



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

ព្រះរាជាណាចក្រកម្ពុជា  
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង  
Trial Chamber  
Chambre de première instance

**ឯកសារដើម**  
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TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

29 January 2013  
Trial Day 153

Before the Judges: NIL Nonn, Presiding  
Silvia CARTWRIGHT  
YA Sokhan  
YOU Ottara  
Jean-Marc LAVERGNE  
Claudia FENZ  
THOU Mony

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I N D E X

MR. AL ROCKOFF (TCW-565)

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Questioning by Ms. Guissé ..... page 34

**List of Speakers:**

Language used unless specified otherwise in the transcript

<b>Speaker</b>	<b>Language</b>
MR. ANG UDOM	Khmer
MS. GUISSÉ	French
MR. KARNAVAS	English
MR. KOPPE	English
MR. LYSAK	English
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. ROCKOFF (TCW-565)	English
MS. SIMONNEAU-FORT	French
MR. SON ARUN	Khmer

1

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

2 (Court opens at 0904H)

3 MR. PRESIDENT:

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

5 During today's session, the Chamber continues hearing the  
6 testimonies of Mr. Rockoff. The questions are going to be put  
7 from the defence counsels.

8 Before that, Ms. Se Kolvuthy is now invited to report to the  
9 Chamber on the status of the parties to the proceedings today.

10 [09.05.47]

11 THE GREFFIER:

12 Mr. President and Your Honours, all the parties to the  
13 proceedings are present, except Mr. Kong Sam Onn, the national co  
14 counsel, who is absent due to his personal commitment.

15 Mr. Ieng Sary is present in his holding cell due to his health  
16 concern, when Mr. Ieng Sary (sic) is also absent and being  
17 admitted to the Khmer-Soviet Friendship Hospital.

18 Mr. Nuon Chea has already submitted his waiver to be present  
19 during the testimonies of Mr. Rockoff today.

20 Mr. Rockoff is here in the courtroom, Mr. President.

21 Thank you.

22 MR. PRESIDENT:

23 Thank you.

24 The Chamber notes the waiver by Mr. Nuon Chea and we already  
25 ruled upon it yesterday.

2

1 [09.06.57]

2 Without further ado, we would like now to hand over to counsels  
3 for Mr. Nuon Chea to put questions to the witness, if they would  
4 wish to do so.

5 QUESTIONING BY MR. KOPPE:

6 Thank you, Mr. President, good morning. Good morning, Your  
7 Honours. Good morning, Mr. Rockoff. My name is Victor Koppe. I'm  
8 the international counsel for Nuon Chea.

9 Q. My first question to you today is whether you have ever been  
10 approached by the Office of the Co Investigating Judges of this  
11 Tribunal to be interviewed as a witness?

12 MR. ROCKOFF:

13 A. (Microphone not activated)

14 Q. My question was whether you have been approached by the Office  
15 of the Investigating Judges, the Co Investigating Judges. So, in  
16 an earlier stage, not before the Trial Chamber, but before the  
17 Office of the Co Investigating Judges.

18 [09.08.20]

19 MR. PRESIDENT:

20 Mr. Rockoff, could you please hold on.

21 International Co Prosecutor, you may now proceed first.

22 MR. LYSAK:

23 Thank you, Mr. President. My objection to the question would be  
24 two fold. I'm not sure this witness is in position to understand  
25 or knows the different organs of this Court.

3

1 Second, I'm not sure the relevance of whether or not he was  
2 approached by the Investigating Judges. We would object on that  
3 basis.

4 MR. KOPPE:

5 Mr. President, I was just wondering whether there had been  
6 earlier attempts of the Co Investigating Judges to interview this  
7 witness. It seems that this witness is one of the exceptions to  
8 the rule, if most witnesses appearing before the Trial Chamber  
9 are in fact interviewed in an earlier stage by the Co  
10 Investigating Judges, and I was wondering whether that was the  
11 case or not.

12 [09.09.40]

13 MR. PRESIDENT:

14 If we are not mistaken, I personally, yesterday, put this  
15 question already to Mr. Rockoff during the early stage of the  
16 proceedings. I asked him whether he had given any interviews to  
17 any of the investigators of the Co Investigating Judges' Office,  
18 and he already made it clear. We take that question as  
19 repetitive, and witness is now advised not to respond.

20 BY MR. KOPPE:

21 Thank you, Mr. President. My question wasn't whether he had  
22 actually testified, but my question was whether he had been  
23 approached to testify, but I will withdraw the question.

24 [09.10.34]

25 Q. Mr. Rockoff, yesterday, you have testified that you moved to

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*Trial Chamber – Trial Day 153*  
*Case No. 002/19-09-2007-ECCC/TC*  
*29/01/2013*

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1 Phnom Penh in the spring of 1973. Yesterday you also talked about  
2 the end of the U.S. bombings on 15 August 1973. During your trips  
3 outside of Phnom Penh in 1973, did you, yourself, ever personally  
4 experience a B52 bombing?

5 MR. ROCKOFF:

6 A. I personally did not experience bombardment by B52s, but you  
7 could see it, you could hear it, especially in the city as there  
8 was like a ring of steel put up around Phnom Penh; bombardment,  
9 daytime and night time by B52s. But no, I was not bombed by B52s.  
10 The closest would be some kilometres away.

11 Q. Did you ever talk to anybody who did personally experience B52  
12 bombings?

13 A. I was not in a position to interview refugees coming in. That  
14 -- those interviews had been done by International Committee of  
15 the Red Cross, CARE, and World Vision. I first saw some the  
16 direct -- some of the direct results of a mistaken accidental  
17 bombing of Neak Loeung when the wounded were brought to the  
18 hospital in Phnom Penh. As a photographer, I'm not necessarily  
19 interviewing in depth. I accompanied reporters who did that. So  
20 yes, I did have contact with people traumatized and fleeing areas  
21 affected by the bombardment.

22 [09.13.02]

23 Q. Mr. Rockoff, did you ever witness the effects of the U.S.  
24 bombing, for instance, in the rice fields or at -- the  
25 infrastructure of towns?

5

1 A. I would see where areas had been bombed, yes; rice fields,  
2 large craters.

3 Q. And could you describe in more detail what you have seen, what  
4 you have witnessed?

5 A. It's difficult for me to elaborate on the visual aspects of  
6 some of the bombing. It was some distance away. A fair amount of  
7 the B52 raids were at night, you could hear it at night. I'm  
8 sorry, I mean, I have photographs over the two years I was here  
9 of people fleeing the countryside coming to Phnom Penh, the  
10 wounded, but to be out there in the countryside directly in the  
11 vicinity of the bombs, no, I did not, nor did I see any of that  
12 really up close. I would only see the after effects.

13 [09.14.37]

14 Q. Have you made any specific photographic reportage about -- on  
15 the subject of the effects of the U.S. bombings?

16 A. As you term it, reportage of the bombing, I took photographs  
17 as a freelance photographer, and often the material was provided  
18 to Associated Press, "New York Times", sometimes "Newsweek",  
19 sometimes "Time" magazine. As I'm in Cambodia, and I don't see  
20 magazines or rarely would get a newspaper, I have, at the time,  
21 no idea how the material is used. And then on 15 August, the U.S.  
22 bombing halt, there was a sudden change in the way the war was  
23 conducted. So I would say that for a major part of my two years  
24 here there was no American bombing, only from April '73 until  
25 August '73 is the period I experienced.



6

1 Q. Are you still in the possession of the negatives of the photos  
2 that you have made in that particular period?

3 A. Yes, I have all of the negatives and colour negatives and  
4 slides. My archive is in the U.S. It was referenced yesterday,  
5 during yesterday's testimony, about some prints that I was unable  
6 to provide to the Court that had been damaged by water. It was  
7 unfortunate, as I had a complete set of prints with me. The rest  
8 of the material is in the U.S. Negatives are not lost.

9 [09.16.46]

10 Q. Mr. Rockoff, yesterday you mentioned that there were about 2  
11 million or more refugees in Phnom Penh in the time that you were  
12 there. Could you tell us from where you got this figure of 2  
13 million or more?

14 A. The rough approximation of 2 million refugees had been  
15 discussed by some of the refugee relief workers I interacted  
16 with. I had, on occasion, done work for CARE. There was possibly  
17 400,000 population of Phnom Penh; there were two -- it was  
18 estimated 2,400,000 at the end of the war. It's very difficult to  
19 get an exact count. I did a -- some photography for the  
20 International Committee of the Red Cross, there was a villa in  
21 Phnom Penh with many, many, many hundreds of boxes on shelves  
22 filled with filing cards, and each card had the data for a family  
23 and individuals, where they came from.

24 [09.18.08]

25 I did the photography at some of the ICRS activities in the

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1 countryside, the hospital at Kampong Chhnang. I went out there  
2 because they had a medical team up there that had saved my life  
3 when I was hit in the heart by shrapnel. The villa here in Phnom  
4 Penh, the shelves loaded with boxes, the cards, another set would  
5 be sent to Geneva, and the person in charge of that said we have  
6 over 1 million people documented.

7 As I said yesterday, the Cambodiana Hotel was a refugee camp  
8 administered by World Vision. Twenty-three thousand people were  
9 living there. I don't know how I could get a more accurate count,  
10 other than the rough estimate of 2 million.

11 Q. Mr. Rockoff, would you be able to expand more on the living  
12 situations of other refugees in Phnom Penh – so not the 23,000 in  
13 the Cambodiana, but in other parts of Phnom Penh? Do you know  
14 anything about that?

15 [09.19.36]

16 A. I saw many refugees living in parks, moving different parts of  
17 the city as the Khmer Rouge were shelling parts of Phnom Penh  
18 with 107 millimetre rockets. Many were coming from the eastside  
19 of the Mekong. When you would have rockets coming into a part of  
20 Phnom Penh with many refugees, you would have exodus of thousands  
21 moving to another area.

22 The trees in the city, most of them started to -- well, many  
23 started dying because people would cut pieces, branches, cut bark  
24 off to cook. Many cooking fires; the air was very foul. The  
25 refugee camps are out on the edge of the city, except for the

8

1 urban camp of the Cambodiana, and there were many families that  
2 would not go to the camps. They just wanted to come in to Phnom  
3 Penh. So that's why there were many people who could have been in  
4 camp but they lived in parks, such as the park in front of the  
5 Hotel Royal. There used to be hundreds of refugees that would  
6 live off to the side in the bushes, put up shelter, then go out  
7 and forage for food. There were many refugees that just did not  
8 fit into the refugee camp system.

9 [09.21.13]

10 The Olympic Stadium also was a camp, and I had, on occasion,  
11 photographed families. The army would come by with sacks of rice,  
12 try to take care of these families because many of these families  
13 at the Olympic Stadium were families of dead soldiers, and they  
14 really did not feel like going to an ordinary refugee camp. So  
15 there were many, many families at the Olympic Stadium, living up  
16 in the stadium upper area.

17 There were many people living in villas that had been abandoned.  
18 If you had relatives in Phnom Penh, you were lucky; you could  
19 maybe stay at their house. There were just thousands of homeless  
20 people wandering around.

21 At the very end of the war, around 14, 15 of April, I  
22 photographed a mass exodus of people fleeing rocketing and other  
23 ordnances being fired at them. They were coming from Takhmau,  
24 moving north. Thousands upon thousands of people, and I have no  
25 way of accurately estimating how many. They were fleeing that

1 part of Phnom Penh.

2 [09.22.42]

3 On the 17th of April, the day of the fall of Phnom Penh, there  
4 were thousands of refugees around the Royal. They were not able  
5 to gain entrance. The Red Cross had declared it an international  
6 zone, which was not recognized by the Khmer Rouge. Many, many  
7 people desperately trying to get into the hotel.

8 Q. Mr. Rockoff, would you be able to tell the Court if there was  
9 a difference in your perception of the situation close to April  
10 '75 and the first time you came to Phnom Penh in the spring of  
11 1973 in respect of the refugee situation?

12 A. To be more specific, my first time to Phnom Penh was 1970. I  
13 spent the better part of two months in Cambodia during the period  
14 of the American incursion. The city was very clean, roads were  
15 perfect, no refugees at that point, nothing.

16 [09.24.09]

17 I came back to Cambodia for a two-year period, April '73. The war  
18 was on, many refugees. It was completely different. And the  
19 military and the war, it was all around Phnom Penh, 360 degrees.  
20 It was an isolated city under military siege.

21 Q. You are comparing the situation in -- between 1970 and 1973.  
22 Could you also compare the situation or the differences between  
23 1973 and 1975?

24 A. The situation was very intense going into '75. Also, I had my  
25 personal feeling that it was not winnable here, but everything

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1 hinged on the U.S. and how the Vietnam War -- the American war in  
2 Vietnam would be resolved. Things were dragging on and on here,  
3 and I saw no chance of a Lon Nol regime victory. It was just a  
4 war of attrition, while the U.S. played out the endgame in  
5 Vietnam.

6 Q. Were you aware of how the refugees in Phnom Penh obtained food  
7 in the period between 1973 and 1975?

8 [09.26.14]

9 A. The ones who were not in the refugee camp system obviously  
10 were not fed on a regular basis. People foraged for food; they  
11 worked as best they can. In the period I was here, there were a  
12 number of warehouses along the river. The barges would come up  
13 from Vietnam up the Mekong with ammunition or rice, many  
14 thousands and thousands of tons of rice. So the people unloading  
15 the barges, the sacks of rice, carrying it off, they tend to be  
16 street refugees. They were put into work. The -- some of the  
17 refugees had very interesting ways of stealing the rice.

18 A case in point, like taking -- on a hot day they would wear a  
19 long sleeve shirt. There would be a little metal funnel-like in  
20 their hand and they would hold the sack of rice over the  
21 shoulder, stick the funnel in and the rice would drip down, fold  
22 down into the shirt. They'd have a way of catching it. I have  
23 pictures of people with very thick jackets that looked like down  
24 filled jackets you would wear in the winter in China, but it's  
25 full of rice, they would steal rice. There were many ways of

11

1 surviving. The - anything edible that was growing in Phnom Penh  
2 disappeared.

3 [09.27.44]

4 As for soldiers, they could usually feed their families because  
5 they had a rice ration. But as I said, if you're a family of a  
6 dead soldier, there's nothing for you, you're not going to get  
7 paid and they don't want to go to a refugee camp, so they went to  
8 the Olympic Stadium, and the army would provide sacks of rice to  
9 these people -- a very bland diet -- not a balanced diet for  
10 these people -- salted fish. There weren't many fresh fish being  
11 obtained in Phnom Penh.

12 Q. Mr. Rockoff, during the time that you lived in Phnom Penh, did  
13 food prices change significantly?

14 A. It kept going up but I could not give you a good estimate of  
15 percentages, the inflation rate. I don't know those things. Food  
16 was difficult for the average Khmer, but if you had money you  
17 could buy food. That was the difference. There were Khmer who  
18 brought food into Phnom Penh. There were many small airlines that  
19 flew produce in from the provinces. Sometimes planeloads of pigs  
20 were flown in. So Phnom Penh was dependent on outside sources for  
21 most of its food.

22 [09.29.25]

23 But regarding the price of food, I'm not in a position to answer  
24 because I did not buy food on the market.

25 Q. Mr. Rockoff, yesterday when you described a number of refugees

12

1 in Phnom Penh you suggested, and I'm paraphrasing so correct me  
2 if I have misstated your testimony. But you suggested, because  
3 there were so many refugees in Phnom Penh, it was not surprising  
4 that they went back to where they came from. Would you be able to  
5 elaborate on that comment of you yesterday?

6 A. In the few weeks prior to the April 17th event, there were  
7 rumours going around that when the war is over, everybody would  
8 go back to where they came from before the war. For most people  
9 that's all they wanted. They weren't interested in staying in  
10 Phnom Penh. They fled the countryside for safety.

11 [09.30.38]

12 Q. But how did you know that? Did you speak to refugees about  
13 this need to go back?

14 A. I did not speak to refugees about the need to go back. Some of  
15 the Cambodian photographers and reporters that I would associate  
16 with and go out into the field with, and they would tell me  
17 things they would interpret. They would say these things, about  
18 when the war is over everybody goes back to where they came from.  
19 But the people, I mean, I cannot conceive of 2 million refugees,  
20 many of them wanting to stay here after everything ended. I just  
21 could not conceive that. So I'm sorry, I can't give you any  
22 direct confirmation or quotes of refugees wanting to go back.

23 [09.31.38]

24 I have to assume they wanted to go back. And also on the 17th of  
25 April there was no real resistance on the part of people being

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1 told to leave Phnom Penh. I think it was frustrating for some  
2 people as I find out years later, things I have read. That people  
3 that might have come to Phnom Penh as a refugee from North of  
4 Phnom Penh, may have been sent out in a direction different from  
5 where they came from. I think it's unfortunate how it was sorted  
6 out later on in the countryside though, but the initial day of  
7 liberation, people wanted to believe they could go back home.

8 [09.32.23]

9 Also, it did not pass unnoticed that Khmer Rouge were going  
10 around saying the Americans were going to bomb Phnom Penh. You  
11 had to leave. I sensed many people fled to Phnom Penh for the  
12 safety of Phnom Penh, from the bombing. It was easy for them to  
13 believe that.

14 Q. If you are saying that there wasn't any real resistance of  
15 people to leave Phnom Penh on the 17th of April, would you be  
16 able to elaborate on that? Based on what knowledge are you saying  
17 that?

18 A. I did not see any resistance in my presence. There were sounds  
19 of explosions which probably came from grenades, gunfire, you  
20 could hear off in the distance. Sometimes you would hear these  
21 sounds and you don't know what the cause is.

22 [09.33.35]

23 The only place where there was prolonged fighting which took  
24 place almost -- for almost a week after the 17th of April, was on  
25 the road out to what is now known as Choeng Ek killing fields. It



14

1 was a glass factory. There was a unit of the Cambodian airborne  
2 that held out there to the last demand. I was in the French  
3 Embassy, could hear the heavy calibre mortar fire, other  
4 explosions. They fought. There was no escape and they lasted  
5 about a week. That was the only really serious resistance I'm  
6 aware of. They were trapped in the glass factory.

7 [09.34.27]

8 Q. So are you saying you haven't seen any real resistance from  
9 civilians in Phnom Penh on the 17th of April?

10 A. The Khmer "Kraham" had the AKs, they had the power. What are  
11 you going to do? You're there with your family, they ask you to  
12 leave; what would you do?

13 Q. Mr. Rockoff, would it be fair to say that from the time you  
14 first saw a Khmer Rouge soldier enter Phnom Penh at 8 a.m. on  
15 April 17, until you were finally entered the Embassy in 1975, did  
16 you encounter and interact with a significant number of KR  
17 soldiers in different parts of Phnom Penh?

18 [09.35.29]

19 A. My interaction with Khmer Rouge on 17 April was not very  
20 personal. It consisted of being in their midst, seeing a vehicle  
21 that was going in the direction I wanted to go and hitching a  
22 ride, nobody bothering me to get on the vehicle. I also was aware  
23 that I should stand next to people that seemed to be in charge  
24 and then nobody lower ranking would bother me. I was able to move  
25 around at will the first two hours, no problem. But interacting

15

1 with them on a personal basis, I did not. I'm also not fluent in  
2 Khmer. I'm not a reporter so I did not have the need to interview  
3 and get personal information. So no, I did not interact on a  
4 personal basis.

5 [09.36.29]

6 Probably the closest personal basis interaction was, on one  
7 vehicle when I was just going south of Independence Monument, the  
8 vehicle stopped, many Khmer Rouge were headed north.

9 Conversations between the people I was riding with and some of  
10 the other Khmer Rouge passing by. I didn't like the look or the  
11 mood of the Khmer Rouge heading north so I changed my plan to go  
12 further south and see what was going on, to the American Embassy  
13 which had been abandoned five days earlier. And I'm standing  
14 there and as many students and young Khmer rode along, just  
15 hopping rides with the Khmer Rouge. Things were friendly between  
16 them at that point and I had one student who spoke English who  
17 was on the vehicle, and he kept trying to talk to me and I did  
18 not want to speak English to him, and he was laughing at me and  
19 he says, "Oh, you American, you American." And I walked away  
20 because I didn't want that type of conversation going on.

21 [09.37.35]

22 That was the closest personal interaction I had and it was very  
23 nerve-wracking. But no, I did not have personal interaction with  
24 any of the Khmer "Kraham" that morning. It was my taking  
25 photographs, I'm in their midst. Nobody questioned me, nothing,

16

1 and then the incident at the Preah Ket Mealea Hospital late  
2 morning, taken to the Japanese Bridge. Still nobody interrogating  
3 or asking who we are, and that is good. Because when Dith Pran  
4 made his comments that we are French journalists covering the  
5 victory and of course, nobody challenged that, we were very  
6 lucky.

7 Q. Mr. Rockoff, based on your experience in those days, would you  
8 describe the Khmer Rouge soldiers as a monolithic group, uniform  
9 group, or were there differences in terms of the way they, for  
10 instance, dressed or the way they acted?

11 [09.38.51]

12 A. Different areas of the country -- the Khmer "Kraham" seemed to  
13 have -- some units had better equipment, some were primarily or  
14 100 per cent AK and then some other Khmer "Kraham" units you  
15 would find M16's on the battlefield afterwards. So, you know,  
16 there's a mix of weapons there. The -- I'm sorry, I'm -- I lost  
17 my train of thought. But the Khmer Rouge did have access to many,  
18 many weapons, but the ammunition, it was plentiful, and then  
19 towards the end you could see the ammunition for the AKs change.  
20 It was coming from American sources because the Khmer Rouge were  
21 obtaining truckloads of ammunition from the Lon Nol forces, and  
22 the AK tracer ammunition has a green glow to the base of the  
23 bullet as it's fired, and then the American-provided ammunition  
24 was red. So that was a very interesting development or change.

25 [09.40.11]

17

1 The Khmer Rouge had good -- some had good uniforms, they seemed  
2 fairly well equipped of units I encountered. But the uniforms  
3 were well-worn. All the gear was well used.

4 Q. But did you also witness differences in behaviour of various  
5 groups of KR soldiers?

6 A. I would say they weren't all one cohesive unit. There were  
7 elements and there was one element of about 600 that came over to  
8 the Lon Nol side. They were, prior to the coming over, were  
9 staying at a pagoda not very far from here, west of Angk Snoul, a  
10 ways off the road.

11 [09.41.09]

12 It was a group known as the Khmer "Rumdos" and they considered  
13 themselves primarily pro-Sihanouk royalists, and they broke away  
14 from the rest of the movement and the U.S. Embassy was helping to  
15 facilitate their coming over to the government. There was a big  
16 ceremony, Lon Nol was there. Many, many weapons were turned over.  
17 Of course, they were all checked for bullets prior to that. It  
18 was a big show and then the army, as part of the agreement, was  
19 supposed to keep these people intact as a unit in this area. They  
20 were all sent off to Sihanoukville area and never paid, and they  
21 more or less melted away. But that was a group that defected to  
22 the Lon Nol regime and they did not get what the agreement called  
23 for from the Lon Nol regime.

24 [09.42.03]

25 They were not like other Khmer "Kraham", they considered

1 themselves, as I said, Khmer "Rumdos", and they were loyalists.

2 But it was very interesting interacting with these people later  
3 on. Their tactics, their equipment, everything remained the same  
4 despite changing allegiance. A very interesting unit.

5 Q. Do you also know if there was a difference between KR factions  
6 in the north of Phnom Pen versus the south of Phnom Penh on that  
7 day, 17 April?

8 A. If there was, I was not aware of it at the time.

9 Q. Mr. Rockoff, did any of the KR soldiers seem unfamiliar with  
10 the trapping of a big city on that day?

11 [09.43.29]

12 A. Well, I have many photographs of the Khmer "Kraham" on 17  
13 April looking at buildings, at things, in amazement. At the  
14 intersection of Sihanouk Boulevard and Monivong, a truck came by  
15 and dropped of ice, cases of soda. Some of these Khmer Rouge had  
16 not seen ice in a very long time, if ever, and they were amazed.  
17 The Khmer Rouge were looking for cigarettes, asking people, you  
18 know, the international sign language for cigarette. And they  
19 were in a good mood that morning with the exception of the grim  
20 demeanour of the Khmer "Kraham" coming from the south towards  
21 Independence Monument. They obviously, and because of the intense  
22 firing of weapons, the huge, huge fire that consumed hundreds of  
23 houses on the other side of the Monivong Bridge the night before  
24 17 April, I'm not surprised these Khmer "Kraham" had gone through  
25 hell in that area.

1 [09.44.44]

2 It was very intense fighting by the last of the Lon Nol regime to  
3 prevent them from crossing that bridge.

4 Q. Did some of the KR soldiers appear to be more serious or  
5 strict than other KR soldiers?

6 A. Yes, and the more serious ones tended to be older. But I think  
7 that's the norm for any army. The discipline, you could see they  
8 were well controlled. No visible signs of rank that I could see,  
9 but the people in the squad or company, they know who their  
10 comrades are, they know who's in charge. They seemed very orderly  
11 and disciplined, at least in my presence.

12 [09.45.48]

13 As I related yesterday, Christoph Maria Fröhder, who -- the  
14 Austrian cameraman who took film and which Associated Press  
15 lifted one frame of his 16 millimetre film showing a Khmer  
16 "Kraham" officer firing a 45 pistol. You could see the puff of  
17 smoke, the wisp of smoke from the barrel. He's holding it up in  
18 the air and it seems that he was just ordering his men or the  
19 Khmer Rouge in that area -- just right by Phsar Thmei Central  
20 Market -- was ordering them out of the store -- out of the shops  
21 they were going into, to stop looting, I guess. I don't know. I  
22 can't say they were necessarily looting, but Khmer Rouge, it was  
23 a long hunt for cigarettes. I know it sounds strange, but a lot  
24 of smokers.

25 Q. Mr. Rockoff, do you recall whether there was a connection

20

1 between the area of the city in which you encountered the  
2 soldiers and their attitudes?

3 [09.47.01]

4 A. I am sorry; I didn't catch the nuance of the question  
5 regarding attitudes.

6 Q. Well, some soldiers seemed to be more strict and more serious  
7 than others and my question is: Do you recall whether there was a  
8 connection between the area of the city in which you encountered  
9 the soldiers and their different attitudes?

10 A. Regarding attitudes, as I perceived it, the only really bad  
11 attitude would have been from the group headed north towards the  
12 Independence Monument and that is why I got out of that area  
13 rather quickly and did -- and especially because of that student  
14 who kept talking and saying "Oh, you're American, you're  
15 American." As I said a few minutes ago, I got away from him.

16 [09.48.04]

17 But those soldiers coming north; muddy, tired, really grim mood,  
18 and that's understandable. Some of the Khmer Rouge came into  
19 Phnom Penh and they didn't look that tired or dirty. There was  
20 supposed to be another element already in Phnom Penh that is  
21 alleged to have materialized. Then there was the group that I  
22 commented on yesterday, I'm bad on names, I can't remember. But  
23 the -- I said they were well dressed, the phoney Khmer Rouge with  
24 the baseball caps with the gold lettering in it. Just super nice  
25 uniforms, nice polished boots, the phoney ones. As I said, they

21

1 were there at the Ministry of Information early in the day and  
2 later in the day -- no trace of them at all.

3 [09.48.56]

4 But the Khmer Rouge that came into the centre of the city, riding  
5 on armoured personnel carriers that rode north past the French  
6 Embassy to pick up some of the cadres, bring them into the city.  
7 They seemed in a good mood, the cadre. A couple of them had bull  
8 horns, the PA system, the announcement "the war is over, the war  
9 is over", which is exactly what people wanted to hear. The  
10 pictures I had taken of thousands of people in front of the  
11 cathedral that used to be -- the Catholic cathedral that used to  
12 be close to the Hotel Royal, which is torn down, not there, but  
13 -- many thousands of refugees listening to the cadre and then  
14 just riding with them the couple of blocks on a vehicle to where  
15 they took the Ministry of Information.

16 [09.49.58]

17 People were in a very good mood. There were many smiles on the --  
18 on all sides in the photographs I took -- the first hour or two.  
19 Things were not grim at that point.

20 Q. Another question, Mr. Rockoff: do you remember someone named  
21 Douglas Sapper?

22 A. Yes.

23 Q. Could you tell the Court who Douglas Sapper was?

24 A. He's an American veteran, army veteran. He worked here towards  
25 the end for an American airline. There were maybe a dozen



22

1 airlines here. He was chief of security for an airline and he was  
2 here at the end. He was in the French Embassy with the rest of  
3 us. He was one of those who wanted to get out but was stuck here.

4 [09.51.13]

5 He -- I can't say I know much about him. I had no knowledge of  
6 Douglas Sapper prior to the time we spent here, and prior to  
7 working to -- working for the airline, I'm sorry, I have no idea  
8 what he did.

9 Q. Did you have, in that period, had any discussions with Mr.  
10 Sapper about the KR troops in Phnom Penh?

11 A. I can't say I ever discussed the Khmer Rouge troops, their  
12 attitudes, or anything that was going on with Doug Sapper. I  
13 think he knew even less than I did because of his job, the nature  
14 of what he was about, he did not interact with these people. He  
15 was into something different, working for the airline. So I never  
16 discussed these matters with Doug.

17 [09.52.34]

18 Q. Okay. I turn to another topic, the last topic, and my  
19 question, Mr. Rockoff, would be if you have ever seen the film  
20 "The Killing Fields" directed by Roland Joffé?

21 A. I always get asked that. For the first time back here in 1989,  
22 I keep getting asked, "You see Killing Fields? You see Killing  
23 Fields?" I walk down the street, the Tuk-Tuk drivers, "You see  
24 Killing Fields?" Of course I've seen the movie, many times. I  
25 have my own thoughts on the movie that may not be shared with the

23

1 public because of how I'm portrayed in the movie. But I consider  
2 it a work of art. I might find some fault with how certain  
3 personalities are represented or certain facts. But it's an  
4 important movie. It is the movie that put Cambodia and the  
5 tragedy that occurred here on the mindset of the international  
6 community.

7 [09.53.57]

8 It shows the world that Cambodia -- the Cambodian War was not the  
9 Vietnam War. This is completely different. I can be critical of  
10 the movie because of some flaws in how they portrayed  
11 personalities, such as myself. But it is a good movie, an  
12 important movie.

13 Q. The reason I'm asking, Mr. Rockoff, is I've been re-watching  
14 the movie last Sunday and it seems that quite a substantial part  
15 of your testimony today and yesterday is depicted in that film.  
16 And my question would be only if the director of that film has  
17 done that in an accurate manner?

18 MR. PRESIDENT:

19 Mr. Rockoff, could you please hold on?

20 International Co-Prosecutor, you may proceed.

21 [09.55.03]

22 MR. LYSAK:

23 Thank you, Mr. President. I am afraid I would need to object to  
24 that. First of all, the film -- this film is not in evidence  
25 before this Chamber. This Chamber is not here to critique or

24

1 evaluate this film. This film was a dramatic portrayal of events.  
2 There is a factual record of what took place and I simply do not  
3 see the point of us spending time in this courtroom comparing  
4 actual events to a movie that is not in evidence before this  
5 Chamber.

6 MR. KOPPE:

7 I withdraw my question. I'm sorry.

8 Thank you very much, Mr. Rockoff, for answering my questions.

9 [09.56.10]

10 QUESTIONING BY MR.SON ARUN:

11 Good morning, Mr. President. Good morning, Your Honours, and good  
12 morning to everyone. My name is Son Arun. I am a national defence  
13 counsel for Mr. Nuon Chea. I have very few questions to put to  
14 you, Mr. Rockoff.

15 Q. My first question is: While you were a professional  
16 photographer, you have not told the Court whether or not you were  
17 the photographer in your own capacity as a personal photographer  
18 or you worked for any media outlet.

19 MR. ROCKOFF:

20 A. The two years I worked here in Cambodia as a freelance  
21 photographer, I was providing to different outlets, I was not on  
22 contract to a particular company. That's why they call the person  
23 a freelance.

24 [09.57.26]

25 I am, more or less, self-taught in photography. I don't have a

25

1 university education in photography, it's self-taught. But I've  
2 been interested in this type of photography since I was 13 years  
3 old. It took many years to get into it. But no, I did not work  
4 for a company. So when the end of the war came in April '75, I  
5 made the decision to stay here on my own, despite not working. I  
6 was interested in the historical record of what was going on. I  
7 hope, sir, that answers your question.

8 Q. Thank you, Mr. Rockoff.

9 My next question to you, you told the Court earlier on that you  
10 came to Cambodia for two months, and from 1970 to 1973 you stayed  
11 in Phnom Penh, and from 1993 to 1975 the situation in Cambodia  
12 was even more chaotic, and then after that, in 1975, you left  
13 Phnom Penh. If I understand your testimony earlier correctly, I  
14 may not have got this exact date when you left Phnom Penh. Can  
15 you please tell the Court again when exactly you left Phnom Penh?

16 [09.59.13]

17 A. I was on the second convoy of foreigners that left the French  
18 Embassy to go to the Thai border. I'm not sure the date of the  
19 first convoy arriving. I believe we arrived on the 9th of May;  
20 8th or 9th, I'm sorry; well, I believe it's 9th. That's when the  
21 last of the foreigners were put out of Cambodia.

22 Also sir, I was not here -- after the two months in 1970 I did  
23 not return to Cambodia until April '73. I was in Cambodia during  
24 the two months of the American incursion or invasion, then I went  
25 back to Vietnam. At that point, I was in the U.S. Military, which

26

1 is why I found myself in Cambodia in 1970. The two years I lived  
2 here as a photographer, I was a civilian. I left the military, I  
3 worked here as a civilian.

4 Q. Thank you, Mr. Rockoff. I have the final question for you,  
5 please.

6 You testified, when responding to my colleague, that in 1970, in  
7 Phnom Penh, you saw a group of Khmer Rouge soldiers marching into  
8 the city of Phnom Penh, and you saw two groups of them; one group  
9 being the true Khmer Rouge and another group which were not  
10 really the Khmer Rouge soldiers. Can you elaborate a little bit  
11 further on this? How could you identify the real Khmer Rouge  
12 soldiers from the unreal ones?

13 [10.01.41]

14 A. As I've stated, the unreal ones, as we call it, too well  
15 dressed, shined shoes, well-kept people, and the gold lettering  
16 in their baseball caps, the fact that some of them showed up at  
17 the Ministry of Information and I did not see these people in  
18 other parts of Phnom Penh. They were not a big group. There was  
19 just some people that came to the Ministry of Information. People  
20 such as Sydney Schanberg, "New York Times", wrote about them;  
21 other people have.

22 The name they gave that group, I have never heard this until much  
23 later when I read these accounts. They were not genuine Khmer  
24 Rouge. I could see something was different about them that very  
25 first day.

1 But I have no doubt about the groups of Khmer Rouge coming in  
2 from the different directions of the city being genuine. You see,  
3 because these phoney ones, they didn't come into the city. They  
4 were here all along.

5 [10.02.58]

6 Q. On the 17th of April 1975, you were in Phnom Penh. Can you  
7 tell the Chamber, please, did you see the two groups coming to  
8 the city simultaneously, or one came after another?

9 A. Khmer "Kraham" were streaming into the city all day. And as it  
10 was dark when some of us went to the French Embassy, I related in  
11 yesterday's testimony, the line of civilians and some Khmer  
12 employees of the Western press, the International Committee of  
13 the Red Cross with their vehicle, were all walking towards the  
14 French Embassy on the right of the road, and on the left, single  
15 file, the entire length as far as you could see on Monivong,  
16 would be a line of Khmer "Kraham", marching single file, maybe  
17 one metre apart. Occasionally, you would see them glancing over  
18 at us going in the opposite direction. There was no interaction.  
19 They were grim, very quiet. This was about dark. All day, Khmer  
20 "Kraham" were coming into the city. I could not give an estimate  
21 of how many.

22 [10.04.24]

23 Also, you asked if they were coming in simultaneously. Well, I  
24 saw the first ones coming in, past the French Embassy headed  
25 south around 8 o'clock, and then later, much later, by

1 Independence Monument, the first Khmer "Kraham" headed north past  
2 the American Embassy towards the Independence Monument. That -- I  
3 can't say they were coming in exactly the same time, but they all  
4 materialized that morning from every direction.

5 Then the Highway 5, north of Phnom Penh, there was fighting, last  
6 minute resistance by soldiers trying to fight their way into  
7 Phnom Penh. Oil Stores Depot had been set fire the night before,  
8 a lot of smoke. That area -- as I said earlier, that was the  
9 first direction -- I'm sorry, the area I saw my first Khmer Rouge  
10 come from.

11 [10.05.41]

12 Q. I thank you, Mr. Rockoff. Actually, I was asking this question  
13 because I would like to know whether there were two groups of the  
14 Khmer Rouge, as you emphasized, and that I wish to know whether  
15 these two groups of people comprised of the same number of  
16 soldiers, according to what you saw. And on the same morning of  
17 the 17th of April 1975, did these two groups come to the city and  
18 expel the people out of the city equally? I mean, like did they  
19 behave in a kind of equal uniformity under the same orders?

20 A. On 17 April, I had no idea there were more than -- there was  
21 more than one group of Khmer Rouge. I had no idea there might be  
22 different command structures set up. I assumed it was all  
23 unified, with the exception of the so-called phoney ones who  
24 showed up at the Ministry of Information. And I can't say that  
25 numbered very many. I only saw maybe half a dozen people with the

29

1 funny baseball caps with the gold lettering, and they were  
2 seeking out the journalists, such as Sydney Schanberg. That's why  
3 he was able to talk to them, and I think he caught on very  
4 quickly they were not real.

5 [10.07.26]

6 But it's possible that could have fit into what was being  
7 disseminated, what was being put out propaganda-wise in the weeks  
8 prior. It's alleged there was a radio broadcast; at least I was  
9 told that overseas Khmer who contribute a million dollars or more  
10 to the final offensive would find a place in the new Kampuchea.  
11 I don't know who fell for that. I find it very strange that Lon  
12 Non is still here because he was the Ministry of Information that  
13 afternoon. But anybody who donated money to that, I don't know  
14 what came of them. I don't know who these phoney Khmer Rouge are.  
15 These are all things I find out after the fact of liberation.

16 Q. Mr. Rockoff, can you tell the Chamber, please, from whom did  
17 you receive the information that the group at the Information  
18 Ministry were not of a genuine ones? Where did you obtain this  
19 information from?

20 [10.08.52]

21 A. Not while I was here. It was much later, reading the "New York  
22 Times". As I stated, Sydney Schanberg pretty quickly caught on  
23 that these were not genuine. But they were not in charge. They  
24 were nothing in the long run. But because he had the chance to  
25 talk to him, they sought him out, talking to him, he figured it



1 out. Also, Dith Pran, his assistant, could pretty well confirm  
2 these suspicions. I did not find these things out until much  
3 later, after having left Cambodia. The outside world had a better  
4 idea of what was going on than me while I was here.

5 [10.09.42]

6 Regarding the nuances of political structure, factions, these are  
7 things I was not aware of.

8 Of course, you would hear things, or like I stated earlier, the  
9 600 or so Khmer "Rumdos" that came over to the Lon Nol side, I  
10 knew about that days before the event, thanks to contacts.

11 Contacts, such as I'd get a ride out with an Australian  
12 journalist, photographer, cinematographer, Neil Davis, his driver  
13 knew about these people going to come over to the government. We  
14 went out there. We were detained for hours, kept incommunicado  
15 until they decided. And then the cadre in charge, talking to us,  
16 he spoke French, which - I don't speak French, so he was  
17 discussing it with the other.

18 [10.10.41]

19 And the turnover to the government of their arms came a few days  
20 later. Sometimes -- oh, what I was -- about to forget. So I'm  
21 being asked by the cadre who I am, where I'm from, being  
22 questioned. And then they asked -- "Where do you stay?", and I  
23 said -- "In a hotel in Phnom Penh", and then the guy named my  
24 hotel. He knew. It was where the Hotel Asie is now. They knew  
25 about me, and they knew Neil Davis, because he had been out there

1 before. The only reason I was able to accompany him was the  
2 rapport he had built up with them in the days prior.

3 It was a very interesting experience. The defection of the 600 to  
4 the government never developed into any more major defections. I  
5 did not consider that group to be like the other Khmer "Kraham",  
6 because as they said, they were Khmer "Rumdos", they were  
7 pro-Sihanouk.

8 [10.12.10]

9 Q. Thank you, Mr. Rockoff. So is that fair to say that you did  
10 not hear the first-hand information concerning this not genuine  
11 group of Khmer Rouge going to the Ministry of Information, you  
12 heard about this at a later stage, is that correct?

13 A. What was written by Sydney Schanberg regarding the legitimacy  
14 of this group, I read that many weeks later after returning to  
15 the U.S. At the time, I did not discuss it. Regarding information  
16 I acquire, not working for a company with a driver, car,  
17 interpreter, assistant, I am on my own. I like to stand next to  
18 people who do have interpreters, and when the -- say Dith Pran is  
19 explaining something to Sydney Schanberg, he's explaining to me  
20 also because I hear. You see, that's how I acquire much of my  
21 data.

22 And it's very useful for me to know these things. And also,  
23 frequently they ask me questions about what I have observed. It's  
24 give and take. It's a two-way channel of information. So because  
25 I could not speak Cambodian that was a hindrance, but when you

1 have such trusted assistants such as Dith Pran; Neil Davis's  
2 driver, who now lives in Australia, a few other people, you can  
3 operate, you can work.

4 [10.14.11]

5 Q. Thank you.

6 You saw two different groups of the Khmer Rouge and you also bore  
7 witness to the operation of the Khmer Rouge into the city, and  
8 according to your statement, these two groups of people acted  
9 differently, and you also were present during the 17 of April  
10 1975, and you were assisted by an interpreter like the other  
11 journalists were.

12 Did you hear any radio broadcast about these groups of soldiers?

13 MR. PRESIDENT:

14 Mr. Rockoff, could you please hold on? And Mr. Co Prosecutor, you  
15 may now proceed.

16 MR. LYSAK:

17 Two objections. Counsel is getting rather repetitive. He's asked  
18 the same line of questioning a number of times, now, and he may  
19 not be happy with the witness's answer. He's also  
20 mischaracterized the witness's answer. He's been crystal clear he  
21 did not see two groups of Khmer Rouge. He saw one small group  
22 pretending to be Khmer Rouge and then the real Khmer Rouge. So  
23 counsel should not continue to misrepresent the witness's  
24 testimony. If he wants to ask about radio broadcasts, that's a  
25 different question, that's fine, but in terms of the issue of

33

1 different groups, I think that's been asked a number of times  
2 now.

3 [10.16.14]

4 MR. SON ARUN:

5 Mr. President, with your leave I would like to respond. The Co  
6 Prosecutor, himself, also mentioned about the two groups of the  
7 Khmer Rouge, the genuine one and the unreal one, and my question  
8 to him is that how he viewed the operation by the genuine group  
9 of Khmer Rouge and the unreal one, because it's really historic  
10 before this Chamber that we hear the clearest testimony of what  
11 happened at early stage of 1970s.

12 (Judges deliberate)

13 [10.17.23]

14 MR. PRESIDENT:

15 The objection is sustained. The question itself is repetitive. It  
16 was asked time and again and that could also confuse the witness.  
17 Mr. Rockoff, you are instructed not to respond to this question.

18 MR. SON ARUN:

19 I thank you, Mr. President, and I thank you, Mr. Rockoff. I,  
20 indeed, have no further questions.

21 MR. PRESIDENT:

22 Thank you, Counsel.

23 We would like to hand over to counsels for Mr. Ieng Sary to put  
24 questions to the witness, please.

25 MR. KARNAVAS:

1 Good morning, Mr. President. Good morning, Your Honours, and good  
2 morning to everyone in and around the courtroom, and especially,  
3 good morning to you, Mr. Al Rockoff.

4 [10.18.15]

5 We want to thank you for coming here to give your evidence. We  
6 have no questions for you. We do appreciate your frank answers  
7 and we wish you the best of luck. Thank you for coming again.

8 Thank you, Your Honours.

9 MR. PRESIDENT:

10 Thank you, Counsel Karnavas. We would like now to hand over to  
11 counsels for Mr. Khieu Samphan to put questions to the witness.

12 QUESTIONING BY MS. GUISSÉ:

13 Good morning, Mr. President. Good morning, Your Honours. Good  
14 morning, all in the courtroom. Good morning, Mr. Rockoff. I am  
15 Anta Guissé. I am co international counsel for Mr. Khieu Samphan.

16 I will put a few questions to you in light of your testimony  
17 yesterday and this morning. My questions will be aimed at  
18 obtaining clarifications from you. These questions will not be  
19 very long.

20 [10.19.26]

21 Q. Let us start by revisiting your assignment as a soldier before  
22 1970. You said you were a soldier in the American Army. Can you  
23 tell us at what age you joined the army and in what corps?

24 MR. ROCKOFF:

25 A. It's a long story, and as it's referenced in Wikipedia and

1 it's common knowledge, I was in the United States Navy for one  
2 year, two months prior to being put out. There were problems. I  
3 enlisted in the army. I have eight years active duty prior to  
4 getting out of the military.

5 I was in Vietnam, and I did photography part of that time. I  
6 learned it while I was in the army. My first experience with  
7 photography was when I was stationed in Germany. I learned a lot  
8 from being in Germany regarding photography.

9 I came to Vietnam. I was in the army, which accounts for my being  
10 in Cambodia for two months in 1970. I was working here as an army  
11 photographer in Cambodia. I was an army photographer.

12 [10.21.03]

13 Q. Thank you. You have answered this question, and my second  
14 question was in what capacity you came to Cambodia in 1970. You  
15 have explained that. You came as a military photographer. I just  
16 need one clarification from you. At what age did you join the  
17 army?

18 A. Seventeen. I was 16 when I fraudulently enlisted in the navy  
19 because I altered my birth document. I was 18 when I went to  
20 Vietnam.

21 Q. Thank you for this clarification. I would like us to backtrack  
22 a little and talk about a period during which you followed Lon  
23 Nol soldiers between 1970 and '73. You were asked by the civil  
24 party Lead Co Lawyer to explain how you moved about and you said  
25 you were able to move about because you accompanied government

1 forces.

2 My first question is as follows: Did you often follow that group?

3 Was that your main assignment to follow those troops, and how  
4 frequently did you do so?

5 A. To accompany the Lon Nol soldiers was not difficult. What is  
6 difficult is getting into position very early morning before the  
7 operation starts. A very good trick of mine; it's also used by  
8 other journalists. You go to a hospital, you find out what is  
9 going on, where the combat is. You can get a ride out to the  
10 frontlines with an ambulance.

11 [10.23.18]

12 The hotel I stayed at during part of the time I was in Phnom  
13 Penh, '73 to '75, is known as the Hotel Asie. Actually, it was  
14 the hotel just west to it. It's one hotel now. It's Hotel  
15 Santepheap (phonetic) and the person who owned it, the family who  
16 owned it, they allowed on the very top floor medical students who  
17 had been drafted and worked in the army as medics or ambulance  
18 drivers stayed there.

19 I could get up around 4 a.m., 4.30. They're going to get picked  
20 up by an ambulance and go out to where the battlefield is. On  
21 some weeks it would be Highway 4; sometimes it would be up  
22 Highway 5 along the Tonle Sap. I'm in the ambulance, I'm going  
23 there, you get there before the action starts. Sometimes it  
24 starts just before sunup. Sometimes one side likes to attack the  
25 other with the rising sun at their backs so it blinds the

1 incoming fire.

2 [10.24.24]

3 The way to get out to the battlefield was not difficult. I did  
4 not hang out with other journalists and go to the 8 o'clock press  
5 briefing at the Ministry of Information, have coffee and  
6 breakfast, I did that on occasion, and then get into the nice  
7 Mercedes and drive out on the highway. Because by the time you  
8 get there it's already started and you're not going to get to  
9 where you need to go. And a writer doesn't have to be there. They  
10 can observe from a distance. If you're doing TV, film, or still  
11 photos you have to be in the position to take it. That's why I  
12 would get there very early. And as I said, the army drafted  
13 medical students, may have been medics, it was easy to get out.  
14 It's just like when I was wounded in Kampong Chhnang, October  
15 2nd, 1974, shrapnel in the right atrium of the heart, some  
16 orthopaedic problems from shattered bones. And I remember the day  
17 before I was wounded I was at the hospital, provincial hospital  
18 in Kampong Chhnang, wanted to find out where things were going  
19 on, this and that. I also was out there to help recover the body  
20 of a Cambodian photographer, Lim Sovath (phonetic), who died five  
21 days earlier.

22 [10.25.42]

23 The doctor, the Swedish doctor, kicked me out of the hospital.  
24 They asked me -- "Who are you? What are you doing here? Get out  
25 of my hospital." He was nice about it. I already got the pictures



1 I wanted. I already knew what I wanted to do. We already  
2 recovered the body of Lim Sovath (phonetic). So the next day, I'm  
3 wounded and I'm brought into the same hospital I was kicked out  
4 of and they saved my life.

5 Q. From your detailed answer, should I understand that your  
6 activities between 1973 and 1975 were mainly to monitor the  
7 fighting on the battlefield? Is that your testimony? Is that what  
8 I should retain from what you have just stated?

9 A. I can elaborate on that. That is accurate, your interpretation  
10 of it, but I photographed many other things, refugee camps. I  
11 would do work on occasion, sometimes pro bono, free work, CARE. I  
12 did something for the International Red Cross for free just  
13 because I wanted to do it, and it gives me access. Just as I  
14 would do things for Catholic Relief Service, and there was a lot  
15 more than just the fighting going on.

16 [10.27.05]

17 But what was critical to the 2,400,000 people living in Phnom  
18 Penh was safety that evening, are we going to be within rocket  
19 range, the 122 millimetre rockets, and then the last year and a  
20 half of the war, it was nothing but 107 millimetre. If the Khmer  
21 "Kraham" came to within a certain distance of the airport, you  
22 could guarantee that rockets would be fired on the military side.  
23 Sometimes the Khmer "Kraham" would set up a rocket and a launcher  
24 and they'd leave the area. They have a timer. There are ways of  
25 timing it so it goes off an hour or two later. There was

1 harassment.

2 So sometimes there were people who had a very critical need for  
3 information on how far the frontlines were, which towns were on  
4 the verge of being cut off, such as Kampong Speu was isolated  
5 numerous times in the two years I was here. These are relevant  
6 things you have to cover. The exodus of refugees out of an area,  
7 you have to show what is going on. There's a lot more than just  
8 the war, but the war affects all aspects of life here.

9 [10.28.25]

10 Q. I'll return to the issue of refugees more in detail later on.  
11 But with respect to the missions that you had executed as a  
12 photographer of some of the former Lon Nol soldiers, I want to  
13 return to a photo that was displayed to you by Judge Lavergne. So  
14 with the authorization of the President I would like to have  
15 projected some of the photographs that were retrieved by Judge  
16 Lavergne from the internet. I don't have the exact reference  
17 numbers but I am referring to the photo of a young soldier  
18 carrying an arm - carrying a rifle out of a barrel of which there  
19 is a flower.

20 Mr. President, do I have your leave to have this image projected  
21 on the screen?

22 [10.29.32]

23 MR. PRESIDENT:

24 You may proceed.

25 MR. GUISSÉ:

40

1 Q. On this specific photo, Mr. Rockoff, I only have single  
2 question because it wasn't entirely clear to me during  
3 yesterday's testimony.

4 Now, is this a Lon Nol soldier, is this a photo of a soldier of  
5 the Lon Nol regime when you were taking photographs of the  
6 troops?

7 MR. ROCKOFF:

8 A. Yes, that is a Lon Nol government soldier.

9 MR. PRESIDENT:

10 The photo is not yet put up on the screen.

11 (Short pause)

12 [10.30.45]

13 Mr. Rockoff, could you now respond to that question again?

14 MR. ROCKOFF:

15 A. Yes, that is a Lon Nol soldier.

16 MS. GUISSÉ:

17 Q. Thank you very much for that clarification. I'd like to  
18 commence a new line of questioning.

19 In response to some of the questions put to you by my learned  
20 friends, specifically questions put by the Co-Prosecutor--

21 MR. PRESIDENT:

22 We note that you would like to proceed to another topic and line  
23 of questioning, and now it is appropriate moment for the  
24 adjournment. The Chamber will adjourn briefly.

25 Court officer is now instructed to assist Mr. Witness during the

1 adjournment.

2 Counsel for Mr. Khieu Samphan, could you advise to the Chamber as  
3 to how much time would you need to put questions to Mr. Rockoff,  
4 please?

5 [10.32.14]

6 MS. GUISSÉ:

7 I am not entirely sure, I indicated yesterday that we would need  
8 anywhere between 20 to 30 minutes but I believe that I would  
9 require a further solid 25 minutes following the pause. It's  
10 possible I could move more swiftly than anticipated but I do need  
11 25 minutes. Thank you.

12 MR. PRESIDENT:

13 Then we will adjourn first.

14 (Court recesses from 1032H to 1057H)

15 MR. PRESIDENT:

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

17 And we would like to hand over to counsel for Mr. Khieu Samphan  
18 to continue putting questions to the witness.

19 BY MS. GUISSÉ:

20 Thank you, President.

21 Q. Mr. Rockoff, we'll just pick up where we left off before the  
22 break. You say that you have a very clear recollection of the  
23 dropping of B52 American bombs on the 15th of August 1973. My  
24 question to you is as follows: To your knowledge, do you believe  
25 that the Lon Nol troops had at their disposal aircraft and a

1 fleet of aircrafts?

2 MR. ROCKOFF:

3 A. I would not call it a fleet; it was not a very big air force.

4 But, yes, after the American bombing halt of 15 August, the Khmer

5 air force had very limited assets other than helicopters, for

6 attack they had the American single engine T28 that would drop

7 bombs - 250-pound bombs. That was the extent of what the

8 Cambodian air force was capable of. I could not give you an

9 estimate of how many aircraft. They had reconnaissance aircraft;

10 they had C-47s twin engine aircraft, American made. That was for

11 transport, C123s which were American air force, but it was

12 limited Cambodian air force. So the -- actually the air war was

13 reduced easily by 95 per cent or more after 15 August.

14 [10.59.48]

15 Q. And this -- would it be a logical conclusion to say that five

16 per cent of the remaining bombing would have been - would have

17 occurred with the remaining ammunition and equipment that you

18 have just listed for us?

19 A. Yes, the ammunition and bombs for these aircraft, it was

20 brought into Cambodia. The intense American bombing campaign --

21 none of that originated in Cambodia -- it just ended up in

22 Cambodia. But the Cambodian air force on the military side of

23 Pochentong airbase, they -- very limited in the close air support

24 they provided to the Cambodian army, which changed everything

25 regarding tactics used by the Lon Nol forces.

1 Q. And when you say that there was a dramatic impact on the means  
2 used, what exactly do you mean? What kind of tactics were being  
3 deployed afterwards?

4 [11.01.17]

5 A. Well, when the U.S. was supporting, you could always count on  
6 American airstrikes assisting the Cambodian army unit if it was  
7 in trouble; you could not rely on that afterwards. The Cambodian  
8 Air Force had limited resources, and you just could not count on  
9 them in a bad situation. So, the army was very conservative in  
10 how they deployed people, how they planned operations after the  
11 bombing halt, probably to avoid having large number of soldiers  
12 cut off, isolated.

13 Say - a pagoda which was occupied by Lon Nol forces surrounded by  
14 the Khmer Rouge; the soldiers knew they would be protected by the  
15 ring of bombs dropped by the Americans around the pagoda. That  
16 protection ended 15 August, so-  
17 That's why I say the nature of the fighting seemed to differ  
18 after 15 August.

19 Q. Thank you very much for those details. I now wish to move onto  
20 a different line of questioning. Once again I seek some  
21 clarification with respect to a photo that was presented to you  
22 yesterday by Judge Lavergne. It is part and parcel of a document  
23 that belongs to DC-Cam and that was sent to the Office of the  
24 Co-Prosecutors. It is part of a bundle of documents entitled --  
25 and I will cite this in English, "1975 Genocide in Cambodia: A

1 permanent exhibition of the Documentation Center of Cambodia".

2 [11.03.15]

3 With leave of the President, I would like to have the last page  
4 of this document displayed; it is a photo that was commented on  
5 by the witness. It is a depiction of a woman who is weeping next  
6 to the corpse of her husband.

7 Mr. President, may I please have your leave to have this image  
8 displayed on the screens?

9 MR. PRESIDENT:

10 You may proceed.

11 BY MS. GUISSÉ:

12 Q. I believe the photo will be projected very shortly. But I  
13 believe that this may take some time since the document is a PDF  
14 file. If possible -- would it be possible to also have the  
15 caption written by DC-Cam displayed as well?

16 [11.05.05]

17 Mr. Witness, you have before you the photo as well as the caption  
18 which is dated April 17th, 1975. You stated, however, that this  
19 shot was taken prior to the fall of Phnom Penh, possibly one  
20 month before the capture of Phnom Penh. Were you ever contacted  
21 by DC-Cam prior to the permanent exhibition of a collection of  
22 photos which also included some of your own works?

23 MR. ROCKOFF:

24 A. I wish I had been contacted by Mr. Youk Chhang regarding this.  
25 He received a number of prints from the collection of Peter

45

1 Maguire, has considerable amount of my photography in his  
2 collection. The caption is wrong, it was not 17 April. I know  
3 that's a mistake; I had nothing to do with that mistake. I also  
4 do intend to cooperate with DC-Cam regarding other photos to add  
5 to the collection. But I am sorry the caption was mistaken on  
6 that one photo.

7 Q. Thank you very much for that clarification.

8 [11.06.30]

9 Moving on to a different line of questioning now, earlier on in  
10 response to questions put to you by my colleague, Mr. Koppe, you  
11 talked about the living conditions of refugees prior to the 17th  
12 of April 1975. And you even went on to say that within some of  
13 your work, you had undertaken some pro bono work to depict the  
14 situation of residents in Phnom Penh. You worked for two  
15 organizations including the International Committee for the Red  
16 Cross - I stand corrected you worked with three. You also said  
17 that you did some work for the Catholic Relief Services and  
18 another. My question to you is as follows: Do you have a  
19 recollection of any other organizations that were devoted to  
20 working on the refugee situation in Phnom Penh and in the  
21 surrounding areas of Phnom Penh?

22 [11.07.37]

23 A. There were very few organizations here during the war and the  
24 term "NGO" or "Non-Governmental Organization" was not used in  
25 those days. But, yes, the organizations I mentioned earlier I



1 contributed, worked to; not as an employee, but doing photography  
2 which they had requirements for. There were not many relief  
3 agencies here during the war.

4 Q. You indicated that, roughly speaking, prior to the fall of  
5 Phnom Penh, you believed that there were approximately 2.4  
6 million refugees. You took photos of the Hotel Cambodiana, of  
7 refugee camps; were you ever spoken to about the significant  
8 sanitary problems that were dominant in the refugee camps and  
9 around the city?

10 A. Did somebody -- I believe your question asked me did anybody  
11 discuss the sanitation situation? No. It was very self-evident  
12 what the situation was in the camps; then you had the sanitation  
13 problems in the parks where you had thousands of people living.  
14 It was self-evident to me; I can't say anybody discussed it with  
15 me.

16 [11.09.32]

17 Q. And one final clarification on that point, you were in Phnom  
18 Penh between 1973 and 1975. Did you see the surge of refugees  
19 happen very quickly or did the swelling of the number of refugees  
20 happen very suddenly or over a prolonged period of time?

21 A. Prolonged period of time, I could not say what percentage of  
22 the 2 million plus became refugees before or after 15 August. The  
23 stream of refugees fleeing contested areas continued way after  
24 the American bombing halt. It was very intense in the couple of  
25 weeks prior to April 17 because many of the refugee camps outside

47

1 of Phnom Penh, the people fled. The fighting was so close; it was  
2 not safe for them to stay in the camps, so there were a few camps  
3 that dissolved and people fled to the inner city. But I would say  
4 the refugee influx continued the entire two years I was here. I  
5 couldn't say if it was intense after the 15th of August; I don't  
6 have statistics, people like International Committee of the Red  
7 Cross have documentation to that effect.

8 [11.11.14]

9 I said yesterday I took the photos at the ICRC villa that was  
10 rented in Phnom Penh and there were over -- it was told to me  
11 there were over 1 million index cards with the family information  
12 for refugees. And what happened to that archive I have no idea.  
13 But the identical copy of those cards was also in Switzerland at  
14 ICRC headquarters so they have an idea of the numbers of people.  
15 Many, many thousands of refugees did not go to the camps so they  
16 are not counted.

17 Q. Thank you very much for those clarifications.

18 Let us move on to a new line of questioning, concerning the 17th  
19 of April 1975.

20 There was a long discussion on one or several Khmer Rouge  
21 factions that you saw that morning. Allow me to refresh your  
22 memory and ask you, first and foremost, if you recall upon your  
23 arrival in Thailand in the second convoy that left the embassy of  
24 France, do you recall having described your experience or  
25 relaying your account to any colleagues or people at the embassy

1 in Bangkok?

2 [11.12.52]

3 A. I have no colleagues at the embassy in Bangkok. I did discuss  
4 with colleagues who are journalists, when I crossed the bridge  
5 into Thailand the first comments I made to anybody upon  
6 liberation from Democratic Kampuchea was an interview on the Thai  
7 side of the bridge with Edward Bradley of "60 Minutes". His Thai  
8 cameraman, Tanun Hurunsee (phonetic), filmed me being  
9 interviewed. I remember his camera pointed to my face and then as  
10 I loosened my belt, pulled my pants out a bit so I could reach  
11 down and pull the 23 rolls of film that I wrapped in plastic and  
12 taped to my leg. A smuggling trick, I pulled the film out, he had  
13 panned the camera down as my sequence of that. The questions Ed  
14 Bradley asked consisted of -- such as, "Do you believe there will  
15 be a blood bath?" And I said, "Yes." He asked, "How many do you  
16 think?" And I said, "Who knows, 1000, 10, 000, how many does it  
17 take for a blood bath?" I forgot some of the other questions I  
18 believe that film is in archives in the U.S. I know it's on  
19 Vanderbilt University's archive and it could have been obtained,  
20 but my memory is very hazy--

21 [11.14.33]

22 Q. Pardon me, pardon me. Mr. Rockoff, perhaps there is a  
23 misunderstanding because I wasn't asking you about any interview  
24 with journalist, my question to you was: Did you have any  
25 discussion or interview with anyone from the American Embassy in

1 Bangkok? Anybody who was working at the American Embassy in  
2 Bangkok; do you have any recollection of any such discussion or  
3 interview?

4 A. In 1975, no, but in Bangkok, I did run into an American who  
5 used to work at the U.S. Embassy in Phnom Penh. I can't consider  
6 it a proper interview in that we had a few drinks in a bar in  
7 Patpong; I had a bowl of Shanghai noodles and there were  
8 questions asked but I do not consider that an interrogation. I  
9 did not connect with anybody from the U.S. Embassy in Bangkok in  
10 '75.

11 MS. GUISSÉ:

12 Mr. President, with your leave, I would like to show a telegram  
13 from the embassy of the U.S. in Bangkok, the telegram is only in  
14 English, however, I do wish to cite a very brief passage and with  
15 your leave I would like to have this shown on the screen. The  
16 reference is D291/6.3.2.31 - D291/6.3.1.31, the ERN in English is  
17 0049547450, and I see that my learned colleague from the  
18 Co-Prosecutors is on his feet.

19 MR. PRESIDENT:

20 Mr. Co-Prosecutor, you may now proceed.

21 [11.16.57]

22 MR. LYSAK:

23 Thank you, Mr. President. I note, to my knowledge, this document  
24 was not included on the Defence exhibit list, nor on ours. So -  
25 and I'm not aware of counsel bringing any motion; nonetheless,

50

1 for the record, we do not object to them using the document but I  
2 do want it to make clear that this is not a document that the  
3 defence has put before the Chamber.

4 [11.17.34]

5 MS. GUISSÉ:

6 If I may be authorized to reply, Mr. President, this was not a  
7 document that we intended to use. The interest of this document  
8 only emerged over the course of Mr. Rockoff's testimony and I  
9 believe that it can serve to clarify a point if -- also to  
10 refresh his memory or to possibly determine if there is an error  
11 on the telegram. I believe that Mr. Rockoff is the person who is  
12 in the best position to address these issues.  
13 Therefore, if there is no problem, I would respectfully seek your  
14 authorization to use this document in order to bring  
15 clarification to the witness's testimony. Thank you.

16 (Judges deliberate)

17 [11.19.29]

18 MR. PRESIDENT:

19 The document requested by counsel for Mr. Khieu Samphan is not  
20 listed in the list of document proposed by the counsel and any  
21 party to the proceeding, and as has already been advised, party  
22 is not allowed to put such document for examination before any  
23 witness, including Mr. Rockoff.

24 MS. GUISSÉ:

25 Very well, Mr. President. I will acknowledge your ruling.

51

1 And for the record, I would simply state that when the parties  
2 were requested to submit their list of documents, it was in  
3 relation to the list of witnesses that had been updated at the  
4 time and Mr. Rockoff's name was not on the list at the time.

5 I submit to your ruling and so I will have to make my question a  
6 bit more general.

7 BY MS. GUISSÉ:

8 Q. Turning to you, Mr. Rockoff, there seems to be a document that  
9 was admitted by the U.S. Embassy. It is a telegram and you are  
10 mentioned in the telegram and it describes the fact that you had  
11 allegedly seen three factions on the 17th of April 1975.

12 Is the mention of the three Khmer Rouge factions accurate and  
13 reflective of what you may have told the worker from the U.S.  
14 Embassy?

15 [11.21.33]

16 MR. ROCKOFF:

17 A. I did not tell a worker from the U.S. Embassy anything. As I  
18 related to you in a prior question and answer, I had a drink or  
19 two on Patpong Road with an American who worked at the embassy in  
20 Phnom Penh. Maybe he's relaying stuff second-third hand to  
21 somebody at the American Embassy in Bangkok.

22 If I referred to Khmer "Kraham" coming into the city centre from  
23 three different directions, I did not and I never did use the  
24 term "factions" back then. You don't refer to different platoons  
25 in a unit as factions. These are people coming from three

1 different directions.

2 I also have never seen that document prior to your bringing it  
3 up. It was flashed on the screen momentarily and I read it. I did  
4 not ride around town with any Khmer "Rumdos". The "Rumdos"  
5 situation was more than a year earlier, the 600 or so that came  
6 over. I don't know who was the source of this document, but he  
7 should be re-educated as to the inaccuracies.

8 [11.22.48]

9 Q. Thank you very much for those clarifications.

10 I will now move on to a very brief and new line of questioning.  
11 You talked about your travels to the Ministry of Information on  
12 the 17th of April accompanied by some fellow journalists and you  
13 talked about some of the photos that you had taken that day.  
14 My first question to you is this: Of the Khmer Rouge soldiers  
15 that you saw on that day, were there any soldiers that you had  
16 known or recognized at the Ministry of Information?

17 A. No.

18 Q. And of the Khmer Rouge soldiers that you saw that day, did you  
19 only see soldiers and officers or did you also see civilians?

20 A. Well, let's say the two dozen or so functionaries from the Lon  
21 Nol regime were all -- almost all in civilian clothes; whether  
22 they had military rank or civil rank, it was hard to tell.

23 [11.24.00]

24 There were a few people around in civilian clothes. There was a  
25 photograph shown yesterday of Khmer "Kraham" going up the steps

1 of the ministry, one was barefoot. The person standing inside the  
2 doorway with a white shirt, I had to assume was a person who  
3 worked at the ministry.

4 Yeah, there was a mix of civilians and military there that  
5 morning and also late afternoon, when we were -- Sydney  
6 Schanberg, Jon Swain, Dith Pran, and myself were released from  
7 the Japanese Bridge and brought to the ministry; there were many  
8 more Khmer Rouge, but nobody I recognized.

9 The only incident where a Khmer "Kraham" recognized me was, as I  
10 related the other day, on the convoy out and the Khmer Rouge  
11 standing by the truck yelling, "Rokoss (phonetic)! Rokoss!  
12 Rokoss!" And I thought, "Wow, that's weird." The guy was yelling,  
13 "Truck! Truck!" And then I recognized him; all in black, and the  
14 person I never saw in black, he was always in white, as he was a  
15 desk clerk at the Hotel Royal and that day he was in Khmer Rouge  
16 uniform with his comrades and armed.

17 [11.25.20]

18 Q. Thank you very much for those specifications. I wish to move  
19 on to my last and two final lines of questioning. It brings me to  
20 the end of my cross-examination.

21 You talked about your life prior to your departure to Thailand  
22 and you talked about your time at the embassy of France, and as  
23 your source of information, you were able to listen to the BBC on  
24 the radio.

25 My question to you is this: Aside from the BBC, did you have --



1 were you able to avail yourself to any other sources of  
2 information?

3 A. Not while in the French Embassy, but there was access to radio  
4 transcripts which sometimes would be relayed to me by other  
5 journalists. I didn't have access to these documents personally  
6 because I did not -- I was not in the habit of going to the  
7 American Embassy to go to the USIS, the United States Information  
8 Service reading room. They had FBIS transcripts, Foreign  
9 Broadcast Information Service transcripts.

10 [11.26.38]

11 That is how some of the journalists relayed to me the word going  
12 out when the war is over, people go back home; when war was  
13 almost over, you contribute a million dollars to the final  
14 offensive and you will have a place in the new Cambodia.  
15 These are things that came across in the Foreign Broadcast  
16 Information Service transcripts. That was something that was  
17 provided by State Department to American Embassies; radio  
18 broadcasts that would be of interest to that country or say Khmer  
19 Rouge radio was translated.

20 Q. Thank you for that clarification; however, my question to you  
21 was: During the time that you were at the embassy, did you have  
22 access to those sources? And I'm really referring to the time and  
23 the specific dates that you were at the embassy of France from  
24 the 17th of April up until the start of May 1975.

25 A. We were allowed to keep our radios. There was one day where

1 the Khmer "Kraham" came into the embassy, searched for  
2 transmitters. They alleged -- the allegation was there was an  
3 unauthorized radio transmission from within the embassy area.  
4 They went through. We had to collect everybody's radios, put them  
5 in a pile out in the courtyard. Khmer Rouge came; made sure there  
6 was no two-ways; such as, many of the relief workers had single  
7 sideband radios and they could transmit.  
8 There were radio broadcasts emanating from the building due east  
9 of the French Embassy which, at the time, was the South Korean  
10 Embassy; they had electricity going. Same as the French Embassy,  
11 they had electricity right up to the very end despite most of  
12 Phnom Penh being blacked out.

13 [11.28.43]

14 We had radios. I could listen to short wave on my radio and of  
15 course, BBC was available. VOA, but VOA didn't tell as much about  
16 what was going on, where we were at. That was about it. There was  
17 not much available other than BBC; at least, as far as reception  
18 within our compound.

19 Q. And one final question for you. You talked about your work as  
20 a freelance photographer, meaning that you were working with  
21 several types of media and media outlets. And in response to a  
22 question put by my colleague, you said that you worked for the  
23 "New York Times" as well as for "Newsweek".

24 My question for you is this: Did you know the journalists from  
25 "Newsweek" and who worked for "Newsweek"? They're called Fay

1 Willey - W-i-l-l-e-y - Fay Willey, and another journalist called  
2 Paul Brinkley-Rogers. Do these names sound familiar to you?

3 A. No, the first name I don't know. Faye -- I don't know if  
4 you're talking about a male or female. There were numerous  
5 correspondents that worked for each particular magazine and they  
6 sometimes rotated in and out.

7 The second name I did not catch. Can you please repeat the second  
8 name?

9 [11.30.29]

10 Q. Yes, I'm referring to Paul Brinkley-Rogers.

11 A. I don't know of anyone by that name. I do know a Paul  
12 Brinkley-Rogers. Is that the person you are asking about?

13 Q. It is a journalist who worked for "Newsweek" and since you  
14 stated that you had worked for "Newsweek", I was wondering if you  
15 had ever collaborated with those two correspondents.

16 A. I have no idea who the first name is. I asked you to repeat  
17 the second name. I asked you if it was Paul Brinkley-Rogers.

18 Yes, I interact with these people. I did many times for two  
19 years. I did not work for these organizations. They had no  
20 obligation to me. They take film. Sometimes they use it.

21 Sometimes it's a good arrangement; sometimes not.

22 [11.31.41]

23 I never worked for the "New York Times". I contributed  
24 photographs as a freelance. A lot of times a correspondent comes  
25 into town; they have to catch up on events, on things; they need

1 to get up-to-date on things, so that's where we converse. I fill  
2 them in. I am the eyes and the ears for some of these  
3 correspondents.

4 Same with Sydney Schanberg and the "New York Times"; it was very  
5 interesting. It was like the dog -- the tail wagging the dog.  
6 Dith Pran and I would have intimate knowledge about the stories  
7 that Sydney Schanberg would be working on. We knew what would be  
8 coming out in a few days. Sometimes I do what I had to do. I  
9 would discuss it with people such as, say, Ed Bradley for CBS. He  
10 has an idea what's going to be worked on in the next two days,  
11 three days by the "New York Times". It is really, really  
12 important that, say, CBS evening news editor, on his commute from  
13 Connecticut to Rockefeller Centre, he reads the "New York Times";  
14 he sees Sydney's story; he would like to have CBS film footage on  
15 his desk for that evening news. So sometimes you coordinate  
16 things.

17 [11.33.05]

18 Would Sydney appreciate what I do? No, we had problems. But as I  
19 said, Dith Pran was the tail that wagged the dog. We provided  
20 many things to Schanberg and coordinated -- or I would say I did  
21 -- with regards to others who had a need to know among the  
22 journalistic community.

23 Did I work for anybody in particular? No, I would say I was a  
24 freelance and I was lucky if I sold three to five photographs a  
25 month to Associated Press. Maybe once in a blue moon I would have

1 a day rate from "Newsweek", but never would they consider me an  
2 employee.

3 I would say the main outlets were Associated Press, "New York  
4 Times", "Newsweek", and "Time".

5 Q. Mr. Rockoff, this will be my last question regarding Mr. Paul  
6 Brinkley-Rogers. Was he present with you at the French Embassy?  
7 Was he one of the foreigners who were at the French Embassy  
8 between the 17th of April and early May 1975?

9 [11.34.13]

10 A. Paul -- Paul Brinkley-Rogers was not in Cambodia for the fall  
11 of Phnom Penh. He was not among the eight Americans in the U.S.  
12 -- I'm sorry, in the French Embassy. Actually, there were seven  
13 Americans and the eighth one was Paul Ignatieff, who was under UN  
14 passport.

15 I knew Paul Brinkley-Rogers, and he, unfortunately, was not here  
16 for the fall of Phnom Penh.

17 MS. GUISSÉ:

18 Thank you, Mr. Rockoff, for taking time to answer my questions. I  
19 wish you a safe trip back home.

20 I am done, Mr. President.

21 [11.34.53]

22 MR. PRESIDENT:

23 Thank you, Counsel.

24 Mr. Al Rockoff, your testimony has now come to a conclusion and  
25 you are now excused. You may feel free to go to your place and

1 the Court is very grateful, indeed, to your attendance. Your  
2 testimony helps ascertain the truth and we appreciate your  
3 efforts in giving the testimony for the last one day and a half.

4 We wish you all the very best and we wish you safe travel.

5 Court officer is now instructed to assist with the WESU unit so  
6 that Mr. Rockoff is returned to his place safe and sound.

7 We thank you.

8 Counsel for Mr. Khieu Samphan, you're still on your feet. You may  
9 now proceed.

10 MS. GUISSÉ:

11 Yes, Mr. President, thank you. I have two points I would like to  
12 raise.

13 The first point is in light of the remark I made on list of  
14 parties. I would like to refer the Chamber to document E9/27  
15 which is an Ieng Sary motion in which paragraph 4 of the document  
16 refers to an email sent by Ms. Susan Lamb on the 8th of April  
17 2011, in which she points out that parties are not under a duty  
18 to present documents which have to deal with witnesses called by  
19 other parties.

20 [11.37.09]

21 So this is a point I would like to bring before the Chamber  
22 because with regard to examination of that witness, other parties  
23 may have difficulties similar to ours. On our list, we don't have  
24 documents relating to the witness which we are not aware of and  
25 when we have documents that are relevant and on record, I think

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1 it is unfortunate if we are not allowed to use them. That is the  
2 first point.

3 The second point, Mr. President, is this; as I pointed out  
4 yesterday, Mr. Khieu Samphan is still very tired following his  
5 hospitalization. He would like to confirm that he waives his  
6 presence at tomorrow's document hearing and on Thursday as well.  
7 He would like to rest in the detention facility entirely in order  
8 to be in good shape to attend proceedings when the next series of  
9 witnesses will testify next week. We have filed a waiver  
10 regarding the documents' hearing. We did that last time and we  
11 are ready to do it again for the hearing of tomorrow and after  
12 tomorrow.

13 I thank you, Mr. President.

14 [11.38.42]

15 MR. PRESIDENT:

16 Thank you, Counsel.

17 Mr. Co-Prosecutor, you may now proceed.

18 MR. LYSAK:

19 Thank you, Mr. President. I'll be brief.

20 In response to the issue raised regarding the document process,  
21 counsel should understand that there's a procedure. If they wish  
22 to use documents, they simply need to file a motion with the  
23 Court identifying them.

24 Our position has been not to object when the Defence identify  
25 documents relating to witnesses, use the procedures, and bring

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1    them before the Court. My point in rising was to make sure the  
2    Court was aware that this was not a document that had been  
3    submitted to it.

4    [11.39.25]

5    In contrast, I must note that although we made a very good-faith  
6    effort to identify all documents we were aware of, every time we  
7    seek to introduce or file such a motion, the Khieu Samphan  
8    defence is a regular party that objects to that.

9    Notwithstanding that, if the Khieu Samphan defence had followed  
10   the proper procedure, we would have no objection when they  
11   identify new documents that are relevant to witnesses, so I  
12   simply wish to correct the record as it was portrayed by defence  
13   counsel.

14   (Judges deliberate)

15   [11.45.20]

16   MR. PRESIDENT:

17   After having noted the relevant issues concerning the documents  
18   to be put before the Chamber, the Chamber still maintains its  
19   firm position concerning the practice so far and we also take  
20   that -- the position by the Co-Prosecutor very valid.

21   And counsel for Mr. Khieu Samphan, when it comes to your request  
22   concerning Mr. Khieu Samphan waiver to be present during the  
23   hearings for the future; in particular, the very near future, the  
24   Chamber will look into this request and notify the counsels for  
25   Mr. Khieu Samphan by this afternoon.



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1 Doctors who are treating the Accused at the ECCC will then be  
2 summoned to re-examine Mr. Khieu Samphan's health condition and  
3 that the Chamber will have to be updated and informed on this  
4 before we can rule upon the request accordingly.

5 Next, the Chamber would like to proceed to another issue to be  
6 discussed before the Chamber concerning the key documents to be  
7 placed before the Chamber concerning the roles of the Accused.  
8 The Chamber wishes to hear from the Prosecution as to whether  
9 they have already been prepared to place the documents and give  
10 the presentation on such requests for documents and how much time  
11 would they need for such session, please?

12 [11.47.49]

13 MR. LYSAK:

14 Thank you, Mr. President. I'll relay to you my understanding.  
15 As I stand here, we are preparing -- we were preparing to start  
16 Wednesday morning, and our anticipated length of time was two  
17 days in total. We will commence with documents related to the  
18 role of Ieng Sary, followed by Khieu Samphan, and ending with  
19 Nuon Chea.

20 And I'm not sure if the Court is enquiring whether we are ready  
21 to start this afternoon; I'm not -- okay, I'm not sure, but our  
22 plan -- we are ready to start tomorrow morning and we will start  
23 with documents related to accused Ieng Sary.

24 [11.48.50]

25 MR. PRESIDENT:

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1 Thank you.

2 We would like to also know from the Lead Co-Lawyers for the civil  
3 parties concerning the same topic, please?

4 MS. SIMONNEAU-FORT:

5 For our part, we do not wish to present documents on the role of  
6 the Accused now. We would like the witnesses and civil parties to  
7 be heard first on the role of Accused persons and we will present  
8 such documents on the role of Accused persons subsequently. We  
9 are, therefore, not ready to present such documents this week or  
10 even next week and we will, therefore, be requesting that -- that  
11 be postponed.

12 MR. PRESIDENT:

13 Thank you.

14 We would like now to also get some information concerning this  
15 from counsels for Mr. Nuon Chea, please.

16 [11.49.45]

17 MR. KOPPE:

18 Thank you, Mr. President.

19 At this stage, it's difficult for us to give any informed opinion  
20 on what our position is going to be. We will visit our client  
21 again this afternoon. We have received reports that he is getting  
22 better and that maybe he's more capable of instructing us in this  
23 respect. However, I anticipate that if we have any objections or  
24 submissions to make, we will do it, as indicated earlier, in a  
25 written form.

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1 MR. PRESIDENT:

2 Thank you for the information.

3 We would like to now also hear from counsels for Mr. Ieng Sary.

4 [11.50.46]

5 MR. ANG UDOM:

6 Good morning, Mr. President, and, Your Honours, and thank you.

7 Ieng Sary's counsel position is not that different from Mr. Nuon

8 Chea's counsels. We would like to ask Mr. Ieng Sary, first, what

9 we should proceed with this.

10 And regarding this documents' hearing, we are still not certain

11 whether we are ready. Nonetheless, we need to discuss this with

12 Mr. Ieng Sary before we can inform the Court. So far, we haven't

13 done this yet.

14 MR. PRESIDENT:

15 Thank you.

16 Counsel for Mr. Khieu Samphan, you may proceed.

17 MS. GUISSÉ:

18 Thank you, Mr. President.

19 As far as counsel for Khieu Samphan is concerned, our position is

20 very clear. We do not intend to present any documents at this

21 stage of the trial. We are of the view that if we have documents

22 to present, we will do so by pleading and we haven't reached that

23 stage yet, so we do not have any documents to present now.

24 [11.52.17]

25 MR. PRESIDENT:

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1 Thank you, Counsels and parties to the proceeding, concerning the  
2 information you provided for the Chamber.

3 It is now appropriate moment for the adjournment. The next  
4 hearing will be resumed tomorrow, commencing from 9 a.m.

5 For tomorrow's session, the Chamber will start the document  
6 hearing; starting from the key documents concerning the roles of  
7 the Accused. The floor will be given first to the Prosecution.

8 And at the same time, session will be open for parties to take  
9 issue or object to -- to any of the documents being proposed.

10 Security personnel are now instructed to bring Mr. Khieu Samphan  
11 and Ieng Sary to the detention facility and have them returned to  
12 the courtroom tomorrow by 9 a.m., except Mr. Ieng Sary; he is  
13 instructed to return to only his holding cell downstairs where he  
14 can observe the proceedings from there.

15 We await the decision by the Chamber this afternoon to see  
16 whether Mr. Khieu Samphan should also be returned to the  
17 courtroom.

18 The Court is adjourned.

19 (Court adjourns at 1153H)

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