
Ms. GUIRAUD	French
Ms. GUISSE	French
Ms. IN Yoeung (2-TCW-849)	Khmer
Mr. KONG Sam Onn	Khmer
Mr. KOPPE	English
Mr. KOUMJIAN	English
Judge LAVERGNE	French
Mr. LOR Chunthy	Khmer
Mr. MEAS Voeun (2-TCW-1008)	Khmer
The President (NIL Nonn)	Khmer
Mr. SREA Rattanak	Khmer

1

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

2 (Court opens at 0905H)

3 MR. PRESIDENT:

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

5 Today, the Chamber will hear the remaining testimony of Meas

6 Voeun in the morning, and for the afternoon session, we will hear

7 the testimony of In Yoeung, as she could not continue her

8 testimony last week due to health reasons.

9 The Chamber would also like to inform the parties that the

10 hearing of In Yoeung is scheduled for one day. However, today,

11 the morning session is dedicated to Meas Voeun, so the hearing of

12 In Yoeung testimony will continue to tomorrow morning so that we

13 could conclude her testimony.

14 Greffier, please make -- report the attendance of the parties and

15 other individuals at today's proceedings.

16 [09.07.54]

17 THE GREFFIER:

18 Mr. President, for today's proceedings, all parties to this case

19 are present.

20 Mr. Pich Ang, the National Lead Co-Lawyer, is absent for personal

21 reasons.

22 Mr. Nuon Chea is present in the holding cell downstairs. He has

23 waived his right to be present in the courtroom. The waiver has

24 been delivered to the greffier.

25 The witness who is to conclude his testimony today -- that is,

2

1 Mr. Meas Voeun, and his duty counsel, are present in the  
2 courtroom. And the afternoon witness is Madam In Yoeung.

3 [09.08.38]

4 MR. PRESIDENT:

5 Thank you. The Chamber now decides on the request by Nuon Chea.  
6 The Chamber has received a waiver from Nuon Chea, dated 3rd  
7 February 2016, which states that, due to his health, headache,  
8 back pain, he cannot sit or concentrate for long. And in order to  
9 effectively participate in future hearings, he requests to waive  
10 his right to participate in and be present at the 3rd February  
11 2016 hearing.

12 Having seen the medical report of Nuon Chea by the duty doctor  
13 for the Accused at ECCC, dated 3rd February 2016, which notes  
14 that Nuon Chea has chronic back pain and the pain becomes severe  
15 when he sits for long and recommends that the Chamber grant him  
16 his request so that he can follow the proceedings remotely from  
17 the holding cell downstairs. Based on the above information and  
18 pursuant to Rule 81.5 of ECCC Internal Rules, the Chamber grants  
19 Nuon Chea his request to follow today's proceedings remotely from  
20 the holding cell downstairs via audio-visual means.

21 [09.09.50]

22 The Chamber instructs the AV Unit personnel to link the  
23 proceedings to the room downstairs so that Nuon Chea can follow.

24 This applies to the whole day.

25 The Chamber now hands the floor to the Co-Prosecutors to continue

3

1 putting questions to the witness.

2 And the Chamber would like to remind Mr. Meas Voeun that you  
3 should listen to the questions carefully and please limit your  
4 response to the scope of the question rather than to make lengthy  
5 response and that may cause difficulty upon you.

6 And second, the Chamber would also like to remind the Deputy  
7 Co-Prosecutor that you should make your questions short  
8 <, >precise and <> simple so that the witness can understand it.  
9 And please try to avoid the situation that occurred yesterday  
10 afternoon.

11 And the allotted time -- the remaining of the allotted time for  
12 the Co-Prosecutors and the Lead Co-Lawyers is one session, plus  
13 15 <minutes in the second session>. You may proceed.

14 [09.11.28]

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

16 Thank you. Good morning, Mr. President. Good morning, Your  
17 Honours. Good morning, parties.

18 Q. Mr. Witness, good morning. Yesterday, when we broke up, you  
19 were saying that there was a plan of the Kampuchea government  
20 aimed at smashing all the "Yuon" who had remained in Cambodia  
21 after 1975. You say that <according to> that plan, the "Yuon" did  
22 not have the right to live in Cambodia. <Apparently -->

23 MR. PRESIDENT:

24 Deputy Co-Prosecutor, please hold on.

25 And defence counsel for Khieu Samphan, you have the floor.

4

1 [09.12.14]

2 MS. GUISSÉ:

3 Yes. Good morning, Mr. President. I, indeed, have an objection.

4 The witness did not say that there was a government plan in

5 existence. I heard of a plan, but the witness did not say

6 "government plan" in the <same> sentence. Furthermore, the

7 witness clearly stated that he didn't know the government policy

8 in that regard, so it is proper for the Co-Prosecutor to rephrase

9 the question. <I object to the manner in which it was phrased.>

10 BY MR. DE WILDE D'ESTMAEL:

11 Mr. President, at about 4 p.m. the witness, indeed, said, and he

12 said it in English -- <because> I don't have the French version

13 <yet>. He spoke on several occasions of the government of

14 Kampuchea. <It is true that the said:> "I didn't know the details

15 of the policies by the Kampuchean government on the issue of

16 dealing with the 'Yvon' people."

17 I'll, therefore, try to rephrase the question.

18 [09.13.18]

19 Q. Yesterday, Witness, you referred to a plan. You also talked

20 about the government of Kampuchea.

21 That plan aimed at smashing all the "Yvon" within the country who

22 had refused to leave in April 1975 -- whose plan was it?

23 MR. MEAS VOEUN:

24 A. I had certain knowledge about the policy of the leadership

25 toward "Yvon". We knew that there were conflicts between the

5

1 "Yuon" and the Khmer people since <1979 (sic)>, and from what I  
2 could see, there was contradiction between the revolutionary  
3 resistance of Kampuchea and the "Yuon" government. And for that  
4 reason, there had always been conflicts regarding land grabbing  
5 or the incursion by the "Yuon". So we had to defend the country,  
6 our territory and sovereignty and not to allow the "Yuon" to  
7 invade us -- that is, the external "Yuon" from their country.

8 [09.15.00]

9 Internally, we had to gather all those "Yuon" who had lived in  
10 Kampuchea and they should be gathered in one place. And there was  
11 no measure or plan to smash them.

12 The plan was to gather them and place them in one place so to  
13 isolate them from the external "Yuon", or the "Yuon" outside, as  
14 they had plans to attack Kampuchea. And that was the measure that  
15 was taken.

16 There was no document or any instruction to -- in relation to the  
17 smashing of the internal "Yuon" at all. However, the policy at  
18 the time was to counter the attempts to invade Cambodia by the  
19 external "Yuon".

20 Q. Mr. Witness, that is not what you stated yesterday at  
21 15.58.04. This is what you stated:

22 "<So, then for us,> later on, we were instructed that Vietnamese  
23 had to be smashed because they did not return to their country."

24 End of quote.

25 And I had put another question to you before that, at 15.57.02,



6

1 and the question was as follows, and I'm quoting in English:

2 "Did you hear that there was a plan to eliminate the Vietnamese  
3 who were living in Cambodia between '75 and '79?"

4 [09.17.06]

5 And your answer was: "Yes, I heard about that. I heard about the  
6 Vietnamese living in Kampuchea. Vietnamese who lived in Cambodia  
7 did intend to cause troubles to the Kampuchean people and did not  
8 do an honest living." End of quote.

9 MR. PRESIDENT:

10 Witness, please hold on.

11 And Counsel Anta Guisse, you have the floor.

12 [09.17.48]

13 MS. GUISSÉ:

14 Yes. The manner in which the Co-Prosecutor is <comparing the  
15 witness's statements is incomplete>, and I object to <the manner  
16 in which the question is asked, because just after this phrase,>  
17 the witness referred to the period from 1970 to 1975, which does  
18 not correspond to the period of Democratic Kampuchea. Perhaps  
19 this matter should be clarified.

20 In any case, I object to the manner in which the question is  
21 asked, as the Co-Prosecutor is using only part of the witness'  
22 answer, <because the following part of the witness' answer> was  
23 talking about 1970 to 1975.

24 BY MR. DE WILDE D'ESTMAEL:

25 Mr. President, if I may respond.

7

1 What he said was clear. <True,> we have the period from 1970 to  
2 1975 and then we have the second quotation in which the witness  
3 <says>: "<So, then for us later" - so, it means after '75 - "we  
4 were instructed >that Vietnamese had to be smashed because they  
5 did not return to their country". End of quote.

6 So I'll try to put the question to the witness again.

7 [09.19.00]

8 Q. Regarding the instructions you received to the effect that the  
9 Vietnamese had to be smashed because they hadn't returned to  
10 their country, had those instructions been drawn up in the <West>  
11 Zone <or did they come> from the Centre of the Party in Phnom  
12 Penh?

13 MR. MEAS VOEUN:

14 A. I refer to the period of 1970 when there was a fighting going  
15 on, so allow me to clarify.

16 I refer to the event that happened between 1970 to 1975, because  
17 during these years, fighting was ongoing.

18 As for the "Yvon" who had lived in Kampuchea for a long time, had  
19 to be gathered and placed in one location, and that was the  
20 activity that I referred to from the period between 1970 to 1975.  
21 And I did not know about the plans that happened between 1975 to  
22 1979.

23 [09.20.32]

24 Q. And yet the questions that were put to you were clear.

25 The first question that was put to you was as follows: "Did you

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1 hear that there was a plan to eliminate the Vietnamese who were  
2 living in Cambodia between '75 and '79?"

3 And that is when you said that <about> the Vietnamese -- that you  
4 had received instructions to smash them. My question is: Between  
5 1970 and 1975, were you fighting with Vietnam and had you  
6 received instructions to smash the Vietnamese within <Cambodia>?

7 MR. PRESIDENT:

8 Witness, please hold on.

9 And Counsel Koppe, you have the floor.

10 [09.21.18]

11 MR. KOPPE:

12 Thank you, Mr. President. Good morning.

13 The questions weren't clear at all yesterday, and I believe  
14 rightfully so, Mr. President. That's why you instructed the  
15 Prosecution to ask clearer questions.

16 He now clarifies the situation and he referred specifically to  
17 the period between '70 and '75, which is in accordance with other  
18 evidence given last week in relation to fighting with the  
19 Vietcong in 1973, and he is now clearly saying that he doesn't  
20 know what the policy was between '75 and '79.

21 So by saying that the Prosecution was asking clear questions  
22 yesterday, I sincerely doubt that.

23 [09.22.08]

24 MR. DE WILDE D'ESTMAEL:

25 Mr. President, if I may respond, the questions were very clear.

1 Another quotation by the witness at 16.03.10 is as follows:

2 "I believe <under> the Democratic Kampuchea regime, they -- the  
3 Vietnamese -- were not allowed to live in Kampuchea because we  
4 learned through our education about the contradiction or  
5 conflicts between the 'Yuon' and Lao and Kampuchean people."

6 It was the witness himself talking of the Democratic Kampuchea  
7 period. There was no ambiguity in the question that was put to  
8 him, so Mr. President may I request your leave to put the  
9 questions to the witness since the witness says that now we are  
10 talking of the period from 1970 to 1975.

11 Can we ask him whether, between 1970 and 1975, there was a  
12 conflict with Vietnam and whether he had received instructions to  
13 kill or to smash all Vietnamese living in Cambodia during that  
14 period?

15 [09.23.22]

16 MR. PRESIDENT:

17 The objection by the defence team for Nuon Chea is overruled and,  
18 witness, please respond to the last question.

19 And the defence teams may clarify this matter with the witness  
20 when you last put questions to the witness -- that is, after the  
21 floor was taken by the Deputy Co-Prosecutor and the Lead  
22 Co-Lawyers.

23 So witness, please respond to the last question.

24 [09.24.04]

25 MR. MEAS VOEUN:

10

1 A. The important thing is that "Yuon" were not allowed to live in  
2 Kampuchea. However, there was no plan to smash them.  
3 They had to be gathered up and sent to the upper echelon. That's  
4 what happened between 1975 to '79 when I was at the border. I did  
5 not know what happened at the rear.  
6 For my part, when those "Yuon" people were captured, I would send  
7 them to the upper level, but there was no plan to smash them.

8 BY MR. DE WILDE D'ESTMAEL:

9 Q. How about the instructions as regards the fact that the "Yuon"  
10 did not have the right to live in Cambodia and you had to  
11 assemble them and send them to the upper echelon?  
12 Who issues those instructions; which echelon? Did they emanate  
13 from your immediate superior or from a higher official, an  
14 official at a level higher than that of your superior?

15 [09.25.26]

16 MR. MEAS VOEUN:

17 A. I received the orders from Ta Soeung, the divisional  
18 commander. And when there was a situation at my end, then I also  
19 reported to my divisional commander.

20 Q. Did you ever hear Pol Pot, Nuon Chea, Son Sen, Ta Mok or Khieu  
21 Samphan talk about a plan aimed at eliminate the "Yuon" who  
22 remained in Democratic Kampuchea between 1976 and 1979?

23 A. No, I did not meet them. They were senior leaders at the  
24 higher level, and as for me, the instructions or orders I  
25 received was from my divisional secretary or commander.

11

1 Q. When you received those orders from your superior, where were  
2 you? Were you in Koh Kong or already at Preah Vihear?

3 A. I was in Koh Kong.

4 [09.27.18]

5 Q. And what measures were taken at Koh Kong to assemble all those  
6 Vietnamese from within the country and to send them to the upper  
7 echelon?

8 A. As I testified yesterday, when I went to Koh Kong, there was  
9 no one there. There were no civilians or the villagers, since  
10 they all had been relocated elsewhere. And the "Yuong" who came to  
11 Koh Kong area were captured by us and then we sent them to our  
12 divisional headquarters.

13 So when, actually, their boats encroached upon our territorial  
14 waters <in order to go to Thailand,> they would be captured and  
15 sent to the divisional headquarters.

16 Q. I was still referring to the "Yuong" living in Cambodia between  
17 1975 and 1979. I was not yet talking of "Yuong" refugees coming  
18 from the sea.

19 You said the "Yuong" did not have the right to live in Cambodia  
20 and that they had to be assembled and sent to the upper echelon.  
21 Were those instructions communicated to the zone -- that is, all  
22 the zones in Cambodia? Do you know about that?

23 [09.29.08]

24 A. I did not know about the situations at all zones. I only knew  
25 about my zone and my division and, for that reason, I could not

12

1 speak about other divisions or other zones.

2 Q. As of which year did you receive instructions to the effect  
3 that you had to assemble the "Yuon" within Cambodia and send them  
4 to the upper echelon?

5 A. I refer to the period between 1970 to 1975. I was not based  
6 inside the country. I was at the outside -- at the outskirts.

7 Q. Witness, is it your testimony that between 1970 and 1975 you  
8 were stationed in Koh Kong as deputy commander of Division 1 of  
9 the Western Zone? Is that what I must understand?

10 A. <After> 1975, I was stationed in Koh Kong for three years.  
11 However, I did not live inside the country. I lived along the  
12 border. And I could only attest to the information received by my  
13 division. And I did not receive instructions from other leaders  
14 or from other sources.

15 At that time, I did not have any means to go anywhere else due to  
16 the difficulty in transport, and the only means of my transport  
17 is by sea. And what I have testified is all information that I  
18 received at the time.

19 [09.31.35]

20 Q. So you have just spoken about the period between 1970-1975,  
21 whereas we were clearly speaking about Democratic Kampuchea and  
22 about the orders that you had received regarding the "Yuon" who  
23 were not allowed to live inside Cambodia.

24 So was it <when you said just before,> was it when you were  
25 stationed in Koh Kong that you received these instructions?

1 A. Yes, I was in Koh Kong.

2 [09.32.12]

3 Q. Yesterday, you said that there were many Vietnamese people who  
4 had remained after 1975 in the West Zone. And to be clear about  
5 this, I will quote what you said at 03.58.04 (sic) in the  
6 afternoon yesterday. The question was the following that was put  
7 to you, in English:

8 "Were there many Vietnamese who hadn't returned to Vietnam and  
9 who had to be smashed? For instance in the East Zone, did you  
10 hear of the presence of any Vietnamese who chose to stay in the  
11 country?"

12 Your answer: "Yes, there were. When they were allowed to return  
13 to their country not every one of them returned. Some of them  
14 remained living in Kampuchea or married with Kampuchean people.  
15 The majority of them who decided to remain living in Cambodia  
16 were living in Kampong Chhnang -- that is, along the riverbanks.  
17 And then that's why there were later on clashes between the  
18 Vietnamese and the Kampuchean people. And it also happens in the  
19 West Zone.

20 And Vietnamese actually continues living in Cambodia even when  
21 the Vietnamese attacked Cambodia in 1979." End of quote.

22 [09.34.00]

23 So you said that many Vietnamese people had remained in the West  
24 Zone after 1975 and, in particular, people who had married Khmer  
25 people. And you also said when you answered a question that was



14

1 put to you, the very last question, that it was easy to identify  
2 the Vietnamese people because of their accents when they spoke  
3 Khmer or because their neighbours knew that they were of  
4 Vietnamese origin.

5 So the first question I have for you is the following. Did the  
6 West Zone have to report to the Party Centre regarding the issues  
7 of defending the territory in relation to the external as well as  
8 the internal enemies?

9 A. The zone made the report to the Centre. I did not know how  
10 they put in the report. I only knew what happened within my  
11 division. So everything, including the instruction and plans,  
12 were received by me from the division, so I did not know how the  
13 report was made and submitted to the Centre.

14 [09.35.35]

15 Q. Well, fine. So did you attend meetings at the West Zone level  
16 on a regular basis?

17 A. Not on a regular basis. I would attend that meeting once in  
18 every six months since the road condition was bad. <I would  
19 attend only when I was told to do so.>

20 Q. In the WRI E3/73 at answer 6, you said the following:

21 "Most of the time, I would report by sending telegrams to the  
22 division leader <every> three to four months when meetings were  
23 held at the zone level. Then I would travel to attend these  
24 meetings." End of quote.

25 So here, you said that every three to four months, you would

15

1 attend a meeting at the zone level in the West Zone. Can you  
2 confirm this?

3 A. Regarding the meeting that I attended, sometimes I did not  
4 come to the meeting and I would inform the one who invited me by  
5 the telegram since the road condition was bad, as I said.  
6 I would also be invited to the meeting once in every three to  
7 <six> months, and on some other occasions in the -- during the  
8 season that the waves were not so high in the sea, and then I  
9 would be able to come to the meeting.

10 [09.37.53]

11 Q. Regarding the meetings you attended with the zone secretary  
12 and probably with your superior, the head of Division 1 in the  
13 West Zone, were defence issues discussed or security issues  
14 discussed? Were the enemies from within also discussed as well  
15 as questions of agricultural production?

16 So were all of these issues discussed during those meetings?

17 A. The content of the meeting was about, number one, <defending>  
18 the border of the country and, number two, agricultural  
19 production, working in the field and the target of one tonne and  
20 two tonnes in respective areas. And number three, the tricks and  
21 the plans of the infiltrate -- infiltrated enemies which hindered  
22 the development of the country.

23 And so on some other occasion, the content of the meeting would  
24 to summarize the yield of the rice production, and we also  
25 informed and advised that we should not make any trouble in

16

1 relation to the border at the West.

2 And during the meeting, those who were responsible for their  
3 respective areas, for example, <on land, at sea> would make the  
4 report respectively.

5 I sometimes made the report about agricultural production, and  
6 other units and other divisions would report about their  
7 leadership within their respective locations.

8 [09.40.14]

9 Q. Well, I have questions to put to you regarding a monthly  
10 report that I would like to show to you, which was addressed by  
11 Office 401 to the "<Respected and> Beloved Angkar". This is  
12 document E3/1094. This is a monthly report from July 1978 from  
13 Office 401 to the attention of the Angkar.

14 So Mr. President, may I provide this document to the witness  
15 which was already shown to him three years ago here in the  
16 courtroom?

17 MR. PRESIDENT:

18 You have the floor, Victor Koppe.

19 [09.41.04]

20 MR. KOPPE:

21 Thank you, Mr. President.

22 Of course, I knew this was coming. I have in front of me, Mr.  
23 President, the transcript of 4 October 2012 where exactly this  
24 document is being shown and discussed with the witness. Then  
25 there's an intervention of Judge Lavergne at 13.53 saying:

17

1 "Excuse me, Prosecutor. Can you ask the witness whether, as of  
2 the date of that report, he was still working at Sector 38?"

3 The Prosecutor says, "I will", and then the witness says, "I was  
4 gone already."

5 So we have extensively discussed this. He wasn't there, so trying  
6 to do this again is repetitive.

7 [09.41.54]

8 MR. DE WILDE D'ESTMAEL:

9 Mr. President, please allow me to answer.

10 Yesterday, the witness clearly said, once or twice, in fact, and  
11 many, many times in his WRIs that he left Koh Kong for Preah  
12 Vihear in August 1978. This is what we can read, in particular,  
13 in WRI E3/424 (sic) at answer 19.

14 So now I would like to show this document to the witness because  
15 we are dealing now with a new segment. We are in Case 002/02, and  
16 we're speaking about the Vietnamese. And based on the answers  
17 that he provided to us yesterday a little bit before 4.00 in the  
18 afternoon, I think it's perfectly appropriate to put to him  
19 further questions with relation to the content of this document.

20 So may I please provide this document to the witness and put  
21 questions to him regarding this document?

22 [09.42.54]

23 MR. PRESIDENT:

24 The objection put by the defence team for Mr. Nuon Chea is  
25 overruled. The question is allowed to <> be put to the witness.

1 BY MR. DE WILDE D'ESTMAEL:

2 Q. Well, so in this report, Witness, on page 8 in French, that is  
3 to say 00593530; Khmer, 00143610; English -- it's on page 7 --  
4 00315374. And there is a heading that describes or that speaks  
5 about Region 37. And then there is a description of <acts by  
6 domestic> infiltrated enemies <corroding from within>.

7 And I wanted to quote something from this report, but I see that  
8 the Defence wants to object <once more>.

9 MS. GUISSÉ:

10 Yes, Mr. President.

11 Even if <he is authorized to use this> document, proper  
12 procedure, <-- and I object to - questions on the content before  
13 the first preliminary question, that is: is> the witness <aware  
14 of or does he> remember such a report? <The Prosecution can  
15 confront him> with the content of the report <afterwards>, but  
16 first it's important to know if he is aware of the existence of  
17 such a report. < believe it is> an essential question before we  
18 start discussing the content.

19 [09.44.30]

20 MR. DE WILDE D'ESTMAEL:

21 I'm not sure, Mr. President, that this is particularly useful.  
22 The Defence, yesterday afternoon, <did nothing but> put <direct>  
23 questions all the time without putting any open question, and  
24 even quoted segments from testimonies without asking any  
25 <preliminary> open questions. My time is <limited>, so I'd like

19

1 to only put questions regarding one specific passage.

2 I think he already answered, in fact, these questions three years  
3 ago.

4 MR. PRESIDENT:

5 If one party <> across the other side committed an error, so the  
6 other party should not repeat the error. So some specific  
7 question could be allowed to be put to the witness after the open  
8 question, and it is not the practice to ask any specific question  
9 first before the open questions.

10 [09.45.44]

11 BY MR. DE WILDE D'ESTMAEL:

12 Q. Witness, I'm going to only put one question to you.

13 So did you ever see this report, or have you ever seen this kind  
14 of report coming from the West Zone? Were you ever apprised of  
15 such a report when you were stationed at Koh Kong and when you  
16 <occasionally> attended meetings in the Western Zone?

17 MR. MEAS VOEUN:

18 A. No, I was not aware of that. There were no reports about what  
19 you described in the meetings.

20 And when I was working at the Western Zone, I have never received  
21 that report.

22 Q. Well, I still would like to confront you with this report  
23 because, earlier, you told us that, in reality, contrary to what  
24 you said yesterday, there was no plan to eliminate all of the  
25 Vietnamese, but there were instructions to gather them in one

1 specific place only. And this is what the report states at the  
2 ERNs that I just mentioned:

3 [09.47.05]

4 "Regarding the purges carried out against the Vietnamese and  
5 carried out against the CIA agents and carried out against the  
6 bad elements, point 1, we have eliminated 100 Vietnamese people,  
7 old and young, big and small."

8 And in English, to be sure that there is no confusion, "<smashed>  
9 100 ethnic 'Yvon', included small and big, adults and children."  
10 End of quote.

11 Witness, how can you explain, therefore, that the West Zone would  
12 report on the smashing of 100 Vietnamese people, whereas you have  
13 just told us that the instructions were only to gather them in  
14 one place?

15 MR. KOPPE:

16 I object again, Mr. Witness -- Mr. President. Excuse me.

17 It is very disingenuous. We have established in October 2012 that  
18 he was gone already, so he doesn't have anything to say about  
19 that report. I don't know why the prosecutor is revisiting this  
20 again. It is very repetitious. We have dealt with this issue, and  
21 this question should not be allowed.

22 [09.48.30]

23 MS. GUISSÉ:

24 And to complete what my colleague has just said, we have just  
25 heard from the Witness <himself> today that, during that period

21

1 when he was in Koh Kong, he <can only> speak about what was  
2 happening at the maritime border and in his division. So today,  
3 confronting him with the report whose content he is unaware of,  
4 regarding elements whereas he said that he did not know what was  
5 going on inside the country, is useless.

6 So I think that <my objection is based on the fact that> it is  
7 pointless to continue putting questions to the witness about a  
8 document he cannot provide any clarifications to.

9 [09.49.13]

10 MR. PRESIDENT:

11 The Chamber again overrules the objection by the defence counsel.

12 <> This witness <stated that he> left Koh Kong in <August> 1978,  
13 and after four months from <then>, the regime of Khmer Rouge  
14 fell. So the question was meant to ask about the presence of this  
15 witness in the Western Zone.

16 Number two, the witness testified clearly about the plan to smash  
17 Vietnamese <in Kampong Chhnang along> Mekong River, and <> that  
18 testimony was given by the witness yesterday.

19 <Witness, please respond to that last question by Co-Prosecutor.>

20 BY MR. DE WILDE D'ESTMAEL:

21 Thank you, Mr. President.

22 Q. So my question was: Witness, how can you explain that the Zone  
23 West would report to the Party Centre about the fact that they  
24 had <eliminated> 100 Vietnamese people, <or> people of Vietnamese  
25 origin, whereas you have told us this morning that, in reality,



1 the instructions were to gather them only in one single place?

2 [09.50.50]

3 MR. MEAS VOEUN:

4 A. I was not aware of the report you described. If I had known, I  
5 would have been able to understand and also I can answer to your  
6 question.

7 The zone never sent back the feedbacks to me in response to my  
8 reports. Usually, the zone would forward it -- would forward the  
9 report up the line. So I did not know about <> what the content  
10 was in the report after my report had been submitted to the zone.

11 Q. Well, since I'm discussing this report <E3/1094>, there is  
12 another passage that I would like to focus on. But before that,  
13 I'm going to ask one or two open questions.

14 Did you know -- during the DK period, because you were in the  
15 West Zone -- that an airport was being built in Kampong Chhnang?

16 A. Yes, I was aware of the construction, but I, myself, did not  
17 go to Kampong Chhnang. I heard of the construction taking place  
18 and I was aware that there was that kind of construction in the  
19 area.

20 [09.52.40]

21 Q. And <was> this worksite directly <under> the Party Centre <or  
22 did it fall> under the jurisdiction of the West Zone?

23 A. I have no knowledge of it. I do not know whether <> those  
24 worksites were under the control of the Party Centre or the zone.

25 Q. Did you learn in one way or the other that soldiers had been

1 punished or sent to that Kampong Chhnang <airport> to be  
2 re-educated?

3 A. I do not know about that.

4 [09.53.46]

5 Q. And another question regarding the West Zone. On page 1 of the  
6 document that I just provided to you, so if you go to the first  
7 page, in Khmer -- and maybe -- well, it's page 1 in English, page  
8 1 in French, and 1 and 2 in Khmer.

9 <It says the following:> "In the Sector <of> Kampong Chhnang",  
10 that is the heading. Then I quote: "The activities of the hidden  
11 enemy burrowing from within: On the night of 24/07/78, at 1:30  
12 a.m., three enemies escaped from the airport. Our <comrades> shot  
13 at them and arrested two enemies."

14 And in this same report, there are two other incidents mentioned,  
15 describing enemies trying to escape from the Kampong Chhnang  
16 Airport.

17 So were you aware of these escape attempts from the construction  
18 site of Kampong Chhnang Airport?

19 A. I do not know about that.

20 [09.54.58]

21 Q. Now I'd like to turn back to the situation concerning Vietnam.  
22 In 1977-1978, did you ever hear people describe Vietnam as "enemy  
23 number one of Democratic Kampuchea"?

24 A. I heard of it. I heard of people say about that. And the  
25 situation at the border encountered clashes.

24

1 Q. Did you also hear during the DK period that the Vietnamese,  
2 whether they be from within or from outside of Cambodia, were the  
3 hereditary enemies of the Khmer?

4 A. I heard of it. Everyone heard of it, that they were hereditary  
5 enemies.

6 [09.56.22]

7 Q. Since these were hereditary enemies, were the soldiers in  
8 Division 1 of the West Zone and those of Division 164 with whom  
9 you were working in Koh Kong -- were they obliged to treat all  
10 Vietnamese people as enemies regardless of their age, sex or  
11 status as civilians or servicemen?

12 A. It was not Division 164. It was Division 1. Division 1 was  
13 stationed at Koh Kong.

14 So I observed that soldiers regarded those people as enemies  
15 since the fightings were <>ongoing. So <> we considered those  
16 people enemies, since there were fightings.

17 Q. And because there were clashes with Vietnam, were the  
18 Vietnamese, including the refugees on their boats, considered  
19 enemies?

20 [09.58.15]

21 MR. PRESIDENT:

22 Please hold on, Mr. Witness.

23 You have the floor now, Anta Guisse.

24 MS. GUISSÉ:

25 Yes. I object to this question <as asked by the Co-Prosecutor>

1 because he is pretending that he doesn't remember that,  
2 yesterday, the witness clearly indicated that the refugees were  
3 not considered enemies. He said it clearly, and he explained that  
4 at length. And he also said that they were in a wartime  
5 situation.

6 So I object to the question, <as> put by the Co-Prosecutor.

7 [09.58.48]

8 BY MR. DE WILDE D'ESTMAEL:

9 If I remember correctly, Mr. President, he said that, according  
10 to his point of view, he did not consider them enemies, but he  
11 did not know what would happen to them once they were transferred  
12 to Kampong Som, but that's not a problem. Let me proceed  
13 otherwise.

14 Q. Now, regarding these hereditary enemies, I would like to read  
15 out what Witness 2-TCW-1000 said of Division 164 in his WRI  
16 E319/23.3.44. And this is what he said in answers 31 to 33, and I  
17 quote -- and we're speaking here about the arrests of Vietnamese  
18 on their boats. So the question was the following:

19 "According to you, was it a good thing or not a good thing to  
20 execute all of the people who had been arrested?"

21 The witness' answer: "I think that it was not at all a good thing  
22 because these people were innocent. They were fleeing war to save  
23 their lives. That's all. However, in the eyes of the Khmer Rouge  
24 from that period, the Vietnamese were hereditary enemies without  
25 any distinction."

1 [10.00.12]

2 Answer 32: "Contrary to the Thai, the Vietnamese <were more  
3 antagonistic>. This is why the Khmer Rouge considered the  
4 Vietnamese as enemy number one as well as hereditary enemies."

5 Question 33: "How is it that you know that?"

6 Answer: "Because the battalion and regiment chiefs studied with  
7 the division, and when they returned from their studies, they  
8 spoke to us about all of this during a training session." End of  
9 quote.

10 So what is your reaction, Witness, in relation to what this  
11 witness is saying regarding the fact that the Vietnamese were the  
12 hereditary enemies of the Cambodians and that they <antagonized  
13 the Khmer more than the Thai?>

14 [10.01.12]

15 MR. PRESIDENT:

16 Please wait, Mr. Witness. You have the floor now, Mr. Koppe.

17 MR. KOPPE:

18 Thank you, Mr. President. I object to this question.

19 You might recall that, last week or the week before, the  
20 Prosecution was continuously objecting to my line of questioning  
21 because I was using selectively evidence. Now the Prosecution is  
22 doing the exact same thing because the witness is being read to  
23 evidence coming from one soldier, lowest-ranking soldier from  
24 Division 164 whereas, at the same time, there's evidence from two  
25 company commanders at least within Division 164 who say the

1 opposite thing.

2 So the Prosecution should, like the Defence, be complete when  
3 confronting the witness with that evidence.

4 [10.02.12]

5 MR. DE WILDE D'ESTMAEL:

6 I think this objection is completely out of place. Yesterday, we  
7 heard the Defence precisely use those two testimonies. We didn't  
8 object to that. <Now, they have clearly been obstructing,> for  
9 the past 40 minutes, practically all the questions <that> have  
10 been asked, <they have> objected to <because they touch upon a  
11 sensitive issue>.

12 May I request your leave to continue, Mr. President?

13 MR. PRESIDENT:

14 The objection by the defence counsel for Nuon Chea is overruled.  
15 Witness, please respond to that question. Actually, an open  
16 question has been asked, so you can respond despite the  
17 interruption by the defence counsel.

18 [10.03.08]

19 BY MR. DE WILDE D'ESTMAEL:

20 Q. My question was: What was your reaction to what the witness  
21 said regarding the fact that the Vietnamese <were more  
22 antagonistic> with the Khmer than with the Thai and that they  
23 were, therefore, the hereditary enemies of the Cambodians?

24 MR. PRESIDENT:

25 Deputy Co-Prosecutor, please rephrase your question. You cannot

28

1 put such a question to him. This is an ordinary witness, and he's  
2 not an expert witness.

3 What you can do is that you seek reaction from the witness, and I  
4 believe you have been in this courtroom for several years. Please  
5 adhere to our practice.

6 Please try not to go around the current practice before this  
7 Chamber. And you should know the technical limitation in the  
8 proceedings before this Chamber.

9 [10.04.25]

10 MR. DE WILDE D'ESTMAEL:

11 Yes, Mr. President. I have, indeed, asked the witness to present  
12 to us his reaction in relation to the testimony read by the  
13 witness, who referred to the Vietnamese being the hereditary  
14 enemy of the Cambodians and that the Vietnamese <were more  
15 antagonistic> with the Khmer than with the Thai.

16 MR. MEAS VOEUN:

17 A. I cannot provide you any comparison between the Thai and the  
18 Vietnamese people. If you ask me questions about the Thai people,  
19 I can speak about the Thai people, or if you ask me about the  
20 Vietnamese people, I can do that, but I cannot do the comparison  
21 between these two groups of people.

22 [10.05.35]

23 BY MR. DE WILDE D'ESTMAEL:

24 Q. At the hearing of the 16th of December 2015, document  
25 E1/369.1, the same witness, at 13.35.54 said the following

1 regarding the contents of the training sessions with the head of  
2 the Regiment 140, Saroeun, and the head of the battalion,  
3 regarding the hereditary enemies. My question is as follows:  
4 "What <exactly> did the instructors tell you regarding the  
5 Vietnamese as the hereditary enemy?"

6 Answer: "We were instructed to kill them, even if they were  
7 babies, because they were our hereditary enemy, so we had to kill  
8 them. Each battalion was, therefore, under the responsibility to  
9 execute that order." End of quote.

10 And <I remind you that this is someone from> Division 164. What  
11 was your reaction to that?

12 [10.07.02]

13 MR. MEAS VOEUN:

14 A. Allow me to speak a little bit about the so-called hereditary  
15 enemy.

16 It's been well known that the Khmer and the "Yuon" people had  
17 been enemies for a very long time ago, since before I was born.

18 <It did not just happened in 1979.> Personally, I have a view  
19 about the enemy who is holding gun and firing upon us and, on the  
20 other side, there were those "Yuons" -- that is, the ordinary  
21 "Yuon" people.

22 In the past, if I considered all the "Yuons" enemy, I would have  
23 smashed them at the sea when we captured them <in Koh Kong>. But  
24 we -- I did not do that. I sent them to the upper level, and  
25 whatever measures the upper level did, that was their authority.



1 Those "Yuon" that we captured, they were not soldiers. They did  
2 not bear arms, so <> they were considered ordinary people who  
3 tried to find a better place to live.

4 [10.08.43]

5 Q. Very well. Let me read out to you, then, what you stated in  
6 <WRI> E319/23.3.32, questions/answer number 8, <actually answer 8  
7 >. And I quote:

8 "Normally, when we <would> approach one boat or another to  
9 intercept it, we had to bring our boats closer to the boat in  
10 question and our soldiers were ready to jump <onto> the boat.  
11 Generally, those who were on board the boats jumped into the  
12 water and we eliminated the rest of them." End of quote.

13 So you told the Investigating Judges that, on certain occasions,  
14 the people on the boats you intercepted, whether they were Thai  
15 or Vietnamese, were actually not handed to the headquarters, but  
16 eliminated.

17 Can you specify what you meant when you said, "As for the rest of  
18 them, we eliminated them"? When you say "<we>", who are you  
19 referring to; Division 1 or Division 164?

20 [10.10.15]

21 MR. PRESIDENT:

22 Witness, please hold on.

23 And defence counsel Anta Guisse, you have the floor.

24 And I heard through the Khmer channel that there was Division 10.

25 In fact, there was none. There was only Division 1.

1 MR. DE WILDE D'ESTMAEL:

2 Yes, I indeed referred to Division 1.

3 MR. PRESIDENT:

4 And defence counsel, you have the floor.

5 [10.10.52]

6 MS. GUISSÉ:

7 Thank you, Mr. President.

8 If we are, indeed, dealing with document E319/23.3.32, it is

9 question/answer number 8. Is that it?

10 In that case, I would object to the manner in which the question

11 is being put to the witness by the Co-Prosecutor because in that

12 answer, the witness, indeed, made the distinction between

13 civilian boats and military boats. And he states in the same

14 answer: "Before approaching one boat or the other, as a general

15 rule, we had to verify whether it was a civilian <boat or a

16 fishing boat <escorted by> a military boat.

17 So to present the situation as if they are dealing with just

18 about any boat is not correct, <and> that <Division 1 did not

19 make a> distinction between civilian and military boats is <a

20 misrepresentation.>

21 [10.11.52]

22 BY MR. DE WILDE D'ESTMAEL:

23 Indeed, I was wrong in referring to the answer. It's answer

24 number 9.

25 The witness was shown a document and, at the end of answer number

1 9, he said:

2 "Usually, when we approached to capture a boat, we first had to  
3 pilot our motorboats alongside that boat. Then our sailors were  
4 always on full alert ready to board the fishing boat. In general,  
5 the people on <board jumped> into the sea and we would  
6 <eliminate> those who remained on the boat."

7 Q. Witness, can you clarify the circumstances under which people  
8 in certain boats jumped into the water and the rest of the people  
9 were eliminated by the forces that intercepted the boat?

10 My question to you, first of all, is this: Were these soldiers of  
11 Division 1 or Division 164 who were responsible for eliminating  
12 the remaining occupants of those boats you referred to?

13 [10.13.10]

14 MR. MEAS VOEUN:

15 A. Allow me to respond to this question based on my knowledge.  
16 The Thai fishing boats actually entered our territorial waters to  
17 catch fish. Then we would send our patrol team to see whether  
18 there was only a single fishing boat <with only civilians inside>  
19 or whether the fishing boat were accompanied by warships, and we  
20 actually sent a patrol boat to inspect the situation and not a  
21 vessel or ship. However, we, the crew on the boat, were armed.  
22 Although it was a civilian fishing boat, they had weapons and  
23 they fired upon us. And in that instance, we retaliated. We  
24 returned fire.

25 Although they were -- that boat was not escorted by a warship,

1 the crew on that boat had weapons, and they fired upon us. So <we  
2 fired back. Our boat was a little bigger than theirs.> Then we  
3 navigated our boat alongside their boat, then we boarded their  
4 boat. And that's when some of their Thai crew jumped into the  
5 water. <We were not aware that> they actually were hiding near  
6 the motor under the water, and then we actually towed that <Thai>  
7 boat to the port. However, the boat sank before we reach the  
8 port. <All of us, the two of us on the boat and the Thai hiding  
9 below us, sank. So at the moment, no one had the chance to kill  
10 anybody yet. We captured their boat first.>

11 [10.15.16]

12 And there were also some crew who remained on the boat and jumped  
13 into the water.

14 So actually, <before reaching the island,> both our boat and the  
15 Thai boat sank, and we all fell into the water <>. And that's  
16 what happened.

17 And I did not know about such a similar event with Division 164.

18 MR. DE WILDE D'ESTMAEL:

19 Mr. President, at this stage, I see that I still have questions  
20 to put to the witness. I would like to leave a quarter of an hour  
21 to the civil party lawyers. May I request you to grant me <an  
22 additional> 15 minutes to complete my examination of this witness  
23 regarding this theme, which is very important, <as has been  
24 demonstrated since yesterday.>

25 It would be unfortunate if this <important> witness were to leave

1 without being examined properly by us in this particular line of  
2 questioning, so may I ask you to grant me 15 additional  
3 <minutes>, Mr. President?

4 [10.16.39]

5 MR. PRESIDENT:

6 This morning, the Chamber actually advised you that for the two  
7 teams, you will have only 15 minutes for the second session this  
8 morning, and do you wish to ask for additional time beyond the 15  
9 minutes for the second session?

10 MR. DE WILDE D'ESTMAEL:

11 Yes, indeed, Mr. President, <15 minutes plus> an additional 15  
12 minutes, notably because we faced lots of objections this morning  
13 and they have slowed down our examination of this witness.

14 MR. PRESIDENT:

15 Yes, your request is granted.

16 We have a short break, and we will resume at 10.30 to continue  
17 our proceedings.

18 Court officer, please assist the witness at the waiting room  
19 reserved for witnesses during the break time and invite him as  
20 well as his duty counsel back into the courtroom at 10.30.

21 The Court is now in recess.

22 (Court recesses from 1017H to 1034H)

23 MR. PRESIDENT:

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

25 And again, the floor is given to the Deputy Co-Prosecutor and the

1 Lead Co-Lawyers for civil parties. You may proceed, Deputy  
2 Co-Prosecutor.

3 BY MR. DE WILDE D'ESTMAEL:

4 Thank you very much, Mr. President.

5 Q. You said yesterday that, in the end, there were very few  
6 Vietnamese refugee boats that ended up close to Koh Kong. And you  
7 said that they probably had <drifted> and got lost and ended up  
8 there.

9 So I would like to confront you with what you said to DC-Cam  
10 regarding this matter because you spoke about hundreds of  
11 Vietnamese people. And at DC-Cam, E3/8752 on page 26 in English  
12 and 28 and 29 in Khmer, you said the following:

13 [10.35.55]

14 "<They were no bandits.> They were only Vietnamese people fleeing  
15 by boats and small ship through our passage. There were hundreds  
16 of them. They fled to Thailand in order to go to the United  
17 States."

18 A little further: "They fled after they were defeated by North  
19 Vietnam, so they crossed our sea to travel to Thailand. We  
20 arrested them and sent them to Kampong Som. Then they negotiated  
21 for their arrests. I did not know where those people were from."

22 Question: "Where were they sent to?"

23 Answer: "The general staff office in Kampong Som. I did not know  
24 how they dealt with them." End of quote.

25 You said in this excerpt that there were hundreds of Vietnamese

1 people who were fleeing their country. When you speak about  
2 hundreds of people -- so when you speak about hundreds of people,  
3 do you mean those who had been arrested near Koh Kong or are you  
4 speaking in more generic terms about people who might have been  
5 intercepted in other places along the Cambodian coast? So can  
6 you be more specific about this?

7 [10.37.49]

8 MR. MEAS VOEUN:

9 A. There were <no> Vietnamese living at the islands. Even Khmer  
10 people did not live at those islands. <There was no place to stay  
11 there.>

12 Those Vietnamese people, they fled Vietnam. I don't know whether  
13 they fled from Kaoh Trol island or maybe from the mainland, and  
14 they actually fled by using smaller motorboats with smaller horse  
15 powers, could be 30 horsepower or <25> horsepower. And on each  
16 boat, there could be 10 to 15 people. And my statement referred  
17 specifically to these people.

18 Q. Did you ever receive any instructions from your superiors  
19 telling you to be wary about the fact that possible spies might  
20 be hidden among these refugees?

21 A. No, I did not receive such an order. However, we had to be  
22 vigilant and we had to use the strategies within our unit.

23 [10.39.28]

24 Q. Yesterday, you said or suggested that because these were  
25 Vietnamese refugees, at least you, yourself, did not perceive

1 them as enemies.

2 So therefore, why was it necessary to arrest them?

3 A. That was the rules and regulations of each sovereign country.

4 Of course, it would not be <allowed> for any foreign elements to

5 walk freely in one sovereign country or to enter its sovereign

6 <territory>. <Otherwise, how could we claim that we were

7 defending our country.>

8 Q. In the excerpt that I just read out, you spoke about hundreds

9 of Vietnamese refugees and you said that you had arrested them,

10 so do you confirm that it was the forces of Division 1 that

11 arrested these hundred or so Vietnamese to bring them to Kampong

12 Som?

13 A. Yes, it was Division 1 who captured them and sent them to

14 Kampong Som.

15 [10.40.55]

16 Q. I have a last line of questions. You said that in Koh Kong you

17 had brought 2,700 soldiers with you who were under your

18 leadership and then that figure turned to 1,700 and you also said

19 that the civilian population of the <population clusters> along

20 the coast and on the islands had been evacuated inland and you

21 also specified yesterday that you had no women among your troops,

22 under your orders in Koh Kong. So my question is the following:

23 After the five-year war against the Lon Nol army, were many

24 soldiers in your Division 1 single and in age to be married?

25 A. Yes, it was a mixture. There were those who were <old, young>



1 and who got married.

2 [10.42.07]

3 Q. And were marriages within Division 1 encouraged by your  
4 superiors, whether it be Ta Soeung, Ta Si or Son Sen?

5 A. Yes, he actually organized those marriages if they were about  
6 20 years old and actually, he brought some women from his office  
7 for those who intended to get married.

8 Q. I will get back to that, but did you hear or did you learn  
9 through <regime> publications like "Revolutionary Flag" <-- since  
10 you read that --> did you learn that the Party wanted to quickly  
11 increase Cambodia's population; in particular, because Vietnam  
12 was much more populated than Cambodia?

13 A. Yes, I heard about that.

14 Q. And was this drive to have the troops get married have  
15 anything to do with this will to increase Cambodia's population?

16 A. Yes, that is correct.

17 [10.44.06]

18 Q. And were you obliged to draw up lists of soldiers in your  
19 regiment who wished to get married?

20 A. Yes, we did.

21 Q. You said that there were no women in your region, nor in the  
22 ranks of Division 1 and that there were no civilians close by, so  
23 how was it then possible to marry the soldiers if there were no  
24 women close by? You said earlier that Ta Si had brought in women  
25 from his office, so did I understand you correctly?

1 A. It was not from Ta Si 's office; it was from the division.  
2 Actually, there was one big female unit attached to the division.  
3 [10.45.23]

4 Q. And was the number of women in that unit enough for each male  
5 soldier <of marrying age> in Division 1 to get married or was it  
6 necessary for other women coming from elsewhere to come to get  
7 married to these soldiers?

8 A. No, there were not enough; however, it was gradually  
9 organized.

10 Q. So did the women coming from the outside, <if I understood  
11 correctly,> know the soldiers that they were going to marry?

12 A. I knew some of them.

13 MR. DE WILDE D'ESTMAEL:

14 Thank you. I have no further questions. I'm going to give the  
15 rest of my time to the civil parties, Mr. President.

16 MR. PRESIDENT:

17 Lead Co-Lawyer, you may proceed.

18 [10.46.56]

19 QUESTIONING BY MR. LOR CHUNTHY:

20 Thank you, Mr. President. Good morning, Your Honours. Good  
21 morning everyone in and around the courtroom and good morning,  
22 Mr. Witness.

23 My name is Lor Chunthy. I'm a lawyer for civil parties and I'm  
24 from the Legal Aid of Cambodia organization.

25 Q. I have some questions to put to you in reference to your

1 personal experience from 1975 to 1979.

2 My first question is the following: You stated that <in 1975>,  
3 you actually led your troops to attack Phnom Penh; can you tell  
4 the Chamber from which directions that you spearheaded your  
5 troops?

6 [10.48.15]

7 A. Allow me to respond to your question in relation to the attack  
8 in Phnom Penh in 1975. There was only a division of the Southwest  
9 that attacked from the west direction. Actually, we entered  
10 through Pochentong, Ou Baek K'am, and Stueng Mean Chey. Here I  
11 refer to Division 1.

12 [10.49.08]

13 Q. And when your division advanced to Phnom Penh through these  
14 three locations, were you actually stopped advancing in Phnom  
15 Penh before you met with other divisions from other directions?

16 A. I received an order from the division secretary that Division  
17 1 advanced through the three directions that I have mentioned and  
18 I also heard that from the North direction -- that is, there was  
19 a troop -- a group that enters through the east and there was  
20 also another group entering through the north direction. However,  
21 there were several other small spearheads and that the rendezvous  
22 point was the <general staff> headquarters.

23 Q. So when you made a rendezvous with other forces, who actually  
24 gave the order for your division to withdraw?

25 A. After we made a rendezvous with other forces, my unit was

1 instructed by Ta Mok to withdraw to the outskirt and that order  
2 from Ta Mok was relayed through Ta Soeung, the divisional  
3 commander.

4 [10.51.32]

5 Q. Allow me to backtrack a little bit -- that is, when you  
6 withdrew the troops from Phnom Penh. You testified that you did  
7 not know about the orders for the evacuation of Phnom Penh  
8 dwellers. My question to you is: Did you see those people leaving  
9 the city and did you ask whether they received any specific  
10 instructions to do so <or did they leave the city voluntarily>?

11 A. After the order for my unit to withdraw, we actually withdrew  
12 ourself to be stationed at Ou Baek K'am, then at a point on the  
13 National Road Number 3 and Number 4 and we remained in this  
14 location for about a week. I said for about a week since I was  
15 not really sure of how many days we were.

16 [10.53.00]

17 Then we saw people leaving the city and I asked them <where they  
18 were going,> they told me that they were instructed by Angkar to  
19 leave the city; for that reason, they had to go, <but they did  
20 not know where to go exactly,> and that was the only information  
21 that I learned from the people. I asked them whether they  
22 actually -- they were actually leaving the city voluntarily, but  
23 they said no, they were leaving the city per instruction from  
24 Angkar.

25 Some of them were walking and while others were driving their

1 cars or on rickshaws or on pushcarts. Then they went and they  
2 passed me and we did not stop them at all. That's all I can say  
3 about that event.

4 Q. And allow me to backtrack a little bit further: Before your  
5 unit actually entered Phnom Penh, was there any order from the  
6 upper level to your unit that you had to advance to Phnom Penh?  
7 Was there any meeting held where instruction for the advancement  
8 to Phnom Penh was announced?

9 [10.54.44]

10 A. Through my limited knowledge by my division, it was likely  
11 that my division had held a meeting with other leaders and later  
12 on, we were informed by our division for the advancement to Phnom  
13 Penh and we determined that the 18th of April was the day that we  
14 had to achieve our complete victory in Phnom Penh and that the  
15 "Yuon" would not have time to counter our attack.

16 And I received such an order from my division; I, myself, did not  
17 attend any meeting with other senior leaders. And the plan was to  
18 actually attack and take a full control of Phnom Penh on the 18th  
19 but, in reality, we actually took control on the 17 of April.

20 MR. PRESIDENT:

21 Lead Co-Lawyer, in fact, your question may be related to the  
22 scope of 002/01 which was already concluded. Here we are having a  
23 different scope for the proceedings in Case 002/02 <which covers  
24 the specific policy toward Vietnamese and soldiers from the Khmer  
25 Republic. You might be confused> and it may be a waste of time.

1 Only a limited number of questions were allowed in relation to  
2 the scope and as you observed, there were several objections from  
3 other parties on the other side of the Bench in relation to the  
4 questions which are outside the scope of Case 002/02.

5 [10.56.52]

6 BY MR. LOR CHUNTHY:

7 Thank you, Mr. President.

8 Q. I'd like now to refer to Document E3/73 and my question to you  
9 is: Were you aware of the establishment of a security centre at  
10 Prey Nob?

11 MR. MEAS VOEUN:

12 A. I only heard about that, but I, myself, never went to that  
13 area. I heard a combatant spoke about it.

14 Q. In reference to that document, you made mention of the two  
15 meetings that you attended in Kampong Chhnang; can you tell the  
16 Chamber who, from the senior leadership, attended the two  
17 meetings and what were the contents of the meetings?

18 A. From my recollection, I never went to Kampong Chhnang  
19 province; however, I attended a meeting once at <Longveaek>.

20 [10.58.42]

21 Q. You said you attended a meeting in <Longveaek> and, of course,  
22 <Longveaek> was part of Kampong Chhnang. Can you tell us about  
23 the <contents of> that meeting; were there any senior leaders who  
24 attended that meeting?

25 A. For the meeting at <Longveaek>, there were Ta Si; Ta Soeung --

1 that is, my divisional commander; and there was Pol Pot, who were  
2 the senior leaders in that meeting.

3 Q. In another document -- that is, E3/80, you provided a  
4 statement in relation to question/answer 16. You spoke about a  
5 congress in the West Zone; can you tell the Chamber a bit more  
6 about that congress?

7 A. Yes, there was a West Zone congress. It was held once at the  
8 coconut plantation or Chamkar Doung in Khmer, <it was also called  
9 Chbar Mon>. <I only knew the two places, Chamkar Doung, Chbar  
10 Mon.>

11 [11.00.45]

12 Q. Did you personally attend that congress; if so, how long did  
13 that congress last?

14 A. I attended the congress and it lasted for about a week or a  
15 bit more.

16 Q. Can you tell the Chamber the main contents that were discussed  
17 during that congress?

18 A. The congress discussed the issues of strengthening the core  
19 leadership and the rice production. It also discussed the issue  
20 of defending the country.

21 MR. PRESIDENT:

22 You run out of time, Mr. Lawyer for civil parties. Now, the floor  
23 is given to the defence team for Mr. Khieu Samphan to put  
24 questions to this witness or to the other defence counsel if you  
25 want to put question. You have the floor now.

1 [11.02.39]

2 QUESTIONING BY MS. GUISSÉ:

3 Yes, thank you, Mr. President. I will start as we proceeded the  
4 last time. If there's any time left and my colleague has some  
5 additional questions <to put>, I will allow him to do so.

6 Q. Good morning, Mr. Meas Voeun. My name is Anta Guisse. I am  
7 International Co-Counsel for Mr. Khieu Samphan and in this  
8 capacity, I have a few supplementary questions to put to you.  
9 For a start, I am particularly interested in the period during  
10 which you worked at Koh Kong -- that is, from 1975 to 1978.  
11 Yesterday, on several occasions, you stated that during the three  
12 years you spent at Koh Kong, you did not arrest any Vietnamese  
13 fishing boats and that the only boats you personally had to deal  
14 with were refugee boats; did I properly understand your  
15 testimony?

16 MR. PRESIDENT:

17 Please wait, Mr. Witness. You have the floor first, International  
18 Co-Prosecutor.

19 [11.04.04]

20 MR. DE WILDE D'ESTMAEL:

21 I am not sure I am following exactly what has been said. It would  
22 be simpler to quote the passage and give us the time when the  
23 witness said that, bearing in mind that the witness gave other  
24 details, including the passage I read out some time ago, <in>  
25 several WRIs regarding <the arrest of> Vietnamese boats. And I



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1 would like to say that, <just before we finished, he confirmed  
2 that> hundreds of Vietnamese were sent to Kampong Som, so if you  
3 rephrase your question to avoid leading the witness, that'd be  
4 better.

5 BY MS. GUISSÉ:

6 For the time being, I am not yet dealing with <where> the  
7 <people> were sent; I'm talking of the types of boats the witness  
8 dealt with. I'm talking of the <draft> transcript of <yesterday's  
9 hearing> at <around> 2.20 p.m. <So, I'm asking the witness to  
10 clarify.>

11 Q. Witness, did I properly understand your testimony when you  
12 said that during your <three years> in Koh Kong, you personally  
13 <were> only <in contact with> refugee boats? If that is not  
14 <right>, <please correct me>.

15 MR. MEAS VOEUN:

16 A. I have never encountered ships, but boats.

17 [11.05.45]

18 Q. Excuse me, could you please repeat your answer? We did not  
19 <hear the> interpretation.

20 A. You asked me whether <> I had encountered <refugees> on sea;  
21 in fact, at the time, I <only> encountered <Vietnamese boats>,  
22 not the big ships.

23 Q. My question was whether during the three years you spent in  
24 that era, you only encountered refugee boats; or <did> you also  
25 encounter fishing boats?

1 A. You want to know whether those boats belonged to Thai people  
2 or Vietnamese people, <I already stated that I only encountered  
3 Vietnamese boats.> So if you asked me about the Vietnamese <>  
4 boats, I would give my answers accordingly, <so I only  
5 encountered Vietnamese boats >.

6 [11.07.13]

7 MR. PRESIDENT:

8 The question is that whether, at the time <that> you encountered  
9 <the Vietnamese boats, did you only encounter refugees or did you  
10 encounter> the <Vietnamese> fishing boats together with the boats  
11 with the <> refugees on them.

12 MR. MEAS VOEUN:

13 In fact, I never saw the fishing boats, but the boats <> loading  
14 the Vietnamese refugees.

15 BY MS. GUISSÉ:

16 Q. A while ago, the Co-Prosecutor referred to your interview with  
17 DC-Cam dealing precisely with <those encounters> with refugee  
18 boats. I would like you to tell the Chamber whether you remember  
19 <if>, after you handed the people <over> to the headquarters <as>  
20 you said was the procedure, do you know whether there were any  
21 <subsequent> negotiations with a view to liberating those  
22 refugees?

23 MR. MEAS VOEUN:

24 A. Regarding the refugees I had sent to the headquarter in  
25 Kampong Som, I did send them to the headquarter but, afterward, I

1 did know what happened to those people and what steps were taken.

2 [11.08.54]

3 Q. In DC-Cam document E3/8752; ERN in English, 00849511; ERN in  
4 Khmer, 00733340; and I'll quote in English in order to refresh  
5 your memory. This is the first answer you gave:

6 "<They fled> after they were defeated by North Vietnam, so they  
7 crossed our sea to travel to Thailand. We arrested them and sent  
8 them to Kampong Som. Then they negotiated for their arrest. I did  
9 not know where those people were from."

10 Question: "Where were they sent to?"

11 Answer: "The general staff office."

12 Question: "Where was the general staff office?"

13 Answer: "The general staff office was in Kampong Som. I did not  
14 know how they dealt with them; we just sent them up. It was up to  
15 them to negotiate and release them. I did not know foreign  
16 affairs and how they negotiated." End of quote.

17 [11.10.36]

18 So my question to you, in light of what you told DC-Cam, is as  
19 follows: Without knowing the precise details of what happened at  
20 the headquarters, did you hear of any negotiations that were  
21 conducted when people were arrested at sea?

22 A. I did not receive any news regarding the issue.

23 Q. You stated that during the three years you spent at Koh Kong,  
24 you personally received orders from Ta Soeung and sometimes, when  
25 he wasn't there, you received telegrams from Son Sen; did I

1 properly understand your testimony?

2 A. Yes, that is correct.

3 Q. Do you know whether during Ta Soeung's absences, he happened  
4 to go to attend meetings in Phnom Penh?

5 A. He did not tell me if <> he had to go <anywhere>. He only  
6 advised me that <> in his absence, my report should be submitted  
7 to the headquarter.

8 [11.12.35]

9 Q. You stated that when you arrested boats of refugees <at sea>,  
10 you would send them to the headquarters; who issued the orders to  
11 you to send those refugees to the headquarters <or> to <your  
12 superiors>?

13 A. He gave me instructions before that happened. <When we  
14 captured any of them, we had to report to him and he would  
15 instruct us> to send those people to Kampong Som, so what I did  
16 was in accordance with his instructions.

17 Q. Yes, my question was: Who issued those instructions to you;  
18 was it Ta Soeung?

19 A. Ta Soeung.

20 Q. I'm sorry about the pronunciation, but we agree that it was  
21 the commander of your division who issued that order to you?

22 A. That is true.

23 [11.14.00]

24 Q. Did he tell you whether that order came from Son Sen?

25 A. He did not tell me that the order had come from Son Sen; <>

1 the order that I received was to send them to Kampong Som.

2 Q. In answer to a question put to you by the International  
3 Co-Prosecutor, you stated that you did not attend any meetings in  
4 Phnom Penh before you left Koh Kong. You stated that you did not  
5 know whether Ta Soeung had gone to Phnom Penh during that period.  
6 That notwithstanding, did you hear of any congress held in Phnom  
7 Penh in <late> 1977 during which Son Sen issued instructions  
8 regarding the treatment of refugees in territorial waters? Did  
9 you hear of any such meeting?

10 A. I never heard of it.

11 [11.15.33]

12 Q. I put this question to you because we have on <the case file>  
13 a document from a person whose name I cannot give you. The  
14 document is E319/23.3.12 which contains answer number 75 in this  
15 WRI and that person says the following -- that person was company  
16 commander in Division 164 and this is what that person states:  
17 "In late-1977, I attended a congress in Phnom Penh to assess the  
18 results of work done by Division 164. On that occasion, I heard  
19 Meas Muth present a report on Vietnamese boats that had violated  
20 Cambodian territorial waters. Son Sen said that if those  
21 Vietnamese were refugees heading for Thailand, we should not  
22 arrest them, but allow them to continue their journey." End of  
23 quote.  
24 My question to you is as follows: Does this refresh your memory  
25 as regards things you may have heard<, not> from Ta Soeung since

1 you <told us he did not tell you> about <the> meeting, but from  
2 persons you <were in contact with> in Division 164?

3 A. I did not hear of that new.

4 [11.17.40]

5 Q. In any case, do you confirm that you never received from Ta  
6 Soeung an order to kill the refugees you came across at sea?

7 MR. PRESIDENT:

8 Please hold on, Mr. Witness. You have the floor now International  
9 Deputy Co-Prosecutor.

10 MR. DE WILDE D'ESTMAEL:

11 Thank you, Mr. President. I object to this question because I do  
12 not understand the foundation for this question. You are asking  
13 the witness to confirm something, whereas a while ago I read an  
14 <excerpt> in which it was precisely stated that certain persons  
15 had to be eliminated on the boats, so I have some difficulty  
16 understanding the foundation of this question. I believe your  
17 question is designed to <influence or> lead the witness <towards  
18 a certain answer>. So may I ask you to confirm the foundation for  
19 the question?

20 [11.18.47]

21 BY MS. GUISSÉ:

22 The foundation is <the question that I put a few minutes earlier>  
23 when I asked the witness to confirm that whenever there were  
24 refugees to be sent to <headquarters>, <I think I can indeed ask  
25 him to confirm that there was no order from Ta Soeung to shoot at

1 or execute the refugees he found at sea.> I can <take out the  
2 word "confirm"> if it poses a problem <for the Co-Prosecutor>.

3 Q. Witness, did you ever receive orders from Ta Soeung asking you  
4 to execute Vietnamese refugees you came across at sea?

5 MR. MEAS VOEUN:

6 A. He did not give an order to me to kill those people. The order  
7 was that if Vietnamese people ,or other races> were arrested, I  
8 should make the report to him, after which he would forward the  
9 report up the line based on the hierarchical order.

10 [11.20.10]

11 Q. Another question: Did you, yourself, issue orders to <any of>  
12 the 1,700 soldiers under your orders to execute Vietnamese that  
13 you may have or they may have come across in Cambodia's  
14 territorial waters?

15 A. No, I did not give an order that way. The order was after they  
16 were arrested, they should be sent to a specific location.

17 Q. I put this question to you because, as you stated -- or as the  
18 Co-Prosecutor stated a while ago, there was a witness who was a  
19 simple soldier and that witness stated that he had received from  
20 his superior the order to kill <any> Vietnamese person they found  
21 on boats <with less than 20 people on board>. Did you hear Ta  
22 Soeung or any other army <officer> who was assigned to the zone  
23 to which you were <assigned> say anything of the sort?

24 MR. PRESIDENT:

25 Please wait, Mr. Witness. You have the floor now, Co-Prosecutor.

1 [11.21.52]

2 MR. DE WILDE D'ESTMAEL:

3 Thank you, Mr. President. I think this question should include  
4 the fact that this witness worked in Division 164 and not in  
5 Division Number 1; <the witness> should understand that clearly  
6 to avoid any mix-up.

7 BY MS. GUISSÉ:

8 No problems with that.

9 Q. You have heard this clarification: <the individual is from>  
10 Division 164. So my question to you is as follows: Did you ever  
11 hear your <officers> or any other <officers> of Division 1 or of  
12 Division 164 with whom you exchanged information, did you ever  
13 hear that any such order was issued? <Being> that Vietnamese  
14 civilians be shot at <and executed> when they were in boats with  
15 less than 20 <people on board>?

16 MR. MEAS VOEUN:

17 A. I have never heard of such an order and I was not aware of  
18 such order.

19 [11.23.04]

20 Q. As part of the radio communications you did during your  
21 patrols on boats, did you exchange radio communications with  
22 Division 164?

23 A. I testified before the Chamber already that Division 164 was  
24 also stationed at Koh Kong, so we needed not to use radio to  
25 exchange the communication, but we could communicate directly or



1 personally.

2 We worked together. We had to cooperate with one another, but as  
3 for the orders <to> kill the refugees, we have never received  
4 such an order.

5 Q. When you state that you didn't need radio communications to  
6 communicate with Division 164, does it mean that you communicated  
7 on a one-on-one basis with members of 164 Division when you were  
8 on boats <together> or when you were on land; can you specify  
9 when you communicated <if> you were not using radio  
10 communications?

11 [11.24.54]

12 A. I told -- I have told the Court already that the boats belong  
13 to Division 164 would be stationed at the harbour together with  
14 my boats, so those who were at sea had to be responsible for the  
15 defending of the country or their specific location and the same  
16 for those who were on land. And Division 64 (sic) would  
17 communicate the messages to the headquarter in Kampong Som, but  
18 while we were working together on the island, we could  
19 communicate <directly>.

20 Q. My question is as follows: During your exchanges with members  
21 of Division 164, did you hear of an order that they may have  
22 received to execute civilians on territorial waters, an order  
23 that may have been different from the orders you, yourself,  
24 received?

25 A. I made the point clearly already that I have never heard of

1 such an order as regards the shooting deaths the refugee on  
2 boats. There was no such incident happening and there was no such  
3 an order.

4 [11.26.47]

5 Q. During the period from 1975 to 1978, when you were in Koh  
6 Kong, I understood from your answer this morning that you are  
7 only aware of what happened on the maritime border and in  
8 territorial waters. In light of what you said this morning, do  
9 you confirm that you do not know what <was happening> within the  
10 country? <In particular, the West Zone.>

11 MR. DE WILDE D'ESTMAEL:

12 <Mr. President -->

13 MR. PRESIDENT:

14 Please hold on, Mr. Witness. You have the floor now,  
15 Co-Prosecutor.

16 MR. DE WILDE D'ESTMAEL:

17 Thank you, Mr. President. I do not think the Defence can draw  
18 this conclusion because the witness, himself, said that he  
19 attended meetings in the West Zone every three <or> four months  
20 and that a number of subjects were dealt with and he even said  
21 that the subjects dealt with "included <all the enemies... the  
22 matter of> internal <enemies>". <Obviously, that is not> limited  
23 to the maritime zone.

24 [11.28.00]

25 BY MS. GUISSÉ:

1 Let me rephrase my question so that what I say ties in with what  
2 the witness said this morning.

3 Q. Witness, <this morning, while you were questioned> with regard  
4 to a report you were not aware of, you stated that as regards the  
5 treatment of Vietnamese, you could only talk about what had  
6 happened where you were assigned -- that is, Koh Kong.

7 As part of the meetings you attended, did you hear any other  
8 information regarding the treatment of Vietnamese?

9 MR. MEAS VOEUN:

10 A. No, I have never heard of any other news. I received only the  
11 instructions and news as regards <to defending the territory,>  
12 working the field and the management of the tasks within our  
13 responsibility.

14 Q. As part of your testimony yesterday, you referred to the  
15 situation of your aunt and you said that she was married to a  
16 Vietnamese and <that> she and her husband were arrested.

17 My first question to you is as follows: When did you hear about  
18 that; was that while you were in Koh Kong or after the fall of  
19 the regime?

20 A. After I had left Koh Kong and arrived in Preah Vihear, at that  
21 time, <> I travelled past my village, so I learned about the  
22 news. Perhaps it was in 1978.

23 [11.30.12]

24 Q. And what was your village and do you know who was the village  
25 chief, the district chief, and the commune chief back then; do

1 you remember or do you know?

2 A. I could not remember all the names and I do not know all the  
3 names of the leaders either. I only know some of the chiefs in  
4 sectors 31 and 32, not all of them. <Regarding the organization  
5 at the rear, I did not really know them since I did not go  
6 there.>

7 Q. Do you remember, regardless of the level, the name of a cadre  
8 in the village in which you say that your aunt and her husband  
9 were arrested; do you remember regardless of the level <-- I  
10 understand that> all of these dates <go> back quite a while, but  
11 do you remember the name of anyone who held any kind of position  
12 back then?

13 A. I know the name of the village, not the village chief names  
14 <>. My aunt's name was Kun (phonetic). She is deceased.  
15 [11.31.55]

16 Q. And when you went there in 1978, was she still in charge of  
17 the village?

18 A. I did not know, at the time, where the village chief had been  
19 reassigned or transferred to. At that time, I was on a vehicle  
20 travelling past my village and on the way, I learned of the news.

21 Q. So must I understand that you were not able to obtain all of  
22 the information on the circumstances of the arrest of your aunt  
23 and of her husband?

24 A. What I know is that she was arrested and died later on. Her  
25 husband returned to Hanoi and the wife had been arrested and I

1 did not know> who made the arrest.

2 Q. So must I understand that her husband returned to Vietnam --  
3 went back to Hanoi?

4 A. Correct, her husband went back to Vietnam.

5 Q. And do you know when, exactly, he returned to Vietnam; that is  
6 to say, when you went to the village, had they told you that he  
7 had already gone back to Vietnam or was it later on that he  
8 returned to Vietnam?

9 [11.34.07]

10 A. The husband had returned to Vietnam in 1970 during the time  
11 that the Vietnamese troop <> came to join forces to get the  
12 country out of the war. <The wife was arrested later on and  
13 disappeared.> I heard that she had a child<, but I do not really  
14 know what happened to the child; however,> during the time <that>  
15 Vietnamese people were invited to return to their home country,  
16 <maybe the child was taken along too>; it happened in 1970s.  
17 That's <> the information that I had learned.

18 Q. Fine. So, her husband went back to Vietnam in 1970 and you say  
19 -- this will be my last question, Mr. President, because I know  
20 that we have gone beyond the allotted time -- so your aunt, you  
21 said, was arrested between '75 and '79; is that correct? <Well,>  
22 before 1978, because you said that you learned of her arrest in  
23 1978, so she was arrested between 1975 and 1978; is that correct?

24 A. It was in late-1970, '71 or '72. It was after 1970 that I had  
25 learned of the news, <maybe it was in 1973,> so I cannot tell you

1 for sure.

2 [11.36.16]

3 Q. Fine. So, in order to make sure that everything is clear, when  
4 you speak about the arrest of your aunt, this was in the period  
5 before the capture of Phnom Penh; is that correct?

6 A. It was after the fall of Phnom Penh; perhaps, it was after the  
7 fall of Phnom Penh that she disappeared. It was after the fall of  
8 Phnom Penh.

9 MS. GUISSÉ:

10 Mr. President, I am done, also given the time, with my questions.

11 [11.37.11]

12 MR. PRESIDENT:

13 The Chamber thanks you, Mr. Meas Voeun. <The hearing of your  
14 testimony comes to an end.>Thank you for coming here as a  
15 witness. Your testimonies will contribute to the truth in the  
16 case. You may now be excused. You may return to your residence or  
17 to any places you wish to go. I wish you all the best.

18 <> Court officer, please work with the WESU to send the witness,  
19 Meas Voeun, back to his resident or to any places he wishes to  
20 go.

21 I thank you, as well, Madam Sok Socheata, the duty counsel. You  
22 may also be excused.

23 The Chamber will start to hear the testimony of witness In  
24 Yoeung.

25 It is now appropriate time for the lunch break. The Chamber will

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1 resume at 1.30 in the afternoon.

2 Security personnel are instructed to bring Mr. Khieu Samphan to  
3 the waiting room downstairs and please have him returned into the  
4 courtroom before 1.30 in the afternoon.

5 The Court is now in recess.

6 (Court recesses from 1138 to 1332H)

7 MR. PRESIDENT:

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

9 This afternoon the Chamber will hear the testimony of In Yoeung.

10 Based on the request of this witness, the Chamber assigned Chhay  
11 Marideth, TPO staff, to accompany the witness due to the witness'  
12 health reasons and because <> the witness is a bit frightened  
13 through the proceedings.

14 So now the floor is given to the Co-Prosecutor to put questions.

15 [13.34.00]

16 QUESTIONING BY MR. SREA RATTANAK:

17 Good afternoon, Mr. President, Your Honours.

18 Q. And good afternoon, Madam Witness. I asked you some questions  
19 already in the previous hearing and I have some further  
20 questions. I want to know your age. How old are you this year?

21 MS. IN YOEUING:

22 A. I am 56 years old this year.

23 Q. To my recollection, you told the Court in the previous  
24 hearings that you are <65> years old. So again, could you clarify  
25 again your age to the Court? How old are you this year?

61

1 A. I am 55 years old, not 60 or, rather, 56. I may have confused  
2 my age.

3 Q. So I am now not so clear in relation to your age. So can you  
4 tell the Court which year you were born?

5 A. I cannot recall it, particularly the year of my birth since my  
6 mum did not tell me about that.

7 [13.36.30]

8 Q. So let me put the question in a different way. Can you recall  
9 the event of 17 April 1975?

10 A. No, I cannot recall it.

11 Q. As it is widely known by the masses about the fall of Phnom  
12 Penh, do you recall when Phnom Penh fell?

13 A. Phnom Penh fell in 1975.

14 Q. So now I want to ask you about the events of that year, 1975.  
15 So how old were you in 1975?

16 A. I do not know, <Judge (sic)>. I did not pay my attention to my  
17 age in that year.

18 Q. You were assigned to work in different locations. So can you  
19 tell the Court, were you assigned to be part of the youth unit or  
20 children unit?

21 A. I was in the mobile unit since I was a full-fledged.

22 [13.38.45]

23 Q. So can you give an estimate to the Court so whether you were  
24 10 years old, 20 years old or how old were you that year?

25 <>



1 <>

2 A. I was around 15 years old.

3 <>

4 Q. So now I am asking you about the period of 1975 when Phnom  
5 Penh fell and the period was also the start of the Democratic  
6 Kampuchea. Can you tell the Court whether there were Vietnamese  
7 living in your village and commune?

8 MS. IN YOEUUNG:

9 A. No.

10 [13.40.25]

11 Q. You stated that there were no Vietnamese in your village and  
12 commune. So my next question is: Did you ever see Vietnamese  
13 living in other villages and communes after the fall of Phnom  
14 Penh?

15 A. No, no Vietnamese after the fall of Phnom Penh.

16 Q. What about the period before the fall of Phnom Penh? Did you  
17 ever see Vietnamese living in communes and in other places that  
18 you used to reside in?

19 A. There were no Vietnamese in the villages and communes but I  
20 saw them living close to the border when I was in the mobile  
21 unit.

22 Q. So where was the base of the worksite which your mobile unit  
23 was assigned to work?

24 A. I was working in Doung location near Vietnamese border. <We  
25 were at one side and they were walking on the other side. We did

1 not mingle with them.> Mobile units, members of mobile units were  
2 afraid of the Vietnamese although we were living in different  
3 country.

4 [13.42.20]

5 Q. You stated that you saw Vietnamese people <on the other side>.  
6 So is it correct to say that those Vietnamese people were living  
7 in their country on the other side of the border <and you were on  
8 the side of our territory>; is that correct?

9 A. It is correct. We <were> living in our own country and they  
10 <were> living in the other side of the border working. We could  
11 not cross into Vietnam and they could not also cross into  
12 Cambodia either.

13 Q. You have just told the Court that you saw Vietnamese on the  
14 other side of the border -- that is, in their country. My  
15 question about Vietnamese is to ask you whether or not there were  
16 Vietnamese living within the territory of Cambodia. So please  
17 limit your response to my question. So now let me reformulate my  
18 question.

19 Did you ever see Vietnamese living and working in the location  
20 where you were assigned to work after the fall of Phnom Penh?

21 A. I never saw Vietnamese people.

22 [13.44.28]

23 Q. To refresh your memory, I am now quoting your statement that  
24 you gave to the DC-Cam in 2005, document E3/7525; ERN in Khmer,  
25 00089629; French, 00903085; <00885515>, that is the English ERN.

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1 You were asked by the interviewer how many Vietnamese were taken  
2 away <from the village> and your answer is: "I do not know. I was  
3 living in my own village and <people who were> transferred from  
4 Kampong Trach <were taken away>."

5 The next question: "So <they> were transferred from Kampong  
6 Trach<>?"

7 And your answer is: "Yes, <they were> transferred from Kampong  
8 Trach."

9 And then you were asked: "How many Vietnamese <families> were  
10 taken away?"

11 And you stated that: "<About> four families <> were  
12 <transferred>."

13 <So, do you recall talking about four Vietnamese families, that  
14 you had seen, were transferred from Kampong Trach commune?>

15 [13.46.40]

16 A. I cannot recall it <>since it happened a long time ago.

17 Q. So now I want to ask you a location. Do you know Prey <Chak>?

18 A. Yes, I know that location, Prey <Chak>.

19 Q. Where was Prey <Chak>?

20 A. Prey <Chak> was situated to the west of Phum Sras (phonetic).

21 Q. What commune and district was Prey <Chak> situated?

22 A. Prey <Chak> was in Chrey Commune to the west of Sras  
23 (phonetic) <village>.

24 Q. What about this district? What district was Prey <Chak> in?

25 A. Prey <Chak> was located to the west of Sras (phonetic). It was

1 in Chrey commune.

2 [13.48.39]

3 Q. So it compares to the location where you worked and lived. So  
4 how far was it from the place where you worked to that location?

5 A. It was about five kilometres away from each other.

6 Q. I am not quite clear, Madam Witness. I am now referring to the  
7 village you were residing in before 1975; <that is before you  
8 were in a mobile unit>. So how far was it from your residence  
9 before the fall of Phnom Penh and Prey <Chak>?

10 A. It was about five kilometres away from my house.

11 Q. So now can you tell the Court once again whether Prey <Chak>  
12 was in the same <area>, commune, district and province as you  
13 lived? <Or was it in a different district and province?>

14 A. Prey <Chak was in a different province, it> was in Chrey  
15 commune, Kampong Trach -- <Oh, I am confused>.

16 [13.50.35]

17 Q. Was it in the same Romeas Haek district, Svay Rieng province,  
18 or was it in a different province?

19 A. It was in Chrey commune, the same Svay Rieng province. So it  
20 was in the same province, Svay Rieng.

21 Q. So if one makes mention about Prey <Chak or Vietnamese,> does  
22 Prey <Chak> has anything to do with the Vietnamese people?

23 A. No, I cannot recall what happened. I know that there was a  
24 location named Prey <Chak>. But I do not know whether that  
25 location had anything to do with the Vietnamese traditionally.

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1 Q. To refresh your memory, I am now quoting your statement in the  
2 same document, E3/7525; ERN in Khmer, <00089627, French 00903083  
3 and English 00885013. At that time,> you were asked by an  
4 interviewer about the Vietnamese families, whether there were  
5 Vietnamese families living in your location <during the Khmer  
6 Rouge regime>.

7 [13.52.31]

8 MR. PRESIDENT:

9 You have the floor now, Counsel for Mr. Khieu Samphan.

10 MS. GUISSÉ:

11 Yes, Mr. President. I don't know if there is a problem with the  
12 French translation but we didn't get the ERN. So could you please  
13 repeat the ERN, Co-Prosecutor?

14 [13.53.12]

15 BY MR. SREA PATTANAK:

16 French ERN is 00903083.

17 Q. Now, let me quote. You answered: "There were no Vietnamese  
18 living in the area. Although there were, they had been taken to  
19 Prey <Chak>. If <there> were Vietnamese, those Vietnamese were  
20 sent to Prey <Chak>."

21 Does this refresh your memory, Madam Witness? What happened to  
22 the Vietnamese living in Prey <Chak>?

23 MS. IN YOEUING:

24 A. I cannot recall it, Mr. Co-Prosecutor, since it happened a  
25 long time ago. My memory does not serve me well. They disappeared

1 after going to Prey <Chak>.

2 Q. You have stated that they had gone and they disappeared after  
3 they went to that location. So who you are referring to?

4 MR. PRESIDENT:

5 Please wait, Madam Witness. You have the floor now, Koppe.

6 [13.54.49]

7 MR. KOPPE:

8 Thank you, Mr. President. Just for our clarity, the document of  
9 the DC-Cam statement that the Prosecution is referring to is an  
10 interview with someone else. It's not the interview of the person  
11 called In Yoeung. Presumably, she is the neighbour that is  
12 introduced at the very end of that interview because it says, "In  
13 Yoeung". But considering her answers in relation to what this In  
14 Yoeung has or the neighbour In Yoeung has testified to, I am not  
15 100 per cent sure whether we are in fact dealing with the same  
16 person. I don't know if In Yoeung is a very common name in that  
17 area but I think it might be worthwhile going into it considering  
18 the completely different answers as compared to that last part of  
19 this particular interview.

20 [13.56.00]

21 MR. DE WILDE D'ESTMAEL:

22 I'm not sure that there is really an ambiguity here insofar that,  
23 indeed, this neighbour here who speaks <constantly> during the  
24 interview given by the DC-Cam people with <this person named>  
25 Chan Kea, this neighbour is identified towards the end of the

1 interview as being In Yoeung. At the hearing, at the last  
2 hearing, the question was put to her about her husband's name and  
3 she said Chan Kea. So this is in reality the person who was being  
4 interviewed by DC-Cam, so I think that should be sufficiently  
5 clear to solve all misunderstandings. But later on I will get  
6 back to the content of the statements that do not match.

7 MR. PRESIDENT:

8 Can the Co-Prosecutors clarify the issue once again? This is your  
9 assumption that the neighbour in the document is the witness or  
10 is there any other written record of the interview of the witness  
11 since there are no questions seeking clarification on the issue  
12 yet?

13 [13.57.41]

14 MR. SREA RATTANAK

15 Mr. President, based on document E3/7525, there is a neighbour in  
16 the document and the interviewee is Chan Kea. But to the end of  
17 the interview on page 46 in Khmer; and French, 00903087; English,  
18 <00885016>; and <the interviewer asked about the name, and it was  
19 said the name> is <> In Yoeung and the interviewee in the  
20 previous pages is Chan Kea. And to my recollection, I recall that  
21 the witness said her husband's name is Chan Kea.

22 So to my understanding is that there were two people during --  
23 two interviewees during the interview and at the beginning the  
24 interviewer did not realize that the woman was the wife to the  
25 first interviewee <although she always involved in the

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1 conversation. That is based on the statement of interview. At the  
2 end, the neighbor asked her name and got to know that her name is  
3 In Yoeung and her husband was Chan Kea>. That is why I used this  
4 document to examine the witness before the Chamber.

5 [13.59.15]

6 MR. PRESIDENT:

7 I want to make it clear in relation to the individual who is now  
8 testifying before the Chamber. So how is she related to Chan Kea  
9 and what was the involvement of this witness in that interview?  
10 So now the Defence is confused of the document that you used to  
11 examine this witness. <You were making an assumption.> So  
12 Co-Prosecutor, please make it clear so that everyone, including  
13 the public, can understand why the document you are using is  
14 related to this witness.

15 BY MR. SREA RATTANAK:

16 Thank you, Mr. President.

17 Q. Madam Witness, do you recall you were interviewed in 2005?

18 MS. IN YOEUING:

19 A. No, I was never interviewed in 2005. It was my husband who was  
20 interviewed. So this is wrong to conclude that I was the one who  
21 was interviewed. In fact, my husband wants to come to the Court  
22 <because it was about his own relatives, I am just the in-law,>  
23 but I do not know how come I was the one who was summoned by the  
24 Court.

25 [14.00.54]



1 Q. So was it your husband who was interviewed?

2 A. Yes, he was. My husband actually really wants to be here and I  
3 actually asked about that. I said that it was not proper for me  
4 to testify; it should be my husband.

5 Q. Did you actually say something during your husband's  
6 interview?

7 A. Yes, I said something and, in fact, there was an old man who  
8 was there and who actually spoke more than I spoke.

9 Q. So besides the old man, was there any other female neighbour  
10 who participated in the interview?

11 A. No, there was the old man and myself.

12 Q. So allow me to clarify. During the interview you refer to the  
13 old man, your husband and yourself; right?

14 A. Yes.

15 [14.02.20]

16 Q. And besides you there was no other woman who was there during  
17 the interview; is that correct?

18 A. I forget half of what happened. As it happened a long time  
19 ago, I cannot recall it that well.

20 Q. I would like to confirm with you that, besides you during the  
21 interview, there was no other woman who was there; am I correct?

22 A. There were some other children, male and female children who  
23 were there during the interview. There were quite a few older  
24 children and some younger children and I, myself, was there with  
25 my "ta", my husband.

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1 MR. SREA RATTANAK:

2 Mr. President, we rely on your wisdom based on her statement  
3 whether it is her who was there during the interview of this  
4 person, Chan Kea. <So can I continue my questioning?>

5 [14.04.14]

6 MR. PRESIDENT:

7 It is your time to seek clarification to make sure that this is  
8 the right witness who is to testify and, of course, you have been  
9 in this legal business for quite some time and you should know  
10 that it would be very strange to call a neighbour to testify  
11 rather than the person who was interviewed. And based on the  
12 principle, the documents will be used only for the interviewee  
13 and not somebody who actually eavesdrops or who was there.  
14 And whether you should proceed with this or not this is your  
15 methodology.

16 And I noticed that the defence team is on his feet. You may  
17 proceed, Kong Sam Onn.

18 [14.05.11]

19 MR. KONG SOM ONN:

20 Thank you, Mr. President. I would like to make some observations  
21 based on what the witness just stated.

22 In document E3/7525, there is a mentioning of a neighbour and in  
23 this document the neighbour is not just her. From what she said  
24 there was an older man and there were also some other children  
25 who actually might have spoken during the interview, although

1 towards the end of the document there is a mention of name "In  
2 Yoeung", it does not necessarily mean all the statements by a  
3 neighbour is her statement. This is a rather confusing statement  
4 so we rely on your wisdom to clarify this matter.

5 MR. PRESIDENT:

6 The Prosecution, you may continue but then you should be clear  
7 whether she is the person who knows about the content of this  
8 interview in particular in relation to the event concerning the  
9 Vietnamese under the DK period. And if you request for someone to  
10 testify without knowing the event, that would be out of the  
11 question.

12 [14.06.59]

13 MR. DE WILDE D'ESTMAEL:

14 Yes, indeed, Mr. President, <I would like to remind everybody  
15 that this> the Chamber's <witness>. To <answer the remarks -  
16 because I believe they must be answered - certain questions  
17 seeking clarification have been asked>. <It has> been clarified  
18 <that the> old <man> in question is indeed <her> husband, <Chan  
19 Kea>. <She said so and that> there were no other women present,  
20 <there were only children>. She also said she took part in that  
21 interview, <that she gave certain answers>. That is what I have  
22 <just> understood. Under these conditions, we would consider that  
23 the neighbour <in question> in this interview is the person here  
24 present. So we < request to be allowed to proceed and> ask  
25 questions regarding what that woman told DC-Cam. <Thank you,> Mr.

1 President.

2 MR. PRESIDENT:

3 Counsel Koppe, you have the floor.

4 [14.07.55]

5 MR. KOPPE:

6 A small observation. Mr. President, of course I have no objection  
7 at all if the Prosecution continues asking questions, but if it's  
8 unclear whether she actually said that, then of course the  
9 Prosecution cannot say, "Well, you said this" or confront her  
10 with what she might have possibly said. She is very clear. She  
11 doesn't know anything about the Vietnamese. She doesn't know  
12 anything about Vietnamese outside her village. So it's very risky  
13 to confront her with this because I don't -- I sincerely believe  
14 it wasn't her who actually said those things in that statement.

15 [14.08.38]

16 MR. PRESIDENT:

17 The Co-Prosecutor, you may resume your questioning. However, you  
18 need to clarify the matter clearly and that the witnesses that  
19 you propose should be related to the scope of the proceedings in  
20 this case. And if there is a mistake in calling her to testify  
21 then you should clarify this matter now so that we can move onto  
22 the next witness.

23 QUESTIONING BY MR. DE WILDE D'ESTMAEL:

24 Thank you, Mr. President. I will try to clarify once more the  
25 matter with the witness.

1 Q. To be very certain, madam, when your husband Chan Kea was  
2 interviewed, did you also speak during that interview with the  
3 investigator Ysa Osman? Did you answer some of the questions  
4 asked in addition to your husband? Did you <add> any details and  
5 information to the person who came to conduct the interview?

6 MS. IN YOEUING:

7 A. I cannot recall whether I spoke during the interview.

8 Q. Madam Witness, towards the end of the interview do you  
9 remember that Osman, that is the person who came to interview  
10 your husband, asked you to give your name?

11 A. I was asked.

12 [14.10.46]

13 Q. Mr. President, I will try again with more specific questions  
14 to see whether we can elicit from this witness answers.

15 Let me start from the beginning. You stated that you were  
16 assigned to a mobile unit and you were aged about 15 in 1975. Can  
17 you tell us whether during that period there were mobile units  
18 for adolescents and other mobile units for young adults? <Was  
19 there> a distinction between the two?

20 A. The youth was assigned to a group, the children were assigned  
21 to another group and the female was assigned to yet a separate  
22 group.

23 Q. And at what age could members of the mobile unit join a mobile  
24 unit? Do you remember that age? I'm not talking of the children's  
25 mobile unit but the mobile unit for adolescents.

1 A. The youth mobile unit aged from 15 and above.

2 [14.12.44]

3 Q. Do you recall telling that person who came to interview your  
4 husband the following: For the parties to follow it is on page 15  
5 in French, 15 in English and it is the statement E3/7525 and in  
6 Khmer it is page 00089601.

7 Do you recall having said that, "Members of the mobile unit were  
8 aged 12 and above?"

9 A. For those who were 12 years old, <they> were given a carrying  
10 basket and a hoe to actually carry <dirt> to build a road. And  
11 for <those who were 15 years old,> they were assigned to carry  
12 <dirt> to build dyke.

13 Q. Very well. Is it correct to say that once people were married  
14 they no longer worked in the mobile units?

15 A. For those who were members of the mobile unit, after they got  
16 married they would be sent to live in the cooperatives. <They  
17 were not allowed to stay at the mobile unit afterward.>

18 [14.14.15]

19 Q. Were working conditions and living conditions in the mobile  
20 units harder than in normal cooperative <units>?

21 A. The nature of work in the mobile unit was harsher than the  
22 conditions at the cooperative. The food at the cooperative was  
23 better than the food for the mobile unit as at the mobile unit we  
24 did not have enough food to eat. Usually, we only ate part of the  
25 banana stalk and trunk. <But we had to eat what was given and do

1 what was told. We could not oppose them.>

2 Q. And still on this matter, given the fact that in the  
3 cooperative units living conditions and working conditions were  
4 better, were there any youngsters who volunteered to get married  
5 in order to move from the mobile units to the cooperative units  
6 where living and working conditions were better?

7 A. The youths who were from the cooperatives and married those in  
8 the <mobile unit>. Yes, there were few instances <when they  
9 agreed to get married>. <Otherwise, it did not happen.>

10 [14.16.00]

11 Q. In order to be sure that I properly understood what you are  
12 saying and that we can identify who was <the> neighbour who was  
13 <at the interview> with your husband, I'll quote a passage from  
14 what this neighbour said; <E3/9725>; <French page 26,> English  
15 page 26; and in Khmer -- I'll give the ERN in French because the  
16 page number doesn't exist. It is 00903069; in English, 00884999;  
17 and in Khmer 00089612 to 613; and this is what the neighbour who  
18 took part in the interview said -- and I quote:

19 "People wanted to get married because after their marriage they  
20 moved from the mobile unit to the cooperative. That explains why  
21 there were many divorces."

22 Question: "Were there any cases of persons forced to get married  
23 together whereas they didn't want to get married?"

24 And the answer -- the neighbour answered: "No." And later on the  
25 neighbour states that: "People wanted to get married because they

1 wanted to return to the cooperatives. In the cooperatives, the  
2 work was lighter. For instance, they transported bags of rice, so  
3 people wanted to get married in order to be transferred <back to>  
4 the cooperative." End of quote.

5 Do you recall saying that during the interview <DC-Cam --> Mr.  
6 Osman had with your husband, Chan Kea?

7 A. Yes, that's what I answered.

8 [14.18.24]

9 Q. Mr. President, after asking these first questions I think it  
10 is quite clear that it's the first person who participated in the  
11 interview. I will now ask questions regarding the treatment of  
12 Vietnamese.

13 Madam Witness, in your mobile unit you stated that you worked at  
14 different locations. Were there any people of Vietnamese origin,  
15 young girls of Vietnamese origin in that mobile unit or daughters  
16 of Vietnamese and Cambodian couples working in that mobile unit?

17 A. There were Khmer soldiers who were members of the mobile unit  
18 and they lived in the village. But I did not see any Vietnamese  
19 soldiers.

20 Q. I think there is a mix-up somewhere. I wasn't talking about  
21 soldiers. I quite simply meant other young girls, age 15 and  
22 above, approximately your age who worked with you. Within that  
23 group, I'm talking about civilians, not soldiers. Do you have any  
24 persons of Vietnamese origin or of mixed origin, for instance  
25 whose father was Khmer and the mother Vietnamese?



1 A. No, there was none.

2 [14.20.10]

3 Q. I will try again to quote what you appear to have said to  
4 DC-Cam, document E3/7525 regarding Vietnamese families  
5 transferred from Kampong Trach. The French page is 00903085; in  
6 English, page 00885014 to 15; and in Khmer, it would be three  
7 pages, 00089628 up to 30.

8 THE INTREPRETER:

9 Correction by the interpreter; the document is E3/7525.

10 BY MR. DE WILDE D'ESTMAEL:

11 Q. The question asked by the DC-Cam interviewer is as follows --  
12 I have the French version. There may have been translation  
13 problems. Let me read the French version <first>.

14 Question: "Do you remember the number of Vietnamese residents in  
15 the village?"

16 The neighbour answered as follows: "No, I cannot tell you that.

17 All I remember is that there were Vietnamese from Kampong Trach  
18 who were arrested in my village."

19 Question by Osman: "Were they transferred from Kampong Trach?"

20 And I skipped a passage: "I do not remember the number of  
21 Vietnamese families who were transferred to my village. I would  
22 say that approximately four families were transferred into my  
23 village, Trakeab Kdam village. After being transferred into my  
24 village, they were arrested and taken away. At the time a  
25 Vietnamese woman cried bitterly because she was taken away from

1 her husband who also cried hard."

2 And further down, the neighbour specifies that they were arrested  
3 approximately one month after they had been transferred into that  
4 village.

5 [14.22.42]

6 Do you recall telling DC-Cam that there were four families of  
7 Vietnamese origin transferred from Kampong Trach to your village  
8 and who were subsequently arrested?

9 A. No, I forget it all. I cannot recall that.

10 Q. On that occasion -- that is, during the interview, you  
11 mentioned the name of one of your aunts. You talked of a woman,  
12 an aunt called Ming <Ngam >, M-I-N-G and Ngam, <N-G-A-M>. Is that  
13 person a member of your family?

14 A. No, I did not have any relatives by the name of Ming <Ngam>.

15 MR. KOPPE:

16 That's it, Mr. President. It's obviously not her. I think we  
17 should end it unless there are general questions. But there is no  
18 point in referring to this document because it wasn't -- clearly  
19 it wasn't her. And we should also not forget this is a DC-Cam  
20 interview, the neighbour isn't properly identified. We don't have  
21 any proper proceedings in place as to whether this interview was  
22 done in a proper legal manner. I think we should end it right  
23 now.

24 [14.24.36]

25 MS. GUISSÉ:

1 Yes, Mr. President, <to give it a legal basis --> <to support the  
2 stance of my colleague,> I refer the Chamber to Rule 91.3 of the  
3 Internal Rules which provides that the Co-Prosecutors, <the>  
4 other parties, <and their counsel> may <oppose to the>  
5 examination <of> a witness whose statements are deemed useless  
6 for the manifestation of the truth. <In such a case, the  
7 President must decide if the witness shall continue to be heard.  
8 Mr. President, I request that you invoke this rule. I believe  
9 that > the answers given by the witness so far <demonstrate that  
10 they> will not lead to the manifestation of the truth, based on  
11 the statements <we have been hearing>.

12 [14.25.32]

13 MR. DE WILDE D'ESTMAEL:

14 Mr. President, I have asked a number of questions that have  
15 nothing to do with this subject, precisely to establish the fact  
16 that this is the person in question. The answers given are in  
17 line with what we find in this DC-Cam interview record. The  
18 exception of the subject of the Vietnamese, the witness hasn't  
19 confirmed this so far, but I must point out that the records of  
20 the interview of DC-Cam are <recorded and then> <retranscribed>  
21 <into what we see now.> And it <seems> quite clear that this  
22 woman is person who was interviewed. So I would like to continue  
23 putting some questions to the witness regarding members of her  
24 family, to know specifically whether she has an aunt of Chinese  
25 or Vietnamese origin in her family. Thank you.

81

1 MR. PRESIDENT:

2 What about the Lead Co-Lawyers for civil parties? Do you wish to  
3 make your observation whether we should continue hearing the  
4 testimony of the witness or we have to release her?

5 [14.26.45]

6 MS GUIRAUD:

7 Thank you, Mr. President. I, for one, have a document which I  
8 would like to use and it is not the DC-Cam interview we have been  
9 referring to since the beginning of this afternoon. It is  
10 <document> E3/7816 and it is the record of interview of a person  
11 from the same village as that of the witness. And I would like to  
12 show the witness the statements of that person who witnessed  
13 certain events in 1977 <concerning the segment> we are talking of  
14 today. It is <document> E3/7816.

15 And I am not in a position to say whether the witness will say  
16 anything regarding that testimony but I would like her to react  
17 to this, and <we had also planned on putting> some questions to  
18 her on forced marriages because this is part of the information  
19 we find in the DC-Cam documents of the interview. And <the  
20 witness> has just confirmed that in response to questions put by  
21 the Co-Prosecutor. So we <will rely on the wisdom of the Chamber,  
22 but> for our part, <we> have some questions to put to the  
23 witness, Mr. President.

24 (Judges deliberate)

25 [14.29.28]

1 MR. PRESIDENT:

2 The Chamber decides to hear testimony of this witness. However,  
3 the Co-Prosecutors and the Lead Co-Lawyers for civil parties  
4 should not rely on that DC-Cam interview which took place in 2005  
5 because there is no clear status of her involvement in that  
6 interview. And you should <> put questions to her in relation to  
7 her general knowledge.

8 On the scope of the facts in Case of 002/02, you might put some  
9 questions to her in order to make sure whether that will  
10 contribute to ascertaining the truth in this case.

11 You may continue, Co-Prosecutor.

12 BY MR. DE WILDE D'ESTMAEL:

13 Thank you, Mr. President. I won't use up too much time.

14 Q.I still would like to ask you in <general> terms if between  
15 1975 and 1979 when the DK forces were occupying your region, if  
16 you heard anything about the fate that was meted out to people of  
17 Vietnamese origin who were living in that area or to people who  
18 came from mixed families, that is to say Khmer-Vietnamese  
19 families. Did you learn anything about what happened to them?

20 [14.31.33]

21 MS. IN YOEUING:

22 A. No, I did not know anything about that.

23 MR. DE WILDE D'ESTMAEL:

24 Mr. President, we have no further questions. I believe that the  
25 civil parties might have a few questions to put to this witness

1 and might want to confront this witness with other testimonies  
2 from the same village in which names are mentioned, <which may  
3 jog her memory>.

4 Thank you, Mr. President.

5 MR. PRESIDENT:

6 Now, civil party lawyers can proceed.

7 [14.32.14]

8 QUESTIONING BY MS. GUIRAUD:

9 Thank you, Mr. President. Good afternoon to all of you.

10 Q. Good afternoon, Witness. My name is Marie Guiraud. I represent  
11 the collective of civil parties in this case and I have a few  
12 very brief questions to put to you.

13 I want to know if you knew a <person named> Prum Yan who lives in  
14 your village in Chheu Phleung. Does this name ring a bell?

15 And for the interpreters the name is P-R-U-M and then Y-A-N, Prum  
16 Yan.

17 MS. IN YOEUING:

18 A. I know this individual very clearly. That person walked past  
19 my house almost every day and that person said he or she wanted  
20 to come to this Court to testify before the Chamber and that  
21 person <> suggested that I should not come to testify before the  
22 Chamber. Instead, he wants to come to the Court. <He knew more  
23 clearly than I did, he said this morning.>

24 [14.33.41]

25 Q. Thank you. Did you know a man in your commune by the name of

1 Tep? Does the name Tep ring a bell? This is a gentleman living in  
2 your commune and who was married with a woman who was  
3 half-Vietnamese. Does that ring a bell?

4 A. I do not know this person. I really do not know this person. I  
5 know clearly and very well Prum Yan, not the individual that you  
6 last described <as Tep>.

7 Q. Thank you. I'm going to now quote what Prum Yan said regarding  
8 this gentleman Tep and his wife<, and the Chamber and Parties may  
9 correct me if I am wrong>. I'm going to therefore read out a  
10 segment here, <from> the first question of Prum Yan's WRI  
11 document E3/7816. So it's the first question in both languages  
12 because this document only exists in English and in Khmer.

13 And Prum Yan, whom you know, therefore says -- and I am going to  
14 give you a free French translation -- that in 1977 he saw a a  
15 woman of--

16 [14.345.20]

17 MR. PRESIDENT:

18 If you want to refer to any documents, please identify clearly  
19 your number in three languages.

20 You have the floor now, Counsel for Mr. Khieu Samphan.

21 MS. GUISSSE:

22 I apologize for interrupting my colleague, but the document does  
23 exist in French so therefore we can avoid here a free  
24 translation. I can show her my copy, but in French the ERN of the  
25 page in question is 00339874, if we are speaking indeed about

1 document E3/7816. So, maybe with the assistance of the court  
2 officer, <my> French copy could be given to the civil party  
3 lawyer. <This might be easier to maintain the integrity of the  
4 discussion.>

5 [14.36.13]

6 MS. GUIRAUD:

7 I would like to thank my colleague and, therefore, I would like  
8 to say that it's the first question in all three languages. This  
9 is why I didn't give the ERN but the ERN must be 00277273 in  
10 Khmer; 00292838, in English; and therefore, 00339874, in French.  
11 And it is therefore Prum Yan who is being interviewed and who  
12 indicates that: "In 1977, I saw a mixed-race Vietnamese woman. I  
13 have forgotten her name -- whose husband was named Tep -- he died  
14 three years ago - <along> with her child, <they were> arrested  
15 and taken away by the district soldiers. Three unknown district  
16 soldiers pointed a gun at her in the vicinity of Khla Lout  
17 <village>, Kampong Trach commune, Romeas Haek district, Svay  
18 Rieng province, to force her to walk in the direction of the  
19 Romeas Haek district office which was located in Prey Damloung  
20 village, Kampong Trach commune, Romeas Haek district, Svay Rieng  
21 province. I did not know what happened to the other Vietnamese  
22 families."

23 [14.37.53]

24 BY MS. GUIRAUD:

25 Q. So I wanted to read out this excerpt to you, Witness, in order



1 to know if the event described by Prum Yan <or> Tep's name ring a  
2 bell to you or if this is of absolutely no significance to you.

3 MS. IN YOEUING:

4 A. I heard about it. That person was half-blooded Chinese, <not  
5 Vietnamese,> and was arrested <and taken to Prey Chak> and killed  
6 afterwards; <she was from Khla Lout,> the wife of <Ta Soeun>  
7 (phonetic), <Chief Soeun>. She was half-blooded Chinese and  
8 married a Cambodian man. Prum Yan did make mention about the  
9 point and I only said what he told me.

10 Q. You are speaking today about a person who was mixed-blood  
11 Chinese. So my question, however, was based on someone who was  
12 mixed-blood, Vietnamese and Khmer and who apparently married a  
13 person by the name of Tep, who was Khmer. So is this story  
14 familiar to you?

15 [14.39.31]

16 A. Not mixed blood <Chinese>. But as I said, she was half-blooded  
17 <Vietnamese> and later on she married a Cambodian man. And the  
18 killing did happen and the statement was based on that incident.

19 Q. And this mixed-blooded person, this Chinese-Khmer person, did  
20 this person have a child back then who was brought to the  
21 district office at the same time as <her> by district soldiers?  
22 Is this something that you know?

23 A. That person was not taken to the district office but to Prey  
24 <Chak>. I did not know why that person was brought to Prey <Chak>  
25 and I did not know too what happened to this person.

1 Q. Is this an event that you witnessed personally back then or is  
2 this something that you just heard about in particular through  
3 Prum Yan?

4 A. Prum Yan told me about that. <I did not see it with my own  
5 eyes.> He came to my house and told <> the one who recorded the  
6 statement during the interview.

7 [14.41.25]

8 Q. And is it Prum Yan who told you that this person was  
9 <mixed-blood> Chinese or is this something that you knew before  
10 you spoke to Prum Yan?

11 A. He came to my house and discussed about a mixed race  
12 Vietnamese child <who was taken to Prey Chak>. He made mention  
13 that account at my house.

14 Q. Just in order to make sure that I understood your answer  
15 properly, <Witness>: so therefore he apparently spoke about two  
16 people, a mixed-blood woman, Chinese-Khmer who was brought to  
17 Prey Chak and a Vietnamese child. So did I understand well what  
18 you are telling us now?

19 A. The mother had been taken away first and the child was taken  
20 later on after the child was kept with the father.

21 [14.42.55]

22 Q. And you remember today that Prum Yan told you that this child  
23 was Vietnamese; am I right, or did I not understand you well?

24 A. He said the child was a mixed race child and Prum Yan came to  
25 my house to tell the story to the lawyers and because he

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1 witnessed the incident he told the story to those who were  
2 present at my house. <I did not witness it myself.>

3 Q. Just to make sure that I am clear about this, if I understood  
4 you well, Prum Yan was questioned about these facts in your  
5 house. So did I understand your testimony properly?

6 A. When my husband was interviewed, Prum Yan was also at my house  
7 during the interview.

8 MS. GUIRAUD:

9 I will stop here, Mr. President, regarding this event and I will  
10 have a few short follow-up questions on what the witness  
11 described to the International Co-Prosecutor; that is to say  
12 marriages during the DK regime. This will take me about 10  
13 minutes, Mr. President. So I don't know if I should put my  
14 questions right now or if I should do so after the break.

15 [14.44.50]

16 MR. PRESIDENT:

17 Very well. So now we take a short break first. But before we take  
18 the short break, the Chamber has already sent an email to parties  
19 regarding the hearing to hear <two> motions of the defence team,  
20 Nuon Chea. The defence team for Mr. Nuon Chea requested to admit  
21 some documents into Case 002/02 so that those documents can be  
22 used in the examination of an expert 2-TCE-95 next week. And the  
23 Chamber is scheduled to hear the submission from the defence team  
24 for Nuon Chea tomorrow at the end of this testimony of this  
25 witness. <However, at the moment, it seems the hearing of this

1 witness might conclude this afternoon.>

2 So now, the Chamber would like to ask parties whether or not  
3 parties can submit and make oral responses to the request by Nuon  
4 Chea Since the request was filed only in English, perhaps the  
5 hearing of responses and submission may continue after the end of  
6 this testimony of the witness. So now I would like to hear the  
7 idea and opinion from Co-Prosecutor.

8 [14.46.43]

9 Now, it is the plan of the Chamber to hear the two motions of the  
10 defence team for Mr. Nuon Chea to admit into evidence some  
11 documents into Case 002/02 and those documents are to be used in  
12 the examination of an expert 2-TCE-95 scheduled to testify next  
13 week.

14 And I believe and guess that the testimony of this witness may  
15 conclude -- may be concluded very soon. So I would like to know  
16 whether parties can be ready to submit their responses and also  
17 the requests concerning what I have just told, this afternoon.

18 MR. DE WILDE D'ESTMAEL:

19 Thank you, Mr. President. We indeed received these requests  
20 yesterday. <We had planned on speaking> tomorrow, but since we  
21 have a break right now I am going to ask my colleague who was  
22 supposed to speak about this, to come this afternoon so that we  
23 may discuss it at the end of the witness' testimony. Thank you.

24 [14.48.05]

25 MS. GUIRAUD:

1 Thank you, Mr. President. We <were prepared> to make short  
2 observations tomorrow morning but of course we will comply with  
3 what is organized and we will take advantage of the break to  
4 prepare, so it's possible for us.

5 MR. PRESIDENT:

6 Very good then; it is now time for a short break. The Chamber  
7 will take a short break from now until 3 p.m.

8 Court officer, please assist the witness in the waiting room  
9 during the break time and please invite him to come back together  
10 with the TPO staff into the courtroom at 3.00.

11 The Court is now in recess.

12 (Court recesses from 1448H to 1508H)

13 MR. PRESIDENT:

14 Please be seated.

15 The Chamber is now back in session and the floor is given to the  
16 Lead Co-Lawyer for civil party to resume questioning to the  
17 witness. You may now proceed.

18 [15.09.34]

19 BY MS. GIRAUD:

20 Thank you, Mr. President.

21 Q. Madam Witness, did you get married during the Democratic  
22 Kampuchea regime? In simpler terms, did you get married between  
23 1975 and 1979?

24 MS. IN YOEUING:

25 A. I got married in late 1977. As I said, I got married in late

1 1977.

2 Q. Thank you. Were you a member of the mobile unit you referred  
3 to a while ago when you got married?

4 A. After I got married I was sent to the cooperative. I no longer  
5 lived in the mobile unit.

6 [15.10.52]

7 Q. Regarding your living conditions and the food you received,  
8 was that better when you were transferred to the cooperative?

9 A. At the cooperative, I received more food than when I was at  
10 the mobile unit.

11 Q. Did you know your husband before the day of your marriage?

12 A. I knew my husband when I was at the mobile unit <to the west  
13 of Mream>. My husband was in the fishing unit.

14 Q. Do you remember number of couples who got married on that day  
15 in 1977? Were you the only couple married or there were other  
16 couples during the marriage ceremony?

17 A. There were many couples who were organized to get married in  
18 late 1977.

19 There were also couples organized to get married at the beginning  
20 of 1977. As for me, I was <the last to be> arranged to get  
21 married in late 1977.

22 [15.12.45]

23 Q. You appear to remember the date of your marriage in late 1977  
24 with precision. Can you tell the Chamber how you felt on the day  
25 of your marriage? In what state of mind were you during that

1 ceremony?

2 A. When Angkar organized our marriage, I did not know my husband  
3 clearly, <I only saw him once in a while,> but because Angkar  
4 encouraged us to get married so I followed the order.

5 Q. Could you have refused that order by Angkar to get married?

6 A. I could not refuse the order. I needed to abide by the order  
7 to get married although I may love or may not love my husband.

8 [15.14.02]

9 Q. Were there any persons in your mobile unit who refused to get  
10 married?

11 A. No one refused to get married. Everyone followed the order  
12 when Angkar instructed them to get married <one group after  
13 another>. And there were <20, 30 or 50> couples arranged to get  
14 married and then they were sent to cooperatives <in the west>.

15 Q. And what were you afraid of at the time if you decided not to  
16 get married?

17 A. I did not dare to refuse because I felt a threat that I would  
18 be taken to Svay Tontuem because they said that those who <dared>  
19 to refuse would be taken to Svay Tontuem.

20 Q. And can you explain to the Chamber what Svay Tontuem <is>?

21 A. I did not know that place well. I only heard people say that  
22 if any couples who refuse to get married, they would be taken to  
23 Svay Tontuem. So when I heard this, I needed to follow the  
24 instruction from Angkar to get married <regardless of how I felt  
25 about the man, because I was afraid>.

1 [15.15.55]

2 Q. And during that period, did you know what happened to couples  
3 who refused to get married and were taken to Svay Tontuem?

4 A. Those who refused to get married, they were taken to be  
5 re-educated at the commune office. And if they still refused to  
6 get married and then they would be taken to Svay Tontuem.

7 Q. Who presided over the marriage ceremony; do you recall that?

8 A. I did not know that person. I only knew that that person  
9 worked at the commune office. That person did not tell us his or  
10 her name. <He or she just came to organize the marriage.> I only  
11 knew that that person worked at <Kampong Trach> commune office  
12 and I did not know either what position that person held.

13 Q. Did you spend your wedding night -- that is, the first night  
14 after your marriage, with your <new> husband?

15 A. After the marriage, <we were sent to the cooperative,> we did  
16 not sleep together. We went away separately. He went to his  
17 parents' house and I went to my parents' house. We did not spend  
18 the night together.

19 [15.18.05]

20 Q. Was there any obligation to consummate the marriage? Is that  
21 something you heard either from the Khmer Rouge cadres or from  
22 your mobile team leader?

23 A. Yes, they told us that we needed to consummate the marriage.  
24 If we refused to consummate the marriage, we would be taken to  
25 the commune office to make sure that we would consummate there



1 <before we could return>.

2 Q. Did you receive any explanations why you had to get married  
3 and why you absolutely had to consummate the marriage?

4 A. They said that they wanted us to fulfill our marriage  
5 obligation before we were sent away to the west. So we needed to  
6 follow that instruction because if we refused to follow the  
7 instruction we would be killed, despite that doing so means that  
8 we would lose our honour.

9 [15.19.40]

10 Q. Did you have any children with the husband you got married to  
11 in December 1977?

12 A. It was a long time before we started to have children, so when  
13 I was sent to the west I was three months pregnant.

14 <I was the last to go, but> I did not reach the assigned  
15 location, <which they said Pursat, Battambang,> I only arrived at  
16 <Plue> Ang (phonetic). At <Plue> Ang (phonetic), at Boeng <Tum>  
17 (phonetic), I was ill at that time and I was sent back.

18 When I arrived at that place, I told people that I went to  
19 urinate and my husband also told the people that he also needed  
20 to go to urinate. So instead of releasing myself, I went back.

21 Q. Did you have the child you've just referred to before the end  
22 of the Democratic Kampuchea regime, before the arrival of the  
23 Vietnamese in 1979?

24 A. I was three months pregnant, so I thought that I would not go  
25 there because it was a faraway place. I needed to return <because

1 my mother and siblings were all transferred; only my husband  
2 remained so I would not go>. Whatever happen I still thought that  
3 I needed to return.

4 [15.21.50]

5 Q. And when you say that you needed to return, do you mean that  
6 you returned to your native village? Where did you return to?

7 A. When I made my journey back, I ran across the forest. <My  
8 husband also ran, but not together with me>, and when it's  
9 night-time I did not dare to go to sleep <anyone's house,> I  
10 spent the night <near a fence, I was afraid my throat would be  
11 slit>.

12 And then the next day I arrived at my old cooperative, and people  
13 at the cooperative told me that because I was assigned to go  
14 somewhere else so they had no food ration for me. So my mother  
15 shared her food ration with me. <And I still worked for them.  
16 Later on, they took pity on me, they gave me some food to eat.>  
17 So, later on, the Vietnamese arrived <at Pursat, Battambang> and  
18 we were liberated.

19 [15.23.10]

20 Q. Thank you, Madam Witness. I have just one question left.  
21 Do you remember precisely the ceremony? Did you <have to> utter a  
22 declaration or an oath during that marriage ceremony <in December  
23 1977> and, if yes, what did you say in that oath?

24 A. I said that I made the commitment to take my husband and live  
25 with my husband for my whole life. That was<>what I said during

1 my commitment at that time.

2 MS. GUIRAUD:

3 Thank you, Madam Witness, for answering my questions.

4 I have completed my examination of the witness, Mr. President.

5 MR. PRESIDENT:

6 Thank you.

7 Now the floor is given to the defence counsel for Mr. Nuon Chea

8 to put questions to the witness. You may now proceed, Counsel.

9 [15.24.28]

10 MR. KOPPE:

11 Thank you, Mr. President.

12 QUESTIONING BY MR. KOPPE:

13 Q. Good afternoon, Madam Witness. Just a very few questions for

14 you. Just a follow-up question in relation to your marriage.

15 Are you still married to the same man that you married in 1977?

16 MS. IN YOEUING:

17 A. Yes, we still live together until now. We did not get

18 divorced. He's still my husband until now <and we have children

19 together>.

20 Q. You might have answered that question already, but how many

21 children did you subsequently have with your husband?

22 A. I have four children.

23 [15.25.35]

24 Q. Thank you, Madam Witness. Now following up question from the

25 Civil Party Lead Co-Lawyer,

1 you said that Prum Yan was interviewed in your house. Did I  
2 understand that correctly?

3 A. Yes, as I said earlier, that Prum Yan he told me that if I  
4 come to the Court to testify the Court, I would not give detailed  
5 information, but if he comes to the Court he would give a very  
6 detailed information to the Chamber. <He is just waiting to be  
7 summoned.>

8 Q. And when he was interviewed in your house, was it then that  
9 you heard the story of Tep?

10 A. <Perhaps,> Tep is Yan relative. I do not have any relative  
11 whose name is Tep. I think Tep <might be> Ta Yan's relative.

12 [15.27.15]

13 Q. Let me ask it differently.

14 Earlier this afternoon, you were asked questions about the mixed  
15 Chinese-Khmer woman, a story told by Prum Yan. Did you hear that  
16 story from Prum Yan there and then in your house or was it  
17 something that you heard -- had heard before?

18 MR. PRESIDENT:

19 Madam Witness, please hold on.

20 The floor is given to International Deputy Co-Prosecutor.

21 MR. DE WILDE D'ESTMAEL:

22 Yes, Mr. President, it appears that there is a suggestion from  
23 the Defence that that woman, since <the Prum Yan interview took  
24 place in her home, she must have been in attendance.> That is not  
25 an established fact, <so we have to ask questions whether it was

1 as is suggested>. <I do not believe it to be the case>.  
2 <On the other hand, in his statement, Prum Yan spoke about> a  
3 <mixed-blood> person who was Khmer-Vietnamese and <the witness>  
4 <mentioned> a <mixed-blood Khmer-Chinese person. It wasn't Prum  
5 Yan who said the person was Chinese.>

6 [15.28.48]

7 MR. KOPPE:

8 Maybe the prosecutor wasn't listening, but I thought I heard her  
9 say at a question from the civil parties lawyer that Prum Yan was  
10 testifying in her house. That's what I heard and that's why I was  
11 asking the question. So I think that's what she said and I'm  
12 following up on that, Mr. President.

13 MR. PRESIDENT:

14 The objection by the International Deputy Co-Prosecutor is  
15 overruled.

16 So, Madam Witness, you may answer this question if you can.

17 MS. IN YOEUING:

18 Prum Yan said about this regarding the mixed-blood woman because  
19 Prum Yan was the one who knew about this. For me, I did not know  
20 about this at all. It was Prum Yan who talks about this  
21 mixed-blood Chinese woman.

22 [15.30.10]

23 BY MR. KOPPE:

24 Q. And was it the first time you ever heard the story when he was  
25 interviewed in your house?

1 MS. IN YOEUING:

2 A. He was present at the interview and he said something like  
3 that. And he said that <>everything based on his knowledge. <He  
4 is not afraid.>

5 Q. I understand that, but do you remember whether that was the  
6 first time you heard Prum Yan tell this story; was it the first  
7 time you heard about this story?

8 A. I cannot recall whether it's first time or second time.

9 Q. One last question on this subject. When he was interviewed in  
10 your house, was he interviewed by only one Khmer person or was he  
11 interviewed by a Khmer person together with a "barang", a Western  
12 person?

13 [15.31.54]

14 A. I cannot recall who were the interviewers, how many  
15 interviewers participated in the interview at that time. I could  
16 recall only what Ta Yan said, but I could not recall whether  
17 there was also a foreign interviewer.

18 Q. That's not a problem, Madam Witness. One last question as to  
19 what Ta Yan might have said to the interviewer.

20 Do you recall him saying something about the Khmer Sar, or the  
21 White Khmer, led by Sophal, the secretary of Romeas Haek  
22 district? Do you remember him speaking about that, that the  
23 villagers had joined the Khmer Sar and that the Khmer Sar was led  
24 by Sophal, the secretary of Romeas Haek district?

25 A. Yes, I heard Ta Yan said so, but I did not remember the date

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1 when he said like that. I only remember that he did say something  
2 like that.

3 Q. And was that the first time you heard the story of Sophal and  
4 the Khmer Sar or was that something that you had known already  
5 before he gave that interview?

6 A. I only knew about this so-called White Khmer only after I  
7 heard from what Ta Yan told me. <I did not really know about  
8 them. I cannot recall a lot of things.>

9 [15.34.22]

10 Q. And then my last question, Madam Witness.

11 MR. KOPPE:

12 Mr. President, I would like to refer to document E3/1132, more  
13 particularly to English, ERN 00548772; French, 00807139; and  
14 Khmer, 00160076.

15 [15.35.13]

16 BY MR. KOPPE:

17 Q. Madam Witness, I'm going to ask you a question on a document  
18 that you have no knowledge about. But it refers to an incident in  
19 the night of 24 December 1976. I will read it to you and maybe  
20 somehow it could jog your memory. It says the following.

21 "24 December 1976: In Sector 23, at night, a platoon of  
22 Vietnamese soldiers entered and waited to launch an attack  
23 against our army near Doung Chas pagoda in Doung commune. Sary,  
24 one of our combatants, was shot dead. He was the platoon chief of  
25 Romeas Haek district."

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1 My question, Madam Witness, have you ever heard of such an  
2 incident in your district in end of 1976?

3 MR. DE WILDE D'ESTMAEL:

4 Mr. President, this is an issue of method. I don't know why it  
5 was necessary to read out an excerpt of another document instead  
6 of putting an open question regarding this. I don't understand  
7 this method <aimed at leading> the witness.

8 Several times we've heard objections from the other side of the  
9 Bar regarding this, so I think the Defence should stick by the  
10 procedures that are allowed before this Chamber and not come with  
11 testimonies from the outside that have nothing to do with this  
12 witness' personal story and then abruptly put a question to her  
13 regarding that.

14 [15.37.07]

15 BY MR. KOPPE:

16 No problem, Mr. President, I will rephrase.

17 Q. Madam Witness, have you ever heard of Vietnamese soldiers  
18 entering the district, end of December 1976, making an attack? Do  
19 you recall anything about Vietnamese attacks in your district?

20 MS. IN YOEUUNG:

21 A. I have no knowledge of it. I never heard of it. <I do not  
22 recall.>

23 Q. Have you ever seen or heard Vietnamese troops launching  
24 attacks? Have you ever heard Vietnamese artillery fire, for  
25 instance, close to where you were working or in your village?



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1 A. It did happen <at the mobile unit>. The artillery shelling was  
2 launched <from> the east <at Doung to the west> of our worksite;  
3 it did not <reach where the people were actually>.

4 Yes, there was artillery firing into the neighbouring location  
5 close to the place where we worked <at the mobile unit>. <And we  
6 were afraid. However, it was not heavily bombed. It just happened  
7 once in a while and it had rather small impacts.>

8 [15.38.48]

9 Q. And was this Vietnamese artillery fire? And if yes, did it  
10 happen often?

11 A. It did not happen very often. It happened once in a month or  
12 once in every two months.

13 MR. KOPPE:

14 I thank you very much, Madam Witness. Thank you, Mr. President.

15 MR. PRESIDENT:

16 The floor is now given to the defence team for Mr. Khieu Samphan.

17 You can proceed now.

18 [15.39.36]

19 QUESTIONING BY MS. GUISSÉ:

20 Thank you, Mr. President. Good afternoon, witness. I have two  
21 very short clarification questions for you.

22 Q. First of all, my name is Anta Guisse. I am the International  
23 Co-Counsel for Mr. Khieu Samphan.

24 Earlier, when you were answering a question that was put to you  
25 by the Co-Prosecutor, you indicated that in your mobile unit

1 there were young people who would volunteer to get married in  
2 order to then go live in the cooperatives where the living  
3 conditions were better.

4 So did I understand your testimony properly?

5 A. That is correct. The situation in mobile units were worse than  
6 that in the cooperatives. The tasks engaged by the mobile units  
7 were considered the hot battlefield and those who were in the  
8 mobile units had very little porridge to eat <with no proper food  
9 or soup>. Sometime we would go to work and we had no sufficient  
10 food to eat.

11 [15.41.02]

12 Q. My question <is as follows>: you said that you got married at  
13 the end of 1977 with your current husband and that he was working  
14 in the fishing unit. So my question is the following:

15 Did you volunteer for this marriage with the objective of leaving  
16 the mobile unit?

17 A. I volunteered and I decided to get married so that I would be  
18 sent to be working in the cooperative since the situation there  
19 was better and, as I said, although I did not love the one that I  
20 was to get married at the time, I decided to accept the marriage.

21 [15.42.02]

22 MS. GUISSÉ:

23 I have no further questions, Mr. President.

24 MR. PRESIDENT:

25 Thank you. The hearing of the testimony of In Yoeung has now come

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1 to an end.

2 Thank you, Madam In Yoeung, for coming as a witness to testify  
3 before the Chamber <for two days>. Your testimony will contribute  
4 to the truth.

5 You may now be excused. You may return to your residence or to  
6 any places you wish to go. I wish you good luck, good health and  
7 prosperity.

8 Thank you as well, Madam Chhay Marideth, TPO staff. You may also  
9 be excused.

10 Court officer, please work with WESU to send Madam In Yoeung back  
11 to her residence or to any places she wishes to go.

12 You can now leave the courtroom, Madam Witness.

13 (Short pause)

14 (Witness exits the courtroom)

15 [15.43.12]

16 MR. PRESIDENT:

17 The Chamber is now hearing the request <, pursuant to Rule> 87.4  
18 motion of the defence counsel for Mr. Nuon Chea, requesting to  
19 admit some documents to be used in the examination 2-TCE-95.

20 Also, on 2 February 2016, the Nuon Chea defence has circulated a  
21 courtesy copy of a second Rule 87.4 motion, including <15>  
22 documents <into evidence and they> intend to <use these documents  
23 in the examination of witness> 2-TCE-95, who is scheduled to  
24 testify next week; E367/4.

25 By email, Nuon Chea defence has <filed a request on the same day

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1 to admit 14 additional documents; however, > it has been unable to  
2 translate this motion into Khmer and requests that the Trial  
3 Chamber accepts this filing in English only.

4 [15.44.33]

5 The legal officer has sent an email to the requestor that the  
6 defence team can submit the motion in English first followed by  
7 the Khmer version later on.

8 Now, the Chamber is hearing the responses of party and since the  
9 hearing of In Yoeung is concluded early before the schedule and  
10 since party is informed that they were ready to submit their  
11 responses to the motion, TC hereby decides to hear the responses  
12 now.

13 Now, the Chamber gives the floor to the Co-Prosecutors to give  
14 the responses to the two requests -- or motions submitted by the  
15 defence Nuon Chea.

16 But first, I want to give the floor to the defence team for Mr.  
17 Nuon Chea so you can proceed with your request orally, and please  
18 provide the reasons why you wanted the Chamber to admit those  
19 documents.

20 [15.46.04]

21 MR. KOPPE:

22 Considering the time I think, Mr. President, it might be useful  
23 to now refer to the content of the two motions.

24 The only reason that I was rising is to clarify that one document  
25 has already been admitted by the Trial Chamber -- that is,

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1 document in the public -- the attachment, Document 20, Attachment  
2 8. It's a public document -- that is, Philip Short's "Phnom Penh  
3 Post" article, "Devil's Advocate".

4 And if I'm saying this correctly, it already has an E -- not only  
5 an E3 number but another number, E367/4.1.8. So assuming that I  
6 am correct in that, that document is already admitted, we  
7 withdraw the request for that particular document. So that is  
8 just my clarification on that motion.

9 [15.47.10]

10 JUDGE FENZ:

11 Can I just suggest, Counsel, since this is a public hearing, that  
12 you at least give few words -- not too long -- explain why this  
13 is coming so late.

14 MR. KOPPE:

15 Yes, there are various reasons why we're filing this request now.  
16 It is true that certain documents were already available even  
17 before the opening of the Trial. Other documents aren't. It is  
18 only definite that this expert is testifying since a week or so  
19 when permission was granted by the United Nations for him to  
20 testify.

21 It is correct that we could have filed this request earlier, but  
22 because of resources we weren't able to do it until now. I  
23 realize and admit it's short notice, but we believe it's still in  
24 time.

25 In addition to this, we have filed another request in relation to

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1 a document to be admitted. It was in fact a request for  
2 reconsideration and the Trial Chamber hasn't ruled on that, so  
3 filing a motion earlier doesn't necessarily lead to an earlier  
4 decision.

5 [15.48.35]

6 However, it is in the light of all the recent testimony,  
7 especially on the Khmer Sar, and -- that we are filing this now.  
8 It's late, admitted, but not belated, and I think there are  
9 reasons enough to have these documents admitted because there are  
10 quite some questions as to the independence and impartiality of  
11 this particular expert. And so I think the request -- or the two  
12 motions -- are admissible.

13 MR. PRESIDENT:

14 Thank you. Now the Chamber gives the floor to the Co-Prosecutors  
15 to make oral responses.

16 [15.49.27]

17 MR. KOUMJIAN:

18 Thank you, Mr. President, and Your Honours.

19 First, let me explain that I am at a disadvantage in that I  
20 haven't been able to read the documents in their entirety, which  
21 we received today. I have them printed here in this notebook,  
22 double-sided, so I would estimate there are approximately 200  
23 pages, some of it quite dense and small print.  
24 But I think I've skimmed at least all documents and I'm prepared  
25 to make a comment, I believe, on each. And it perhaps would make

1 sense, in my view, to go through them one-by-one.

2 [15.50.09]

3 So starting with E367/41 -- 4.1.1, I'll go through those  
4 attachments. The first one is an interview with the witness, the  
5 expert witness, and this and a couple of the other documents that  
6 contain statements of the witness we would not object to and we  
7 could see, obviously, their relevance and it could help the Trial  
8 Chamber in the search for the truth to have those admitted. We  
9 don't object.

10 [15.50.42]

11 Attachment 2 is the vacancy notice which we find irrelevant.

12 Attachment 3 is a document with the lists of witnesses that the  
13 expert witness has participated in interviews with as of a  
14 certain date with OCIJ. And I understand from the motion that  
15 this has been authorized for release by OCIJ.

16 However, I would say that, it would depend on how this document  
17 is used. I want to make it clear that we do not feel that the  
18 Chamber is calling the witness to have an investigator or a  
19 person who participated in interviews for any judicial body, come  
20 and simply relate a content of interviews. He's here to offer his  
21 expert opinion.

22 There could be circumstances where the Defence may explore  
23 whether his expert opinion is influenced by work he's done for  
24 OCIJ and interviews he has, but I want to make it clear that I'm  
25 not going to have the witness simply relate what other people

1 told him from OCI -- during his employment with OCIJ. I don't  
2 think that would be proper and that's not the purpose I  
3 understand the Chamber is calling the witness.

4 [15.52.02]

5 For Attachment 4, is again a document authored by the witness, so  
6 we think it's proper to include that and it'll be helpful to the  
7 Trial Chamber.

8 Then we come with a -- to a series of documents, starting here  
9 with this next attachment, which I guess must be Number 5 if I  
10 have it in order, "The Cambodian Genocide to Date Moves to  
11 Trial", where the Defence has attached various individuals'  
12 opinions about whether the events of Democratic Kampuchea  
13 constituted a genocide of the Cham.

14 Some of these are by people who are not even lawyers. None of  
15 them are people who quote any jurisprudence on genocide or even  
16 quote, in proper context, the entire definition of genocide --  
17 the intent, certain specific acts done with the intent to destroy  
18 in whole or in part, a national, racial, religious or ethnic  
19 group in whole or in part as such.

20 [15.53.15]

21 So, of course, the Defence is free to copy these arguments. They,  
22 of course, will submit to the Court on what the elements of  
23 genocide are and whether the evidence in this case fits that  
24 definition.

25 And we will answer that. We're confident that the evidence shows



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1 there was -- it meets the international jurisprudence of the  
2 definition of genocide; that there was an intent to kill the Cham  
3 as such, to destroy that group as such within Cambodia.  
4 And it's not proper to simply have other people's opinions,  
5 whether it's Kiernan, Hinton, saying they think it was genocide  
6 or Vickery or Chandler saying they think it wasn't, this is a  
7 matter for Your Honours to determine as it is a legal question.  
8 Moreover, none of those experts -- none of those experts have  
9 knowledge of the evidence that has been developed in this Court,  
10 in this Trial, including in the past month. So I object to that  
11 document.

12 [15.54.27]

13 The next document is from the "Bulletin of Concerned Asian  
14 Scholars" and it's by Kiernan. I recognize that this contains  
15 much factual matter about the history of the Cham, about his  
16 research, about what happened in various districts. It's factual  
17 and we think it could be relevant so we do not have an objection  
18 to that.

19 Similarly, the next document is Vickery's, "Comments on  
20 Population Figures". We do see the issue of how many individuals  
21 were killed or the percentage who were killed as relevant. The  
22 international jurisprudence makes it clear that genocide is not  
23 simply a matter of the quantity killed or percentage killed; it's  
24 a matter of the intent. However, those are clearly factors that  
25 could be relevant in determining the intent, so we don't object

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1 to the documents that go to the various debates about how -- the  
2 population of Cham before and after the Democratic Kampuchea  
3 period.

4 [15.55.34]

5 They could be helpful to Your Honours in the search for the  
6 truth, even though this Michael Vickery is clearly the most  
7 pro-Defence author on this issue. We don't object to it; he's a  
8 -- I think Your Honours are certainly -- could have some value in  
9 it considering his opinion.

10 The next document is "Devil's Advocate: There should be no Khmer  
11 Rouge trial". I understand the Defence to say it's already on the  
12 record. If it isn't, we would object for the reasons I previously  
13 stated; that it's an author giving his opinion about genocide  
14 who, in fact, is not a lawyer and doesn't have access to the  
15 facts of this case, and that is a legal question.

16 [15.56.16]

17 The next document, again, we would object to for the same reasons  
18 and that's someone on the other side of the debate -- no, excuse  
19 me, I believe it's on the same side of the debate -- but why did  
20 they kill. Again, someone giving their opinion as to what the  
21 elements of genocide are and whether it occurred against the Cham  
22 in Democratic Kampuchea.

23 The Defence is happy -- is free, of course, to copy those and  
24 make those arguments to the Chamber, and we will show why they  
25 are wrong when we get to the final brief and final argument.

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1 The same thing with the next point. Evidence of intent lacking.

2 It's about the definition of genocide. Also, the next document,  
3 genocide definition.

4 We object to those.

5 [15.57.00]

6 The next document is from Kiernan again on the demographics and  
7 how he calculates the figures.

8 We, again, think that the numbers killed could be relevant so  
9 should be admitted.

10 The next document is a newspaper article -- or a magazine article  
11 by Stephanie Giry, "The Genocide That Wasn't". Again, it is  
12 expressing a view on the legal issue of genocide that is up to  
13 Your Honours and should not be admitted. Defence are free to  
14 present her arguments in their own words during the final  
15 submissions.

16 The next article contains a lot of statements from the expected  
17 witness, so we think it would be relevant -- could be relevant  
18 and we don't object to it.

19 [15.57.54]

20 The next article, "The Cham's Long Wait Nearly Over", quotes one  
21 of our prosecutors quite a bit, and actually though we don't see  
22 anything in it of relevance it certainly doesn't hurt us, but  
23 there's nothing relevant in our view and especially considering  
24 the timing of the motion, should not be admitted.

25 The next two documents are in Khmer only, so I did not read them

1 I believe. This is on the next motion.  
2 And I believe that these are confessions. We would object. We  
3 believe -- Your Honours, I'm sure they have read the Supreme  
4 Court's ruling on the use of torture evidence.  
5 Just to reiterate our position before and after that decision.  
6 First, our position is anyone interviewed in S-21 was the victim  
7 of torture. All of those interviews would have taken place under  
8 conditions of torture which is defined as "Severe physical or  
9 mental suffering" and anyone going to that institution shackled,  
10 the diet that they were given, hearing the tortures that were  
11 going on or being aware of the likelihood of death would  
12 certainly have suffered severe mental harm.  
13 [15.59.26]  
14 Our position is they can only be admitted when not offered to  
15 prove the truth of the matter confessed and we don't believe  
16 these are offered for that purpose, although the Defence hasn't  
17 been specific about why they were offered.  
18 The next document, "The Long History of the Tragedy of the Cham  
19 -- The Long Tragedy of Cham History", document number 3. We don't  
20 have an objection to it, although I don't think there's anything  
21 unique in that document. It refers to factual matters about the  
22 Cham history.  
23 The next document, "Cambodia's Khmer Serei Movement". Your  
24 Honour, I think this is interesting. It's a matter where, I  
25 think, a lot of people, including in this Trial, have

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1 misrepresented what the Khmer Serei were, and there could be some  
2 value to Your Honours' reading this history.

3 However, I don't see any relevance to the Cham as the Cham are  
4 not mentioned, nor do I think -- and in the evidence is there any  
5 -- that I'm aware of and I can think of now -- evidence of Cham  
6 involvement in Khmer Serei. There certainly were Khmer Krom were  
7 heavily involved in Khmer Serei and not the Cham. So we don't  
8 find that that document is relevant to the witness.

9 [16.00.45]

10 Document 5, again, we see no relevance to the issue of the Cham  
11 or the witness. There's several documents that are coming up now  
12 that relate to General Les Kosem, if I'm pronouncing his name  
13 correct, and I think this is well-known and there's already much  
14 on the record about who he was. And he was a Cham general in the  
15 Lon Nol army. I don't think that's in dispute, and I don't see  
16 anything in these documents that is relevant to the issues in  
17 this Trial, and especially considering the late date that they  
18 were offered.

19 So Document 5, also Document 6 which I think the Defence  
20 indicates is important because it shows the close US/Lon Nol  
21 cooperation. I don't think there's any doubt that that is -- we  
22 all know that the US cooperated closely with Lon Nol. I don't  
23 think there's anything of value added by admitting that document  
24 for this witness.

25 [16.01.51]

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1 Document 7, again, we'd object for similar reasons. There's  
2 nothing about the Cham. I take it back, there may be one document  
3 I haven't yet had an opportunity to read, but I don't see  
4 anything looking at it quickly about the Cham.  
5 Document 8 is a cable about US interactions with Lon Nol. Again,  
6 we don't see any relevance to the issues in this case about the  
7 DK period and the Cham and relevance to this witness.  
8 Document 9, the same. I think some of these documents, these last  
9 documents are about attempts to receive support, to seek support  
10 from Muslim countries for the Lon Nol government.  
11 We don't think that's relevant to any issues in the case.  
12 So Document 10 we'd object to.  
13 Document 11 we'd object to, and Document 12.  
14 Document 13 is basically about forces -- Khmer Serei I believe --  
15 that were planning to move against Prince Sihanouk when he was in  
16 power. We don't think that that's relevant to the issues that  
17 will be covered by the expert witness.  
18 [16.03.53]  
19 Document 14, although it contains some factual matters, there's  
20 really nothing new. We don't believe it is necessary or  
21 particularly relevant for the witness.  
22 And I may be missing the last document. Is there one more?  
23 Document 15?  
24 I think that's all. I think I've covered all the documents.  
25 MR. PRESIDENT:

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1 The floor is now given to the Lead Co-Lawyers for civil parties  
2 to make oral responses to the motions of the defence team for Mr.  
3 Nuon Chea.

4 You may now proceed.

5 [16.04.10]

6 MS. GUIRAUD:

7 Thank you, Mr. President.

8 Except for the confessions, <which the Chamber must reject, as  
9 has been well-established,> we'll rely on the discretion of the  
10 Chamber.

11 We don't have any particular objections to the rest of the  
12 documents which are the subject of two 87.4 motions filed by the  
13 Nuon Chea defence team.

14 MR. PRESIDENT:

15 You have the floor now, Judge Lavergne.

16 JUDGE LAVERGNE:

17 Yes, perhaps we need some clarifications from Counsel Koppe.

18 Can you please specify exactly why you are requesting that S-21  
19 confessions be ruled admissible?

20 [16.06.05]

21 MR. KOPPE:

22 First of all, Judge Lavergne, there are many, many confessions  
23 admitted to the case file. I don't know how many, but hundreds of  
24 S-21 confessions are part of the case file. So the request to  
25 have confessions in this particular case of Cham people admitted

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1 is not an unusual request.

2 We filed this motion in relation to these confessions because the  
3 expert is basing quite a substantial part of his books on his  
4 analysis, evaluation of those S-21 confessions of Cham rebellion  
5 leaders.

6 Obviously, it's clear that the Trial Chamber has ruled on various  
7 occasions that we are not allowed to use any of those documents  
8 in questioning him, but confessions as such are part of the case  
9 file and I believe that these confessions therefore should also  
10 be on the case file because they're relevant.

11 [16.07.15]

12 JUDGE LAVERGNE:

13 Yet if I understand you correctly, <do you or do> you not intend  
14 to use the contents of those confessions to put questions to the  
15 expert? Do you intend to use the contents of those confessions to  
16 put questions to the expert?

17 MR. KOPPE:

18 You're very clear that I'm not allowed to do that, but it doesn't  
19 mean that I shouldn't be able -- or the Defence shouldn't be able  
20 to know what's in those confessions.

21 They're now only in Khmer. We know that in his book, the expert  
22 used extensively the content of these confessions, so to be on a  
23 -- at par with the knowledge of the expert, we believe it's  
24 important that these confessions, like so many other confessions,  
25 are part of the case file.



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1 [16.08.13]

2 Again, we will not use the documents to ask him specific  
3 questions as to what a particular Cham prisoner in S-21 said, but  
4 we believe that we should have access to these confessions. They  
5 should be translated and it should be considered, like I said, as  
6 the many other confessions that are on the case file.

7 MR. KOUMJIAN:

8 Your Honour, as to the two documents that are in Khmer, I think  
9 it might be useful to know if the Defence has submitted a request  
10 for translation and when they did so.

11 Apparently, there's both a DC-Cam interview that the witness  
12 conducted and a confession. I was wrong. It's not two  
13 confessions. So I think it would be helpful to know how long ago  
14 the Defence requested translations and if they have an indication  
15 of when the translation would be ready.

16 [16.09.12]

17 MR. KOPPE:

18 We have not requested a translation yet.

19 JUDGE LAVERGNE:

20 Same question applies to documents that are available only in  
21 English.

22 MR. KOPPE:

23 No, Judge Lavergne, we haven't done so, but obviously as soon as  
24 they are admitted, a translation will follow, but the documents  
25 are available only in one language, most of them.

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1 MR. PRESIDENT:

2 <The floor is now given to -->

3 [16.10.10]

4 MR. KOPPE:

5 If I may respond very briefly to the submissions of the

6 Prosecution--

7 MR. PRESIDENT:

8 The defence team for Mr. Khieu Samphan has not yet made the oral

9 responses before you can make the reply. Please wait.

10 MS. GUISSÉ:

11 Thank you, Mr. President. I thought we had been forgotten. I'll

12 be very brief.

13 I <will not lie to the Chamber and say that we were able to

14 acquaint ourselves with> all the documents before <speaking>

15 today, but I'm mindful of the fact that we are dealing with a

16 Defence motion <which supports> that those documents are relevant

17 to the defence of their client <in a major trial>.

18 [16.11.15]

19 <We are also cognizant of the fact that these are documents>

20 meant to be used for examining Mr. Osman, <who is> appearing

21 before this Chamber <as an expert>, <and therefore who is likely

22 to shed light which will be useful for the Chamber's

23 deliberations. In this context,> we therefore are of the view

24 that any materials that can make his testimony in-depth and shed

25 light on <an occasional lack of objectivity,> these are things

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1 that we <find to be useful. We have, on our end - also stated  
2 this, while we were objecting to his appearance as an expert.>  
3 So, in any case, if these documents are useful to the Nuon Chea  
4 <defence team> as regards the defence <of their client>, we  
5 cannot object to the admission of those documents.  
6 In any case, we will rely on the discretion of the Chamber.

7 [16.12.12]

8 MR. KOPPE:

9 Thank you, Mr. President. Three brief remarks in relation to the  
10 submissions of the Prosecution.

11 We understand that the expert cannot be questioned as to the  
12 legal definition of "genocide".

13 You might recall that I believe, at one point in time, Expert  
14 Philip Short offered evidence as to whether genocide had taken  
15 place and I believe -- if my recollection is correct -- that it  
16 was Judge Cartwright who said, we will have none of that.

17 However, you have chosen only this particular person as expert,  
18 and he is maybe -- except for Kiernan -- the only person or  
19 scholar or author who says that a genocide has, in fact, taken  
20 place. He has taken that position. He is quite clear about that.

21 [16.13.06]

22 The only way for the Defence to put the debate back a bit in  
23 balance is to have opinions added from other scholars, such as  
24 Vickery, but also the Court's expert, Chandler and Short, who  
25 both say that they are of the opinion that no genocide of the

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1 Cham took place.

2 Of course, I am mindful of not having a debate next week about  
3 that definition, but just to allow the Defence to balance this  
4 discussion a bit, we have submitted that these documents are  
5 relevant and should be added to the case file.

6 [16.13.56]

7 Then a remark on the relevance of the Les Kosem, the general.  
8 Obviously, whatever he did in Lon Nol army is not why we are  
9 seeking his -- these documents in relation to him.

10 You might recall on several occasions I confronted witnesses with  
11 testimony from Ouk Bunchhoeun, who referred to the Cham rebellion  
12 in '75, and in that context spoke about a group of Cham wanting  
13 to create their own state and referred to an organization called  
14 FULRO.

15 These documents that we would like to admit suggest that there is  
16 a connection between this general, Les Kosem, and the  
17 establishment of FULRO.

18 I'm sure the expert is well aware of this person, who he is, and  
19 also what his role is, so I think it only adds to the debate to  
20 have these documents added.

21 [16.15.03]

22 Last remark, and that is a remark maybe more in question form.

23 It's correct that we've added one or two documents in relation to  
24 the position of the expert here at the ECCC. However, there is no  
25 denying that he's not only an author of books and someone who is

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1 knowledgeable about the Cham people and their fate. However, he  
2 is also heavily involved in the investigation, especially in the  
3 investigation in the other cases.

4 [16.15.44]

5 So what the Defence, for instance, is wondering is whether the  
6 Chamber will allow the Defence leeway in asking -- in having  
7 asked -- asking questions to the expert as to how he has  
8 conducted certain interviews in Case 004.

9 More specifically, I will not go into details, the Chamber might  
10 have noticed that there is a substantial discrepancy in what one  
11 witness said in her WRIs last week or two weeks ago in closed  
12 session and as what she said here in Court. And we believe it  
13 will be very helpful to find out exactly what this expert in his  
14 capacity as investigator can say in relation to those interviews.

15 [16.16.33]

16 And how did he ask his questions? Was he suggestive in leading  
17 this witness? I believe that is something that we should be able  
18 to explore. That's why we have added that job description and the  
19 other witnesses that he has interviewed. He plays a key role in  
20 Case 004. He has played a key role as investigator in Case 002.  
21 So I believe we should be able to explore that route and try to  
22 establish whether he is, in fact, the impartial, independent  
23 scholar that he claims he is, and that he brought that same  
24 impartiality to the investigation in our case and in Case 004.

25 MR. KOUMJIAN:

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1 Mr. President, a few remarks in response to what counsel just  
2 said.

3 First of all, the witness is being called as an expert in the  
4 Cham segment, and I think it is important that the Chamber make  
5 it clear that this is not a witness as to OCIJ procedures.  
6 Certainly the fact that the witness is employed by OCIJ is  
7 something the Defence is -- is certainly entitled to bring out  
8 and it's a factor Your Honours should consider into -- in  
9 evaluating his opinion. That's a valid point for the Defence to  
10 make about whether his opinions are neutral or in any way  
11 affected by other factors.

12 [16.18.23]

13 But as to the procedures of OCIJ or what happened in other  
14 interviews -- and I think the example counsel just gave are  
15 interviews he wasn't present at, if I'm not mistaken -- are  
16 absolutely a waste of -- completely off the topic of the Cham  
17 segment that we are dealing with.

18 Furthermore, just to correct one thing on the Lee (phonetic) --  
19 General Les Kosem, counsel said there's evidence in this case  
20 that Ouk Bunchhoeun said that there's evidence that the Cham were  
21 planning to create their own state.

22 Your Honours recall that evidence was rejected by the Chamber  
23 because it was clear that the passage counsel was reading came  
24 from what Ouk Bunchhoeun said were what people said in their  
25 confessions. So these are confession evidence that, again, is not

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1 -- has been rejected by the Chamber and is not part of the record  
2 in this case.

3 [16.19.22]

4 As for the various opinions about genocide, other experts about  
5 whether or not the events of Democratic Kampuchea hit the legal  
6 definition of genocide, absolutely we agree with counsel that no  
7 expert should make that -- offer that legal opinion and we will  
8 not -- certainly not be asking this expert, TCE-95, his opinion  
9 about whether or not it was genocide.

10 It's different -- counsel certainly is entitled to bring out  
11 different understandings of the facts of what happened. So, for  
12 example, that's why we say we do not object to Vickery's -- the  
13 article by Michael Vickery about what -- how he calculates the  
14 numbers of Cham that perished during the Democratic Kampuchea  
15 period. Experts -- or authors' opinions about facts are different  
16 than their opinions about legal definitions.

17 [16.20.24]

18 So consistent with what counsel said, we will not be asking this  
19 witness for his opinion about the legal definition of genocide  
20 and whether the facts of this case meet that and, given that,  
21 there's no reason for the Defence then to have to balance it,  
22 something we're not putting forward, by putting the legal opinion  
23 of people who are not lawyers, not international lawyers, and  
24 don't know the evidence that's been developed in the ECCC,  
25 particularly in recent months.

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1 MR. PRESIDENT:

2 You have the floor now, Co-Lawyer for civil parties.

3 MS. GUIRAUD:

4 Thank you, Mr. President. I have a brief remark.

5 It appears to me that the question as to whether the expert will  
6 testify regarding what happens in Case 004 has already been  
7 <dealt with and settled somewhere,> because it is <clearly> part  
8 of the letter by the <ICOJ (sic)>, <I am referring to document  
9 E367/1 in which> it is clearly indicated that Ysa Osman <cannot>  
10 testify in regard to what happens in Case 004. And I believe this  
11 question is completely irrelevant insofar as it has already been  
12 <addressed>.

13 [16.21.56]

14 MR. KOUMJIAN:

15 I apologize. I was worried about whether something was public or  
16 not, but I don't think it's a concern. I apologize for the  
17 interruption.

18 MR. PRESIDENT:

19 So I want to know whether any other parties would like to make  
20 any other observation or responses.

21 MR. KOPPE:

22 One very, very, very brief remark in reply to the Prosecution on  
23 the FULRO and Ouk Bunchhoeun.

24 It is true that you ruled on that particular part of the  
25 statement -- or the interview that he gave, however, he referred



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1 to events that happened in 1975 so he was clearly not speaking  
2 about confessions of S-21 because S-21 didn't exist at the time.  
3 He referred, if at all, to confessions probably to Krouch Chhmar  
4 security centre. We have not established -- the Trial Chamber has  
5 not established whether people were, in fact, tortured there.  
6 So I don't think it is correct to say that whatever Ouk  
7 Bunchhoeun has said about FULRO is out of the debate.

8 [16.23.20]

9 MR. KOUMJIAN:

10 I'll just point out that S-21 confessions deal with matters that  
11 happened in 1975.

12 MR. PRESIDENT:

13 The discussion on the motions of the defence team for Mr. Nuon  
14 Chea has now come to an end.

15 The Chamber is grateful to all parties for addressing the Chamber  
16 and for submitting responses and replies.

17 The Chamber will use all the arguments for the basis of the  
18 decision which will be issued in due course <before> the  
19 examination of 2-TCE-95.

20 [16.24.19]

21 The hearing is now come to an adjournment, and it will resume on  
22 Monday, 8 February 2016. On that day, the Chamber will hear  
23 2-TCE-95. Please be informed and on time.

24 Security personnel are instructed to bring Mr. Khieu Samphan and  
25 Nuon Chea back to the ECCC detention facility and have them

1 returned into the courtroom on Monday, 8 February 2016, before 9

2 a.m.

3 The Court is now adjourned.

4 (Court adjourns at 1625H)

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