



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា
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 Chambres Extraordinaires au sein des Tribunaux Cambodgiens

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អង្គជំនុំជម្រះសាលាដំបូង
 Trial Chamber
 Chambre de première instance

TRANSCRIPT OF TRIAL PROCEEDINGS
PUBLIC
 Case File N° 002/19-09-2007-ECCC/TC

16 February 2015
 Trial Day 244

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

The Accused: NUON Chea
 KHIEU Samphan

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 Victor KOPPE
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Trial Chamber Greffiers/Legal Officers:
 SE Kolvuthy
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 SENG Bunkheang
 SREA Rattanak
 Vincent DE WILDE D'ESTMAEL

For Court Management Section:
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INDEX

MR. EM PHOEUNG (2-TCW-954)

Questioning by Mr. Srea Rattanak	page 11
Questioning by Mr. De Wilde D'Estmael	page 27
Questioning by Mr. Ven Pov	page 46
Questioning by Ms. Guiraud	page 50
Questioning by Mr. Suon Visal.....	page 56
Questioning by Mr. Koppe.....	page 59
Questioning by Mr. Kong Sam Onn.....	page 68

MR. PHNEU YAV (2-TCW-934)

Questioning by The President.....	page 97
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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MR. EM PHOEUNG (2-TCW-954)	Khmer
MR. DE WILDE D'ESTMAEL	French
JUDGE FENZ	English
MS. GUIRAUD	French
MS. GUISSÉ	French
MR. KONG SAM ONN	Khmer
MR. KOPPE	English
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. PHNEU YAV (2-TCW-934)	Khmer
MR. SREA RATTANAK	Khmer
MR. SUON VISAL	Khmer
MR. VEN POV	Khmer

1

1 PROCEEDINGS

2 (Court opens at 0908H)

3 MR. PRESIDENT:

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

5 Today the Chamber will hear the testimony of the reverend, Em

6 Phoeung. In fact, he has been invited to testify last week.

7 However, due to the hearing of the testimony of an expert, his
8 testimony has been postponed until today. The reverend has been
9 informed about the rights and obligations, as well as questions
10 his background has been asked by the Chamber. Therefore, it is
11 not necessary for the Parties to inquire about the background of
12 the reverend in order to save time.

13 And Ms. Se Kolvuthy, could you report the attendance of the
14 Parties and individuals to today's proceedings?

15 [09.10.29]

16 THE GREFFIER:

17 Mr. President, for today's proceedings, all parties to this case
18 are present, except for Mr. Nuon Chea who is present in the
19 holding cell downstairs as he requests to have his right to be
20 present in the main courtroom. His waiver has been delivered to
21 the greffier and the witness today -- that is, the Reverence Em
22 Phoeung, is present in the courtroom.

23 We also have a reserve witness, 2-TCW-934, and to his knowledge,
24 he has no relationship by blood or by law to any of the two
25 Accused: Nuon Chea or Khieu Samphan, nor to any civil party

1 recognised in this case.

2 The witness will take an oath before the Iron Statute this
3 morning at 10.00 a.m. before his testimony.

4 [09.11.34]

5 MR. PRESIDENT:

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

8 The Chamber has received a waiver from Nuon Chea, dated 16th
9 February 2015, who states that due to his health, backache,
10 dizziness and headache and that he cannot concentrate for long,
11 and in order to prepare for effective participation in the future
12 hearings, he waives his direct presence in the courtroom on 16
13 February 2015.

14 [09.12.16]

15 Nuon Chea has been informed by his counsel about the consequences
16 of this waiver that in no way it can be construed as a waiver of
17 his rights to be tried fairly or to challenge evidence presented
18 or admitted to this Court at any time during his trial.

19 Having seen the medical report of Nuon Chea by the duty doctor at
20 the ECCC, dated 16th February 2015, who note that the health
21 condition of Nuon Chea, in general, remains unchanged, he has
22 severe backache, dizziness and cannot sit for long and recommends
23 that the Chamber also allow him to follow the proceedings from
24 the holding cell downstairs.

25 Based on the above information and pursuant to Rule 81.5 of the

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1 ECCC Internal Rules, the Chamber grants Nuon Chea's request to
2 follow the proceedings remotely from a holding cell downstairs,
3 via audio-visual means.

4 And, as he waives his right to remain in the main courtroom, the
5 AV Unit, you're instructed to link the proceedings to the holding
6 cell downstairs so that Nuon Chea can follow it remotely, and
7 that applies for today's proceedings.

8 [09.13.54]

9 The Chamber would also like to inform the Parties that today, due
10 to the limited resources of the interpreters in the booth, the
11 ITU and the Chamber tries our best to provide the service during
12 the proceedings. For that reason, we request the Parties to put
13 questions slowly and leave sufficient pause between question and
14 answer session so that the interpreters can properly interpret
15 the proceedings.

16 We would like now to hand the floor to the Prosecution to put
17 questions to Reverence Em Phoeung.

18 Please, wait. And Counsel Koppe, you have the floor.

19 MR. KOPPE:

20 Good morning, Mr. President. Good morning, Your Honours, counsel.

21 Mr. President, I'm sorry to stand up before the Prosecution would
22 start asking questions to the witness. But I would like to raise
23 this issue now because I think it's relevant to this witness and
24 it is an important issue.

25 [09.15.12]

4

1 You might recall three weeks ago, I stood up as well and asking
2 clarification about four new statements added to the case file,
3 four statements coming from the investigation of Case 004. I
4 asked for clarification and I asked on the 26th of April 2015
5 (sic), and I have the transcript in front of me: English, ERN
6 01060391; French, 01060293/4; and Khmer, 01060886 until page 7. I
7 asked -- and I literally - and I read now from the transcript, I
8 say, "My second question would be, if these four statements --
9 the release of these four statements, is that it or are there
10 more to come in relation to this segment?" End of my own quote.
11 The prosecutor, Mr. Lysak, replied, and I will read his answer to
12 you again, and he says the following - I quote again: "There have
13 been some additional statements, none of them to my knowledge
14 involved trial witnesses but requests have been made and when
15 authorisation is provided for these new statements, they will be
16 disclosed too. But they do not relate to trial witnesses." And
17 then he says - and I quote: "It's a pretty small number to my
18 recollection too."

19 [09.17.00]

20 Last Friday, we were informed by the Prosecution that another 20
21 statements coming from Case 004 will be served upon us this
22 morning. Nobody came, so we didn't receive them yet. I'm not sure
23 how the 20 statements relate to a pretty small number, what is
24 more concerning is that there is a strong rumour -- and I don't
25 know if that is correct -- that there are hundreds of statements

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1 coming from Case 004 on the way to be added to the case file. If
2 that is true, I think we have a serious situation because we're
3 ongoing with examining witnesses. I do not know what are in these
4 statements, you don't know also, I think. So my question really
5 is, also in relation to the earlier answer of the Prosecution, is
6 this some - what some called after the Hungarian or Italian
7 sausage or salami tactics feeding it in small numbers or is there
8 something else going on and I would really like to know because
9 it potentially could affect this witness, I don't know. It could
10 affect the next witnesses, I don't know. But if it is true that
11 hundreds of Case 004 statements are coming our way, I think that
12 is unacceptable and then we need, maybe I don't know if you will,
13 but we need to possibly request for suspending the proceedings
14 until we are able to read all those statements.
15 So again, I apologise for bringing this up now but I think it
16 could potentially relate to this witness that's why I'm asking
17 the question. Thank you.

18 [09.18.55]

19 MS. GUISSÉ:

20 Thank you, Mr. President. Good morning to all. I can only align
21 myself with the defence team of Mr. Nuon Chea and subscribe
22 wholly to the comments made by Counsel Koppe. There is in effect
23 a problem with this process. We raised with Mr. Lysak the fact
24 that the number was increasing by the day. We have absolutely
25 zero visibility or clarity on the exact number of statements that

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1 are forthcoming and so if understood, I thought it required the
2 authorisation of the Co-Investigating Judges but the
3 Co-Prosecutors need to know exactly how many statements they
4 would require before conveying them; that's the first point.

5 [09.19.58]

6 The second is best. On this side of the courtroom, we simply --
7 perhaps do not share the same philosophy or view on the case file
8 and so long as we do not have the statements in hand and so long
9 as we have not been able to apprise ourselves on them, so long as
10 we have not been able to confront ourselves with the evidence, we
11 cannot formulate our own opinion. So once again, I would insist
12 on the fact that this is a matter of proper preparation in order
13 for the proper conduct of trial in order to allow a proper
14 adversarial hearing to unfold. This is a requirement that we have
15 to fulfil as defence lawyers as well. We therefore seek
16 clarification on the exact number of documents that will be
17 conveyed and exactly what was requested of the Co-Investigated
18 Judges and once that information is in hand we would be able to
19 organise ourselves accordingly.

20 [09.21.02]

21 MR. PRESIDENT:

22 The Deputy Co-Prosecutor, you have the floor.

23 MR. DE WILDE D'ESTMAEL:

24 Thank you. And good morning, Mr. President, Your Honours. Good
25 morning to all Parties. First and foremost, I deplore the fact

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1 that this debate is occurring now since we have very little time,
2 as it were, to examine the witness. It is already 9.20. However,
3 I do want to address the concerns of the Defence.
4 They talked about tactics, the salami tactics as it were. The
5 Co-Prosecutors have an obligation to convey to the Parties the
6 written records of witness interviews that are related to case
7 file 002, because such information may contain exculpatory
8 information and it may also regard information that is related to
9 Case 002/02. This is a process. This is an ongoing process. It
10 involves copies of written records, it also involves the
11 translations of these written records and therefore it is
12 impossible to give definite figures on an immediate basis but
13 this is an ongoing basis. This is not a matter of tactics but
14 we've had to ask for the authorisation of the Co-Investigating
15 Judges in order to disclose these statements, therefore, we
16 cannot go anymore expeditiously than capacity allows. Therefore,
17 we will provide any clarification that the Chamber requires and I
18 would draw the attention of the Parties that this is an ongoing
19 process, this is not a matter of deploying tactics. We are
20 following the due diligence and procedure necessary in order to
21 disclose these documents to all Parties to the best of our
22 capacity.
23 Thank you, Mr. President.
24 [09.23.12]
25 MR. PRESIDENT:

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1 The International Lead Co-Lawyer for the civil parties, you have
2 the floor.

3 MS. GUIRAUD:

4 Thank you, President. Just a very brief observation since we
5 found ourselves in the exact same position as the defence
6 counsel. We, as civil party lawyers, do not have access to Case
7 File 002, therefore there is no visibility of the documents that
8 are being produced. We find ourselves in the exact same position
9 as our learned colleagues across the way. What is essential is
10 the ascertainment of the truth and for that to occur, these
11 interviews must take place and we have the responsibility to use
12 those documents in the proper time and we should be able to
13 dispose of the required amount of time to read those documents.
14 This process must move forward and the civil parties will also
15 have to adapt with these circumstances. It is not easy but this
16 process of disclosure is ongoing in order to allow the overall
17 process to continue.

18 [09.24.27]

19 MR. KOPPE:

20 Very briefly, Mr. President, in reply to the prosecutor's answer;
21 I appreciate fully that Co-Investigating Judges or legal officers
22 working for the Co-Investigating Judges have to review these
23 statements, these documents. But surely, the Prosecution knows
24 how many documents they requested to be reviewed. There is a
25 process of reviewing but there's also a request. So is the rumour

1 correct that there are hundreds of statements coming our way or
2 not? If not, what is the number that we're talking about? So I
3 think the Prosecution is very well capable of giving an answer to
4 that very concrete question.

5 (Judges deliberate)

6 [09.30.54]

7 MR. PRESIDENT:

8 The Chamber would now like to give the floor to Judge Fenz to ask
9 for certain clarifications on this issue.

10 Judge Fenz, you have the floor.

11 JUDGE FENZ:

12 The first question is to counsel, might have been a translation
13 issue. You mentioned an ERN that was a reference to your original
14 question in Court; is that correct?

15 Next question is to OCP; refers to this witness only: of the
16 document that you are aware of and that are about to be
17 disclosed, does any of them impact on this witness?

18 MR. DE WILDE D'ESTMAEL:

19 Well, frankly speaking, no, Your Honour. There is no statement
20 that's going to have an immediate consequence on the testimony of
21 the venerable witness today.

22 [09.32.09]

23 JUDGE FENZ:

24 So much for this witness. Now for the general situation. It is
25 obviously unusual and fluent and potentially problematic. Our

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1 first question is, and I'm not sure you've answered it anyway.
2 But how many-- can you make an assessment or are you aware how
3 many documents will come or are still to come?

4 MR. DE WILDE D'ESTMAEL:

5 Your Honour, I do not have this figure in mind. If I had received
6 an email I could have prepared myself and provided you with the
7 exact figures but I think that our office would be able to
8 provide this figure during this day to all the Parties. I know
9 that there are a certain number of written records involving the
10 work sites, that is to say the next segment of the trial, which
11 are still being revised and analysed by the Investigating Judges.
12 And I think this represents about 60 documents, if I'm not
13 mistaken. But as far as the rest is concerned, I won't be able to
14 provide you with an exact figure. I risk, in fact, being
15 mistaken.

16 [09.33.28]

17 JUDGE FENZ:

18 I understand the investigation in this Case is still ongoing. To
19 the best of your knowledge, the interviews produced now or in the
20 next months will they impact on Case 002? So, can you say with
21 any certainty how many documents are actually affected at this
22 point in time?

23 MR. DE WILDE D'ESTMAEL:

24 Your Honour, this is a secret. We don't have access to this
25 information. The Investigating Judges protect their

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1 investigations so they do not forward this kind of information to
2 us. What I know is that they will probably be a certain number of
3 written records that might be linked to forced marriage that will
4 come up in the weeks or the months to come, but besides from
5 that, I do not know. I believe only the Investigating Judges will
6 be able to answer that question.

7 [09.34.32]

8 JUDGE FENZ:

9 As mentioned, this is a slightly unusual and fluent and
10 potentially problematic situation. The Chamber will consider how
11 to deal with it generally. As to this witness and based on the
12 information we got from OCP, we will go ahead.

13 MR. PRESIDENT:

14 Mr. Co-Prosecutor, you may proceed.

15 QUESTIONING BY MR. SREA RATTANAK:

16 Good morning, Mr. President, Your Honours, and all parties to the
17 proceedings; and also Reverence Em Phoeung. I'm Rattanak, I'm the
18 National Co-Prosecutor of the ECCC. I have a number of questions
19 related to the treatment of the Buddhist monks and Buddhist from
20 1975 to 1979.

21 [09.35.45]

22 Q. Earlier you told to the OCIJ, 335113 (phonetic), ERN; Khmer,
23 00165263; English, ERN 00223197 and 0070332; and you said that,
24 in 1975, you were evacuated from Phnom Penh and further to Angk
25 Roka Pagoda. I would like to know, at that time, Angk Roka

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1 pagoda, where was it located, in commune or district?

2 MR. EM PHOEUNG:

3 A. Angk Roka Pagoda is in Cheang Tong commune, Tram Kak district,
4 Takeo province -- Cheang Tong commune, in Tram Kak district,
5 Takeo province.

6 Q. How long did you take from Phnom Penh to arrive at Angk Roka
7 Pagoda in your trip?

8 A. Yes, it took me long time to be there. I don't remember. It
9 took me about one month or two. I had travelled on foot from
10 Phnom Penh to the pagoda.

11 [09.37.35]

12 Q. During your trip from Phnom Penh to Angk Roka Pagoda, did you
13 receive any mistreatment or any ill treatment from the Khmer
14 Rouge or any official of the Khmer Rouge along the road?

15 A. On the road I received no mistreatment because there were many
16 people evacuated from Phnom Penh.

17 Q. In addition to that, have you seen any mistreatment towards
18 other Buddhists or any other monks along the road?

19 A. When I left Phnom Penh, I didn't witness any mistreatment
20 because there were many people evacuated and some other monks and
21 other people left earlier and other left later than that. But
22 along the road, we had difficulty half way sleeping area and also
23 food shortage along the road.

24 [09.39.25]

25 Q. During your travel, was it you who choose your destination to

1 that pagoda or who did -- the one who tell you to go to that
2 place?

3 A. On the 17th April, I was living in Sampov Meas in Phnom Penh
4 and at 10.00 p.m., the liberated soldiers ordered us to leave
5 Phnom Penh and I asked, "where should I go?" and he told me that
6 "you should go to your home town." They were small soldiers; I
7 can say they were boys' soldiers. "Where should I go Comrade" and
8 he told me that, "you should go to your home town." I told him
9 that I was from Kampot and he told me, "you should go there" and
10 I walked from 10.00 p.m. until early in the morning, I could
11 reach another pagoda in Phnom Penh not far.

12 Q. The final destination I would like to hear from you is Angk
13 Roka Pagoda.

14 Did you have any option to go to Angk Roka by yourself or was it
15 anyone who forced you or who directed you to go to that pagoda?

16 A. Because I used to live there so I was not forced to go to that
17 destination because I used to live there before.

18 [09.41.35]

19 Q. Did you have any choice other than Angk Roka for you to go?

20 A. It was my hometown. I used to live there, that's all I can
21 tell you.

22 Q. When you had arrived in Angk Roka Pagoda, did you see other
23 monks there? Were there any Buddhists or lay people inside or
24 around that pagoda?

25 A. When I arrived in Angk Roka, my monk teachers all was there

14

1 and some other monks were also staying in Angk Roka and they were
2 all coming to Angk Roka to stay in that pagoda when I arrived.

3 Q. Reverence, can you tell the Court how many monks were there at
4 the time?

5 MR. PRESIDENT:

6 Reverence, please wait until the microphone is activated. You can
7 see the red light on it. So could you please wait?

8 MR. EM PHOEUNG:

9 A. At the time, I did not count the number of monks but the monks
10 were told to stay there and they will order them to build canal
11 at Trapeang Dang Tuek and later they were sent to do that
12 construction of the canal at Trapeang Dang Tuek.

13 [09.43.58]

14 BY MR. SREA RATTANAK:

15 Q. Earlier you told the Court that other monks were from other
16 places and pagoda to stay in Angk Roka. Did you know where they
17 were from? Did you ask any of the monks as regard their previous
18 pagodas?

19 MR. EM PHOEUNG:

20 A. Those monks who came to stay at Angk Roka, most of them came
21 from Takeo province. They were told to stay in this pagoda to be
22 ready to do other work for the new regime.

23 Q. When you arrived at Angk Roka and immediately after your
24 arrival, what did you do and who told you to do that kind of
25 work?

15

1 A. On my first arrival, I was not ordered to do anything, but
2 later we were told that you cannot be staying as a monk; any monk
3 should leave monkhood or should be defrocked and they will not
4 allow anyone to be in monkhood. But at my first arrival, we were
5 not doing anything, just stay and wait to be ready for the next
6 order.

7 [09.45.59]

8 Q. How long did you stay freely and not doing anything to be
9 ready for the next order?

10 A. It was not long because Angkar will not let anyone to be free
11 for longer, but all we did during that time, we had to cook for
12 ourselves and we need to collect vegetables and some supplies to
13 cook for our meals.

14 Q. Before the OCIJ, you said that in document E35133 (sic);
15 Khmer, ERN -- page 4 --00165261; English, ERN -- page 4 -
16 00223200; and French, ERN -- page 4 and 5 -- ERN00702335 to 36.
17 You said that: "After a time, they forced the monks to grow
18 cassava with their robe on and no one will serve any monk at all.
19 So everyone had to work for the regime." End of quote.

20 Based on your statement to the OCIJ, and your earlier statement
21 to the Court -- to the Trial Chamber -- I know that there was a
22 small discrepancy in your statement, so which of your responses
23 would you stand by?

24 A. So, could you tell me the discrepancy? I don't know. I don't
25 understand.

1 [09.48.43]

2 Q. The discrepancy was that you say here before the Chamber that
3 after your arrival at Wat Angk Roka, you had some free time, but
4 in your statement to the OCIJ, you said that all monks, including
5 you, were directed, or ordered, to do the labour with your robe
6 on, as a monk. So, I would like to know for sure from you: were
7 you ordered to do labour with your robe on, or you had some free
8 time for a while at Angk Roka, and later, after you were
9 defrocked, and then you were ordered to do the labour?

10 A. Let me tell you my experience. So, I spent a period of time, I
11 didn't do anything, and later, Angkar came and told us to do the
12 dam construction at Trapeang Dang Tuek. So, no one could be free.
13 Everyone had to do labour for the regime. So, at the beginning,
14 we had a bit of free time, and later Angkar came and told us to
15 go to do construction of the dam.

16 [09.50.39]

17 Q. So, were you doing that when you were still a monk?

18 A. Yes.

19 Q. The construction of canals and dams, was it a normal practice
20 for the monks to do that, before the Khmer Rouge?

21 A. Could you repeat your question, Prosecution? I don't catch
22 that.

23 Q. I would like to know the labour you did, including building
24 canals at Trapeang Dang Tuek: was it the normal labour for the
25 monks before the Khmer Rouge regime or in the previous regime?

17

1 A. No, it was not a practice for the monks. It's only after the
2 liberation by the Khmer Rouge that they -- they ordered us to do
3 those kinds of labour. But the monks were not doing anything
4 during the earlier regime, so we were forced. We were ordered to
5 do those labours in our robes, as monks.

6 [09.52.25]

7 Q. Could you -- or can you refuse to do those orders, to do
8 labour?

9 A. No one would complain or refuse the orders. No one -- no one
10 refused. We had to follow the order.

11 Q. Talking about working conditions: so what were your working
12 hours, and how about your meals as a monk, when you do labour
13 during that time?

14 A. So, we were doing the same labour as the lay people. So, we
15 started from 6 a.m. until 11 o'clock, and then we started at 1
16 p.m. until 6 p.m., the same as other people.

17 Q. Did you witness any other monks who refused to follow the
18 orders of the Khmer Rouge? If so, can you tell the Court an
19 incident that you witnessed?

20 A. I didn't see anyone opposing or refusing to do any labour, so
21 everyone followed the orders.

22 [09.54.22]

23 Q. When you were staying at Angk Roka Pagoda, was there any
24 practice, or were there any Khmer Rouge cadres or any people pay
25 respect, or offer anything to monks as they were in the past?

18

1 A. At that time, the monks were at work sites. They were not at
2 the pagoda. They had to do labour for the regime.

3 Q. A while ago you told the Court that soon after your arrival at
4 the pagoda you were still in your robe. And then -- I would like
5 to know that there was no one pay respect, no one offer you any
6 alms, food for the monks? Could you do any practice as praying,
7 or doing a sermon, or preaching, as you did earlier at the
8 pagoda?

9 A. The duty of the monks: so, we were so strong with the
10 religion, we would do our prayer and our sermons quietly, without
11 anyone noticing.

12 Q. Talking about relations between other monks in the pagoda:
13 could any lay people, or other villagers contact you or meet you
14 to offer anything to the monks?

15 A. There were some Old People who came and met with the monks.
16 They would meet with the monks when they just arrived, but only
17 all elderly people who were at the pagoda at the time.

18 [09.57.30]

19 Q. Was there any prohibition for any contact with the monks?

20 MR. PRESIDENT:

21 Prosecutor, could you ask your question again?

22 BY MR. SREA RATTANAK:

23 Q. Was there any prohibition of any contact for monks and other
24 villagers? Or what are the reasons behind that?

25 MR. EM PHOEUNG:

1 A. At the beginning, it was not so strict. And after -- a month
2 or two after the arrival of the 17 April People, we could make
3 some contacts with the Old People who were living in the local
4 area, so we -- we should -- we knew something from them. And they
5 told us that, "Venerable, you cannot stay in the pagoda and
6 practice in the way that you did before. You should go and work
7 for the Angkar." This is what I heard from all those Old People.
8 [09.59.01]

9 Q. When you arrived at the pagoda and stayed in Wat Angk Roka,
10 how long did you stay before you were ordered to defrock?

11 MR. PRESIDENT:

12 Reverence, could you be mindful with the microphone, so it is not
13 activated?

14 MR. EM PHOEUNG:

15 A. In 1975 until 1976, the monks kept leaving monkhood, and in
16 1976, no monk was left in the monkhood, because they -- all monks
17 left the monkhood in '77, and those monks could not stay in the
18 monkhood. And the Khmer Rouge told them that you could not stay
19 in your robe as a monk anymore. You have to do the labour,
20 because the time and the regime is now different than before.
21 That's all.

22 [10.00.19]

23 BY MR. SREA RATTANAK:

24 Q. What about you yourself, Reverence? When were you instructed
25 to leave the monkhood?

1 MR. EM PHOEUNG:

2 A. It was in 1976.

3 Q. When you left the monkhood, was there a ceremony for that
4 process? Did you do it following the Buddhist practice?

5 A. At that time, nobody wanted to do that. However, it was the
6 Angkar who instructed us to do so. They then gave us clothing and
7 shoes. And it was in black colour. And then we were told that we
8 should leave the monkhood before the end of 1976.

9 [10.01.41]

10 Q. Was any ceremony held for that?

11 A. No, there was nothing. There was no ceremony at all. And one
12 after another, the monks had to leave the monkhood. Younger monks
13 had to leave the monkhood first, and then the other monks would
14 follow.

15 Q. When you were ordered to leave the monkhood, was a monk
16 instructed to leave the monkhood at the time, or was there a
17 ceremony for groups of monks, or was there a ceremony organized
18 by Angkar? By ceremony I mean, was there a meeting or a gathering
19 for certain monks?

20 A. At that time, I was in charge of all the monks there, and I
21 was called to a meeting that Angkar had liberated the country,
22 and that nobody would serve nobody else, and everybody had to
23 work based on the instructions of Angkar. Nobody would have free
24 time anymore. Everybody had to engage in labour. Everybody, with
25 no exceptions, and the time was now different from the previous

1 regime. Then we were given clothes: at least, a shirt and pants,
2 and a pair of shoes. Then we were instructed that we had to leave
3 the monkhood in a month's time, then to go and engage in building
4 dams or digging the canals. That's what was instructed by Angkar.

5 [10.03.52]

6 Q. Am I right to say that the person who was in charge of the
7 commune there held a meeting where you were instructed to leave
8 the monkhood, and that was the time you left the monkhood?

9 A. It was a meeting where plans were delivered. Later on, we were
10 given the clothing -- that is, at another separate occasion.

11 Q. You just stated that you were called to a meeting by a person
12 who was in charge of a commune. Was he male or female? Was the
13 person male or female?

14 A. It was a man.

15 Q. At that time, what did that person say about his position in
16 the commune?

17 A. He presented himself as a member of the commune, in charge of
18 the youth.

19 [10.05.19]

20 Q. Did he come alone, or was he accompanied by other people?

21 A. He came along with the militia.

22 Q. Had you known that person was in charge of the commune before,
23 who came to chair that meeting?

24 A. I knew some of them, but not all, because some of those who
25 came were rather young.

1 Q. Besides that meeting about the plans that Buddhist monks had
2 to leave the monkhood, was there other meetings held? For
3 example, a weekly meeting or a monthly meeting, or an urgent
4 meeting, where you personally attended?

5 A. At that time, a meeting was convened every month in order to
6 strengthen the stance of the youth and everyone else.

7 Q. In all those meetings, what did they say about Buddhist
8 religion? Here I refer to the meetings that you attended while
9 you were staying at Angk Roka pagoda.

10 A. Please ask the question again as I did not get it well.

11 [10.07.55]

12 Q. You stated that there were meetings where they instructed on
13 the strengthening of the stance. My question to you is that,
14 while you were staying at Angk Roka Pagoda, in those meetings did
15 they mention anything about Buddhist religion?

16 A. Angkar, including the commune authority, stated that now
17 everything was different from the previous regime, which was
18 capitalist. Now there was no longer capitalists, and everything
19 had to be done according to Angkar's instructions, and nobody
20 would serve nobody else. Everybody had to strive to work hard, to
21 have a common meal, and to work together. Because in the previous
22 regime, some people did not work and had free time, and now, it
23 would be different, as everybody had to engage in labour.

24 [10.09.20]

25 Q. During that period of time, did you know other Buddhist monks

1 who either died or disappeared?

2 A. Some monks only died when they were leaving Phnom Penh, or
3 when they were leaving the provincial towns of certain provinces
4 -- that is, during the time of the 17 April 1975. At that time,
5 Huot Tat -- Samdech Huot Tat -- was there, and there were about
6 20 other monks who were also there in Phnom Penh. Later on, they
7 all had disappeared, and I did not know where they went.

8 Q. My question to you is about Buddhist monks in Takeo province.
9 Did you know if any of the monks in the province died, or was
10 killed, or disappeared during that time?

11 A. Only one monk who died, and I -- he was my friend. He died to
12 the east of Svay Prey -- that is, near the market area. He told
13 me that three monks were tortured and killed by Angkar as they
14 proposed -- that they opposed the Angkar's instructions.

15 Q. Later on, after you left the monkhood, were you considered a
16 former monk, a peasant, or a capitalist, or a new person?

17 A. I was considered a 17 April person.

18 [10.12.07]

19 Q. Were you ordered to fill in a biography? Reverence, please
20 respond again.

21 A. Please repeat your question, prosecutor.

22 Q. Reverence, were you ordered to write your biography?

23 A. No, I was not ordered to do so.

24 Q. Later on, what were you ordered to do?

25 A. At that time, I was amongst the youth.

1 Q. Where were you assigned to work?

2 A. In fact, there were two provinces where I worked in. I was
3 then returned to Kampot province, because my relatives lived in
4 Kampot, but because I ordained and stayed at Angk Roka, and after
5 I left the monkhood, I returned to Kampot province as part of the
6 youth group.

7 [10.14.02]

8 Q. What I want to ask you is in relation to your activities and
9 experience within Takeo province only.

10 A. I worked there as part of youth group, digging canals and
11 building dams.

12 Q. Can you tell us the location?

13 A. It was right in Angk Roka. Some of us were divided to Trapeang
14 Dang Tuek, and we stayed and worked at Angk Roka.

15 Q. What was the working condition like?

16 A. Please repeat your question.

17 Q. I would like to ask you about your personal experience during
18 the time that you were instructed to work at Trapeang Dang Tuek.

19 What was the working condition like?

20 A. Youth was the stronger force compared to the adults, to the
21 older people. We were the main force in dealing with digging
22 canals and building dams, or engage in dry season farming.

23 [10.16.07]

24 Q. Who was your chief, or supervisor, at the time?

25 A. Please repeat your question.

25

1 Q. While you were working there, who was your supervisor?

2 A. I did not know who was my supervisor at the time.

3 Q. So, who actually ordered you to engage in that kind of work?

4 Let me repeat your question. Under whose instructions did you
5 engage in working in that area?

6 A. We were divided into groups, from units into groups, and I was
7 within a group.

8 Q. Was there any work quota for you to complete?

9 A. As for digging a canal, it was 30 metres long, 2 metres deep
10 and 5 metres for the top part. For the bottom part, it was 3
11 metres wide. That's for a group of 30 people to complete within a
12 month's time.

13 MR. PRESIDENT:

14 The time is appropriate for a short break. We'll take a break now
15 and return at 10.30 to continue our proceedings.

16 Court officer, please assist the reverence during the break. I
17 invite him to the courtroom again at 10.30.

18 We are now in recess.

19 (Court recesses from 1018H to 1036H)

20 MR. PRESIDENT:

21 Please be seated. The Trial Chamber is now in session and the
22 floor is given to the Co-Prosecutor to continue its line of
23 questioning to the witness. The floor is yours.

24 [10.37.09]

25 BY MR. SREA RATTANAK:

1 Q. Before our break I asked questions in regard the quota imposed
2 by the regime. In doing your labour during that time, did you
3 receive sufficient food or meals for that?

4 MR. EM PHOEUNG:

5 A. I cannot describe -- no way to describe about living
6 conditions because we were exposed to forced labour because we
7 had very little for meals.

8 Q. Can you tell the Court the quantity of the food and living
9 conditions -- you said that it is undescrivable (sic.). You
10 cannot describe the hardship and the problems.

11 A. During the regime the labour was very, very hard but there was
12 very little food and meals but we had to endure to try to survive
13 -- to keep our life.

14 Q. During that regime, did you witness any person who fell sick?
15 Did he or she receive any food or any meals for being sick?

16 [10.39.08]

17 A. The patients who were staying at their houses -- they were
18 distributed with meals, with food, but they received just a ladle
19 full -- a scoop full of rice and there were some other rations
20 for the patients who are at the clinic or at the hospital.

21 MR. SREA RATTANAK:

22 Your Honours, I have no further questions to put to the witness
23 and I would like to hand over the floor to my esteemed colleague
24 to continue.

25 [10.40.00]

1 QUESTIONING BY MR. DE WILDE D'ESTMAEL:

2 Thank you, Mr. President. And good morning to you -- all of you
3 again, as well as to the witness. I'm going to put to you extra
4 questions with regard to what you have lived through, essentially
5 in the district of Tram Kak, and then I will get back later to
6 what happened at Angk Rok Pagoda.

7 Mr. President, in order to be perfectly clear with regard to our
8 intentions, we started at 9.30 so I'd like to ask you if we could
9 continue until 11.30 since the civil parties don't have many
10 questions and they might be able to put these questions at the
11 beginning of the afternoon, if this suits the Chamber?

12 Q. I'm going to first continue -- pick up where my colleague
13 stopped and this regards your digging canals in Tram Kak. And you
14 said that -- you were speaking about people who fell ill and you
15 said earlier on that you were considered as a 17 April person, so
16 the unit in which you were working, was it only made up of 17
17 April People?

18 MR. EM PHOEUNG:

19 A. At the worksite, there were some 17 April People and there
20 were some Base People, but the Base People who supervised other
21 people to do labour.

22 [10.41.38]

23 Q. And did you notice if these Base People were working in the
24 same places as you or did they eat in the same places as you as
25 well?

1 A. In the unit, they would stay in the same place but for those
2 who work at the villages, the Base People were not with the 17
3 April People.

4 Q. And in this Tram Kak district did you notice differences in
5 treatment between the 17 April People and the Base People, in
6 terms of food, in terms of workload and in terms of housing?

7 A. During that regime, at the beginning, we were divided into
8 Base People and 17 April People and those who were evacuated were
9 allocated in the 17 April People group or unit.

10 [10.43.10]

11 Q. I believe I should repeat the question. My question was:

12 Between these two groups -- that is to say the Base People on one
13 side and the 17 April People on the other side -- were there
14 differences -- differences of treatment? Were these people
15 treated differently? For example, would you eat the same thing?
16 Were you housed in the same places? And were you treated in the
17 same way as the Base People?

18 A. At that place we had a communal kitchen for the 17 April
19 People and the Base People.

20 Q. You are telling me that the Base People would supervise you.
21 Then were there people who were mistreated among the 17 April
22 People?

23 A. I didn't -- I did not witness any mistreatment at my place.

24 [10.44.50]

25 Q. Did you see people being taken away or disappear when you were

1 working in Tram Kak district?

2 A. I noticed some disappearance but I asked people and people
3 told me that they don't know what happened to them because they
4 were sent for re-education by the Angkar. That's all I know.

5 MR. PRESIDENT:

6 So Court officer, could you coordinate to take him out for
7 medication or treatment?

8 Mr. Co-Prosecutor, you may proceed.

9 BY MR. DE WILDE D'ESTMAEL:

10 Q. Thank you.

11 Witness, you were speaking about some people who disappeared. Did
12 this happen often? And can you give us the names of the people -
13 of some people who disappeared, people you knew?

14 MR. EM PHOEUNG:

15 A. I don't know the one who disappeared.

16 [10.46.27]

17 Q. I am not sure that we understood each other. I don't know if
18 this is a translation issue. You're telling -- you just told us
19 that some people had disappeared to be re-educated and I would
20 like to read out to you an excerpt of your written record of
21 interview before the Co-Investigating Judges: E3/5133, on page 5
22 in French, at number 00702336; English, ERN -- on page 4 -
23 00223200; and Khmer, on page 4, 00165261. And this is what you
24 told the investigators -- and I quote:

25 [Free translation] "I met Nop Nem and his wife, Kim Nova, and we

30

1 worked together. And later on, Angkar proposed to this couple and
2 to their daughter to take them away. Since these people have
3 disappeared forever." End of quote.

4 Can you tell us what happened exactly with Nop Nem and Kim Nova
5 and can you tell us who these people were exactly?

6 A. The couple -- they were the supporter when I was in Phnom Penh
7 and during their evacuation, they were sending to Angk Roka and
8 they were also working in a worksite at Angk Roka, and later,
9 Angkar proposed to take them away, and later, they disappeared
10 forever. I don't know what happened to them.

11 [10.48.44]

12 Q. And when you say that Angkar proposed to take them away,
13 according to you, did they have the choice of leaving or were
14 they obliged to leave?

15 A. No. They were left with no choice. They could not complain
16 because they had no idea where Angkar will send them to. They
17 didn't understand the policy or the plan of Angkar and they were
18 told that Angkar proposed them to go to another place and they
19 didn't ask any questions for any clarification so -- and they
20 told the Khmer Rouge the true story of their past so they were
21 taken away and disappeared.

22 Q. Well, with regard to their past exactly, did you know what Nop
23 Nem and Kim Nova's occupation was before the arrival of the Khmer
24 Rouge?

25 A. Both of them were movie stars: Nop Nem and Kim Nova. They were

1 the famous movie stars. Their house was on (inaudible) in Tuol
2 Kork area.

3 Q. Fine, thank you. Now I would like to ask you -- or put to you
4 two questions with regard to the prisons. Did you hear about a
5 prison that was located in Angk Roka when you were there on site?
6 Did you hear about a Khmer Rouge prison in Angk Roka?

7 A. No, I didn't see that.

8 [10.51.00]

9 Q. Did you ever hear about another security centre located in
10 Krang Ta Chan in the district of Tram Kak again?

11 A. I just heard about that but I did not witness anything because
12 freedom of movement was prohibited. I did not go to that place
13 because I was always stay in my village as instructed by the
14 regime.

15 Q. What did you hear about Krang Ta Chan? Did you know exactly
16 what it was? What happened to people who were sent there?

17 A. I heard from other people something but I don't know sure --
18 for sure what has happened inside that security centre.

19 Q. And during the period when you worked in Tram Kak district,
20 did you hear about what happened to people who were identified as
21 officials of the Lon Nol regime or as soldiers or as officers of
22 that same regime?

23 A. Those who were Lon Nol officials, they face a lot of problem
24 and also policemen, teachers, professors are all -- are the
25 target of the proposal. They were proposed and taken away and I

1 don't know their destination and what happened to them.

2 [10.53.35]

3 Q. You told us that they were targeted but how did they -- how
4 were the Khmer Rouge able to identify them as officials or as
5 former servicemen of the Lon Nol regime? How did the Khmer Rouge
6 go about identifying them?

7 A. They used the method saying that Angkar need anyone who used
8 to be officials -- official during Lon Nol and during Sihanouk
9 regime and Angkar need them to do the job for them because they
10 don't have this kind of skilled people. And those people who had
11 no idea what happened to them in the future and they told the
12 Khmer Rouge the truth of their past but a few of them had an
13 idea, who hid their identity who could survived -- only very few
14 of them.

15 Q. You, as a Buddhist monk, do you know what happened back then
16 to the Wat Champa Leuk Pagoda - Champa, C-h-a-m-p-a; Leuk,
17 L-e-u-k -- in Tram Kak district after the Khmer Rouge took power?
18 Did you hear about this back then?

19 A. No, I don't know anything what happened in that pagoda because
20 I had to stay in my village, in my commune. I was not authorised
21 to move around so I had no idea what happened there.

22 [10.55.41]

23 Q. And in your village, in your unit or in your commune, did you
24 ever meet people who were working there and who originally came
25 from Kampuchea Krom, who therefore spoke with an accent?

1 A. No, I didn't see anyone, like you mentioned, at my place.

2 Q. And during the period when you remained at Wat Angk Roka and
3 in the period -- during the period in which you worked in Tram
4 Kak district, did any senior leader, that is to say, at the
5 District level or the Sector level or the Zone level or from the
6 Centre, did any of these senior officials come to visit the place
7 where you were working?

8 A. No, I didn't see any who were -- anyone who is senior leader.
9 I know only people who were supervised me when I was working at
10 the worksite.

11 Q. Fine. Now I would like to get back to the meeting that you
12 spoke about at Angk Roka during which you were given clothes and
13 during which you were told you had to be defrocked. And you said
14 that the person who was chairing that meeting came with militia
15 men and -- among them, were there armed militia men?

16 A. Yes. All militia men were armed. They would bear arms, rifles,
17 when you moved -- from when they moved from one place to another
18 so they would follow the cadres from one commune to another with
19 the rifle along.

20 [10.58.15]

21 Q. Thank you. At Angk Roka, as far as you know, was there ever a
22 meeting during which the monks were told to defrock or were there
23 several at different times?

24 A. It was the only meeting at Angk Roka Pagoda and we were
25 instructed to do labour for them.

1 Q. Now, I would like to read an excerpt of your written record of
2 interview and ask you if you were told this at Angk Roka. This is
3 an excerpt that is in the same document -- that is to say
4 E3/5133; French, it's on page 5, 00702336; English, on page 5,
5 00223201; and Khmer, page 5 as well, 00165262. And this is a
6 passage in which you say you met a monk later on close to Kampot
7 and Damnak Trayueng and you spoke about what happened -- what was
8 said during certain meetings. So I quote:

9 "The monk is asking 'what did Angkar speak about during that
10 meeting?' and I answered that we were summoned very often to
11 meetings during which they would mock us." [Free translation] And
12 a passage in quotation marks: "for thousands of years, monks are
13 like worms and leeches and the mad men are on top and the idiots
14 at the bottom." End of quote. So does this quote that say for
15 thousands of years monks are like worms and leeches, did you hear
16 this at Angk Roka or in other places as well?

17 [11.00.31]

18 A. I would like to tell the Court of what I heard about the
19 statement saying that Buddhists are leeches and worms. I went to
20 see my monk teacher who was still in monkhood and he told me that
21 he was called to the meeting. And he told me that the mad was on
22 top and the stupid was under the monk. And I told him that "you
23 should not try to stay; this is going to be very serious". He was
24 80 years of age at the time and he said that "I don't care about
25 my life; I'm old already". This is what I heard from him.

1 Q. Thank you. But can you tell us when you were told that monks
2 were considered like tapeworms and leeches? And who told you
3 that?

4 A. It was heard during each meeting. It was well known during the
5 meetings at the village or at the commune.

6 [11.02.14]

7 Q. Thank you. Now I would like to read out an excerpt from a
8 written record of another person. I cannot give this person's
9 name. This is -- the person with pseudonym TCW-874 -- 2-TCW-847.
10 This is an excerpt describing a meeting at Angk Roka in which the
11 monks were asked to defrock. And this is document E319.1.33. The
12 relevant passage that I'm going to read out is at answer 146 to
13 155. And I'm going to read out these excerpts, then I will have a
14 few questions to put to you afterwards.

15 [Free translation] "Question 146: What happened to the Buddhist
16 monks after the liberation of 17 April 1975?

17 Answer: From the other witness, I saw that the monks were being
18 defrocked.

19 Question: Where and when did you see this happen?

20 Answer 147: I saw this in Angk Roka Pagoda, Tram Kak district
21 towards the end of 1975.

22 So how were the monks defrocked?

23 Answer 148: The Khmer Rouge organised a meeting during which they
24 defrocked 30 or 40 monks.

25 Who led this meeting?

1 Answer 149: It was one of Ta Mok's children, a head of district
2 and he chaired that meeting. What was his name?

3 Answer 150: His child was called Khom; K-h-o-m. It was a woman
4 who was the leader of Tram Kak district and she had occupied this
5 position before Chim. Khom was the wife of Ta Muth. How is it
6 that you are aware of the Buddhist monks' defrocking?

7 Answer 151: I had to carry letters over there. I saw that they
8 were defrocking monks.

9 And what do you mean by 'in the process of defrocking monks'?

10 Answer 152: They declared that they no longer needed monks. They
11 prepared a set of black clothes for the defrocked monks. And
12 finally, they did not do this according to Buddhist rituals.

13 Question: Were there monks who refused to defrock?

14 Answer 153: No one. No one dared to contest this. So I'm going to
15 stop here."

16 [11.05.32]

17 So this is what another witness said regarding a meeting at the
18 Angk Roka Pagoda.

19 Witness, can you confirm -- and you told us that the meeting took
20 place in 1976, so can you -- and the other witness was speaking
21 about the end 1975 -- so what do you think about this? Do you
22 confirm that this happened in 1976 or maybe it happened at the
23 end of 1975?

24 A. In 1976 of the monks had to leave the monkhood. So it happened
25 in later 1975 and throughout through 1976, because by that time

1 no monks were allowed to stay in monkhood.

2 Q. Thank you. This witness talks about a woman who was presiding
3 the meeting. She was the leader of Tram Kak district called Khom,
4 child of Ta Mok. Have you ever heard of her name? Have you ever
5 seen this person during the meeting at Angk Roka?

6 A. No, I did not recognise this person.

7 [11.07.07]

8 Q. The witness talked about 30 or 40 monks who were told to
9 defrock all at once. Can you please tell us, during the meeting
10 at Angk Roka, how many monks were concerned by the measure? How
11 many monks were in the pagoda when you were ordered to defrock?

12 A. For the monks at Angk Roka Pagoda, in fact they were also
13 gathered from another pagoda in Takeo province, including the
14 deputy monk chief of another pagoda. So we were all gathered
15 together. As for the monks, all the monks had to leave the
16 monkhood by early 1976.

17 [11.08.13]

18 Q. Therefore, you do not have an approximation of the number of
19 monks who were concerned. Were there a few several monks, a few
20 dozen monks, more?

21 A. Yes, that is correct. Because I did not know the exact number
22 of the monks.

23 Q. Thank you. Have you heard about a monk called Ta Ech? Pardon
24 my pronunciation -- E-c-h. This person is the head of a pagoda in
25 Tram Kak.

1 A. Yes, I know Ech, who was a teacher -- Buddhist teacher at Angk
2 Roka Pagoda.

3 Q. Do you know what happened to him? Did he oppose or protest the
4 orders given to the monks?

5 A. I didn't know what happened to him. And I believed he was the
6 last monk who left the monkhood.

7 [11.10.01]

8 Q. Thank you. I would like to read an excerpt from another
9 testimony. This person has already appeared before this Chamber.
10 This person refers to the meeting at Angk Roka. The person is
11 called Khiev Neou, who appeared on the 20th of June 2012. And the
12 first reference is E130/89.1. At approximately 3.32 p.m., he
13 says:

14 "The monks came from Phnom Penh and Takeo. They were gathered
15 together. We learned that Angkar ordered them to leave the
16 monkhood. And that's what was done. However, I do not recall the
17 exact date. It was after April 1975". End of quote.

18 [11.11.08]

19 Further on at 3.51, the witness stated: "As I stated, the monks
20 came from Takeo and Phnom Penh and they were gathered at the
21 pagoda. I also left the monkhood. I defrocked earlier."

22 The next day -- and this is E131.1 at 9.09, Khiev Neou said the
23 following: "At the time, we were told that Angkar told us to go
24 to Angk Roka Pagoda."

25 And further on: "Do you know who told the monks to go to Angk

1 Roka? Did they go on their own initiative or were they ordered?

2 Answer: I do not know the details. When we were discussing
3 amongst ourselves, we realised that Angkar told us all to go to
4 Angk Roka Pagoda."

5 And at 9.24, he said: "I do not see anyone refuse the order to
6 defrock."

7 Do you know this monk who is called Khiev Neou? Did you meet
8 Khiev Neou at Wat Angk Roka during the period that you were both
9 there?

10 A. Khiev Neou used to be a monk in Phnom Penh through - at Moha
11 Montrei Pagoda.

12 [11.13.10]

13 Q. I'm just awaiting the interpretation of the last segment of
14 your response.

15 Mr. Witness, can you please repeat the last sentence that you
16 said -- you said he was in a pagoda in Phnom Penh and then you
17 stated something afterwards; what was it?

18 A. Khiev Neou resided at Moha Montrei Pagoda in Phnom Penh, and
19 later on I did not know where he went because I did not see him.

20 Q. Thank you. From his testimony, it would seem that monks from
21 Takeo and Phnom Penh were not at Angk Roka coincidentally, but
22 that they were given orders by the Khmer Rouge to gather there.
23 You stated that earlier. Do you agree with him on that point? Did
24 the Khmer Rouge order you to go to Wat Angk Roka, specifically?

25 A. That is not wrong.

1 [11.14.45]

2 Q. When you received the order to leave the monkhood, was it easy
3 for you to follow the orders of the Khmer Rouge? And given that
4 you were monks, did you attempt to disobey or was there anything
5 preventing you from disobeying those orders?

6 A. As for leaving the monkhood, all monks did not dare to refuse.
7 Some elder people appealed to us that we could no longer stay in
8 the monkhood and that we had to leave the monkhood in order to be
9 in peace and that we had to follow the instructions.

10 Q. What were you afraid of exactly at the time?

11 A. We were afraid because there were instructions from Angkar and
12 if we didn't follow it, that would be a matter that we had to
13 concern about.

14 [11.16.20]

15 Q. Thank you. I'd like to address the ensuing period when you
16 went to Kampot at the Damnak Trayueng monastery -- you mentioned
17 this earlier -- and you said that when you got there, there was
18 one monk remaining. When you arrived at the monastery, was Damnak
19 Trayueng Pagoda being used by monks, by practising Buddhists or
20 was it being occupied by the Khmer Rouge for other purposes?

21 A. No, it was not yet turned into something else by the Khmer
22 Rouge, as some monks still remained at that pagoda.

23 Q. What happened to the monks who were living there? After
24 leaving the monastery, do you know what happened or did you learn
25 about what happened to the monks who were living there at the

1 time?

2 A. The monk was accused of burning the scarf and that he refused
3 to join the youth group. He had a nephew who worked at the Kampot
4 province and then he came with him on a horse cart and then he
5 disappeared and I didn't know what happened to him. And I learned
6 this information through a meeting held by the commune level and
7 that Angkar took him away.

8 [11.18.34]

9 Q. Can you please provide us the name of the venerable person who
10 refused to leave the monkhood? What were his duties at Damnak
11 Trayueng Pagoda?

12 A. His name was Soy. He was the chief monk of that pagoda and he
13 was quite old. At that time, he was eighty-something years old.

14 Q. Did you learn why he disappeared? And if so, do you know what
15 offence he allegedly committed?

16 A. I did not know what happened. As I said, I learned of that
17 information when we the youth group were called to attend a
18 meeting and that he disappeared. And I only learned it through
19 the meeting. Because he didn't follow the instructions of Angkar.
20 And that's all I knew about him through the meeting.

21 [11.19.57]

22 Q. Aside from the venerable Soy, were there other monks from
23 Damnak Trayueng Pagoda who died under the Khmer Rouge regime?

24 A. I did not know and I think there was no other monk except him.

25 Q. I would like now to ask you a question about what happened in

1 Kampot at Chum Kriel Pagoda. At a certain point in time, did you
2 ever learn about what Chum Kriel Pagoda was used for during the
3 Khmer Rouge regime?

4 A. I only knew about this when -- in 1979 or '80/'81, when I
5 returned to stay at Chum Kriel Pagoda, I saw a hospital cross
6 sign there and I was told that it was turned into a hospital for
7 the salt farm unit. And that was the base for the salt farm
8 workers there at the pagoda. And the schools were turned into the
9 sleeping quarter for the salt farm workers.

10 [11.21.54]

11 Q. You worked at Chum Kriel after the regime, if I understand
12 correctly. Did you see any former monks of Chum Kriel Pagoda
13 return to the pagoda following the fall of the Khmer Rouge?

14 A. No, there was none. I went to stay at the Chum Kriel Pagoda in
15 1981 after I had been re-ordained and I did not see any previous
16 monks who used to stay there returned. And I asked the elder in
17 the villages if there were any other monks returned and they said
18 "no, none of them returned and maybe they all had died".

19 Q. I will conclude, Mr. Witness, with a few general questions on
20 Buddhism during the Khmer Rouge regime. Before interviewers from
21 the DC-Cam, you stated that a monk was killed in Samraong
22 district in Takeo -- the Samraong commune in Takeo. Can you
23 please describe to us what you saw or what you described to the
24 interviewers?

25 [11.23.28]

1 A. As for the event leading to the death of a monk at Angk Prey
2 Pagoda in Samraong commune, I did not witness it myself but there
3 was a fellow monk who was there. And when I met him, he told me
4 about it, that they were cruel at the time and if they didn't
5 like it, then they would kill the monks. And I asked "who were
6 they?" And he told me it was the Khmer Rouge. And a monk was
7 killed by Angkar and was buried near the vicinity of the pagoda
8 compound. And that I was told that I should not have any conflict
9 with Angkar or Angkar instructions and that we all should be
10 patient and follow their instructions, otherwise we would be
11 killed by Angkar. Angkar only wanted people who did not dare to
12 refuse or to make any protest against them.

13 Q. Do you know of any examples in Cambodia of monks who would
14 have continued practising Buddhism, who would have continued
15 living in pagodas during the 1976 to 1979 period? Did you meet
16 any monks who continued to practise after 1979?

17 A. During the period of 3 years 8 months and 20 days, there was
18 no longer any Buddhist monk who was still in monkhood. And that
19 applied throughout the entire Cambodia. We all had to leave
20 monkhood and to engage in labour regardless whether they were
21 young or old. And for older monks, even if they could not carry
22 earth, they had to make the basket for the younger monks to carry
23 the earth. Nobody was free during the regime and nobody-- nobody
24 at all was in monkhood throughout the country and that is to my
25 best knowledge.

1 [11.26.25]

2 Q. During the meetings in Tram Kak district, did Khmer Rouge
3 cadres tell you explicitly that the Buddhist religion was
4 henceforth abolished- is no longer in existence?

5 A. The -- their principle is that there would be no longer any
6 Buddhism in Cambodia because they said that Buddhist religion
7 would lead to no progress at all, because then there would be
8 more free people who would sit still, who would do nothing and
9 just freely enjoy the food offered by other people. And that such
10 culture would no longer exist and that only the culture of
11 engaging in labour would follow.

12 Q. Thank you. One final question. You've talked to us about Angk
13 Roka Pagoda in Tram Kak district, as well as Trayueng and Chum
14 Kriel pagodas in Kampot. Did you ever see or heard what other
15 pagodas were used for- what other pagodas in Kampot were used for
16 during the Khmer Rouge regime if Buddhism no longer existed?

17 A. Majority of the pagodas turned into prisons. The temples were
18 also turned into prisons. They make holes along the temples'
19 walls and use a metal bar to shackle prisoners. And some of the
20 temples had been turned into pig pens.

21 [11.28.42]

22 Q. One final follow-up question. You talked about temples that
23 were transformed into prisons. Do you know the names of which
24 pagodas were converted into prisons?

25 A. No, I cannot recall the names of those pagodas. There were

45

1 several in fact- because it was easier for them to transform
2 pagodas into prisons because the temples in the pagodas were made
3 of concrete, so they could make holes and then they could insert
4 a metal bar of 20 millimetre diameter to shackle the prisoners
5 inside. And this also happened in Kampong Tralach district in
6 Kampot province, in Angkor Chey, and in other places.

7 MR. DE WILDE D'ESTMAEL:

8 Very well. I thank you very much for your patience and for all of
9 your answers, Mr. Witness. Thank you, Mr. President.

10 MR. PRESIDENT:

11 Thank you. And before we take a break, the Chamber will like to
12 inquire from the Lead Co-Lawyer for civil parties, how much time
13 do you anticipate in putting questions to the venerable Em
14 Phoeung?

15 [11.30.28]

16 MS. GUIRAUD:

17 Thank you, President. We would require 30 minutes in order to
18 make up for the lost time from this morning.

19 MR. PRESIDENT:

20 And what about the defence teams, would you use the entire time
21 allocated to you, that is one afternoon session?

22 MR. KOPPE:

23 Mr. President, I think we can finish this afternoon.

24 [11.31.21]

25 MR. PRESIDENT:

1 In order to ensure that the hearing -- testimony of the venerable
2 Em Phoeung conclude today, the Chamber decides that the hearing
3 will commence at 20 past 1.00 this afternoon in order to avoid
4 any unnecessary delay.

5 The time is now appropriate for a lunch break. We will take a
6 break now and return at 20 past 1.00 to resume our hearings. And
7 that information is for the Parties and support staff.

8 And Court officer, please assist the venerable Em Phoeung during
9 the break and invite him to return to the courtroom at 1.20 this
10 afternoon.

11 And security guards, you are instructed to take the Accused to
12 the waiting room downstairs and have him returned to participate
13 in the proceedings before 1.20 this afternoon.

14 The Court is now adjourned.

15 (Court recesses from 1132H to 1322H)

16 MR. PRESIDENT:

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

18 I hand over the floor to the Lead Co-Lawyer to put questions to
19 the witness, reverence Em Phoeung. You may now proceed.

20 QUESTIONING BY MR. VEN POV:

21 Thank you, Mr. President; and good afternoon, reverence Em
22 Phoeung.

23 Mr. President, Your Honours, my name is Ven Pov. I am the civil
24 party lawyer. I have a few questions, and after my questioning,
25 the Lead Co-Lawyer, Marie, will put further questions.

1 Q. The question I am going to put to you concerns the statement
2 you gave to the Co-Investigating Judges' Office. The document
3 number is E3/5133.

4 Mr. President, I would like to quote the statement from this
5 document: ERN in Khmer is 00165260; English, ERN 00223199;
6 French, ERN 00702334. The question relates to the period before
7 17th April 1975, and the question is that, how many members were
8 there in Sampov Meas Pagoda? And you said that you did not know
9 the exact numbers of monks there, but you know that there were
10 many monks because some monks were from the province, and they
11 also stay in that pagoda. Did anyone tell you that some monks
12 were from the province and stayed with you in the same pagoda?
13 [13.25.32]

14 MR. EM PHOEUNG:

15 A. Some monks were from province and they were from "reach thea
16 ny". There was an oppression against monks so they moved to live
17 in that pagoda at that time.

18 Q. Thank you. Could you clarify? You said there was oppression at
19 that time. And who oppressed the monks at that time?

20 A. During that time the country was not yet liberated and Khmer
21 liberation -- and during that time monks escaped to live in Phnom
22 Penh to stay away from the American bombing. So they moved to
23 live in the pagoda in Phnom Penh.

24 Q. You mean that some monks escaped to Phnom Penh to stay in the
25 pagoda. They moved because there was American bombing. Is that

1 true?

2 A. Yes, because of the war, the monks moved to live in Phnom
3 Penh.

4 [13.27.23]

5 Q. Thank you. My next question is that I want to clarify from you
6 when you saw some monks escape to live in pagodas in Phnom Penh.
7 Did you witness, yourself, that some monks got injury because of
8 fighting at that time, or did anyone tell you about this?

9 A. As for injuries on monks, I did not know.

10 Q. Thank you very much. I would like to know about the evacuation
11 on 17 April 1975. This morning you already mentioned that on the
12 night of 17 April 1975, at 10 p.m., Khmer Rouge came to threaten
13 monks to leave the pagoda. My question is as follows: During that
14 night, did you witness by yourself or was anyone told you that
15 monks in that pagoda were defrocked immediately on that night?

16 A. On the 17 April 1975, I did not know about whether monks were
17 defrocked on that day because we were all afraid. We were all
18 terrified. We did not know whether we could live in peace after
19 their arrival. So we did not know. At 10 o'clock, after that --
20 and after that, at 10 o'clock, we were told to leave the city for
21 seven days so we could only bring an umbrella and our clothing.
22 So we were told as such. So at 10 p.m., we were ordered to leave.
23 [13.29.25]

24 Q. Thank you, Reverence. My next question concerns your statement
25 this morning. You said that after one month of the evacuation you

1 arrived at Angk Roka Pagoda in Tram Kak district. During the
2 period of more than one month while you were travelling, did
3 anyone tell you or were you told that monks were defrocked and
4 did not have enough food along the way? Or were they -- told you
5 that monks got injuries?

6 A. I did not know about this because we were on our own. I had
7 students going with me and other monks, they had their own
8 students with them. So we were all afraid.

9 Q. Thank you, Reverence. I need a clarification from you as well.
10 This morning you said, on 17 April 1975, Khmer Rouge kept 20
11 monks and you mentioned one name -- that is, Huot Tat. Do you
12 recall what -- did you recall the position of Huot Tat at that
13 time?

14 A. He was the patriarch. He was referred to as Patriarch Huot
15 Tat.

16 [13.31.24]

17 Q. Thank you, Reverence. I have a few more questions in relation
18 to Tram Kak work sites, particularly Angk Roka Pagoda. You
19 mentioned repeatedly already, and you have answered to the
20 questions by OCP as well, but I need a clarification from you.
21 You said there were no monks from early 1976. What do you mean?
22 You mean there were no monks at all around the country in early
23 1976? Or there were monks in early 1976 in Angk Roka?

24 A. My assumption is that there were no more monks at that place,
25 because I could see no monks.

1 Q. Thank you, Reverence. In relation to another matter from 1975
2 to 1976, you said that there were no monks at your area. My
3 question is: When people passed away, were villagers allowed to
4 invite monks to conduct any Buddhist rituals?

5 A. Before 1976, yes, monks could attend Buddhist rituals for the
6 funeral. And lay people, they did by their own, meaning that they
7 held the ritual and they buried the bodies. And before 1976, as I
8 told you, I could go to attend the rituals and the clergies were
9 with me.

10 [13.33.38]

11 Q. And at the time, did the leaders of the region allow the
12 rituals to be held in your area?

13 A. No, they did not allow us to hold any rituals.

14 Q. This is my last question. It is about the time that you were
15 in Angk Roka Pagoda and you were with monks from Takeo province.
16 From the fall of the Khmer Rouge, did you ever meet monks who
17 used to stay with you in Angk Roka Pagoda? Did some of those
18 monks survive the period?

19 A. I have never seen them as of now and I asked people around and
20 I could not see any monks who used to live with me.

21 MR. VEN POV:

22 Thank you, Reverence. That concludes my questioning.

23 Thank you, Mr. President.

24 [13.35.06]

25 QUESTIONING BY MS. GUIRAUD:

1 Thank you, Mr. President. My name is Marie Guiraud and I am one
2 of the civil party lawyers, and I have a few brief questions to
3 put to you this afternoon.

4 Q. My first question, I wanted to know how you experienced the
5 fact of no longer being able to practice your religion during the
6 Democratic Kampuchea regime. Can you explain to us what you felt
7 in relation to the fact that it was impossible for you to
8 practice Buddhism during that period?

9 MR. EM PHOEUNG:

10 A. I felt the same as others felt because, at that time, we were
11 under their instruction and we only did -- we did what we could
12 in order to survive.

13 Q. Thank you. You also said this morning when you answered a
14 question that was put to you by the Co-Prosecutors, that you
15 continued praying in secret. Did I understand you correctly, did
16 you continue praying in secret?

17 A. Yes, that is my statement. We conduct preaching in secret at
18 night-time.

19 Q. Can you provide us with a bit more information about these
20 prayers at night? Who attended these sessions? How were things
21 organised? Can you be a little more specific about that?

22 A. Actually, we reminded about our Buddha teachings after we went
23 to sleep. So we keep praying in secret before we went to bed.

24 [13.37.55]

25 Q. Thank you. I also wanted to know, Reverence, if you were

1 married during the Democratic Kampuchea period, or, more
2 specifically, between 1976 and 1979?

3 A. No. No. There were -- I was alone. I have never gotten
4 married.

5 Q. Thank you. Now I'm going to quote an excerpt from the
6 interview you provided to DC-Cam in January 2005, and I'm going
7 to quote a passage which is on page 5 in the French version,
8 French, ERN 00655661; English, 00350101; Khmer, 00088474. And
9 this question that I just put to you was put to you in 2005 by
10 the person who interviewed you at DC-Cam, and I would like to
11 read out the excerpt that we would like to focus on today.

12 So question: [Free translation] "Under the Khmer Rouge regime,
13 after you had given up your position as a monk, did the Khmer
14 Rouge force you to get married?"

15 Answer: "Yes, but I opposed myself to this."

16 Question: "Did your denial offend the Khmer Rouge?"

17 Answer: "Well, let me tell you my story. My story was rather
18 special. On the one hand the former people in the village who
19 knew me since I was a child often told the Khmer Rouge to not
20 hurt me and that they explained that they knew me since I was
21 very, very small. On the other hand, since this is a taboo story
22 and since this is a question of faith, when I was forced to get
23 married, I answered I did not need any woman, comrade, because I
24 have rice available and people to take care of me. And if ever I
25 fall sick I will go directly to the hospital. There is nothing to

1 make life more difficult and I don't have the time to feed her
2 because I have to work every day. So people stopped looking for
3 trouble with me and they told me that I was right."

4 Do you remember saying this, witness?

5 A. Yes, this is my statement and I did not agree to have a wife.

6 [13.41.07]

7 Q. Can you please tell us who asked you to marry?

8 A. The commune chief -- the village chief, rather.

9 Q. Did the person explain to you why you should get married?

10 Perhaps I'll repeat my question. Were you given any explanation?

11 Did the chief of the village tell you why you should get married?

12 A. They said nothing. You -- they said that you are rather old so
13 you should get married. And I said no, no, no, I did not need a
14 wife, because Angkar is -- Angkar was magic and food was magic.
15 Everything was magic. And after that, they kept silent and I did
16 not get married.

17 Q. How was the proposal made? Were they quite insistent? Or after
18 you indicated you didn't want to get married, as you stated in
19 your statement, were you told to stop making excuses? Or to --
20 for you to stop being bothered?

21 A. They kept silent; they ignored me until the liberation.

22 [13.43.11]

23 Q. Thank you. At the time, did you know of other monks, such as
24 yourself, who were defrocked and then who went on to marry?

25 A. Yes, there were some other monks who were forced to get

1 married. One of my friends was ordered to get married, and we
2 agreed with each other that after the country was liberated we
3 would go to be monks again. But at the time, he was ordered to
4 get married and he got married anyway.

5 Q. And why, to your mind, why did he respect the instruction to
6 marry, and why were you able to refuse? In the interview that I
7 quoted from earlier, you said that your story was "strange". Can
8 you explain to us why you think your story was rather particular
9 or strange?

10 A. My story was rather strange compared to other stories because
11 even I deny to get married I did not have any problem. And some
12 of my colleagues they got married in a group of 10 or 20. And as
13 for me, it was a strange story because I was not mistreated, and
14 I got no problem, although I disagreed to get married.

15 [13.45.10]

16 Q. Upon reading the interview that you gave to DC-Cam, you said
17 that the former leaders of the village had known you since your
18 childhood. Do you think the fact that they had known you, that
19 had an impact on your ability to refuse marriage?

20 A. Local people helped me because I became a monk since I was a
21 young child, and they knew me. And those villagers have told the
22 cadres. And I became a monk -- I never entered into military
23 service. So I was a monk since I was a child.

24 Q. Thank you. You've just stated, during a previous answer, that
25 group marriages comprised 10 to 20 people. I would like to know

1 if you personally ever attended any of these ceremonies.

2 A. Yes, I attended the marriage ceremonies and I was asked to
3 preach during that ceremony. And clergymen were with me
4 preaching.

5 [13.47.10]

6 Q. Could you please contextualise these marriages and the
7 prayers? You stated that after 1976, there were no longer any
8 prayers. Are you referring to marriages before 1976 or after
9 1976?

10 A. During Pol Pot's time, a couple were asked to make a
11 resolution. In 1970 -- it was in 1977 and '78. There were no
12 monks and they knew that I was once a monk so I was asked to help
13 in the Buddhist ceremony, particularly in the ceremony that a
14 couple were asked to make a resolution.

15 Q. Just to be clear, in 1977 and 1978, even though you were
16 defrocked, you were asked -- and I would like to know who asked
17 you? Exactly who asked you to perform the prayers during the
18 marriages? Do I understand correctly?

19 A. Yes, that is correct. Because cadres knew me and I was invited
20 to preach.

21 Q. Can you please tell us very quickly, and this is my last
22 question: When did the marriages occur? Was -- were they held
23 during the day, the evening, did it vary? And generally speaking,
24 how many couples were married? And lastly, who presided over the
25 wedding ceremonies?

1 A. In my village, there was one ceremony only at a time. It was
2 at night-time when people were asked to make a resolution. During
3 the time, there were about 30 couples. After dinner, the ceremony
4 was held. People -- the couples were asked to make a resolution
5 at that night.

6 [13.50.00]

7 Q. Thank you. Do you recall who presided over the marriage
8 ceremonies?

9 A. Village chief held the ceremony, held the ceremony or party.

10 MS. GUIRAUD:

11 Thank you, Mr. Witness, for having answered my questions. Mr.
12 President, that concludes my line of questioning.

13 MR. PRESIDENT:

14 Thank you. Now I give the floor to the defence counsel for the
15 Accused. It's -- the counsel for Nuon Chea starts first.

16 And Court officer, you are instructed to adjust the microphone to
17 the left so that it can get the voice. Now, the counsel for Mr.
18 Nuon Chea, it is time for your line of questioning.

19 [13.51.17]

20 QUESTIONING BY MR. SUON VISAL:

21 My respect to Reverence Em Phoeung; Your Honours, my name is Suon
22 Visal, I am the defence counsel for Mr. Nuon Chea. I have a few
23 questions for you. My first question relates the Buddhist or
24 religious practice.

25 Q. You have just said that during the ceremony, during the

1 wedding ceremony, the village chief asked you to preach in that
2 ceremony. What about other ceremonies, such as funerals? Were you
3 also invited to preach?

4 MR. EM PHOEUNG:

5 A. No, I was not invited in other occasions or ceremonies. The
6 wedding ceremony was the only one opportunity that I was invited
7 to be there and preach.

8 Q. Thank you, Reverence. Before you responded this you mentioned
9 that during the funeral, the village chief invited you to be
10 there and act as a clergyman. And where was the ceremony held?

11 A. It was held in my village in Pol Pot's time. There were bodies
12 and I was asked to be there and help and to be both a monk and a
13 clergyman. And after the ceremony, the body was buried or were
14 cremated.

15 [13.53.25]

16 Q. Thank you. In that ceremony on the day, were you practise --
17 did you practise according to the Buddhist rituals?

18 MR. PRESIDENT:

19 Reverence, please hold on.

20 Counsel, you are instructed to wait for a few minutes, because
21 there is a technical matter in relation to transcripts.

22 (Technical problem)

23 (Short pause)

24 [13.59.00]

25 MR. PRESIDENT:

58

1 Due to some technical matters, in particular there is a problem
2 with the transcription problem, the Chamber will take a 15-minute
3 break and we will resume at 10 past 2.00. And -- is it working
4 now? It seems that the matter has been solved so let we continue.
5 And Counsel, you may proceed.

6 [13.59.57]

7 BY MR. SUON VISAL:

8 Q. Venerable, I asked you the last question, if you can recall,
9 please respond.

10 MR. PRESIDENT:

11 Counsel, please rephrase or repeat your question.

12 BY MR. SUON VISAL:

13 Q. When you worked as achar during that ceremony, did you follow
14 the Buddhist practice of ritual or ceremony?

15 MR. EM PHOEUNG:

16 A. Yes, we followed the Buddhist ritual. There was a process of
17 taking the dead body for the cremation, or sometimes for burial.
18 It was a typical religious ceremony.

19 Q. Did you also pray or provide a sermon?

20 MR. PRESIDENT:

21 Please, witness, wait for the microphone's activation before you
22 respond.

23 MR. EM PHOEUNG:

24 A. I was allowed to provide a sermon in my village.

25 [14.01.16]

1 BY MR. SUON VISAL:

2 Q. Thank you. Did you -- did you practice that until the
3 liberation of the country in 1979? Or when did you stop doing so?

4 MR. EM PHOEUNG:

5 A. There were no such ceremonies held by 1978.

6 Q. At one point you stated that when village chief asked you to
7 get married because you were told that you were forced, can you
8 tell us how were you forced to get married? Or whether there were
9 any members of your family threatened?

10 A. I did not say I was forced. As for other villagers, they were
11 forced to get married because they did not know them. So they
12 just picked this woman or that man to be coupled, although they
13 did not know each other, and that's what we call forced, but not
14 in my case because I refused to get married.

15 [14.03.09]

16 Q. When you were asked to get married and you refused to do so,
17 what happened to you? Were you mistreated or they threatened to
18 arrest you?

19 A. No, there was no such thing until the fall of the regime.

20 MR. SUON VISAL:

21 Thank you. And Mr. Counsel (sic), I don't have any further
22 questions for this witness.

23 MR. PRESIDENT:

24 Thank you. And Counsel Koppe, you have the floor now.

25 QUESTIONING BY MR. KOPPE:

60

1 Thank you, Mr. President, Your Honours. Venerable, I have a few
2 additional questions to ask to you.

3 Q. Could you elaborate a little bit more on your preaching during
4 the marriages, and what exactly did you say, what did do as what
5 -- when you were attending these ceremonies?

6 MR. PRESIDENT:

7 Mr. Venerable Witness, please wait. And the International
8 Co-Lawyer for civil parties, you have the floor.

9 MS. GUIRAUD:

10 Yes, one observation. Thank you, Mr. President. I have a very,
11 very brief observation. Of course, I don't want to interrupt my
12 colleagues, but it seems clear from the statements that there had
13 only been one marriage ceremony that he attended and not several,
14 as the question suggested. So I wanted this to be clear.

15 [14.05.00]

16 BY MR. KOPPE:

17 Q. Mr. Witness, can you tell us what exactly happened or what did
18 you do during this wedding ceremony during which you preached,
19 gave prayers?

20 MR. EM PHOEUNG:

21 A. I preach the Buddhist discipline, and to give the blessing to
22 the newly married couples, and I did that based on the
23 instruction of the village chief, and that happened only one
24 time.

25 Q. Thank you. I would like to take you back now to the interview

61

1 that you had with DC-Cam in 2005, January 2005. Do you remember
2 the foreign interviewer who took your statement?

3 A. It's been a long time. I cannot recall it.

4 [14.06.18]

5 Q. If I mention the name Ian Harris, would that ring a bell to
6 you?

7 A. I only recall that there was an American woman who came to
8 interview me.

9 Q. Thank you, Mr. Witness. It seems that your interview, the
10 interview that you gave to DC-Cam in January 2005 was used by
11 this gentleman, Ian Harris, in his book that he wrote about the
12 subject called Buddhism under Pol Pot.

13 Mr. President, I would like to refer to page 272 of the book of
14 Ian Harris called Buddhism under Pol Pot. It's ERN 00704135. And
15 Mr. Witness, because it is not entirely clear how Mr. Harris came
16 to all this conclusion, I would like to read a few passages from
17 his book, and ask you whether you know anything about it or
18 whether you talked to other monks who know something about this?

19 I would like to start, Mr. Witness, with a passage on page 149.

20 It is document, but I am sorry, I forgot to say that E3/2818.

21 There is only an English, ERN 0070412. And I would like to read
22 that and then I would like to ask your comment if possible.

23 [14.08.25]

24 "While this attitude towards the death might be characterised as
25 the Khmer Rouge theoretical position, in reality, their attitude

62

1 was some -- somewhat more ambivalent. For example, the elaborate
2 funeral rites were held for Sihanouk's mother, Queen Kossamak at
3 the Royal Palace in September 1975. Although most definitely not
4 a public occasion, the ceremony was presided over by a number of
5 monks who had come over to the Khmer Rouge in the early 1970s and
6 was attended by Sihanouk, Khieu Samphan, and Son Sen. Nuon Chea's
7 mother also received a traditional Buddhist funeral at Wat Kor,
8 Battambang around the same time, and there is some evidence that
9 the possibility of a ritualised death could still be obtained by
10 lower levels of society."

11 My question to you would be: Do you know anything about this or
12 do you have anybody who told you about the funerals of Sihanouk's
13 mother and Nuon Chea's mother?

14 A. No. I did not know anything about them. I only know that she
15 passed away in China.

16 [14.10.16]

17 Q. And you also know nothing about the mother of Nuon Chea, and
18 her funeral in Battambang?

19 A. That is correct. I didn't know anything about that.

20 Q. Do you remember in the days between 1975 and 1979 anything
21 about Article 20 of the Constitution, the Constitution of DK,
22 which is about worship and religion? Does Article 20 of the
23 Constitution mean anything to you?

24 A. No, I was not aware of that.

25 MR. KOPPE:

63

1 Mr. President, if you allow me, I would like to read Article 20,
2 maybe that refreshes the memory of the Witness. It is E3/259, ERN
3 -- English -- 00184838. I do not have the Khmer ERN right now,
4 but Article 20, Mr. Witness, reads as follows:

5 Every citizen of Kampuchea --

6 MR. PRESIDENT:

7 Counsel Koppe, please wait. And the International Co-Prosecutor,
8 you have the floor.

9 [14.11.54]

10 MR. DE WILDE D'ESTMAEL:

11 Yes. Thank you, Mr. President. Normally before this Court, when
12 we referred to documents that were placed -- we referred to
13 documents that were placed on interface. So I'm not sure that
14 this document is part of the interface. But in any case, I
15 haven't found it on the -- the defence's list.

16 MR. KOPPE:

17 That's correct, Mr. President. The question came up this morning,
18 but it is a very widely debated document in the first segment of
19 the trial. So I trust the Prosecution to be very familiar with
20 this provision, so if you allow me, I would like to read it to
21 the witness.

22 Mr. Witness, the article -- the provision reads as follows:

23 "Every citizen of Kampuchea has the right to worship according to
24 any religion and the right not to worship according to any
25 religion. Reactionary religions which are detrimental to

1 Democratic Kampuchea and Kampuchean people are absolutely
2 forbidden."

3 BY MR. KOPPE:

4 Q. Now when I read this provision in the DK Constitution of 1976,
5 does that ring any bell to you?

6 MR. EM PHOEUNG:

7 A. No, I'm afraid not. I did not see it in the Constitution, but
8 I've heard people talking about it.

9 [14.13.27]

10 Q. Do you remember people, commune chiefs or any other Khmer
11 Rouge cadres speaking about the freedom of religion, or you never
12 heard this concept, discussed before?

13 A. During the Pol Pot Regime, nobody spoke about it. We all just
14 kept silent, and kept it to ourselves.

15 Q. Thank you. I will move on to another topic, and there is also
16 a topic which is discussed in this book from Ian Harris. And he
17 is discussing the fact that in the civil war, between 1970 and
18 1975, many pagodas were destroyed, and maybe even up to two
19 thirds of all pagodas, and many pagodas were also destroyed
20 because of American bombing.

21 What can you tell us about pagodas being destroyed in the civil
22 war or destroyed because of US bombings?

23 A. During the republic -- the Khmer Republic regime of Lon Nol,
24 there were fighting and then there were American aerial
25 bombardments.

1 [14.15.12]

2 Q. But is it correct that many pagodas were destroyed by the
3 bombs from the American planes?

4 A. Yes, some pagodas were hit by the aerial bombardment, in
5 particular in remote locations.

6 Q. But you don't know numbers? Was it correct that two thirds of
7 pagodas -- of the pagodas were destroyed in the civil war or does
8 that figure mean nothing to you?

9 A. I do not have that knowledge.

10 Q. I apologize.

11 Mr. Witness, do you know anything about the burning of Buddhist
12 books or manuscripts during DK?

13 A. During the DK regime, everything was destroyed. The Buddhist
14 manuscript, for example, that were made from palm tree leaves,
15 they torn them -- they torn them apart and used them as hats. And
16 I personally witnessed it being destroyed and used it. Even the
17 Buddhist painting was torn away and destroyed or some were used
18 to -- to be used as hats.

19 [14.17.20]

20 Q. Thank you, Mr. Witness. Some other questions relating to what
21 happened in Tram Kak district; you said something about working
22 hours. Do you -- if I recall your testimony correctly, you said
23 that working hours were from the morning until 6 p.m.; is that
24 correct?

25 A. I didn't know the details. I only saw it at the night-time,

1 but not during the daytime.

2 Q. Let me – let me rephrase my question. When you were working,
3 building dams and dykes, were you working normally until 6
4 o'clock in the night?

5 A. Yes, that is correct.

6 Q. And was that the average working hours? What is the average
7 working hour? Did you sometimes also, incidentally, work in the
8 evening or never?

9 A. During the 3 years, 8 months and 20 day period, we never
10 stopped before the set time and sometimes we had to even work
11 longer than the set time, and that's what I experienced during
12 the regime.

13 [14.19.10]

14 Q. But was that only sometimes, for instance, during the harvest
15 or was that more than incidental, would you be able to remember?

16 A. Please repeat your question. I cannot get your question.

17 Q. Working in the dark, at night, was that only sometimes, or
18 more frequently?

19 A. It was rather frequent; for example, during the rainy season,
20 we had to pull the rice seedlings. Actually, we stop for dinner,
21 and after that we had to go and work again.

22 Q. But that was only during particular periods in the year; is
23 that correct?

24 A. Yes, it was during the rainy season, and during the dry season
25 we had to deal with digging canal or building dams.

67

1 Q. One last question on that subject, Mr. Witness, is the food
2 situation. Would you be able to tell if the food --

3 MR. PRESIDENT:

4 Counsel Koppe, please wait. There is no sound through the French
5 channel; and Court officer, could you check with the AV Unit?

6 (Short pause)

7 [14.21.16]

8 MR. PRESIDENT:

9 Counsel, please, you have the floor and please repeat your last
10 question.

11 BY MR. KOPPE:

12 Q. My last question, Mr. President, Mr. Witness, was about the
13 food situation. Would you be able to tell if --

14 MR. PRESIDENT:

15 Please wait.

16 Court officer, could you check Judge Lavergne headset; maybe it
17 runs out of battery?

18 Counsel Koppe, please proceed.

19 BY MR. KOPPE:

20 Q. I will repeat my question again.

21 Mr. Witness, you told us earlier about the food situation in DK
22 in the time you were there. Do you -- would you be able to tell
23 if there was an improvement in the food situation, in the food
24 that was provided to you and others? Was the situation better in
25 1976 and 1977 and better than in 1975, for instance?

1 MR. EM PHOEUNG:

2 A. As for my village, people were divided into three groups. One
3 was a -- the regular force, the second group was an ordinary
4 force, and the third group was the elderly; and from 1975 through
5 1976, the food was scarce, and only before the liberation in
6 1979, rice -- cooked rice was rather provided in terms of
7 replacing gruel, and we were told that due to the improvement of
8 the livelihood and living condition, then the cook was instructed
9 to provide us sometimes with the cooked rice, and that happened
10 toward the later regime of the Khmer Rouge: '78 or '79 and yes,
11 early '78 and '79.

12 [14.23.51]

13 Q. Did I understand you correctly then, if I paraphrase, the food
14 situation got better in '78 and '79 than it was in the first two
15 years of DK?

16 A. Yes, it became better. But I talked about the cooked rice.
17 However, as for the soup, it remained the same, just watery soup
18 or with some local vegetable.

19 MR. KOPPE:

20 Thank you, Mr. President. I have no further questions.

21 MR. PRESIDENT:

22 Thank you. And the floor is now given to Khieu Samphan's defence.

23 QUESTIONING BY MR. KONG SAM ONN:

24 Thank you, Mr. President; and good morning, Your Honours. Good
25 morning everyone in and around the courtroom, and good morning --

1 good afternoon, Reverence. My name is Kong Sam Onn, defence
2 counsel for Khieu Samphan. And I have some questions for you.
3 [14.25.15]

4 Q. This morning I listened to your testimony and you have made a
5 statement about a meeting held at Angk Roka Pagoda. And in that
6 meeting, there was a different interpretation of it. One was
7 raised by the Prosecution based on a statement of another
8 witness, and what you actually stated as you attended that
9 meeting personally. My question to you is the following: For the
10 meeting held at Angk Roka Pagoda on the issue of leaving the
11 monkhood, can you provide a little bit further details?

12 MR. EM PHOEUNG:

13 A. As for the meeting for the monks to leave monkhood at the Angk
14 Roka Pagoda, I didn't stay till the end of the meeting session
15 because I came rather late from Phnom Penh to attend that
16 meeting.

17 Q. Did you attend the meeting for one time only, as you stated,
18 and as you just said, there actually was another meeting also
19 before your arrival at Angk Roka Pagoda; am I correct in saying
20 that?

21 A. I only can talk about the time that I arrived. I did not know
22 about -- I did not know whether there was any previous meeting
23 before my arrival, because other monks who arrived there attended
24 the meeting with me, and we were instructed to -- about the plan
25 to leave the monkhood.

1 [14.27.25]

2 Q. Were you aware of previous meetings before your arrival, or
3 were you told there were other meetings before your arrival?

4 A. I only heard from others.

5 Q. Regarding the meeting that you attended, can you tell the
6 Court what time it was held, or what date, if you can recall it?

7 A. I cannot recall it. I did not pay attention to that at the
8 time. I didn't know the exact date of the meeting, because we did
9 not pay such attention to such a meeting.

10 Q. Can you recall how many people attended that meeting?

11 A. Through the announcement, there were chiefs of villages and
12 chiefs of groups.

13 [14.29.02]

14 Q. How many participants attended that meeting; I mean the
15 laymen, laywomen, and the monks?

16 A. As for the meeting involving the -- leaving the monkhood for
17 the monks, there were not many monks. There were not many
18 attendance, but for the common meeting, there were also many
19 other laymen and women attended the meeting.

20 Q. Can you recall who actually presided over that meeting? I
21 talked about the meeting that you were present?

22 A. There were members of commune and village and groups who
23 attended that meeting.

24 Q. Were there discussions amongst the one who presided over the
25 meeting, and the attendance, for example, the monks or the

1 villagers who lived within the vicinity of the pagoda?

2 A. No, there was no such conversation, because we only listened
3 and listened to the instructions of Angkar. Nobody dared to raise
4 any question.

5 [14.30.53]

6 Q. Can you elaborate a little bit further on the content of the
7 meeting that you participated? Was it a meeting for the sake of
8 instructing the monks to leave the monkhood? As I understand
9 through your statement, you used different words or different
10 terms. You stated about leaving the monkhood; however, the
11 Prosecution talking about defrocking. Can you clarify the use of
12 these terms, whether it was to leave the monkhood or whether the
13 monks were defrocked?

14 A. To my understanding, the two words are the same. It means --
15 the end result means the monks would leave the monkhood. So there
16 is no real discrepancy in this matter, because in the end we all
17 become laymen.

18 Q. Thank you. In relation to the plan to defrock monks or to
19 allow monks to leave monkhood, was it -- was the schedule set
20 clearly when monks needed to leave monkhood or needs to be
21 defrocked? Or did monks at Angk Roka Pagoda have the right to
22 leave monkhood at any time they wanted?

23 A. From my recollection -- and we were advised and instructed --
24 we were asked to be in monkhood for a short period of time and
25 after that we needed to leave monkhood to work as others.

1 Otherwise, we would have no food to eat because as a monk, we
2 could only have morning meal, and at that time, it was
3 revolutionary time. No one ate three times, and they had to work
4 all together. Some were working in agriculture, and some --
5 agriculture field -- and some other were working in industrial
6 field.

7 [14.32.21]

8 Q. Thank you. You -- did you witness yourself in relation to the
9 monks who had been defrocked before you?

10 A. I did not know about that because I had been in the city
11 before I was there at Angk Roka Pagoda, so I did not know about
12 whether -- I did not know whether monks had been defrocked before
13 I arrived there.

14 Q. I want to know about the time when you were at Angk Roka
15 Pagoda. At that time, did you ever see monks who had already been
16 defrocked?

17 A. And I could see that they became laymen already. They left --
18 they had already left monkhood when I arrived there. Angkar did
19 not allow those people to become monks.

20 Q. Did you ever attend the ceremony that allowed monks to leave
21 monkhood?

22 A. I never attended such a ceremony. I left monkhood at the same
23 time as my teacher did.

24 [14.36.13]

25 Q. For you yourself, when did you leave your monkhood?

1 A. I left monkhood in 1976.

2 Q. Did you remember the month, when was it? What month was it?

3 A. I could not recall it. I forgot it.

4 Q. I would like to ask you about the time when you were a monk at
5 Angk Roka Pagoda. Upon your arrival at Angk Roka, you said you
6 spent about two months travelling to Angk Roka. In June 1975, you
7 arrived at Angk Roka. I would like to know from you about the
8 livelihood of you and other monks while they were in Angk Roka
9 Pagoda between June 1975 and the late 1975. So what was the
10 living condition or livelihood like?

11 MR. PRESIDENT:

12 Please wait, Reverence. You wait for the red light on the
13 microphone tip.

14 MR. EM PHOEUNG:

15 A. At that time, living condition of monk was becoming worse
16 because villagers were evacuated afar so we needed to support by
17 ourselves.

18 [14.38.26]

19 BY MR. KONG SAM ONN:

20 Q. I would like to make a clarification. Were there any lay
21 people offering you food during the time you were staying in Angk
22 Roka Pagoda?

23 MR. EM PHOEUNG:

24 A. In 1975, we could get some offering from lay people and some
25 -- some of those laypeople came to receive sermons, and there was

1 only some.

2 Q. Concerning the people who came to make the offerings to the
3 monks, did the number decrease in late 1975, or they did not
4 offer any food in 1975 -- from 1976?

5 A. When the monks left the monkhood, laypeople did not come to
6 make offerings. And villagers, they -- they were fully aware of
7 the situation. And after monks were told about the situation, we
8 left our monkhood, and then we never receive any offerings.

9 Q. I would like to know about you yourself, when you left your
10 monkhood, did you decide by yourself to leave the monkhood or was
11 there any ceremony to force you to leave the monkhood?

12 A. As for leaving monkhood, it was considered like a force
13 because we were given a set of clothing and we got nothing. And
14 we were told the revolution had nothing for us, so I could
15 consider this was a force.

16 [14.41.22]

17 Q. This morning at about 10 a.m., you said that you could not
18 stay in monkhood and -- because there were no offerings made to
19 you, and monks were leaving monkhood one after another. So you
20 mean that there were no one giving you alms and offerings, and
21 because of this you decided to leave monkhood or was it because
22 of other reason that make you leave monkhood?

23 A. Let me clarify. Let me tell you this way. At that time, we had
24 to notice by ourselves. They had a hide policy or hide strategy
25 in -- and it's not -- it did not make us feel comfortable to stay

75

1 in monkhood, because when they -- they said that when making
2 revolution, they -- we had to work altogether. We had to do
3 labour all of us so this was the means to make us leave our
4 monkhood. They repeatedly mentioned this point, so how could we
5 stay in our monkhood. We needed to make the decision like other
6 people did. We could not stay in our monkhood. Revolution gave us
7 no free time. We had to do our labours all across the country. No
8 one could sleep up freely, so this was the instruction from
9 Angkar.

10 MR. PRESIDENT:

11 It is now convenient time for a break. The Court will take break
12 from now until 3 o'clock.

13 Court officer, please facilitate the proper room for Venerable Em
14 Phoeung during his time -- during his break time and take him
15 back before 3 p.m.

16 The Court is now adjourned.

17 (Court recesses from 1444H to 1501H)

18 MR. PRESIDENT:

19 Please be seated. The Court is now back in session, and, again,
20 we hand the floor to the defence team team for Khieu Samphan to
21 continue putting questions to the venerable Em Phoeung.

22 BY MR. KONG SAM ONN:

23 Thank you, Mr. President; and, again, good afternoon, venerable
24 Em Phoeung.

25 Q. My next question is in relation to the time period that you

1 stayed at Angk Roka Pagoda. You have stated about the fact that
2 you were instructed to do labour; namely, digging canals, can you
3 tell the Court how many monks were working – or engaging in
4 labour in your group?

5 MR. EM PHOEUNG:

6 A. We were divided into different groups; there were 10 monks or
7 20 monks within a group. So, we organized into various groups, as
8 I just as stated.

9 Q. Besides digging canals, what other work did you do while you
10 were still in monkhood?

11 A. I also engaged in transplanting cassava -- in planting
12 cassava, rather. And, also, we grew vegetables.

13 [15.03.59]

14 Q. Can you also tell the Court if this kind of work -- planting
15 cassava or growing vegetables -- is it against Buddhist
16 disciplines?

17 A. In terms of the Buddhist disciplines, it was wrong. For
18 example, engaging in planting cassava or in growing vegetables,
19 it violates the Buddhist disciplines.

20 Q. You talked about violating the Buddhist disciplines. What kind
21 of violations that you refer to in terms of being a monk engaging
22 in that kind of work?

23 A. Monks were prohibited to engage in that nature of work.

24 Q. Now, in relation to leaving monkhood -- that is, you
25 personally, can you tell the Court what was the process of

1 leaving the monkhood?

2 A. To leave the monkhood and in order to become a layman, there
3 has to be a witness who would see the whole process of leaving
4 the monkhood, so that in terms of religion it means that we would
5 leave the monkhood and we would become an ordinary person and not
6 become mentally disturbed.

7 [15.06.31]

8 Q. As for you, when you left the monkhood, who was your witness?

9 A. There were other monks who were there, so we just be a witness
10 to one another for the process because we started to leave the
11 monkhood one after another.

12 Q. My question to you is, to you personally, when you left the
13 monkhood, was there a teacher who disordained (sic) you or who
14 made you leave the monkhood or did you just do it by yourself
15 alone?

16 A. No, I left the monkhood at the pagoda, not at a village house.
17 Because we were monks, we followed the disciplines and we had to
18 do it in a pagoda and at that time the Buddhist statutes remained
19 undisturbed in the pagoda, and we did it before the statutes and
20 we also had a witness to the process of leaving the monkhood.

21 [15.08.04]

22 Q. When you were leaving the monkhood, can you tell the Court who
23 was actually your witness to the process?

24 A. Of course, it was my teacher -- my teacher monk -- who was my
25 witness.

1 Q. Thank you. Now I would like to ask you on a point that you
2 already stated before this Court -- that is, on the different
3 terms of leaving the monkhood and of defrocking. We heard the
4 word "lea chak sekha bot" in Khmer, which means "to leave the
5 monkhood" and the word "phsoek" that means "to be defrocked", or
6 "soek" in Khmer, "to be disordained". Can you entertain the Court
7 on the differences between the three terms?

8 A. To be defrocked or to leave the monkhood means we simply leave
9 the three statutes of the Buddhist disciplines -- that is, the
10 monks, the Buddha and the disciplines. We leave them all behind
11 to become a layman. As I said earlier, simply, in the end, it
12 means a monk becomes a layman or an ordinary person, by whatever
13 means you use. So, when you leave the monkhood or when you
14 defrocked or disordained, there is no clear discrepancy as in the
15 end you become a layman or an ordinary person.

16 [15.10.13]

17 Q. Thank you. If I add a word that a monk was forced to defrock,
18 would it be different to what you just stated?

19 A. If somebody uses an authority to force a monk to defrock and
20 to become a layman, and that's what happened during the Khmer
21 Rouge regime, they used their authority to force the monks to
22 leave the monkhood. So, monks could not stay as monks, and that's
23 the nature of their Revolution, and that we hate to engage in
24 labour, as I stated earlier.

25 Q. This morning you also stated that you knew Khiev Neou; do you

1 recall that? That before 1975, that monk stayed at Moha Montrei
2 Pagoda?

3 A. Yes, he was a monk and he resided at the (inaudible) Trayueng
4 pagoda.

5 [15.11.50]

6 Q. How long had you known Khiev Neou as a monk?

7 A. I knew him because we stayed at a pagoda in Phnom Penh
8 together, but I did not know how many years had he been ordained
9 as a monk.

10 Q. I'd like to read a statement of Khiev Neou -- that is,
11 document E1.90.1, at 9.30.15, which is a transcript dated 21st
12 March 2012. Allow me to read you this portion.

13 [Free translation]: "We cannot say for sure, but it was about one
14 or two years" -- I apologize, Mr. President, I would like to
15 readjust my document first.

16 It was at 9.38.24, it's the same document, it's page over, in the
17 Khmer language. And let me quote:

18 "Answer: No, I didn't know that. I didn't know about the Cham
19 people. I became aware of that. No, I was not, and as they were
20 forced to defrock, no, it did not happen that way but we were
21 told to leave the monkhood, so the word 'forced to defrock' was
22 not used, and I never heard about it, and I never saw it." And my
23 question to you is the following: What would you react to this
24 statement of Khiev Neou?

25 A. That is his personal account, but I have told the Court about

1 my personal account.

2 [15.15.01]

3 Q. What would you like to add to the word "to force" - "to be
4 forced to defrock" or "to leave the monkhood"?

5 A. Allow me to clarify, if somebody was forced to defrock, it
6 means somebody would physically come to force the monk to leave
7 the monkhood; and, another the difference is that we were
8 instructed to leave the monkhood and that we engaged in the
9 process by ourselves because we understood we could no longer
10 stay in the monkhood.

11 Q. Thank you. In your account, as you left the monkhood, as
12 witnessed by your teacher, can you explain to the Court, was the
13 process considered a forced process?

14 A. Of course, we understood something had happened and as -- we
15 should understand the cause and effect of the process. If we
16 understand that, we know whether it was forced or not.

17 [15.16.41]

18 MR. PRESIDENT:

19 Counsel, please move on.

20 BY MR. KONG SAM ONN:

21 Q. Thank you.

22 Can you tell the Court, after you left the Angk Roka Pagoda,
23 where did you go?

24 MR. EM PHOEUNG:

25 A. I went to Banteay Meas district, in Kampot province.

81

1 Q. Can you give a little bit more details?

2 A. It was Samraong cooperative, Banteay Meas district.

3 Q. Did you remain living there or did you move elsewhere after
4 that?

5 MR. PRESIDENT:

6 Venerable, please wait for the microphone's activation first.

7 [15.17.49]

8 MR. EM PHOEUNG:

9 A. It was a village, but in fact, I was constantly in a mobile
10 unit as I was part of a main force, and was on mobile until the
11 liberation of the country.

12 BY MR. KONG SAM ONN:

13 Q. When you were in Banteay Meas district, was it Banteay Meas or
14 Touk Meas (phonetic)?

15 MR. EM PHOEUNG:

16 A. It's Banteay Meas.

17 Q. Did you -- for instance -- relocate yourself to a different
18 village or a different commune within Banteay Meas district?

19 A. No, I did not.

20 Q. You also stated before this Court, the term "Angkar",
21 repeatedly. For example, when you were called to a meeting, the
22 meeting was organized by Angkar, and in terms of your personal
23 knowledge, when you refer to Angkar, what do you mean?

24 A. At that time, I didn't know for sure what -- who -- Angkar
25 was. Everybody talked about Angkar, but nobody ever saw who

1 Angkar was and when we were assigned tasks to do, we were told
2 that it was planned by Angkar, or it was followed the
3 instructions of Angkar.

4 [15.19.52]

5 Q. Did you ever discuss or ask what, or who, Angkar was? Or
6 whether Angkar was someone in charge?

7 A. At that time, yes, I asked where was Angkar and who was at the
8 upper echelon. I asked people about the Angkar and about the
9 upper echelon, but they only -- the reply that I received was
10 that Angkar was the upper echelon and they warned me not to ask
11 too many questions about Angkar, and that we only should know
12 about Angkar and that's the limit.

13 Q. For you, personally, what is your understanding of Angkar?

14 A. It is a word commonly used during the regime -- that is,
15 during the Pol Pot regime. We didn't know who was or were --
16 Angkar. And they talked about Angkar Mocchim or the
17 organizational centre or the Angkar's centre and the instructions
18 came from there. Because we asked each other about the Angkar and
19 about the instructions from Angkar, and the only thing we learned
20 was that instructions came from Angkar, which was at the upper
21 level or upper echelon.

22 [15.21.41]

23 Q. Thank you. When those people spoke about Angkar, did they
24 refer to themselves? For example, the commune chief or the
25 cooperative chief or those people who made contact with you, did

1 they say that they represent Angkar themselves?

2 A. I was only told that Angkar means the upper echelon, and that
3 was it, after I made inquiry with them and that the orders or
4 instructions came from Angkar. And, of course, as I stated, we
5 didn't dare to ask more questions.

6 Q. What did you understand of the word "secret" and did you keep
7 secret or keep to yourself? What can you tell us about secrecy?

8 A. Counsel, please repeat your question, I don't really get it.

9 [15.23.00]

10 Q. You stated that you did not dare ask many questions, and my
11 question to you is that, did you hear about the principle of
12 secrecy and did you actually abide by such principle of secrecy
13 during the DK period?

14 A. I still don't get your question, Counsel. What do you actually
15 want to ask me? What do you want me to say?

16 Q. I'd like to ask you in general, for example, during your
17 contact with other people or with your peers, or with the cadres
18 -- the Khmer Rouge cadres -- could you make such a contact
19 freely?

20 A. During the regime, such contact was very rare. Even the
21 contact between our family members was very rare, we didn't even
22 dare to speak to one another and here I frankly speak. At
23 night-time, we did not even dare to talk to one another, and
24 during the working hours, we just kept working -- kept on working
25 -- and we didn't dare to take time to talk to one another and

1 that's what was the common practice during the regime. If we
2 talked more it means we would be in a risky situation, and if we
3 pretend to be silly or to be stupid, then we could survive.

4 [15.25.05]

5 MR. KONG SAM ONN:

6 Thank you, Venerable.

7 Mr. President, I don't have any further questions.

8 MR. PRESIDENT:

9 Venerable Em Phoeung, the Chamber is grateful of your time to
10 come and testify before this Court during this one full day, and
11 your testimony will contribute to ascertaining the truth in this
12 case. Now the time comes to the conclusion of your testimony, and
13 you may be excused so that you can return to your place of
14 residence.

15 And Court officer, in collaboration with WESU, please assist in
16 the arrangement of transportation for the venerable to return to
17 the pagoda where he resides or to whichever place he wishes to go
18 to.

19 You may now go, Venerable.

20 Counsel Koppe, you have the floor.

21 [15.26.26]

22 MR. KOPPE:

23 Thank you, Mr. President. Because we still have half hour to go,
24 rather than revisiting the issue of this morning tomorrow and
25 take away time from the other Parties to examine the witness of

1 tomorrow, I would like to refer to the email that we received
2 from the Prosecution this afternoon in relation to Case 004
3 documents. The Prosecution -- the Deputy Co-Prosecutor wrote to
4 you and to us, that in addition to earlier statements from Case
5 004 and the 20 statements that we just received this afternoon
6 there is another astounding number of 89 and 190 documents to be
7 coming from Case 004 -- documents to be added to our case.
8 Eighty-nine and 190, plus the earlier ones, make a total of 334
9 documents from Case 004.

10 We were able to have a very quick glance at the 20 Case 004
11 statements we received this afternoon and what we could see --
12 and I just have a very brief summary, a very brief indication --
13 it seems that one witness can testify about the leadership of the
14 Tram Kak district, one witness possibly can testify in detail
15 about the former secretary of District 105, one of those
16 witnesses was a chief of a commune in Tram Kak and possibly could
17 testify about several immediately upcoming witnesses, one was a
18 Tram Kak district messenger and can, apparently, testify in great
19 detail about an upcoming cadre witness and about delivery of
20 messages to communes in the Tram Kak district. It seems that at
21 least one witness within those 20 statements -- witness
22 statements -- is a surviving prisoner from Krang Ta Chan, and,
23 allegedly, the child of that prisoner was killed at Krang Ta
24 Chan.

25 [15.29.04]

1 I think we can all agree that these are very relevant statements
2 for also the upcoming witnesses. This, in combination with the
3 fact that we are waiting at least 270 more documents in this
4 phase of the trial, I'm not quite sure what words to use to
5 describe this, but I'm not sure how to deal with this. But it
6 seems that the only real possibility, in order to be able to
7 conduct a proper defence is to ask for postponement and to
8 receive all those 270 documents, in order to be able to establish
9 what the relevance is. If we continue like this, and we just get
10 the documents hand by hand or in small numbers, by the time we
11 have them all we might have to recall witnesses. I don't know
12 exactly if that would be a proper way of acting. But the way it's
13 going on now is, in any case, in stark contrast with what the
14 Prosecution said earlier, that it's a small number which is
15 coming. But the total of 334 documents is, again -- as I said,
16 again -- is very disturbing. I think we should have a proper
17 debate about what to do with this.

18 [15.30.28]

19 MR. PRESIDENT:

20 You may now proceed, counsel for Mr. Khieu Samphan.
21 Deputy International Co-Prosecutor, you may now be seated, wait
22 until the other party completes their observation and submission,
23 and after that we will hear from you and the Chamber will decide
24 after we get all the information.

25 MS. GUISSÉ:

1 Yes, Mr. President, thank you. I perfectly support as this
2 morning my colleague, and also would like to state our concern.
3 As I said this morning, we have here a real problem in terms of
4 interpretation of what may be considered as relevant with regards
5 to the documents for the witnesses who will testify soon. It's
6 not because the documents do not particularly refer to one
7 specific witness that these are not relevant documents, because
8 it's obvious that when several witnesses speak about the same
9 place, and about the working conditions in cooperatives or in
10 security centres, well for us, it is the confrontation of these
11 different testimonies which will make it possible to -- in which
12 the discussion here before the Chamber.

13 So, given what my colleague has reminded us of, and as was said
14 by the civil party lawyers, but for us, as defence lawyers, we
15 need to have visibility on the documents that are going to be
16 part of the case and that are going to allow us or not to
17 question the witnesses to come.

18 [15.32.22]

19 So, we're asking the Chamber to find a quick solution, because
20 there are still witnesses who are going to testify about Krang Ta
21 Chan and about Tram Kak who are going to come. And documents, as
22 they were produced today, which, of course, we were not able to
23 see in detail. This, of course, requires time. It is obvious that
24 this is going to have an impact on the preparation of the
25 witnesses to come, and if we want to save our resources, well, we

1 shouldn't have a witness come back because he has to be
2 confronted with new documents, so maybe the solution would be to
3 postpone the testimony or that time be given to the Defence, but
4 if the civil party lawyers do not feel this time is necessary,
5 but we feel that we need this time to properly prepare our
6 defence.

7 MR. PRESIDENT:

8 You may now proceed.

9 [15.33.42]

10 MR. KONG SAM ONN:

11 In addition to the request from my learned friend, my colleagues,
12 I would like to mention our difficulty in familiarizing ourselves
13 with the case file in cases 003 and 004. Actually, we, the
14 counsel, have no access electronically to some of the case file
15 in those cases. And we received only one copy of the documents
16 that we have received, and we cannot make copies, because it is
17 very confidential. And whenever we have received more and more
18 documents, particularly hard copies of the documents, it causes
19 complications to counsel. Once again, in addition to the request
20 of my colleagues, I request the Chamber to be flexible so that we
21 can have the access electronically to the case files and we can
22 have relevant information.

23 MR. PRESIDENT:

24 Judge Fenz, you may now proceed.

25 JUDGE FENZ:

89

1 Before the Prosecution rises, I have a question which they might
2 wish to answer when they give their comment. In the email
3 referred to by the defence counsel, it first says that a
4 submission which kind of clarifies things further will be filed
5 on Monday 23rd of February; and, secondly, it mentions the
6 further 89 statements which will be disclosed shortly. Now, will
7 this email tell us what exactly shortly means or will you, today,
8 be in a position to do that?

9 When it comes to the other 190 mentioned, I think in the last
10 paragraph, my guess is, but it's always a question, that
11 currently you're not able to tell us when they will be released
12 and how. Is this a batch of 190 then or are they coming -- I
13 don't know -- in instalments? Are you able to answer any of those
14 questions now? I understand that this might be what you actually
15 plan to do on Monday but --

16 [15.36.27]

17 MR. DE WILDE D'ESTMAEL:

18 Thank you, Your Honour. Indeed, we would like to clarify once
19 again the process which we are involved in. And I wish to say to
20 everyone that this is a difficult task for the OCP to have to,
21 with regard to each lot of documents, to forward them to the
22 parties. We are obliged to perform four or five different motions
23 before you can receive these documents.
24 Now, with regard to the figures that were given to you, I'd like
25 to insist upon the fact that among the 89 statements, which we

1 asked the Co-Investigating Judges to have the leave to share them
2 with the parties and with the Chamber, there are only two that
3 involve Tram Kak and Krang Ta Chan, and among these 89
4 statements, there are none which regards the witnesses on your
5 lists, that is to say the people who are selected for this first
6 segment.

7 [15.37.47]

8 Now, with regard to the 190 documents, we, of course, don't have
9 everything in our hands. We are asking to read the documents when
10 we receive them and to see which documents should pertain to Case
11 002/02, and which documents may contain exculpatory evidence and
12 therefore could be useful to the Defence and therefore our -- and
13 then we ask the Investigating Judges to have leave to forward
14 these documents to the different parties.

15 The Investigating Judge and his team analysed our requests.

16 Sometimes they do not accept them directly, for reasons of
17 secrecy, so there is a delay, a delay that sometimes can be
18 rather long. So, what we do is that we prioritize the documents
19 by drawing the Investigating Judges' attention on the fact that a
20 certain number of topics are being considered by this Chamber
21 during the hearings and, therefore, these statements should have
22 priority, should be given priority by the Co-Investigating
23 Judges. So, we cannot say when these 190 statements will be
24 available to you.

25 We, of course, have no control over the schedule. What's sure is

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1 that each time we receive -- and this is quite often -- new
2 written records of interviews of witnesses with reference to the
3 two other cases, we read them very, very quickly. Of course, we
4 have many, many other things to do, so we do as best as we can.
5 We read them in Khmer, we read the translation when the
6 translation is ready, and each time we very quickly ask the
7 Investigating Judge for permission to transmit these to you,
8 because we're always in a very tight situation. And the
9 Co-Investigating Judges also have their obligations, so in
10 certain cases they tell us that we have to wait for other people
11 to be interviewed, before they can accept our request.

12 [15.40.27]

13 Now, maybe reacting to what was said by the Defence, which is
14 pretending to be surprised by the number, I wish to remind you
15 that in our document -- E305/13 -- that's the list of the
16 relevant documents to Case 002/02, we said as of June 2014 that
17 there would be at least 267 witness and civil party statements in
18 Cases 003 and 004, which, at one given moment, will be placed on
19 the case file, because we believe that these statements are
20 relevant. So, I believe that the parties knew already for quite a
21 while what the situation is, but the problem for us is that we do
22 not get authorization very quickly from the Co-Investigating
23 Judges.

24 So, I also would like to underline with relation to this figure
25 of 267 that we announced is that, every month, there are about 30

1 extra written records of interviews that are gathered by the
2 Co-Investigating Judges; that are placed on the case file, which
3 means that there are more than 267, and this is why we arriving
4 at a total of around close to 300 documents.

5 [15.42.04]

6 So, this can be explained by the fact that we're under a
7 continuous obligation and written records of interviews keep on
8 arriving, so we're obliged to react the way we do. So, therefore,
9 we object to any delay regarding any postponement regarding the
10 trial. We understand the party's concerns. This puts on us an
11 extra workload. The only thing that I can say regarding segment
12 01 is that with the 20 statements that were given to the parties
13 at the end of last week or this morning for certain parties, we
14 practically have all of the documents that regard the first
15 segment, and there are two extra for which we're waiting for
16 leave to communicate these. So, we have to understand that this
17 is not our choice to not forward these documents. We do it as
18 soon as possible and in such a way that everyone can be prepared
19 in the same way.

20 [15.43.20]

21 Now with regard to the fact of not having access to the
22 electronic documents, the International Co-Investigating Judge
23 therefore puts conditions, so it's not up to the Trial Chamber to
24 decide whether or not it would be possible to have access to
25 these electronic documents, but only the International

1 Co-Investigating Judge. So, pending the end of the investigation,
2 that is the only solution that we have now and we are obliged to
3 abide by the confidentiality obligations given to us by the
4 International Co-Investigating Judge. Thank you.

5 MR. PRESIDENT:

6 Lead Co-Lawyer, you may now proceed.

7 MS. GUIRAUD:

8 Thank you, Mr. President. Simply to go a bit further in the
9 clarification of our position, we understand perfectly well the
10 Defence's concerns and we will rely on the Court's wisdom, as we
11 say. Of course, we want to express our own concerns.

12 [15.44.38]

13 We have asked for a long time for an expeditious trial, so we
14 believe that we are able to move ahead and to manage the
15 information that is sent to us by the prosecutor. But simply so
16 that the other parties may understand our position, we, Co-Lead
17 Lawyers, do not have access to these documents, because we have
18 no mandate in Cases 003 and 004. So, some of the lawyers with
19 whom we are working have also civil parties in Cases 003 and 004,
20 and in that they case they do have access to the documents, but
21 they do not have the possibility of giving these documents to us.
22 So we are exactly in the same situation as our colleagues at the
23 Defence. We discover the written records when they arrive before
24 us. And I haven't even looked at the folder that was given to me
25 over lunch. So, therefore, I'm going to rely on the Chamber.

1 [15.45.31]

2 For me, the true difficulty regards the 20 records we received
3 today, and not the 89 and 190 written records that will arrive
4 later because then we will be able to manage them, but with
5 regard to the 20 that have a direct impact on the next segment, I
6 will simply ask you to wait for clarification from the
7 Co-Prosecutor's office on 23 February in order to allow the
8 parties to answer this filing for clarification coming from the
9 Co-Prosecutor's office.

10 So, our position is the following: we object by principle to a
11 new postponement of the hearings and we ask you not to take any
12 decisions before you have received written clarification from the
13 prosecutors' that is expected on 23 February. Thank you.

14 MR. PRESIDENT:

15 Mr. Koppe, you may now proceed.

16 [15.46.35]

17 MR. KOPPE:

18 Thank you, Mr. President; just a brief response.

19 Prosecution hasn't addressed the question as to when we are, for
20 instance, supposed to read those 20 statements. I would like to
21 get some sleep tonight, so I don't think I'll be able to read
22 those 20 statements before tomorrow. It seems, by the way, that
23 one of those 20 statements is a statement dating August 2013, so
24 I really don't see why we had to wait so long to get that
25 statement. Monday, I think -- waiting until Monday is too late,

1 because I believe Wednesday or Thursday an important -- a
2 relatively important cadre is coming to testify, so he possibly
3 might need to be confronted with the statements or the content of
4 those 20 statements. So, I think waiting until Monday until the
5 Prosecution comes with something, is too late.

6 And the last remark that I would like to make is that we are
7 pretending to be surprised -- I don't really see where that comes
8 from. I specifically -- and that's why I quoted that passage from
9 the transcript -- I specifically asked the Prosecution what could
10 we expect and he said a pretty small number. Now, maybe he and I
11 differ in what a pretty small number is, but certainly not almost
12 300. So, I think I don't really see how we can proceed with
13 witnesses this week.

14 [15.48.10]

15 MR. PRESIDENT:

16 Judge Fenz, you have the floor.

17 JUDGE FENZ:

18 Obviously, it's an obligation we have to think about. But to
19 organize the next days, if I understand, at least counsel for
20 Nuon Chea, correct, he doesn't see a problem for tomorrow, is
21 that okay? Can we have an agreement on that? Ideally?

22 MR. KOPPE:

23 Ideally, tomorrow shouldn't be a problem, but the other -- the
24 next one, yes.

25 JUDGE FENZ:

1 Do Counsel for Khieu Samphan agree for tomorrow? Yes. Okay.
2 But you think the Wednesday witness from your perspective might
3 be touched by this?

4 MR. KOPPE:

5 Again, it's a very preliminary reading, just going through the
6 first 20 statements and it seemed to be having an important
7 impact or relevance to Wednesday's or Thursday's witness. But we
8 just glanced through it. There's nothing more we can say right
9 now.

10 [15.49.21]

11 MR. PRESIDENT:

12 Deputy International Co-Prosecutor, you have the floor now.

13 MR. DE WILDE D'ESTMAEL:

14 Just a little point of clarification, Mr. President; there may be
15 indeed statements dating back quite a while but, in reality, this
16 is explained not only by the necessary delay from the
17 Co-Investigating Judges to give us the leave, but also because
18 some of these statements are not notified to the parties before a
19 certain delay, probably also for reasons of confidentiality. So a
20 statement of 2013 was not necessarily notified in 2013.

21 Sometimes, we might have to wait several months or even longer.

22 Now, when Lysak spoke about a small number of statements, I
23 essentially believe that he was referring to the first segment of
24 the trial and not to the rest of the trial. As we said in June
25 2014, we already announced that there would be 267 statements,

1 and I told you this morning, with regard to the second segment,
2 we are waiting for the leave to communicate to you 60 statements
3 that relate in particular to the Trapeang Thma Dam. Thank you.

4 MR. PRESIDENT:

5 Thank you very much.

6 Court officer, you are instructed to usher in witness 2-TCW-934
7 into the courtroom.

8 (Witness 2-TCW-934 enters courtroom)

9 [15.52.29]

10 QUESTIONING BY THE PRESIDENT:

11 Good afternoon, Mr. Witness. What is your name?

12 MR. PHNEU YAV:

13 A. Mr. President, my name is Phneu Yav.

14 Q. When were you born? Do you remember your birth of date (sic)?

15 A. I was born in 1947.

16 Q. Thank you, Mr. Phneu Yav. Where were you born? Do you
17 remember?

18 A. I remember that I was born in Paen Meas village, Samraong
19 commune, Tram Kak district, Takeo province.

20 Q. And what is your current residence?

21 A. My current residence is in the same village, commune, district
22 and province.

23 Q. What is your occupation, Mr. Phneu Yav?

24 A. I am a rice farmer at Angk Ta Ma (phonetic) pagoda.

25 Q. What is your father's name and what is your mother's name?

1 A. My father's name is Phneu Chheng. My mother's name is Ream
2 Chhuon. They are all deceased.

3 Q. Thank you. What about your wife? What is her name and how many
4 children do you have?

5 A. My wife's name is Ses Rann. We have five daughters and one
6 son.

7 [15.54.29]

8 Q. Thank you, Mr. Phneu Yav.

9 Based on the report of the greffier, to the best of knowledge,
10 you have no parents, ancestors or descendants who are admitted to
11 this case. Is this true?

12 A. That is true, Mr. President.

13 Q. Have you already taken an oath before the Iron Statue to the
14 east of this courtroom?

15 A. Yes, I have already taken an oath.

16 Q. Thank you, Mr. Phneu Yav. You are now informed of your rights
17 as a witness before this Chamber.

18 As a witness in this proceeding, you can refuse to answer any
19 question or you can refuse to make any statement which
20 incriminates yourself. You have the right not to make any
21 statement which is against yourself, that is a statement that can
22 lead to prosecution against you.

23 [15.56.07]

24 As a witness, Mr. Phenou Yav, you have to give testimony before
25 this Chamber. You have to respond to all questions put by the

1 parties or by the Bench, unless your answers may lead to
2 incriminating yourself. As a witness, you are required to answer
3 through your knowledge about your personal experience, what you
4 see, what you hear, what you heard in relation to the facts.

5 Mr. Phneu Yav, have you ever given statements to an investigator
6 of the OCIJ and, if you have, how many times have you given to
7 the investigator of the OCIJ and where was it taken place?

8 A. I gave statement once. It was at my home.

9 Q. When was it?

10 A. I forgot the year.

11 Q. Never mind, Mr. Phneu Yav.

12 Before you are here in the courtroom, have you already reviewed
13 the statement made by the investigator of the OCIJ already?

14 A. Mr. President, I have reviewed the statement and I have
15 recalled some of my statement, because the interview was taken
16 long time ago.

17 [15.58.37]

18 Q. Have you read the statement before you are here?

19 A. I have reviewed the record of interview, but I do not recall
20 them all.

21 Q. To the best of your knowledge, in relation to the statement
22 you gave to the investigator of the ECCC, does the statement
23 reflect what you have provided to the investigator?

24 A. Yes, it's correct. The statement that I gave to the
25 investigator, it reflects what I have given.

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1 MR. PRESIDENT:

2 Thank you, Mr. Phneu Yav. Because we do not have much time, so I
3 only put some question in relation to your background, and the
4 Chamber does not yet hear the substance of your testimony. So,
5 you are invited to be here to provide your testimony before --
6 which will start at 9 a.m. So, your testimony will perhaps be
7 concluded in just one day.

8 It is now time for the adjournment. The Court hearing will resume
9 tomorrow on the 17 February 2015, starting from 9 a.m., and
10 tomorrow we will hear the testimony of Phneu Yav. Please be
11 informed.

12 Court officer, please facilitate with the WSU to send the witness
13 to his preferred destination and have him returned in the
14 courtroom before 9 a.m.

15 Security personnel, you are instructed to bring the two accused
16 back to their detention facility and have them returned tomorrow
17 morning before 9 a.m.

18 The Court is now adjourned.

19 (Court adjourns at 1601H)

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