



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

25 March 2015
Trial Day 263

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

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I N D E X

MR. SAUT SAING (2-TCCP-304)

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MR. DE WILD D'ESTMAEL	French
JUDGE FENZ	English
MS. GUIRAUD	French
MS. GUISSÉ	French
MR. KIM MENGKHY	Khmer
MR. KONG SAM ONN	Khmer
MR. KOPPE	English
JUDGE LAVERGNE	French
MR. LYSAK	English
MS. MOCH SOVANNARY	Khmer
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. SAUT SAING (2-TCCP-304)	Khmer
MR. SORY SEN ALIAS SAY SEN (2-TCCP-271)	Khmer

1 PROCEEDINGS

2 (Court opens at 0901H)

3 MR. PRESIDENT:

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

5 This morning the Chamber will continue to hear the remainder of
6 the testimony of civil party, Saut Saing, and after that, we will
7 hear the testimony of Sory Sen.

8 Greffier, could you report the attendance of the Parties and
9 individuals to today's proceedings.

10 THE GREFFIER:

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

13 As for Nuon Chea, he is present in the holding cell downstairs,
14 as he waives his rights to be present in the courtroom. His
15 waiver has been delivered to the greffier.

16 The civil party who is to continue his testimony today -- that
17 is, Mr. Saut Saing, is present in the courtroom. We also have a
18 reserve civil party that is 2-TCCP-271. Thank you.

19 MR. PRESIDENT:

20 The Chamber now decides on the request by Mr. Nuon Chea.

21 The Chamber has received a waiver from Nuon Chea, dated 25th
22 March 2015. He confirms that due to his health condition -- that
23 is, headache, back pain and that he cannot sit for long and in
24 order to effectively participate in the future hearings, he
25 requests to waive his right to participate in and be present at

1 the 25th March 2015, hearing. He has been informed by his counsel
2 about the consequence of this waiver, that in no way it can be
3 construed as a waiver of his rights to be tried fairly or to
4 challenge evidence presented or admitted to this Court at any
5 time during his trial.

6 [09.04.12]

7 Having seen the medical report by the duty doctor for the Accused
8 at the Extraordinary Chambers in the Courts of Cambodia, dated
9 25th March 2015, who notes that the health condition of Nuon
10 Chea, is that he has chronic back pain and it becomes worse when
11 he sits for long and recommends that the Chamber so grant him his
12 request so that he can follow the proceedings remotely from a
13 holding cell downstairs.

14 Based on the above information and pursuant to Rule 81.5 of the
15 ECCC Internal Rules, the Chamber grants Nuon Chea's request to
16 follow the proceedings remotely from a holding cell downstairs
17 via an audio visual means for today's proceedings as he waives
18 his direct presence in the courtroom.

19 The AV unit is instructed to link the proceedings to the room
20 downstairs so that Nuon Chea can participate in and follow
21 today's proceedings remotely.

22 [09.05.20]

23 The Chamber would like to notify the Parties that the proceedings
24 of hearing the testimony of civil party 2-TCCP-271 will be held
25 partly in closed session due to the request for a protective

1 measure by this civil party. And the remainder of his testimony
2 will be held in closed session awaiting the report of the WESU
3 and that report--

4 (Short pause)

5 (Judges deliberate)

6 [09.07.36]

7 MR. PRESIDENT:

8 There seems to be a misunderstanding on the arrangement and there
9 is a discrepancy in the English and Khmer versions. For that
10 reason, the Parties will be notified after the break after we
11 rectify the problems. And then we will decide also on the request
12 by Khieu Samphan's defence counsel.

13 The Chamber now hands the floor to the defence teams again.

14 Defence Counsel for Nuon Chea, you may continue.

15 QUESTIONING BY MR. KOPPE:

16 Thank you, Mr. President. Good morning, Your Honours, good
17 morning Counsel and good morning, Mr. Witness.

18 Q. Yesterday, before the recess, I was asking you questions about
19 the testimony of Mr. Say Sen. I will revisit that topic with you
20 in a short while. But I would like to start with you first with
21 some follow questions in relation to the names of prisoners and
22 other guards.

23 [09.09.18]

24 The two other guards that I would like to ask you a question
25 about are the guards called Touch and Uok. One of -- One of the

1 guards gave testimony to the Investigators of the OCIJ and said
2 that Touch is living east of Wat Khnar south of Leay Bour. Could
3 you confirm that?

4 MR. SAUT SAING:

5 A. I did not know his native village however he lived in Leay
6 Bour commune. I only know the commune that he lived and not the
7 village.

8 Q. Can you confirm if he is still alive?

9 A. Since 1979 I do not know whether he is alive.

10 Q. And Uok -- Mr. President, I am actually referring to D40/20,
11 that's English, ERN 00433571; Khmer, 00165332; and French
12 00524320. And this other guard, Mr. Witness gave in his
13 testimony, the following statement about Uok. He said that, "Uok
14 is now living in Basedth district Kampong Speu province." Are you
15 in a position to confirm this or you don't know?

16 A. I was not sure where Ta Uok lived, whether in Kampong Speu
17 province or not.

18 Q. Do you know if he is still alive or not?

19 A. Since 1979, I have not heard from him.

20 Q. Alright, thank you. Mr. Witness -- Civil Party, I would like
21 to ask you about one name of a female prisoner that you referred
22 to in your statement, or actually, it's your statement to DC-Cam,
23 D22/88, and that's ERN 00379422. I just realised I don't have the
24 Khmer ERN right now but it's only about a name, Mr. President.
25 Mr. Witness, you mentioned somebody with the name, who was a

1 prisoner, called Kmuoy Be. Can you tell us who Kmuoy Be is?

2 A. Kmuoy Be was very young at that time. Kmuoy Be actually was
3 the child of Yeay Rat.

4 [09.13.16]

5 Q. I understand. The last question I have about a possible female
6 prisoner while you were there, a female prisoner with the name of
7 Run. Now does that ring a bell to you?

8 A. Could you pronounce that name again, I did not catch that name
9 clearly.

10 [09.14.03]

11 Q. Run.

12 A. I know a person by the name of Run.

13 Q. Was that a female prisoner who had a love affair with Ta An,
14 the chief of the prison?

15 A. The matter of love affair, I had no clue, I had no idea at all
16 whether they had a love affair or not.

17 Q. What do you remember, Mr. Witness, about Run, the female
18 prisoner?

19 A. I can recall that while I was carrying earth and also the
20 earth from the bottom of the pond. I can recall her name at the
21 time.

22 Q. Do you know for what reason she was detained at Krang Ta Chan?

23 A. No, I did not know why she was detained as I did not ask for
24 that reason.

25 Q. Was she a friend or colleague of the medic, the other female

1 prisoner that we spoke about yesterday, Han?

2 A. I did not know whether they were friends or colleagues, but I
3 saw the two of them there.

4 Q. You saw -- you mean, being together like friends or can you be
5 a little more specific please?

6 A. In the prison compound, from my observation, they were living
7 together and they were working together. I did not see them
8 fighting or having any other argument.

9 Q. Thank you, Mr. Witness. A final follow up question in relation
10 to my earlier questions yesterday, we spoke about the female
11 prisoner Rat and I asked you, you might remember, whether you
12 ever saw her after 1979 and I think you said that you didn't, but
13 in one of your statements you testified that you saw her again in
14 2000. Is that correct?

15 A. No, I did not meet with Yeay Rat but I met her daughter Kha
16 who came to visit me at my house.

17 [09.18.09]

18 Q. So you met the daughter of Rat, rather than Rat herself, is
19 that correct?

20 A. In fact, I met her sister, her younger sister not her
21 daughter. Sokha was also a daughter of Yeay Nha.

22 [09.18.40]

23 Q. Thank you, Mr. Civil Party. Now, as I said a little bit
24 earlier, I would like to revisit with you the testimony that Say
25 Sen has given to investigators of this Court and to the Trial

1 Chamber itself. Yesterday we spoke about his testimony relating
2 to alleged sexual offences within the compound of Krang Ta Chan.
3 What I would like to do now, Mr. Witness, is read some very
4 specific excerpts from his testimony to you and then I would like
5 to ask your reaction.

6 Mr. President, this is the testimony of Say Sen, E1/257 (sic) at
7 around 10.40 and 10.42. French, ERN 01064515; Khmer, ERN
8 01064674.

9 MR. PRESIDENT:

10 Counsel Koppe, please repeat the ERN number again. Thank you.

11 BY MR. KOPPE:

12 Yes, of course, Mr. President. It is 01064674.

13 Q. So, Mr. Witness, we are talking about -- Say Sen is talking
14 about you and about Duch and about the other guards and the
15 question is as follows: "There were two persons called Duch. Duch
16 Thom and Duch Touch." No sorry, this is actually the answer, I
17 apologise. The answer of Say Sen is: "There were two persons
18 called Duch, Duch Thom and Duch Touch. Duch Thom was the deputy
19 chairman, Duch Touch was the subordinate. Aside from his job of
20 killing prisoners, Duch Touch, large Duch had the additional job
21 of typist, making reports to be sent to the upper level. Small
22 Duch was another name -- and another name Saing, were the
23 cruellest of the 12 soldiers."

24 [09.21.47]

25 Then the question comes with respect to that statement:

1 "What compelled you," -- Mr. Say Sen, "to say that Duch Touch and
2 another named Saing were the cruellest of the 12 soldiers?"

3 Answer of Say Sen: "I said that because when he saw -- or when he
4 thought that the prisoner made any minor mistake then he would
5 just beat the prisoner up and beat him with his hand or kick that
6 prisoner. Usually he was -- he was very active with his hands or
7 feet in kicking or beating the prisoners up".

8 Now, Mr. Witness -- Mr. Civil Party, it seems that Say Sen is
9 testifying that you and Duch were in fact, very cruel persons and
10 that you were in fact the cruellest guards within the compound of
11 Krang Ta Chan. What is your reaction to that testimony?

12 [09.22.48]

13 MR. SAUT SAING:

14 A. As for the prisoners or for other people working at Krang Ta
15 Chan, I never laid a hand on any of them or resort to violence
16 against any of them. If I were a cruel person then I would have
17 been killed. Revenge would have been taken against me and I would
18 have not survived until today.

19 Q. And what about Duch, was he a cruel guard, mistreating
20 prisoners?

21 A. I never saw him beat anyone. Because Duch and I stayed
22 together and we also were on the same guard duty roster.

23 Q. Now, Mr. Witness, it seems that your testimony is directly
24 contradictory to Sory Sen's testimony. It seems that you are
25 implying that Sory Sen is in fact, not telling the truth. What is

1 it -- what is exactly your reaction to Sory Sen's testimony, how
2 would you qualify it?

3 MR. PRESIDENT:

4 Civil Party, please wait. And the Deputy International
5 Co-Prosecutor, you have the floor.

6 MR. LYSAK:

7 Thank you, Mr. President, my objection is that, Mr. Koppe is
8 leading the witness, trying to encourage him to provide an
9 opinion or characterisation of the testimony. This is the same
10 thing he did with another witness where he suggested the word
11 "fabrication". The witness has provided his evidence; it's not
12 for him to provide an opinion on the creditability of other's
13 evidence.

14 [09.25.22]

15 MR. KOPPE:

16 Mr. President, I think I'm perfectly entitled to do so. I put
17 before the witness that there seems to be a very big
18 contradiction in their testimony and I think the civil party has
19 the right, is allowed to say what he thinks or how he sees the
20 testimony of Say Sen. So I think that is a very appropriate line
21 of questioning in relation to this very specific topic.

22 [09.26.01]

23 MR. PRESIDENT:

24 You can put a question but you have to be mindful of the wording
25 that you use. Your last question seems to try to elicit a "No"

1 response from the civil party. Please rephrase your question and
2 if you use inappropriate wording in your questions then the
3 Chamber will exercise its discretion either to reject it or to
4 instruct the civil party not to respond to that question. It has
5 been a practice in this courtroom.

6 BY MR. KOPPE:

7 I will try to rephrase, Mr. President.

8 Q. Mr. Civil Party, when Say Sen testified that you were the
9 cruellest guard on the Krang Ta Chan compound, was he lying?

10 MR. SAUT SAING:

11 A. In his statement and I would like to clarify the matter so
12 everybody is clear about this. I was born in Leay Bour commune
13 and I'm still living in the area and if I was a cruel person then
14 I would not dare live in the same native village. I would go and
15 live elsewhere and nowhere near Krang Ta Chan of course.

16 Q. So again, without being repetitive I think, Mr. Witness, is
17 Say Sen lying when he says you were the cruellest guard?

18 MR. PRESIDENT:

19 Civil Party, you do not need to respond to that question. To
20 assess the credibility of the evidence is the burden of the
21 Chamber and of course Duty Counsel you were advised on this issue
22 yesterday and please try to avoid this line of questioning in the
23 future.

24 [09.28.44]

25 BY MR. KOPPE:

1 Q. Very well, Mr. President. Say Sen, Mr. Civil Party, did not
2 only say that you were the cruellest guard, he also said some
3 other things about your actions within Krang Ta Chan. And I will
4 read another excerpt from his testimony -- that is, E1/257.1.
5 Testimony at around 11.19, on 5 February 2015. The question, Mr
6 Civil Party, is as follows. "Very well, now we're going to talk
7 about Saing, the person you say is still alive. It appears that
8 you have referred to him on several occasions and if I understood
9 what you said correctly, you said that with small Duch, Duch
10 Touch, he was one of the most wicked persons. Is that indeed the
11 person you are referring to?"

12 Say Sen answers as follows: "Yes. Saing and Duch were cruel and
13 brutal and as for Sieng he was not so much as cruel as Duch --
14 small Duch and Saing." Question: "Yesterday and again this
15 morning, questions were put to you regarding the execution of two
16 little girls. And you stated, I believe yesterday, that small
17 Duch was the person who smashed the head of the younger of the
18 two kids on the trunk of tree and that Sieng was the one who
19 killed the second one. Is that correct?" "Yes, I remember it was
20 not Saing who smashed the kids, Sieng was the one who smashed the
21 kids. The group who killed the kids were Saing, Sieng, Small Duch
22 and another person."

23 Question: "So this person who smashed the skull and killed the
24 elder of the two children were Saing and Sieng, right?" Answer:
25 "The older baby was killed by Saing and as for the younger baby

1 was killed by Sieng."

2 [09.31.03]

3 Now again, Mr. Civil Party, Say Sen is giving, or has been
4 giving, gruesome testimony in relation to your actions within
5 Krang Ta Chan. Please react if you will to his testimony. Is it
6 true or false that you were involved in the killing or execution
7 of two small children?

8 A. I reject that statement. I never killed any young baby or
9 committed any cruelty there.

10 Q. How about Sieng or small Duch, did they -- were they involved
11 in the execution of two small children?

12 A. As for Sieng and small Duch, I did not know whether they were
13 involved in the killing or when they did that killing.

14 Q. Fair enough. But you are saying that you yourself were at no
15 point in time, during your position at Krang Ta Chan, involved in
16 the murder of two children, is that correct?

17 A. Yes, that is correct.

18 [09.32.58]

19 Q. Again, I'll try to be careful in my phrasing, Mr. President,
20 again it seems that your testimony is contradictory to the
21 testimony of Say Sen. Are you telling the truth and is Say Sen
22 not telling the truth?

23 [09.33.20]

24 MR. PRESIDENT:

25 Please wait Civil Party, You may now proceed, Deputy

1 International Co-Prosecutor.

2 MR. LYSAK:

3 This is just a different way of asking the questions he was
4 asking before, trying to encourage the witness to say that
5 someone else is lying and not telling the truth. The witness has
6 given his response to the questions, it's not for him to
7 characterise or provide opinions on the testimony of others.

8 MR. KOPPE:

9 Again, Mr. President, I think this is a perfectly appropriate
10 line of questioning. The civil party is also entitled to give a
11 reaction to that very incriminating and damaging testimony. And
12 following up, if he would confirm that Say Sen is indeed lying,
13 of course I would ask the question, why Say Sen is lying. So in a
14 court of law, I think these are totally appropriate questions.

15 MR. PRESIDENT:

16 You are not required to provide your response because you are
17 asked to give the weight on the evidence. So, Civil Party, you
18 are not required to respond to such questions.

19 BY MR. KOPPE:

20 Q. Oh well, I'll move on, Mr President. Mr. Civil Party, did you
21 very recently run into Say Sen and talk briefly to him?

22 MR. SAUT SAING:

23 A. I did not run into him and chatted with him. I would like to
24 tell the Court that one day during the marriage ceremony and
25 party of his child, of Say Sen's child, I was not invited to

1 attend the wedding procession in the morning and I knew that Say
2 Sen later went to live with his wife at Angk Ta Saom. I have
3 never talked to him.

4 [09.36.18]

5 Q. Mr. Civil Party, I will read to you an excerpt from a
6 document. Mr. President -- that is, E29/466, English, ERN
7 01066609; Khmer, 01072056; it says the following, it says that
8 since his testimony very recently, beginning of February this
9 year, Mr. Say Sen, "[...] met both," you, "Mr. Saut and Mr. Srei as
10 well as relatives of Mr. Srei during his daily activities since
11 his testimony. Mr. Sory said that Mr. Saut appeared to be afraid
12 and asked again that Mr. Sory describe him as a victim. Mr. Sory
13 said he felt no threat from Mr. Saing. Mr. Sory said that Mr.
14 Srei greeted him civilly and his relatives also greeted him but
15 perhaps with less enthusiasm than on previous encounters."

16 [09.37.44]

17 Mr. Witness -- Mr. Civil Party, this is a report drawing on what
18 Mr. Say Sen has said to officers of this Court saying, indicating
19 that he has very recently since his testimony met with you and
20 little Duch. Is that correct, yes or no?

21 A. I told the Court already, I did not make any contact with Say
22 Sen. Since 1979, I have never made any contact with Say Sen. I
23 have never talked to Say Sen as well. I cannot accept the
24 statements of Say Sen.

25 Q. So, in other words, you also never asked him very specifically

1 that he should describe you as a victim rather than as a
2 perpetrator?

3 A. On this matter, I never asked him about that. I never chatted
4 with him as I said I have never met him and had a conversation
5 with him. However, our house is close to each other.

6 Q. So, just to be 100 percent clear, you never had an encounter
7 with him in the last one month, one month and a half, talking
8 about your position as a victim or as a witness, is that correct?

9 A. I have never talked to him so I cannot accept what he said.

10 Q. Thank you, Mr. Civil Party. I would now like now to talk about
11 alleged torture that has -- that has taken place during
12 interrogations at Krang Ta Chan. I believe yesterday in your
13 testimony you were referring to an incident of -- an incident
14 describing interrogators using a plastic bag and put that plastic
15 bag on the head of the person who was interrogated. My question
16 is, first, do you remember when you saw this incident?

17 [09.40.53]

18 A. As for putting the plastic bag on the head of the prisoners, I
19 did not recall when it happened. And during the time that I was
20 cooking I could see that incident on some occasions.

21 Q. Let's start with one occasion that you saw this happening. Do
22 you remember who the prisoner or the interrogee was; was it a
23 woman or a man?

24 A. The interrogator was a male.

25 Q. And the person who was being interrogated at the time, was it

1 a man or a woman?

2 A. The one who interrogated the prisoner was the chief of the
3 prison.

4 Q. I understand but who was the prisoner who was being
5 interrogated?

6 A. As for the prisoner I do not know, his or her name and I did
7 not know when the interrogation happened.

8 Q. You are saying that you didn't know or you don't know his or
9 her name, does that mean that you were not able to establish
10 whether the prisoner was a man or a woman?

11 A. I knew the prisoner was a man or woman. However, I did not
12 know the name, I did not recall the name.

13 Q. Maybe something is not going well in the translation, Mr.
14 Witness. Was the prisoner that you saw a man or a woman?

15 A. The prisoner was a man.

16 Q. Do you remember his -- no, you don't remember his name. Do you
17 remember any details, any -- can you give any description about
18 this prisoner?

19 A. As for physical appearance I could not know clearly because I
20 did not know how big the prisoner was and I could not see the
21 prisoner well.

22 Q. Were you able to hear the questions that were being asked by
23 the interrogators to the prisoner?

24 A. I did not hear the interrogation.

25 Q. Do you know how long the interrogation lasted, during which

1 you saw this incident?

2 A. I did not know how long it lasted and I -- from my
3 recollection it happened -- it started -- the interrogation
4 started perhaps at 10.00 in the morning.

5 [09.45.32]

6 Q. You are saying the interrogation started perhaps in the
7 morning, are you speculating or do you know that this
8 interrogation started at 10.00?

9 [09.45.49]

10 A. That is my guess about the time and I guessed the
11 interrogation began perhaps at 10.00 a.m. in the morning.

12 Q. Do you remember what exactly it was that the interrogators
13 were doing with the plastic bag?

14 A. Concerning the plastic bag, that is my guess only. The plastic
15 bag was taken from the raincoat to cover the head and the eyes of
16 the prisoner so that the prisoner could confess.

17 Q. When you're saying, that is my guess, what exactly do you
18 mean? Did you in fact witness it or didn't you?

19 A. I could see the incident from afar and that is only my guess.
20 I could not go closer to the interrogation place.

21 Q. So is it now, Mr. Civil Party, your testimony that you're not
22 sure whether the interrogators in fact used a plastic bag in
23 relation to the prisoner who was interrogated?

24 A. I could see that the plastic bag or sheet used to cover the
25 head. I did not go there closer to have a look so I did not know

1 well and saw clearly what happened.

2 Q. Did you see such an incident once or did you see it again
3 happening?

4 A. I saw only one incident when I was cooking rice.

5 Q. Just to be sure, you saw it only once and not on several
6 occasions because I think you used that word "several occasions"
7 earlier. You're sure you saw it only once?

8 A. I saw only one incident when I was cooking rice and I did not
9 know whether after that time there were other incidents
10 happening.

11 Q. Do you remember whether you ever spoke to your fellow guards
12 about this incident that you saw?

13 A. I never spoke with other guards about the matter. So we could
14 not disclose any information to others. We were on own business.
15 [09.50.10]

16 Q. Do you remember whether any of the other guards ever told you
17 that they had seen incidents of possible torture?

18 [09.50.26]

19 A. At that area, no one told another one. We never went to ask
20 each other about any incidents. Perhaps we could see different
21 incidents but we did not talk to each other about the incident
22 that we experienced.

23 Q. Thank you, Mr. Civil Party. I would like now to ask you some
24 questions not relating to incidents during interrogation but
25 questions relating to possible, or alleged, executions at the

1 Krang Ta Chan compound.

2 You gave very clear testimony that you never -- you were never
3 involved in the execution of prisoners. However, yesterday, I
4 think, you testified that you saw, and I use the literal word, a
5 glimpse of executions. Can you be a little bit more specific?

6 When was it that you saw this glimpse of an execution?

7 A. I had a glimpse of the execution at the Krang Ta Chan
8 security. I was not guarding only at one post. I was asked to go
9 and fetch food and I was also asked to do the transplanting and
10 do the farming.

11 Q. Can you be a little bit more specific when you say, "I saw a
12 glimpse"? Did you see something one second, a few seconds, did
13 you see something a minute, what exactly do you mean with "a
14 glimpse?"

15 A. The killing could not happen in just a brief moment and we
16 could not go there to sit and watch the execution. For instance,
17 while I was cooking there were executions, I believe, and I did
18 not care because I was asked to do the cooking and I had to focus
19 on cooking.

20 Q. In the English translation, Mr. Witness, of your words, you
21 say that you believed that you saw an execution. Is that what you
22 said, that you believed that you saw it?

23 A. Yes. I saw the executions.

24 Q. Can you give us some more specifics please, Mr. Civil Party.
25 Who was it that was being executed, was it a prisoner, was it

1 more than one prisoner, were these women or men, can you give us
2 some more details as to this "glimpse"?

3 A. As for the men and women they were killed. There were male and
4 female prisoners who were killed.

5 [09.54.39]

6 Q. I'm not asking you to speak in general terms, Mr. Civil Party,
7 I'm asking you to describe in more detail the glimpse of an
8 alleged execution. Were the prisoners -- was it one prisoner, was
9 it two prisoners, three prisoners being executed? Were they men,
10 women? Can you give us some details?

11 [09.55.04]

12 A. As for the execution, I saw a man was executed.

13 Q. So, it was one man that you saw being killed, is that what
14 you're saying?

15 A. Yes, that is correct.

16 Q. Can you describe this man for the Trial Chamber, Mr. Civil
17 Party? Was he old? Was he young? Was he small? Was he big? Do you
18 know his name?

19 A. He was a former soldier. He deserted the rank and he was
20 brought in. He was with me in the district army of Tram Kak and I
21 did not know what happened to him, that's why he was brought in.

22 Q. So you know -- you would be able in fact to tell us his name,
23 is that correct?

24 A. During the war time with Lol Nol, his name was Bong Cho
25 (phonetic). He was the son of Yeay Nham.

1 Q. Would you be able to tell us around which time this incident
2 took place?

3 A. The incident took place perhaps in the afternoon, maybe at
4 3.00 or at 2.00 p.m. I did not recall it well. At that time I was
5 asked to guard in the east and at that time Ta Cho (phonetic) --
6 Bong Cho (phonetic) disappeared and I did not know where he was
7 taken to be killed.

8 Q. Now you're losing me again, Mr. Civil Party. Are you now
9 saying that this person, that you say you saw was killed, was in
10 fact taken away and disappeared and you didn't see his killing?

11 A. That is my guess from my heart. Before the killing, I was to
12 guard outside, when I entered the compound Ta Cho disappeared and
13 I guessed he would be killed and I did not know where he was
14 taken to be killed.

15 [09.58.54]

16 Q. Remember, Mr. Civil Party, we were speaking earlier about the
17 glimpse of an execution that you saw or experienced. Did you, in
18 fact, see the physical act of killing this man? Did you in fact
19 see him -- this person being beaten or killed and that he
20 actually fell on the floor, on the ground or is it something that
21 you didn't see?

22 [09.59.43]

23 A. I did not see the real physical act. I did not know whether
24 the bamboo club was used or the club was used, but I only knew
25 that Bong Cho (phonetic) was gone.

1 Q. So, would it then be correct for me to summarise your
2 testimony and say that the glimpse of an execution, that you said
3 you saw, wasn't in fact you witnessing with your own eyes the
4 physical act of killing someone?

5 A. As for the beating or any physical acts, I did not witness.
6 But as I said, before I was asked to stand guard outside, Bong
7 Cho (phonetic) was still there and in the evening when I arranged
8 and organised the prisoners back into the place, Bong Cho
9 (phonetic) disappeared. Bong Cho (phonetic) was the son of Yeay
10 Nham (phonetic) and I knew that he disappeared, perhaps he was
11 killed.

12 Q. Mr. Civil Party, so was this glimpse or this thing that you're
13 speaking now about, the only time that you ever witnessed a
14 possible execution?

15 A. I did not have a glimpse of the execution, however I knew that
16 Ta Cho (phonetic) was executed that day. But I did not know how
17 he was killed, whether he was killed with a bamboo club or not,
18 because I did not witness the killing itself.

19 Q. Thank you, Mr. Civil Party. I would like now to ask you some
20 questions about other acts in relation to possible executions and
21 I would like to ask you if you were involved in this, yes or no.
22 Did you, Mr. Civil Party, ever speak or talk to prisoners before
23 their execution or disappearance or did you never speak to
24 prisoners in such a way?

25 A. I talked to the prisoners before they were killed? No, I never

1 talked to them before they were sent.

2 [10.03.12]

3 Q. Did you ever unshackle prisoners before they were sent away or
4 before they were possibly killed?

5 A. In each prison building, guards would be on a roster and we
6 had to report to the office of the total number of prisoners. For
7 example, for that particular night or for that particular day and
8 the office where Ta Moeun was in charge would go and verify the
9 number that we provided to him.

10 [10.04.10]

11 Q. So do I understand correctly that you were -- that you and the
12 other guards were in general occupied with shackling and
13 unshackling prisoners?

14 A. All guards involved in the shackling and unshackling of
15 prisoners. When prisoners were brought in then we had to shackle
16 them. That was to prevent them from attempting to flee and if a
17 prisoner fled, then our life would be on the line.

18 Q. Do you remember, Mr. Civil Party, ever seeing Say Sen shackled
19 or unshackled prisoners?

20 A. As for Say Sen, no I did not do that as he was engaged in all
21 kinds of works in the compound.

22 Q. But he didn't shackle or unshackle prisoners?

23 A. I did not know whether he involved in the shackling or
24 unshackling.

25 Q. But my question is did you ever see Say Sen shackling or

1 unshackling prisoners?

2 A. As I said, I did not know nor I saw him shackling or
3 unshackling prisoners.

4 Q. Did you ever count prisoners before their execution or did you
5 ever count dead bodies of prisoners after their execution?

6 A. I did not know the total number of prisoners who were there or
7 the number of prisoners who were killed on any particular day or
8 particular month. However, I knew that prisoners were killed at
9 that prison.

10 Q. Let me reformulate my question, Mr. Civil Party. Did you ever
11 count dead bodies lying on the ground of the Krang Ta Chan
12 compound, going one, two, three, four, etc.?

13 A. We only did a head count when we changed our guard shift at
14 night. When we changed a shift then we did a head count of the
15 prisoners.

16 [10.07.45]

17 Q. Mr. Witness -- Mr. Civil Party, did you ever see Say Sen
18 counting dead bodies on the ground of the Krang Ta Chan compound?

19 [10.07.57]

20 A. No, I did not see Say Sen go in and do a head count of the
21 prisoners. I only saw people from the office who did that.

22 Q. I understand, thank you for your answer. But my question was,
23 did you ever see Say Sen count dead bodies, bodies of prisoners
24 who just had been executed?

25 A. No, I did not see him do that.

1 Q. Did you, or your fellow guards for that matter, ever dig pits
2 which were to be used for the burial of dead bodies?

3 A. I did not know about other guards, as for soldiers they were
4 assigned to the specific targets and we were strictly following
5 the guidelines or instructions. But in regards to digging the
6 pits that was the work of the staff of the centre and not us, the
7 soldiers.

8 Q. Did you or your fellow guards ever strip off clothes of dead
9 bodies on the compound of Krang Ta Chan prison?

10 A. No, I did not strip off any clothes of prisoners.

11 Q. How about your fellow guards?

12 A. As for the other guards, I did not know.

13 Q. Did you ever witness Say Sen strip off clothes of dead bodies
14 right after their execution?

15 A. It was the same thing for Say Sen. I never saw him strip off
16 any clothes from the dead bodies.

17 Q. Did you ever carry, together with your fellow guards or by
18 yourself, dead bodies of executed prisoners?

19 A. My fellow guards and myself, did not carry or drag any
20 executed prisoners.

21 Q. Did you ever witness Say Sen carry or drag around the bodies
22 of executed prisoners?

23 A. I did not know whether Mr. Say Sen dragged or carried any dead
24 bodies of prisoners or whether he was ordered to do so.

25 [10.12.12]

1 MR. PRESIDENT:

2 Thank you, Defence Counsel. It is now convenient to have a short
3 break. We will take a break now and return at 10.30 to resume our
4 proceedings.

5 Court officer, please assist the civil party during the break and
6 invite him as well as the WESU staff back into the courtroom at
7 10.30.

8 [10.12.44]

9 Of course as per instructions yesterday, you shall comply with
10 the curtain drawing

11 The Court is now in recess.

12 (Court recesses from 1012H to 1031H)

13 MR. PRESIDENT:

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

15 Before I hand over the floor to the Defence Counsel I would like
16 to inform the public in relation to the hearings of civil party
17 -- that is, 2-TCCP-271. The hearing of civil party, 2-TCCP-271,
18 before the Chamber was held partially in closed session. The
19 hearing of this civil party was then adjourned pending the
20 Chambers determination of a request for protective measures made
21 by the civil party, namely the holding of the remainder of his
22 testimony in closed session and the preparation of an assessment
23 report by WESU. The WESU assessment report, document E29/466,
24 indicated that 2-TCCP-271 has since decided to withdraw his
25 initial request for protective measures. Further to the

1 withdrawal of his request to appear in closed session, 2-TCCP-271
2 will now appear in open session after the completion of the
3 hearing of 2-TCCP-304 to complete his evidence before this
4 Chamber. This decision does not affect the Chamber's previous
5 direction relevant to the procedure for the hearing of evidence
6 concerning victims of sexual related offences.

7 I would like to inform the Defence Counsel for Mr. Khieu Samphan
8 that in the first session the Chamber informs you that we will
9 discuss the request of the defence team for Mr. Khieu Samphan and
10 the Chamber has already decided and I would like to inform,
11 rather the Chamber would like to request the Defence Counsel for
12 Mr. Khieu Samphan to raise the matter or any request before we
13 proceed to hearing 2-TCC-271, perhaps in the afternoon. You may
14 now proceed.

15 [10.34.14]

16 MS. GUISSÉ:

17 Thank you, Mr. President. I hope I understand what you are
18 referring to, bearing in mind it is an issue you have just
19 rendered. Under these circumstances the application we are making
20 is that part of the testimony of 2-TCCP-271, will be in open
21 session and so we'll be able to refer to documents openly in
22 examining this witness. That is the application we would like to
23 make following your decision, that we would like to refer to
24 those documents in open session with this witness.
25 My colleague says that my application is not very clear in Khmer.

1 The civil party was heard partly in closed session on the 5th of
2 February because we were expecting to have protective measures in
3 place. Today you have rendered a decision taking into account the
4 decision of WESU that protective measures are not necessary.

5 Under these circumstances I would request that the closed session
6 of the hearing should be in open session, so that we can refer to
7 this testimony without any problems in future.

8 [10.35.47]

9 MR. PRESIDENT:

10 You may now proceed, Judge Lavergne.

11 JUDGE LAVERGNE:

12 Yes, in order for us to properly understand your application,
13 what you are asking for is that the transcripts of the hearing
14 should be made public, bearing in mind the fact that they are no
15 longer any need for protective measures and that the hearing will
16 be in public. Is that what you are saying?

17 MS. GUISSÉ:

18 That is indeed what I am applying for. I had hoped that it would
19 be clearer in French.

20 MR. PRESIDENT:

21 I would like to know whether other Parties would like to make any
22 comments or observations.

23 [10.36.49]

24 MS. GUIRAUD:

25 Thank you, Mr. President. I have just consulted with counsel for

1 Say Sen and he says that there's no obstacle to having the
2 application by Khieu Samphan's Defence Counsel granted by the
3 Chamber.

4 MR. PRESIDENT:

5 Since there is no objections the Chamber allows and grants the
6 request of the Defence Counsel for Mr. Khieu Samphan in relation
7 to the hearing of civil party, Sory Sen, in the afternoon. I now
8 hand over the floor to the Defence Counsel for the Accused to put
9 the line of questioning for this civil party. You may now
10 proceed.

11 BY MR. KOPPE:

12 Thank you, Mr. President. Mr. Civil Party, I have a few more
13 questions to you, not many, and that is relating to the same
14 alleged actions that were undertaking -- undertaken at the Krang
15 Ta Chan compound.

16 Q. My following question is have you ever seen fellow guards or
17 other cadres taking out and subsequently eating the livers or
18 gall bladders of executed prisoners at Krang Ta Chan?

19 [10.38.46]

20 MR. SAUT SAING:

21 A. No, I did not see this.

22 Q. Thank you, Mr. Civil Party. I would like now to read to you a
23 small excerpt from a statement to the Investigators of the
24 Investigating Judge of a fellow guard. Mr. President , that is
25 D40/20, it's the statement of Sim. And I would like to read to

1 you what he has said about alleged killings. However, before I
2 ask this question I would to ask do you know if Sim your fellow
3 guard is still alive today? And if yes, do you know where he
4 lives?

5 A. Sim is still alive, he is living far away from my place. He is
6 living in Trapeang Thum area.

7 Q. Is that in Samraong sub district in Tram Kak district?

8 [10.40.41]

9 A. Yes, it is in Samraong commune, Tram Kak district.

10 Q. Did you see him recently, did you meet with him by chance or
11 you saw him somewhere recently?

12 A. I never met him.

13 Q. Very well. Mr. Civil Party, this fellow guard of yours, in his
14 statement D40/20, English, ERN 00433573; French, 00524323; and
15 Khmer, 00165334; he is giving the following statement and I would
16 like you to comment on that. The questions are related to alleged
17 killings at Krang Ta Chan. And he says the following, the
18 question is as follows: "What sounds did you hear while they were
19 killing prisoners?" And then he answers: "I heard them playing a
20 loudspeaker. They always used the prisoner Sen to play the
21 loudspeaker and dig the pits to bury the bodies of those killed,
22 the bodies of the prisoners."

23 You've testified earlier about the loudspeakers not being there,
24 and not seeing Sen, Say Sen digging pits, etc. What is your
25 reaction to this particular testimony of your fellow guard Sim?

1 [10.42.56]

2 A. For prisoners who were killed at that place or concerning the
3 loudspeakers being played during the time of the killing, I was
4 not aware of these matters. I did not see the loudspeaker, I did
5 not know.

6 Q. So, according to your recollection, there was no loud sound
7 being played during alleged executions in order, I don't know for
8 what reason, maybe not to have other prisoners hear it; that did
9 not happen in your recollection. Is that correct?

10 A. That is correct.

11 Q. Mr. Civil Party, in your recollection was there, besides the
12 buildings where prisoners were held, also a dungeon, a hole in
13 the ground, where prisoners were being kept?

14 A. I did not see the dungeon or hole.

15 [10.44.45]

16 Q. I would like to read to you an excerpt from a post-1979
17 report, and that is E3/2062, English, ERN 00301366; Khmer,
18 00079439; I'm afraid I don't have the French ERN right now. And I
19 quote from this report as follows, just to be clear on this
20 issue. "From late 1975 until 1977 they developed new methods of
21 torturing. There was a square underground dungeon 2 meters on
22 each side and 5 meters deep. Additionally they weaved barbed
23 wires inside and roofed it with wooden boards. They dug the earth
24 to the depth of a man's height, then put white lime in that hole
25 and covered it with a wood board. Next they used a vice to

1 squeeze the temples of the prisoners and hit their chests." Have
2 you ever, no let me rephrase, you never saw such a dungeon where
3 this was done to prisoners. Is that correct?

4 A. I did not know about this. And when I was transferred to Krang
5 Ta Chan security office, I did not see the dungeon.

6 Q. Another question also relating to this report, was there at
7 the compound a so-called, I hope I pronounce this correctly,
8 strychnine tree? Sorry, Mr. President, it's the same document --
9 that is, ERN 00301366; and Khmer 00079440. I'll repeat the
10 question. Mr. Civil Party, was there a strychnine tree at the
11 compound?

12 [10.47.28]

13 A. As I explained already, I did not see it.

14 Q. Thank you. My last question to you, Mr. Civil Party, you have
15 been giving testimony this morning, you've been giving testimony
16 yesterday, and I suppose my last question could be simply
17 answered with a yes or a no. Have you been telling the Court the
18 truth and the whole truth?

19 A. I did not get your question.

20 Q. You have been testifying this morning and yesterday, you have
21 been asked many questions. Did you, when answering these
22 questions, always tell the truth and the whole truth, and nothing
23 but the truth to the Trial Chamber?

24 A. In relation to my statements and my responses, they are all
25 true.

1 Q. Thank you very much, Mr. Civil Party. Thank you Mr. President.

2 [10.49.03]

3 MR. PRESIDENT:

4 Thank you very much. I now give the floor to the defense team for
5 Mr. Khieu Samphan. You may now proceed.

6 QUESTIONING BY MR. KONG SAM ONN:

7 Thank you, Mr. President. I have a few questions for the civil
8 party. My questions are very short. First, I would like to know
9 your civil party application. I read, document D40/21, and
10 document D22/88, these are your documents and statements you
11 provided on two different occasions. For the former document, you
12 were asked an interview as a witness, and one year later you
13 became a civil party. I would like to know on what basis did you
14 change your decision to become a civil party?

15 MR. SAUT SAING:

16 A. I would like to tell you that I filed an application to be a
17 civil party a long time ago when I lived near -- when I was at
18 Chrouy Changva. And after that I was asked to find a new lawyer.
19 I did not know where to find a new lawyer for myself and I was
20 recommended to go to the Tribunal to find a new lawyer. And I was
21 suggested that I should remain to be a civil party. I lost my
22 father; my relatives or siblings lost their lives in the period
23 at Krang Ta Chan. That is why I would like to remain a civil
24 party.

25 [10.51.55]

1 Q. I would like to clarify my question. Concerning the dates in
2 the documents that I referred to, you were recognised as a
3 witness by the Court already in the past. You were interviewed on
4 28th November 2007, as a witness. And the letter, recognising you
5 as a civil party, dated the 15th of September 2008. So it was
6 almost a year that you have made your decision and you became a
7 civil party. Could you clarify this matter for the Court?

8 A. The reason that I filed an application to be a civil party is
9 because I had my father and relatives or siblings suffered from
10 the period of three years, eight months, 20 days.

11 Q. Thank you very much. You were interviewed as a witness in 2007
12 by the Office of the Co-Investigating Judges. Did anyone go to
13 contact you and ask you to become a civil party instead?

14 A. I did not recall the date you mentioned.

15 Q. My question is different. I would like to know whether there
16 was someone to convince and contact you to become a civil party
17 instead of a witness. I did not refer to the dates.

18 [10.54.10]

19 A. I did not know when I was interviewed at that time and there
20 were a few interviews and I did not possess any documents.

21 Q. Thank you very much. Could you tell the Court who those people
22 who went to convene and contact you to become a civil party
23 instead of a witness?

24 A. I would like to tell the Court that not only did the Tribunal
25 want to interview me; there were many other representatives from

1 various organisations who want to interview me. I knew that there
2 were many people going to interview me and I knew that people
3 from the Tribunal and also lawyers perhaps want to interview me
4 as well. But I did not recall the date as I mentioned.

5 Q. Thank you very much. Did you ever meet a researcher from your
6 recollection? And did you give many interviews regularly to the
7 researchers?

8 [10.55.54]

9 A. Concerning the interview, as I said, there were many
10 interviews from -- by the Radio Free Asia, and also there were
11 other interviewers from various countries. I did not recall them
12 all.

13 Q. Thank you very much. Coming back to the fact that you filed an
14 application to be a civil party instead of being a witness; did
15 you recall that there were one person or many people convince you
16 to be a civil party instead of a witness?

17 A. It appears not. I myself wanted to become a civil party, but I
18 did not know when I filed the application to be a civil party.

19 Q. Thank you very much. You already stated in the Court hearing
20 that you were one of the victims at Krang Ta Chan in the previous
21 stage and you also stated that you were one of the guards at
22 Krang Ta Chan security office. I would like to ask you one
23 question concerning your position as a guard. Did this position
24 can hold you responsible for the action happening at Krang Ta
25 Chan security office?

1 [10.58.18]

2 A. As a combatant and a former soldier, I worked in Krang Ta Chan
3 until the liberation of that period. I was not the head or the
4 leader there. I did my duty following the orders from others.

5 Q. I did not mention about the orders that you received from
6 others. My question is that; were you asked to be in charge of
7 any action in relation to the killings or in relation to any
8 action happening there?

9 A. I was in charge of my duties and I could see that there were
10 -- I could know that there were killings and the skeletal remains
11 are still today in the area.

12 Q. Maybe you misunderstand my question. I did not ask whether you
13 saw what happened at Krang Ta Chan. But my question to you is;
14 are you responsible for what happened at Krang Ta Chan including
15 the detention, the execution and the torture, etc.? So, my
16 question is simple. Do you consider yourself as part of the
17 group, or consider yourself as an individual who is responsible
18 for what happened at the Krang Ta Chan office? Do you understand
19 my question now, Mr. Civil Party?

20 [11.00.37]

21 A. No, I still quite don't get your question.

22 Q. Let me rephrase it. At Krang Ta Chan office and according to
23 the charges under this Court's jurisdiction, Krang Ta Chan was a
24 killing site or a security centre of the Democratic Kampuchea
25 regime and you were a combatant as well as a guard at the Krang

1 Ta Chan office. And at Krang Ta Chan there were allegations that
2 crimes were committed including the killing, the detention and
3 the torture. And my question to you is that whether you are part
4 of the group who is responsible for these crimes. Do you
5 understand it?

6 A. I am responsible for those actions.

7 Q. Can you describe to the Court what kinds of actions that you
8 are responsible for?

9 A. I was responsible for the following acts: that I was assigned
10 to guard the prisoners; that I was ordered to prepare lunch for
11 the prisoners, etc.

12 [11.02.38]

13 Q. Thank you. Let me go back to the beginning -- to the beginning
14 of the line of questioning that I put to you. You applied as a
15 civil party at this Court and you just stated that you are
16 responsible for the actions that you just described to this
17 Court. Do you see any conflict of interest in these two statuses?

18 MR. PRESIDENT:

19 Mr. Civil Party, please wait. And the Lead Co-Lawyer for civil
20 parties, you have the floor.

21 [11.03.26]

22 MS. GUIRAUD:

23 Thank you, Mr. President. I would like a procedural clarification
24 to be made at this stage. This is not an objection. My learned
25 friend has a right to ask any questions that he wishes to ask,

1 but I would like to request that the Chamber should inform the
2 Parties and the Chamber that if Mr. Saut Saing is a civil party
3 today it is because the Office of Co-Investigating Judges in 2010
4 made that decision and we accepted his application as a civil
5 party on 21st August 2010, ordering that neither the Defence for
6 Khieu Samphan nor that of Nuon Chea should appeal against that
7 decision. The status of Mr. Saut Saing today as a civil party was
8 decided by the Co-Investigating Judges at the time in 2010. All
9 the Parties had the latitude to appeal that decision at the time.
10 None of the Parties appealed the decision and we know today in
11 this courtroom that the issue of the admissibility of the status
12 of civil party of this particular person is not decided at this
13 stage of the trial but at the investigative stage. I would like
14 this clarification to be made today because it is not up to the
15 civil party to say anything regarding his status because that
16 status was decided by an order of the Co-Investigating Judges in
17 August 2010.

18 [11.05.08]

19 BY MR. KONG SAM ONN:

20 Mr. President, I'd like to move on to another line of
21 questioning. Mr. Civil Party, I'd like to ask you in relation to
22 a document -- that is, E319.1.23. And in particular that is in
23 relation to question and answer 82. And allow me to quote: "What
24 was the estimated number of prisoners?" I think there is a
25 misspelling in the Khmer alphabet and your response to that

1 question is the following: "Sometimes one, sometimes three and
2 sometimes five or 30 prisoners. At some point there was only one
3 prisoner at the prison." Question: "We were told that the figure
4 was higher. Can you confirm?" Answer 83: "Such a number might
5 possibly have been available under the supervision of Ta Chhen."
6 Question: "When did Ta Chhen leave the Krang Ta Chan centre?"
7 Answer 84: "He left in 1974". Question: "You also arrived in the
8 Krang Ta Chan centre in late 1977, right?" Answer 85: "At the end
9 of 1977 or early 1978, maybe in January or February during the
10 harvest season, I was transferred to the army tasked with
11 fighting the Vietnamese." End of quote.

12 [11.07.44]

13 And my question to you is in relation to the number of prisoners
14 at the Krang Ta Chan centre, as you stated in your answer 83, you
15 said that the number of prisoners might have been higher under
16 the supervision of Ta Chhen. And my question to you is the
17 following: how could you know that the number might have been
18 higher because you arrived at Krang Ta Chan in 1977 with other
19 fellow soldiers? But you also stated in this Court that you were
20 there in late 76 or early 77. So could you please clarify that to
21 the Court?

22 [11.08.43]

23 MR. SAUT SAING:

24 A. I could not have a full understanding of the number of
25 prisoners under the reign of Ta Chhen. However at that time I

1 heard that a lot of former Lon Nol soldiers were executed and I
2 heard that from the people living nearby that centre, though I
3 did not know when that centre was established.

4 Q. So you heard from people who were living nearby. Does it mean
5 you went to talk to them and they told you that?

6 A. In fact when Ta Dam was there, he told me about it.

7 Q. Let me go back to the question that I put to you earlier which
8 you said that under the era of Ta Chhen the number of prisoners
9 might have been higher. Can you state it clearly, did you know
10 about that from Ta Dam or from the people living nearby the
11 centre?

12 A. I heard it from Ta Dam because Ta Dam was detained there
13 during that time then he was allowed to leave and later on he
14 returned.

15 [11.10.31]

16 Q. So you did not hear from the neighbours or from others living
17 nearby, but you only heard from Ta Dam. Am I correct?

18 A. Yes, I got that information from Ta Dam.

19 Q. Can you try to recall what actually was it that Ta Dam told
20 you?

21 A. When I was talking to him while I tended the water buffaloes I
22 asked him about that and he said that there were more prisoners
23 who were former Lon Nol soldiers or civil servants previously.

24 Q. Thank you. Did you see any indication as to, for example the
25 burial sites, the pits, that were left at Krang Ta Chan as a

1 result of the killing of those people?

2 A. As to the graves or pits of people who died, yes, I saw -- I
3 saw them.

4 Q. Here I refer to the graves that remained under the reign of Ta
5 Chhen.

6 A. There were graves, rows of graves to the south part of the
7 compound which was the result of the reign of Ta Chhen.

8 [11.12.38]

9 Q. How many graves were there?

10 A. The graves for those who died at Krang Ta Chan I did not count
11 them, but I saw those graves, though I cannot say how many graves
12 there were, because there was a rice field where there were
13 graves there.

14 Q. Thank you, Mr. President. I don't have any further questions
15 for this civil party, and allow me to give the floor to my
16 colleague.

17 [11.13.24]

18 QUESTIONING BY MS. GUISSÉ:

19 My name is Anta Guisse, counsel for Khieu Samphan. I would like
20 to ask a few questions to you. May I request you to listen
21 attentively? I will ask some follow up questions for purposes of
22 clarification. I'm particularly interested in the identities of
23 the various officials you mentioned in your statement. In answers
24 10 and 15 you made mention of Ta Chim. You stated that he was
25 district head at Tram Kak and that he subsequently left for the

1 East Zone in late 1976. My question is therefore the following.

2 First of all, did you meet Ta Chim when you were appointed to

3 Tram Kak?

4 MR. SAUT SAING:

5 A. I never met Ta Chim.

6 [11.15.00]

7 Q. How did you know that he was district head and that he

8 subsequently left for the East Zone in late 1976?

9 A. I only heard of Ta Chim's name, that's all I heard about him.

10 But I never met him or saw him in person.

11 Q. I have understood that, Mr. Saut Saing. My question is whether

12 you never spoke to him and you never talked him, in that case how

13 did you know that he was district head and how did you know that

14 he subsequently left for the East Zone in 1976? How did you come

15 by such information?

16 A. Everybody knew who the district chief was because that was a

17 senior position. For example, if Ta Chim was district chief then

18 everybody knew because it was not a joke to mention someone as

19 the head of a district.

20 [11.16.20]

21 Q. All I'm asking of you is to tell us how you got that

22 information. Who told you that? Through what channels did you

23 obtain that information? That is all I'm asking of you.

24 A. I knew that he was district chief and as I told you because he

25 was a senior person, so every combatant or every villager knew

1 that Ta Chim was the district chief. And the same thing applies
2 to Ta Mok, who was the head of the zone. Everybody knew he as the
3 head of the zone.

4 Q. And when and how did you learn that he had been appointed to
5 work in the East Zone?

6 A. As -- on the events that he was transferred to working the
7 East Zone, in fact I was not aware of that.

8 Q. In that case, why did you tell the Co-Investigating Judges
9 that he was working there?

10 A. No, I never said that.

11 [11.17.53]

12 Q. I'll make do with that answer. In answer 28, in the same
13 document, answering the same question, you said that the district
14 had the powers to arrest people. So my question is how did you
15 know that the district had the powers to arrest people?

16 A. The district chief had the authority to arrest people,
17 although I did not know how he would exercise that authority. I
18 knew about that because Ta An used to communicate or send letters
19 to the district office. Although, I did not know where the
20 district office was located.

21 Q. A witness, TCW-809, in a statement E3/4626, stated that it was
22 not the district but the region that had direct authority over
23 Krang Ta Chan. Mr. Saut Saing, did you know whether it was the
24 district or the region that had direct authority over Krang Ta
25 Chan?

1 [11.19.35]

2 A. I did not know who was overall in charge of Krang Ta Chan. I
3 have no clear view on the chain of command, whether it was at the
4 district level or at the sector level.

5 Q. In answer number 27 of the same document, you made mention of
6 a certain Ta Nhev, saying that he was secretary of the region. My
7 question is, first of all, how did you know that he was secretary
8 of the region and in what year was he appointed to that position
9 to the best of your recollection?

10 A. I did not know when Ta Nhev was appointed as the sector
11 secretary, but I knew that he was sector secretary at the sector
12 that I worked under.

13 Q. In another document, this time D22/88, and the French ERN is,
14 1055820; English, ERN 00379421; and in Khmer, 00354364; you made
15 mention of two people and this is what you said:

16 "I observed that the presence of Ta Rous and Ta Khorn at the
17 centre, both of whom were from the district office, was always
18 systematically followed by the disappearance of detainees." End
19 of quote. Do you know who was Ta Rous and Ta Khorn and what were
20 their exact functions?

21 [11.22.05]

22 A. I saw Ta Khorn and Ta Rous but I did not know the level of
23 their authority. However, they only made contact with senior
24 people, namely Ta An and Ta Chhen.

25 Q. And did you see them on several occasions? If so, can you tell

1 us how many times you saw them, if you do remember?

2 A. As to the number of times, I cannot recall them. It is
3 difficult for me to say how many days they went there, or how
4 many times per month. It's very difficult for me to make such an
5 estimate.

6 Q. I do understand, but can you tell us whether you saw them
7 often or rarely?

8 A. I saw them coming to the centre, but I cannot recall the date.
9 They only came when they needed to come. And I did not know the
10 nature of their visits to the centre.

11 Q. The last person with regard to which I'd like to question you
12 is do you know a person called Hol Hun (phonetic)?

13 A. No, Hol Hun (phonetic) does not ring a bell to me.

14 [11.24.19]

15 Q. Yesterday in answer to a question put to you by Judge Lavergne
16 you stated that you had never been the head of the guards at
17 Krang Ta Chan and that you did not have any responsibility over
18 them. Did I properly understand your testimony?

19 A. Yes, that is correct.

20 Q. You also stated and in this regard, I will quote your
21 testimony D22/88, the same ERNs as before -- that is to say, in
22 French it is, 01055800; 00354664; and English, 0037940; and you
23 described the work you did among the prisoners as follows. "I was
24 in charge of taking care of detainees in their daily work -- that
25 is, tilling the soil, cultivating rice. I also had to count

1 detainees when they went out to work and when they returned to
2 their cells. I also had to work with them." End of quote.

3 My question is therefore as follows. You also stated that your
4 duties had to do with guarding the -- outside Krang Ta Chan
5 centre. My question is whether you mounted guard outside the camp
6 and you also monitored prisoners outside, or did you carry out
7 these duties at different times? Or did you do them
8 simultaneously or at different times?

9 [11.26.44]

10 A. As for the guard duty, in fact I stood guard for the prisoners
11 who worked in the field and when they had to be returned then I
12 had to escort them back into the detention building, and I had to
13 make sure that the head count was correct. For example if 10
14 prisoners were let out to work in the field, when they returned
15 to the detention building, the number remained 10.

16 Q. I have properly understood your testimony. I have a follow up
17 question. Generally how many prisoners went out with you? How
18 many prisoners could you take outside the centre on each
19 occasion?

20 [11.27.46]

21 A. Prisoners were let out to engage in the work there, for
22 example to carry earth, and the number of them varied. Sometimes
23 there were five; sometimes there were seven, however the maximum
24 was 10.

25 Q. Thank you. But you didn't answer one question. The question

1 whether the task of taking prisoners outside of the centre was
2 carried out at the same time as you mounted guard outside the
3 centre, or did you carry out both functions at different times?

4 A. As for the guard duty outside, in fact it happened at the same
5 time because I did both the guard duty at the post and also to
6 guard the prisoners while they were let out to work at the field.

7 Q. According to your job description, you worked essentially
8 outside. Did you sometimes carry out tasks inside the centre, and
9 if so what tasks did you carry out inside the Krang Ta Chan
10 premises?

11 A. Inside my duty involved cooking rice and feeding the pigs.

12 Q. As part of your duties did you have the opportunity to enter
13 Ta An's and Ta Penh's offices?

14 A. I had access to where I slept in the compound.

15 Q. Can you be more specific in answering my question? As part of
16 your duties did you have access or did you have the opportunity
17 to enter the offices of Ta An and Ta Penh?

18 A. As for the office of Ta Penh, Ta Chhen and Ta An, of course I
19 worked as part of the office there, because I brought food to the
20 prisoners and the prison building was part of the compound.

21 Q. Mr. President, I see that the time is 11.30. I would like to
22 start another line of questioning. I don't know whether this is
23 the right time for us to take the lunch break.

24 MR. PRESIDENT:

25 Defence Counsel, can you inform the Chamber how much time you

1 actually need because the time allocation seems to have run out
2 already?

3 MS. GUISSÉ:

4 According to my calculations, Mr. President, unless I am wrong,
5 we did not start immediately after the Co-Prosecutors, so I
6 should still have about 20 min left by my reckoning, and I think
7 I can wrap up my examination in about 20 minutes.

8 [11.32.28]

9 MR. PRESIDENT:

10 It is now convenient to have a lunch break. We will take a break
11 now and resume at 1.30 this afternoon.

12 And court officer please assist the civil party during the lunch
13 break and invite him as well as the WESU staff back to the
14 courtroom at 1.30 this afternoon.

15 And security personnel you are instructed to take Khieu Samphan
16 to the waiting room downstairs and have him back into the
17 courtroom this afternoon before 1.30.

18 The Court is now in recess.

19 (Court recesses from 1133H 1330H)

20 MR. PRESIDENT:

21 Please be seated. The Court is now back in session, and the
22 Chamber will give the floor to Khieu Samphan's defence to
23 continue putting questions to this civil party. You have the
24 floor.

25 BY MS. GUISSÉ:

1 Thank you, Mr. President.

2 Q. Mr. Saut Saing, I'll resume my examination, and may I request
3 you to once more listen very attentively to the questions in
4 order to answer them as briefly as possible.

5 Yesterday, in answer to a question -- or a number of questions
6 put to you by Judge Lavergne regarding the Khpob Trabek dam site,
7 and you said you did work at that site. I understood that that
8 was before the 17th of April, 1975. Can you tell the Chamber
9 whether it was before the Lon Nol coup d'état of 1970 or
10 thereafter?

11 MR. SAUT SAING:

12 A. As for Khpob Trabek, I worked there in 1971 when I was in
13 youth unit.

14 Q. I noted that clarification. During the hearing of the 24th of
15 March, at shortly after 10.09, you did indicate that your father
16 died in 1973. Please tell me whether I properly understood your
17 testimony.

18 A. Yes, that is correct.

19 [13.33.20]

20 Q. As part of the experience you had within the Khmer Rouge, did
21 your superiors mention the 12 moral principles, or the 12
22 revolutionary commandments to you?

23 A. Yes.

24 Q. Is it correct to say that, among the 12 moral principles or
25 revolutionary commandments, you did not have to commit acts of

1 moral misconduct towards women in particular?

2 A. Yes, that is correct.

3 Q. You mentioned a woman who was a cadre, who was among the
4 prison staff at Krang Ta Chan, and who returned to Krang Ta Chan
5 as a detainee. And you stated that that was following an act of
6 moral misconduct. Do you know whether that was in application of
7 the 12 moral principles or the 12 revolutionary commands or
8 commandments that she was arrested and detained at the security
9 centre?

10 A. Yes, that person had a moral offence. That is why this
11 individual was brought into the security office again.

12 [13.35.19]

13 Q. A while ago, my learned colleague -- I believe that was
14 yesterday -- reminded you of a number of statements by Say Sen,
15 and I understood that you did say that you completely rejected
16 those statements. I will read out to you word for word some of
17 what you said which was not quoted by my learned colleague, and
18 then I will put some questions to you thereon.

19 The first quotation of a statement by Say Sen is in document
20 E319.1.24, in answer to Question 78. And this was the question
21 that was put to Say Sen: "Did the Little Duch commit crimes?" And
22 his answer was as follows: "Yes, it was Duch who committed the
23 most crimes. He raped a large number of girls from the itinerant
24 unit. He raped them, he killed them and put M-79 bullets in her
25 vagina. Saing was the superior of Duch, and he had to have

1 soldiers under him, including Duch himself." End of quote.

2 My pronunciation is not good, but it would appear that reference
3 is made in these documents to you. My first question to you is as
4 follows: Is it true or false to say that you were the immediate
5 superior of Duch, with 12 soldiers under your orders?

6 A. I did not have any soldiers below me, and this statement is
7 not true.

8 [13.37.48]

9 Q. May I request you to bear in mind what was said regarding the
10 acts committed by Duch against a large number of girls from the
11 mobile unit. I will quote another passage from the statement by
12 Say Sen, in fact his testimony in the hearing of the 5th of
13 February 2015, a little bit after 11.02. I beg your pardon, it's
14 the hearing of the 5th of February 2015, but the time is shortly
15 after 10.38, and it's E1/217.1, shortly after midday. It has to
16 do with the rapes and rifle 77 bullets. This is the question that
17 was put to Say Sen: "Let me ask you to clarify what you said
18 yesterday. You said yesterday that a soldier or a guard had raped
19 two women from the mobile unit, and put 79 bullets (sic) in her
20 vagina. Can you tell me the name of the soldier who did this?"
21 And Say Sen's answer was as follows: "Yes, it was the little Duch
22 and Saing. Two of them." End of quote.
23 Again, is it true or false to say that you, together with the
24 little Duch, committed acts of sexual assault against two women
25 and put bullets in their vaginas?

1 A. This statement is not true.

2 [13.40.04]

3 Q. Another question. A while ago when my learned colleague,
4 Koppe, pointed out these charges that were made against you, you
5 said that it wasn't true and that you denied them, and that, if
6 indeed that had been the case, you would have suffered acts of
7 reprisals from members of the population. My question to you
8 therefore is as follows: Apart from those charges, which we told
9 you were made against you by Say Sen, within your community,
10 within your district, within the commune and within the region,
11 did you hear any other persons level any such charges against
12 you? That is the first question.

13 A. No one laid any charges against me.

14 Q. And did you hear any such charges against the little Duch?

15 A. I never heard of it.

16 [13.41.36]

17 Q. I would now like to broach your statements as a civil party,
18 D22/98. And let me point out that I'm particularly interested in
19 part D, which is in French, and the ERN is 01055815. The ERN in
20 Khmer is 00354360, and the ERN in English is 00379417. On this
21 information sheet -- that is, the Victim Information Sheet, the
22 description of the crimes is requested. And you point out -- or,
23 in any case it is stated in the form that you signed, you mention
24 "my imprisonment at Krang Ta Chan centre".
25 And in the C part, the ERN is as follows: in French it is

1 01055816; in Khmer, 00354361; and lastly, in English, 00379418.
2 In this C part, you specify the harm that you suffered, and it is
3 mentioned that you had headaches and injuries on the right and
4 the left side. I will quote a passage from this statement and
5 then ask my question. It is the last page of the document. The
6 ERN in French is 01055822; in Khmer, 00354366; and in English,
7 00379422. And this is the explanation you furnish regarding the
8 cause of your injuries, and this is what you stated: "My left
9 thigh and left knee are still causing pain because I was wounded
10 during the war, as I fought in the army on the side of the Khmer
11 Rouge." End of quote.[Free translation]
12 My question is: When were you injured by shells? Do you remember
13 the year and the assignment you held at the time?
14 A. I was wounded in 1973 when I was engaged in the fighting with
15 the Lon Nol soldiers in Takeo province.
16 [13.45.25]
17 Q. So we would agree that the injury you are referring to, the
18 harm that you refer to in your Victim Information Sheet has
19 nothing to do with the period when you were at Krang Ta Chan?
20 A. Yes, that is true.
21 Q. And a while ago, when you referred to one of the reasons why
22 you applied to be a civil party, you mentioned the death of your
23 father and other members of your family. My first question to you
24 is as follows: Do you have any family members who were detained
25 at Krang Ta Chan?

1 A. My cousin -- that is, the son or the daughter of my uncle, was
2 detained at Krang Ta Chan Security Office.

3 Q. And was that during your assignment at Krang Ta Chan?

4 A. Yes, that is correct.

5 [13.47.00]

6 Q. And why did you not mention it on your information sheet?

7 A. I mention only about my father, when I was in the 204.

8 Q. You haven't answered my question. Why did you not make mention
9 of the other members of your family in the form, since you were
10 talking about the period when you were working at Krang Ta Chan?

11 A. The reason that I did not name my cousin, it is because I
12 wanted to mention only my father's name in the application.

13 Q. Very well. And you did say a while ago that your father died
14 in 1976, so we agree that he did not die during the time you
15 spent at Krang Ta Chan; is that correct?

16 A. In 1973 I was not at Krang Ta Chan yet.

17 [13.48.40]

18 MS. GUISSÉ:

19 Mr. President, I have no further questions for the witness.

20 MR. PRESIDENT:

21 Thank you. You may now proceed, Mr. Koppe.

22 MR. KOPPE:

23 Thank you, Mr. President. Good afternoon. I have a very small
24 correction, I think, to make in relation to what was just being
25 translated. I heard the English translator say "79 bullets". But

1 in English, we're actually speaking about M-79 grenades. Now,
2 it's a technical detail maybe, but I think that the record should
3 reflect that it is not 79 bullets, but M-79 grenades.

4 MR. PRESIDENT:

5 You may now proceed, Judge Lavergne.

6 [13.49.48]

7 QUESTIONING BY JUDGE LAVERGNE:

8 I would have some very brief questions, as a follow-up to the
9 questions asked by Counsel Guissé.

10 Q. Mr. Civil Party, can you give us the names of your family
11 members who were detained at Krang Ta Chan, and specify what were
12 the family ties you had with those persons, and if they died at
13 Krang Ta Chan?

14 MR. SAUT SAING:

15 A. The son or the daughter of Pou Yout (phonetic) and Ming Yech
16 (phonetic). And his name -- he was the former soldier in Lon Nol
17 period, and he was arrested and killed in Krang Ta Chan Security
18 Office.

19 Q. I heard a cousin and perhaps a female cousin. Perhaps you can
20 clarify that.

21 A. The child of Pou San (phonetic) was there, and the child of
22 Ming Yech (phonetic) was also there.

23 [13.51.30]

24 Q. I understood that Ming Yech's (phonetic) child was Pou Nout
25 (phonetic), or am I wrong? Or is it Kou Yout's (phonetic) child

1 who is called Ming Yech (phonetic)?

2 A. The child of Ming Yech (phonetic) name Bong Chea. As for Pou
3 Yout (phonetic), he was the husband of Ming Yech (phonetic).

4 Q. And how was that person called?

5 A. The one who died was Bong Chea.

6 Q. And he died while you were at Krang Ta Chan? Did he die of ill
7 health or he was executed? What happened?

8 A. He was executed.

9 Q. And do you know the details of that execution? At what time
10 did that happen? Was that person interrogated and tortured before
11 being executed? What happened exactly?

12 A. I was not aware of the execution when I was in Krang Ta Chan
13 Security Office. Later on, I heard that he was the former soldier
14 in Lon Nol period, and he was brought in that place and was
15 killed.

16 [13.53.40]

17 Q. Mr. Civil Party, I asked you specifically a while ago whether
18 you were present when your cousin or members of your family were
19 at Krang Ta Chan, and you said yes. Today, what I'm asking of you
20 is to clarify whether you were there or not. Were they detained
21 before you got to Krang Ta Chan, or they were detained while you
22 were at Krang Ta Chan?

23 A. I would like to tell the Court that I was working in Krang Ta
24 Chan Security Office already. Later on, he was arrested and
25 detained in Krang Ta Chan Security Office. I had been there

1 already.

2 Q. Very well. Did Ta An or the leadership of the security centre
3 know that you were related to those detainees?

4 A. He did not know, because no one told him about this.

5 JUDGE LAVERGNE:

6 Very well, I thank you. I have no further questions to put to
7 you.

8 [13.55.04]

9 MR. PRESIDENT:

10 You may now proceed.

11 BY MS. GUISSÉ:

12 Just a follow-up question. I haven't understood everything.

13 Q. Mr. Saut Saing, you said that you understood subsequently that
14 your cousin had been detained and executed at Krang Ta Chan. When
15 you say "subsequently", was that after you left Krang Ta Chan, or
16 while you were still at Krang Ta Chan? Is that when you heard
17 about it, about the fact that he had been detained there and
18 subsequently executed?

19 MR. KIM MENGKHY:

20 Mr. President.

21 MR. PRESIDENT:

22 Please wait, Mr. Civil Party. You may now proceed, civil party
23 lawyer.

24 [13.56.40]

25 MR. KIM MENGKHY:

1 Thank you, Mr. President. I would like to interrupt. I heard -- I
2 am listening to the translation, the Khmer translation, and the
3 civil party said that he had arrived in Krang Ta Chan Security
4 Office, and after that the cousin -- his cousin arrived in Krang
5 Ta Chan Security Office. And I would like to tell the Court that
6 what I heard from the civil party is that he had been there
7 already. After that his cousin was in.

8 BY MS. GUISSÉ:

9 I thank my learned friend of the civil party for trying to
10 clarify the matter. But since Mr. Saut Saing is in the dock, it
11 is simpler for him to be the person to furnish this
12 clarification.

13 Q. I repeat my question because I haven't understood this point.
14 When did Mr. Saut Saing hear of the execution of your cousin? Was
15 it when you were still at Krang Ta Chan or after you left Krang
16 Ta Chan that you heard of his execution?

17 MR. SAUT SAING:

18 A. I was working in Krang Ta Chan security office. Later on, he
19 was arrested and brought into the security office.

20 [13.57.48]

21 Q. Up to that point I followed what you said, Mr. Saut Saing. My
22 question is: When did you learn of his execution?

23 A. I knew about the execution after I left the security office. I
24 learned that he disappeared and was killed. I did not know when
25 he disappeared and when he was executed.

1 Q. And who told you of his disappearance?

2 A. No one told me. He -- my cousin was not released to work
3 outside in the area, and I did not see him until I was
4 transferred to be a military or a soldier.

5 Q. So if I have properly understood your testimony, it is because
6 he did not tell you that he had been executed. You just inferred
7 that he had been executed because you didn't witness that
8 execution. Is that correct?

9 A. I noticed that when one disappeared from our eyes, this
10 individual could not go anywhere but died.

11 [13.59.55]

12 Q. Let me rephrase my question therefore. It was therefore an
13 inference that you made. No one gave you that information.

14 Agreed?

15 A. Yes, that is true.

16 MS. GUISSÉ:

17 I have no further questions for the witness -- for the civil
18 party, Mr. President.

19 MR. PRESIDENT:

20 Mr. Saut Saing, as a civil party, you will be accorded an
21 opportunity to make a statement of impact regarding the crimes
22 alleged against the two Accused, namely Nuon Chea and Khieu
23 Samphan, which were inflicted upon you, and which caused you to
24 become a civil party seeking moral and collective reparation. And
25 that includes the damage or the harm to you physically,

1 materially or emotionally. And if you wish to make that
2 statement, please advise the Chamber and you will be given an
3 opportunity.

4 [14.01.52]

5 MR. SAUT SAING:

6 Mr. President, I'd like to make a statement. I really feel
7 remorse for the loss of the life of my father and my relatives
8 who were killed during the Khmer Rouge regime, and of course I
9 cannot accept their death. And I wish to appeal to all the
10 State's institutions that they shall engage in the provision of
11 reparation for different buildings throughout the country in
12 order to make the civil parties and the victims satisfied with
13 what they contribute. As a person, and as a civil party, I cannot
14 forget what happened. The life was in a very bad situation when I
15 was a soldier. I engaged in the physical fighting while there was
16 an aerial bombardment, and we did not have sufficient food to
17 eat. And what we did was in the hope that the country would be
18 led in a better way, for a better future. However, on the
19 contrary, it was in the absolute (sic) direction. And I urge the
20 Court to find the truth and the evidence as to who was
21 responsible for the killing of my compatriots throughout the
22 country at the time. And I wish everyone involved in the building
23 a better future for Cambodia.

24 [14.03.50]

25 MR. PRESIDENT:

1 Thank you, Mr. Saut Saing, for your valuable time to testify as a
2 civil party during the last two days before this Chamber. Your
3 testimony will certainly assist in ascertaining the truth. Your
4 testimony has now concluded and you may be excused. So, you can
5 return to wherever you wish to, and we wish you a safe journey.
6 Court officer, in collaboration with WESU, please make necessary
7 arrangement for transporting this civil party back to his
8 residence or wherever he wishes to go to, and the Chamber is
9 grateful for Mr. Nhem Samnang, a WESU staff, for your assistance
10 provided to the Chamber and to this civil party during the last
11 two days. And you may be excused as well.

12 And Court officer, you are reminded to follow the proceedings and
13 instructions regarding the drawing of the curtain when this civil
14 party leaves. And after the civil party leaves, the partition can
15 be removed.

16 And the AV Unit is instructed to link the audio and video
17 proceedings to the public gallery outside, as in the normal
18 practice. Thank you.

19 (Short pause)

20 [14.08.12]

21 MR. PRESIDENT:

22 The curtain can be drawn now. And Court officer, please invite
23 the civil party, Sory Sen, into the courtroom.

24 (Civil Party Sory Sen enters the courtroom)

25 MR. PRESIDENT:

1 The Chamber now proceeds with the hearing of the testimony of a
2 civil party, Sory Sen. And as information, for civil parties, the
3 concerned parties and the public, that this civil party testified
4 from the 1st to the 6th of February already. However, that
5 section of the testimony related to other staff at Krang Ta Chan.
6 And then there was a request for a protective measure, and for
7 that reason his testimony was adjourned and the Chamber needed to
8 hear a report by WESU as well. However, later on the civil party
9 changed his mind to remove his -- to withdraw his request for a
10 protective measure, and as a result, the hearing of the testimony
11 of this civil party, Sory Sen, is conducted in public. And the
12 combined time for the Civil Party Lead Co-Lawyers and the
13 Prosecution is one hour -- that is, to put questions to this
14 civil party. And you may proceed. And first the Lead Co-Lawyer
15 for civil parties, you take the floor.

16 [14.13.08]

17 MS. GUIRAUD:

18 Thank you, Mr. President. It is my colleague, Sovannary, who will
19 put questions to the civil party, Say Sen.

20 MR. PRESIDENT:

21 Yes, Counsel Moch Sovannary, you can proceed.

22 QUESTIONING BY MS. MOCH SOVANNARY:

23 Thank you, Mr. President. Good afternoon, everyone, and good
24 afternoon, Mr. Say Sen. I have only a small question to
25 supplement to what you testified last time.

1 Q. As the President stated, you decided to withdraw your request
2 for a protective measure and it infers that you don't have any
3 fear anymore. So, my first question to you is the following: Can
4 you tell the Chamber the reason that you no longer fear, and that
5 you now are willing to provide testimony in relation to the Khmer
6 Rouge cadres working at Krang Ta Chan, as well as on the other
7 issues and facts at Krang Ta Chan.

8 MR. SORY SEN:

9 A. I don't fear anything anymore because I don't worry about
10 anything anymore, because my testimony has been published
11 nationwide.

12 [14.14.42]

13 Q. Thank you and my next line of questioning is relation to your
14 contact -- relationship with the Khmer Rouge cadres working at
15 Krang Ta Chan. While you were detained at Krang Ta Chan, what
16 kind of relationship did you have with the Khmer Rouge cadres,
17 namely Little Duch, Saut Saing and Ta Chhen, whom you said was
18 the first chief of that prison?

19 A. As for Ta Chhen, who was the first chief of that prison, I did
20 not know what he did in his capacity as a chief there. In the
21 end, he left me with some words as he considered me as his son.
22 That's what I can say about him.

23 Q. And what about an individual named Saut Saing, what was your
24 relationship with him? And what is your current relationship with
25 him?

1 A. As for Saut Saing, during that period -- and not only for Saut
2 Saing, even for those named individuals -- they were absolute.
3 They did what they wanted and their behaviours at the current
4 regimes are so much different from what they behaved during that
5 regime.

6 [14.17.05]

7 Q. Thank you. What is your feeling towards the former Khmer Rouge
8 cadres who are still living today? Do you feel hatred toward
9 them?

10 A. Despite what they did toward me, despite some of them tortured
11 me or mistreated me, I did not have any bad feeling toward them
12 because, at that time, they did what they were ordered to do and
13 that's what I feel.

14 Q. Thank you. And let me go back to the time before you were
15 invited to testify before this Court. When you made your decision
16 to testify, did you make that decision at your own will or were
17 there other factors that compelled you to testify before this
18 Chamber?

19 A. My decision to testify before this Court was not made under
20 any force or coercion. I made my own decision in order to shed
21 light on what happened under the criminal regime so that the
22 young generations know; and I believe some of the members of the
23 Court staff here do not go through the terrible period of the
24 regime. So that we all can search for the truth -- that is my
25 purpose.

1 [14.19.11]

2 Q. Thank you. And this is my last question to you. When you
3 decide to testify in public before this Court, besides the fact
4 that you may risk of feeling insecure as you raised last time,
5 what is actually the benefit that you gained from your public
6 testimony? Is there any gain for you personally or for any
7 individual?

8 A. It is my understanding and my decision to testify by myself
9 and I don't gain anything. The benefit is for those who were
10 killed or those who died at each province throughout the country.
11 I act on behalf of those lost souls and I do not gain anything,
12 and in fact, I sacrificed my time to be here.

13 MS. MOCH SOVANNARY:

14 Thank you, Mr. Civil Party; and thank you, Mr. President. The
15 Lead Co-Lawyers for civil parties do not have any further
16 questions for this civil party.

17 MR. PRESIDENT:

18 Thank you. And the Chamber is now given to the Prosecution. You
19 have the floor.

20 [14.21.00]

21 MR. DE WILDE D'ESTMAEL:

22 Thank you, and good afternoon, Mr. President. Good afternoon to
23 all the Parties and of course to the Judges. Same to the civil
24 party.

25 Mr. Civil Party, thanks for coming back to again answer some of

1 our questions. I have a few questions for you. As you of course
2 know, after your testimony, many staff members from Krang Ta Chan
3 testified before this Chamber, including Phan Chhen, Srei Than
4 alias Duch, called Small Duch at the time, Vann Soan or Soeun --
5 that is a messenger at Krang Ta Chan, and yesterday and today we
6 heard the testimony of a civil party called Saut Saing. With the
7 Chamber's leave, I would first of all like to show you a document
8 -- D22/888, which is Saut Saing's identity card. Of course, we
9 will not place that document on the screen, Mr. President.

10 MR. PRESIDENT:

11 Yes, you may proceed.

12 [14.22.18]

13 QUESTIONING BY MR. DE WILDE D'ESTMAEL

14 Q. May I request you to carefully look at the photograph on that
15 identity card? Is the person on that photograph indeed the
16 security guard at Krang Ta Chan you referred to before this
17 Chamber whose name was called -- whose name was Saing at the
18 time?

19 MR. SORY SEN:

20 A. Yes, that is correct. That is Saut Saing. He was a soldier.

21 Q. Very well. I have a long question to put to you. I'll first of
22 all lay a foundation and refer to a number of statements by that
23 guard -- that is, Small Duch. Soan or Soeun, Saing -- the
24 messenger Saing and Sim was also interviewed by the
25 Co-Investigating Judges. They all confirmed that, with the

1 exception of a few survivors, like yourself, including the family
2 of Yeay Nhor, and with the exception of a few transfers of
3 prisoners from Krang Ta Chan, all prisoners were executed,
4 including men, women and children. They said that some of those
5 prisoners were interrogated and tortured during the
6 interrogations. For instance, Van Soeun, the messenger, confirmed
7 on the 4th of March 2015, before this Chamber -- that is, number
8 E1/71.1 at about 10.47 to 10.49, he confirmed -- Answer 21 of the
9 record of his interview, E319.1.33. In that answer, he states
10 that sometimes they executed children, sometimes they were
11 liberated with their mothers. He admitted before this Chamber
12 that a number of children who were released with their mothers
13 was less than 10 in number. Confronted to the statement by Srei
14 Than alias Small Duch, he said at 10.50 that he agreed with Srei
15 Than alias Duch, to the fact that 99 percent of the prisoners at
16 Krang Ta Chan were eliminated.

17 [14.24.51]

18 Another example is Saut Saing, who said yesterday at about 14.19
19 -- and I quote: "As I said, when a mother or father were killed,
20 the children were also eliminated or the children disappeared, so
21 I assumed that they were also executed." End of quote.

22 Those four guards: Small Duch, Soan or Soeun, Saing and Sim, all
23 said that the interrogations and executions were carried out
24 solely by staff members who were members of the prison committee
25 or members of the Party or the leadership unit. For instance, Ta

1 An, Penh, Chhen, Moeun, Sieng, or the Senior Duch. Before putting
2 my question to you, I will read out to you a few excerpts of
3 their testimonies, beginning with Srei Than alias Duch, on the
4 23rd February 2015, and the document is E1/267.1 at 09.26. This
5 is what he stated -- and I quote:[Free translation]
6 [14.26.05]
7 "My group of six persons who was not part of the prison staff
8 could only mount guard outside of the centre. It was the staff of
9 the prison and not ourselves who were in charge of taking the
10 prisoners to the interrogation room and who subsequently
11 accompanied them to the place of detention." End of quotation --
12 end of quote.
13 Van Soeun, on the 3rd of March 2015 -- and it's a transcript
14 number E1/270.1 at 15.23, this is what he stated. The question
15 was put to him -- the question was as follows:
16 "You mentioned three names, An, Chhen and Penh. Were the other
17 members of the Party also participants during the interrogations
18 or they did not play any role?"
19 Van Soeun's answer was as follows: "In fact, they took over from
20 one another in carrying out this task."
21 [14.27.33]
22 Question: "So the six members of the Party took turns to
23 interrogate the prisoners; is that correct?" Answer: "Yes, that
24 is correct." And Van Soeun went on to deny that the six guards --
25 the six security guards, of which you were a member, monitored

1 the place of interrogation or took prisoners to the interrogation
2 venue.

3 The last two quotations are as follows: Van Soeun, on the 3rd of
4 March 2015 at 15.34 -- or, rather, at 11.07 on the 4th of March
5 2015, this what Van Soeun stated at 11.07: "As far as we were
6 concerned, mounting guard outside was our task. Those who worked
7 inside were in charge of executing the prisoners -- that was
8 their task. "

9 And at 11.08, he stated as follows:

10 Question: "During the execution, do you know who was in charge of
11 the executions or who were the executioners?"

12 Answer: "It was the six members of the Party." End of quote.

13 Let me press on before an objection is made, by your leave, Mr.
14 President.

15 [14.28.54]

16 MR. PRESIDENT:

17 Counsel Koppe, you have the floor.

18 MR. KOPPE:

19 Thank you, Mr. President. I'm not quite sure what the Prosecution
20 is doing other than giving a sort of short crash course to this
21 civil party as to what the earlier testimony was. I'm sure I
22 cannot keep up with, already, the first part of what has been
23 read out. I mean, of course, I have no problem if this civil
24 party is being confronted with a specific excerpt from somebody's
25 testimony, but feeding him all this testimony in 15 minutes

1 during questions seems to bit odd to me, notwithstanding the fact
2 that counsel is making closing submissions, it seems, because I
3 have a totally different recollection as to what the guards in
4 fact saw with their own eyes. So I'm happy to continue listening
5 to this but I don't see any purpose of it so I object to this
6 line of questioning.

7 [14.30.02]

8 MR. DE WILDE D'ESTMAEL:

9 Mr. President, if I may respond. I have not completed my
10 quotations. It is important for me to read them out in order to
11 elicit the reaction of the civil party because all these people
12 were, of course, confronted by the Defence, confronted with the
13 statements of the civil party and on each occasion the Defence
14 suggested that the civil party had lied so I consider it useful
15 to remind the civil party of what was said before this Chamber in
16 order to put my questions to the civil party.

17 May I proceed, Mr. President?

18 (Judges deliberate)

19 [14.32.49]

20 MR. PRESIDENT:

21 The Chamber gives the floor to Judge Fenz to decide on the
22 objection of the Party. You may now proceed, Judge Fenz.

23 JUDGE FENZ:

24 This is obviously not primarily an issue of law but of
25 methodology. Frankly, I agree, I couldn't keep up with the very,

1 very long time you have quoted now and I wonder what question
2 could actually be asked that covers everything. Now I understand
3 -- so we would suggest you choose two or three quotes and then
4 try and get a reaction to it. I guess the reason you're doing it
5 the way you're doing it is to get all the quotes onto the record
6 -- well, there are time limits which might be pertinent to choose
7 the most relevant quotes for any given topic you wish to address.

8 [14.33.53]

9 BY MR. DE WILDE D'ESTMAEL:

10 Thank you.

11 Q. Mr. Civil Party, let me come to my question now. Do you agree
12 with that security guard or these security guards in general --
13 that is, Saing, Chim, Little Duch, Van Soeun, when they state
14 that they had no role to play, be it during interrogations, nor
15 in the executions because their role was exclusively to guard the
16 exterior of Krang Ta Chan?

17 MR. SORY SEN:

18 A. The statements of those individuals are not true. They were
19 the ones who arrested and killed but I did not know Van Soeun. I
20 did not know this person.

21 Q. You have indeed understood that I'm talking about the security
22 guards, Saut Saing, Sim, the Small Duch and Van Soeun? According
23 to them they were members of the same security guard corps at
24 Krang Ta Chan.

25 A. I did not -- I do not agree with the statements of those

1 individuals. After they received the order from the chief of the
2 security office, they were the one who arrested and executed
3 prisoners. And once again, as for Van Soeun, I did not know this
4 individual. I didn't know this person.

5 [14.36.10]

6 Q. For purposes of clarification, Van Soeun or Soan, that person
7 was a messenger at Krang Ta Chan. Having given you this
8 pronunciation or pronounced the name this way, is it clearer for
9 you? Did you know him?

10 A. Yes, I knew the person by the name Soan but I did not the
11 individual by the name Soeun.

12 Q. Can you tell me whether amongst the staff at Krang Ta Chan
13 were members of the Kampuchea Communist Party?

14 A. I knew that Ta Chhen and Moeun and Big Duch was the deputy
15 chief. Ta Chhen and Ta Moeun were the Party members and Sieng was
16 also the Party member.

17 Q. What about Ta An, Ta Penh, were they also members of the
18 Party?

19 A. Ta An was the chief, Ta Penh was the deputy. Ta Penh actually
20 was the member and Big Duch was the deputy.

21 [14.37.55]

22 Q. Very well. From what you were able to observe, did the
23 security guards Saing -- that's Saut Saing; Soan, the messenger;
24 the Little Duch and Sim, as well as Thuch -- or Duch or Uok --
25 were all these security guards under a duty to obey the orders

1 and instructions meted out to them by Ta An or another member of
2 the prison committee?

3 A. From my observation, Ta Chhen sometimes gave order if it was
4 not from Ta An, then the order would come from Ta Penh or Ta
5 Chhen.

6 Q. Van Soeun confirmed that they were under a duty to obey at the
7 3rd of March 2015 hearing, transcript E1/270.1 at 15.13 to 15.15,
8 this is what he stated: "As a subordinate, yes, we had to obey
9 the orders that were given by our command superiors. If we did
10 not obey them, we would be detained in the prison." End of quote.
11 Did you yourself see what happened when a guard did not obey the
12 orders issued by Ta An, Ta Penh or Ta Chhen?

13 A. I did not know about this and I did not know how the order was
14 implemented.

15 [14.40.05]

16 Q. I will now request you to tell the Chamber whether you were
17 able to observe the role of the security guards -- security
18 guards like Saut Saing, Little Duch, Sim and Soeun, as well as
19 Soan, the messenger -- according to Ta An's orders -- or the
20 orders of the prison leadership. Were they under a duty to
21 accompany newly arrived prisoners from the external perimeter to
22 the house in which the prisoners were detained?

23 A. Yes, I used -- I used to see these people went to receive the
24 prisoner at the exterior perimeter. The prisoner were brought by
25 militia men to the exterior perimeter and these people went out

1 to -- went outside to collect prisoners.

2 Q. Did you also see those security guards watching the prisoners
3 while they were working during the day?

4 A. That time -- during that time, I was released to go outside
5 and I was released to stand guard on one or two prisoners who
6 were released to do the farming and I was standing on the
7 embankment.

8 [14.42.00]

9 Q. Did it happen that security guards like Saing, Sim, the Little
10 Duch or Soeun or Soan -- pardon me -- watched the prisoners or
11 you were always the person watching the prisoners?

12 A. These people rotate their duties.

13 Q. Did it also happen that the same security guards escorted the
14 prisoners from the detention house to the place of interrogation
15 in order for them to be interrogated?

16 A. Yes, I saw those events. They rotated their duty, for example,
17 Duch -- Little Duch or Sim would accompany other prisoners to the
18 interrogation place for interrogation and on the other day there
19 would be other individual from the same group accompanying the
20 prisoner to the interrogation place.

21 Q. And when they arrived at the place of interrogation and after
22 that, did they return to do other -- to carry out other tasks or
23 they would remain there to watch the prisoners while they were
24 being interrogated?

25 A. I was near the interrogation place. There was no chair. There

1 were the woods -- the big woods that the guards could sit on
2 those woods to wait for the prisoners. And as for torture, the
3 club would be used and a soldier would torture the prisoner and
4 the soldier, as well, would use the plastic sheet to cover the
5 eyes of the prisoner.

6 [14.44.31]

7 Q. When you talk of soldiers, are you referring to those security
8 guards, such as Little Duch, Sim, Saing and Soan?

9 A. Yes, the soldiers were them. No one else was there, only these
10 people were there to, in short -- actually, all people working in
11 Krang Ta Chan Security Office were perpetrators; no one from
12 outside committed crimes.

13 MR. PRESIDENT:

14 It is now time for a break and we will adjourn from now until 3
15 p.m.

16 Court officer, please facilitate a proper room for this civil
17 party during the break time and please invite him back at 3 p.m.

18 The Court is now adjourned.

19 (Court recesses from 1445H to 1505H)

20 MR. PRESIDENT:

21 Please be seated. The Court is now back in session, and I notice
22 that the International Lead Co-Lawyer for civil parties is on her
23 feet, you may proceed.

24 MS. GUIRAUD:

25 Thank you, Mr. President. I would like to point out to the

1 Chamber that Mr. Say Sen absolutely has to return home this
2 evening, so I am wondering whether we may extend the hearing this
3 afternoon in order to enable him to meet his commitments tomorrow
4 such that he may be able to go back home this evening.

5 MR. PRESIDENT:

6 If that is the case, then we need to reduce the time starting
7 from the time deducted from the time of the Prosecution.

8 [15.06.48]

9 BY MR. DE WILDE D'ESTMAEL:

10 I will try to be more brief, Mr. President.

11 Q. Mr. Say Sen, was the role of the security guards, such as Saut
12 Saing, Little Duch and others to escort prisoners who were to be
13 executed?

14 MR. SAUT SAING:

15 A. Yes, he was the one who took the prisoners out of the
16 detention building to be executed.

17 Q. Was it the role of the security guards, and the guard corps as
18 subordinates, to execute prisoners at Krang Ta Chan? Whether they
19 were men, women or children?

20 A. In general it was the soldiers who involved in the actions.

21 Q. If it was the soldiers who were in charge of such actions, can
22 we say that the security guards and soldiers, who were
23 subordinates, at Krang Ta Chan were charged with carrying out all
24 the dirty work at Krang Ta Chan, such as beating prisoners during
25 interrogations or executing them?

1 A. It was the same.

2 [15.08.55]

3 Q. I would like to revisit what Saut Saing said yesterday at the
4 hearing in the afternoon at about 14 hours 18. This is what he
5 stated -- and I quote:[Free translation]

6 "Regarding the execution of children at Krang Ta Chan, I would
7 like to point out as follows: Inside Krang Ta Chan, there were no
8 palm trees. There wasn't a single palm tree. There were no palm
9 trees within the premises but far from the premises, there were
10 indeed palm trees. And it is true that palm juice was produced
11 outside of the camp in the North and South."

12 Saut Saing did not answer the question by saying that you -- the
13 guards were in charge of harvesting palm juice for producing
14 wine. Yet the messenger, Soeun, confirmed that that was your
15 role. Were there palm trees inside the perimeters of Krang Ta
16 Chan, which you climbed to harvest juice near the buildings? If
17 yes, where were they located inside the perimeter?

18 A. Yes, there were initially within the perimeter near the
19 execution site there were palm trees, and later on they built a
20 road near the pond and the people were executed -- actually
21 executed near those palm trees, and now only one palm tree
22 remains standing.

23 [15.11.06]

24 Q. Were there also sugar palm trees outside of the first
25 perimeter?

1 A. Yes. There were; there were many palm trees at the first
2 perimeter -- parameter (sic) fence. In fact, I climbed more than
3 10 palm trees within the compound.

4 Q. Were all the staff members at Krang Ta Chan, including
5 security guards, aware of one of the tasks assigned by Ta An to
6 climb palm trees and to collect juice for the production of
7 alcohol?

8 A. Yes, all of them knew -- knew that I did that.

9 Q. Now you spoke at length of the massacre of two little girls,
10 which you witnessed while you were up a palm tree. I'd like to
11 show you now two photographs and a plan.

12 With the leave of the Chamber, may I request that photograph
13 D125/220.30 and .31 to be placed on the screen, as well as the
14 plan and the reference is D125/220.35. Mr. President, may I show
15 the witness this document?

16 [15.13.15]

17 MR. PRESIDENT:

18 Yes. You may do that.

19 BY MR. DE WILDE D'ESTMAEL:

20 Q. According to the information on the photograph, these are the
21 palm trees shown to the Investigators from which you were able to
22 observe what happened to the two little girls, and you can see
23 the palm trees where the little girls were killed. Is that indeed
24 the location where the little girls were killed? And is that the
25 palm tree of which you went to observe the massacres?

1 MR. SAUT SAING:

2 A. Yes. That is correct. That is the three palm trees.

3 [15.14.39]

4 Q. On plan 2, D125/220.35, on which the message is written, I
5 have underscored the location of the photographs that were taken.
6 And you can see on that plan the place where the two girls,
7 according to you, were executed, and that place was outside of
8 the first perimeter, and it is situated between the first and the
9 second security perimeters, and that was to the west of the
10 security centre at a distance of about 100 metres, if I rely on
11 the scale of this map, about 100 metres from the first perimeter.
12 Is that indeed a reflection of what you showed the Investigators
13 and does it also tally with your recollections?

14 MR. PRESIDENT:

15 Civil Party, please wait. And Counsel Koppe, you have the floor.

16 MR. KOPPE:

17 I object, Mr. President. We'll be suggesting that Prosecution
18 actually sits down on the chair and answers the question himself.
19 It's leading the witness so much -- it's leading the witness to a
20 platter of the answer that he likes to hear. It doesn't -- it has
21 nothing to do with proper examination. First, he shows a tree. It
22 could be any tree. And then he sort of directs him to the map
23 hoping that he would confirm and tick the box. I mean, what
24 examination really is this?

25 [15.16.23]

1 MR. DE WILDE D'ESTMAEL:

2 Mr. President, I am entitled to respond. First of all, it is the
3 civil party himself who is showing the location and confirming to
4 the Parties that that it was indeed the place where the little
5 girls were executed and the plan itself was established on the
6 basis of photographs that were taken on a GPS basis. This is a
7 very objective plan based on what the civil party showed within
8 the premises of Krang Ta Chan, so I am not leading the witness.
9 He himself showed the location and there was no objection to that
10 plan. So I don't see the basis for this objection.

11 (Judges deliberate)

12 [15.17.36]

13 MR. PRESIDENT:

14 The Chamber denies the objection by Nuon Chea's defence counsel,
15 Koppe. The question is appropriate, as is the -- deduce (sic) the
16 document which is a Court document by the Investigator of the
17 OCIJ. And the Civil Party, please respond to the last question
18 put to you by the Co-Prosecutor.

19 BY MR. DE WILDE D'ESTMAEL:

20 Q. I'll perhaps repeat the question. Mr. Civil Party, is the
21 place you have pointed to as a location where the girls were
22 killed to the west of the first perimeter of the prison at a
23 distance of about 100 meters from the internal perimeter? On the
24 screen it is not visible, numbers 29 and 30, which correspond to
25 the place where those photographs were taken?

1 MR. SAUT SAING:

2 A. It was outside the first perimeter fence, but inside the
3 second perimeter. It was less than 100 meters and from the best
4 estimate, I could say about 50 or 60 meters from the first fence.

5 [15.19.10]

6 Q. Very well. I am almost done, Civil Party. I would like us to
7 revisit the issue of the number of pits and bodies at Krang Ta
8 Chan at the hearing of the 4th of February 2015, E1/256.1 at 15
9 hours 16, you stated that, "As of 1977, when mass executions were
10 carried out, there were too many burial places within the first
11 perimeter and you had to go out of the premises and go beyond the
12 second perimeter in order to bury the bodies."

13 We heard the allegations made by the Defence. The Defence team
14 doubt that 10,000 people could have been buried on the site of
15 Krang Ta Chan. Do you confirm today that the number of bodies
16 that were drawn -- bodies had to be buried outside of the first
17 perimeter -- that is, outside of the premises because there was
18 no longer any room for burial of bodies within the premises?

19 A. Through my observation of the area, it could be in excess of
20 more than 10,000 because, initially when people exhumed the
21 bodies and trying to look for gold, the skeletal remains that
22 they found totalling for more than 10,000 already and the area
23 was filled with a skeleton remains.

24 [15.21.30]

25 Q. Can you simply tell me whether you yourself had to dig pits

1 outside of the first perimeter in order that bodies could be
2 buried in them?

3 A. Yes. I was -- I and Ta Chhen were ordered to dig the pits. In
4 fact, Kha (phonetic), Ta Chhen and myself ordered to dig the pits
5 near the location where the young children were killed. We dug
6 about 20 to 30 pits and in each pit they buried -- I don't know
7 -- maybe 10 to 20 bodies of the prisoners who were executed.

8 Q. Last series of questions. There is a site identification
9 report for Krang Ta Chan. The reference is D125/220. It is a
10 report that was established by the Co-Investigating Judges,
11 notably on the basis of your statements, when you accompanied
12 them to the site and it is stated in this report that -- and I
13 quote:[Free translation]

14 "The pits were only 1 to 1 meter 50 deep, and after a day or two
15 the pits, the surface collapsed when the bodies were rotting, and
16 when the nauseating smell was unbearable, we're asked to dig
17 other pits elsewhere."

18 Did you tell the Investigators that indeed after a day or two the
19 land would open up because the bodies started swelling up?

20 A. Yes, I did tell them that. And Ta An, the chief of the office
21 talked about the smell from the cracking up of the pits. So when
22 he gesture that he smelled something fouled, it means that I
23 should go and cover those pits, which were opening up.

24 [15.24.21]

25 Q. Inversely, when the bodies were completely decomposed, the

1 contrary happened, isn't it? That is the land collapsed, that was
2 there was a slump on the surface of the pits because the bodies
3 were completely decomposed; is that correct?

4 MR. PRESIDENT:

5 Civil Party, Sory Sen, please speak slowly because your speed is
6 rather fast and it is difficult for the interpreters to interpret
7 your statement.

8 MR. SAUT SAING:

9 A. When the foul smell was made, then four or five more prisoners
10 would be executed on top of that pit and then I will be ordered
11 to cover the pit.

12 [15.25.32]

13 Q. So if I understand correctly, the pits were used on several
14 occasions, once somebody's were decomposed, it made room for the
15 burial of other bodies, and then you had to cover those pits up
16 again; is that correct?

17 A. Yes, that is correct.

18 Q. You made mention of the role of Soeun or Soan as a messenger
19 at the Krang Ta Chan Security Centre. When he himself testified,
20 he said that he was not in charge of delivering messages from the
21 district office to Krang Ta Chan, but only from the security
22 centre of Krang Ta Chan to the district office. And he said that
23 there was a district messenger called Hol who was in charge of
24 delivering messages to Ta An at the Krang Ta Chan Security
25 Centre. Does that name Hol, a messenger working at the district

1 level ring a bell?

2 A. Yes, I know the person though I was not sure whether Hol was a
3 messenger or not.

4 MR. DE WILDE D'ESTMAEL:

5 I have no further questions, Mr. President, and I hope that the
6 civil party will be able to go back home this evening.

7 [15.27.30]

8 MR. PRESIDENT:

9 Thank you. The Chamber would like to hand the floor now to the
10 defence teams, first, the Nuon Chea defence.

11 JUDGE FENZ:

12 For organizational purposes -- just a second -- may I just ask
13 the question how long the defence teams expect to need this
14 afternoon because since we just heard the civil party has to go
15 home today, we might have to make arrangements of some sort or
16 decisions of some sort?

17 [15.28.06]

18 QUESTIONING BY MR. KOPPE:

19 To be honest, I think we should be able to finish four-ish.

20 Q. Mr. Civil Party, just to follow up some questions that were
21 just asked by the Prosecution about the matter of decomposing
22 bodies, and I just heard you gave the number of 10,000 people who
23 were executed. You've also testified that you have been back on
24 more than one occasion to the site, which is now the memorial
25 centre of Krang Ta Chan. When you go back there, you see stupa,

1 you see a big box, I would call it, with skulls. Do you know how
2 many skulls there are in that stupa at the Krang Ta Chan Memorial
3 Centre?

4 A. I did not do any counting. It was the committee who did that,
5 and there was a peace youth group who were also there to engage
6 in that task.

7 [15.29.45]

8 Q. Do you know if there is a difference between the number that
9 you just gave, 10,000, and the amount of skulls that you can see
10 in that stupa?

11 A. Based on the work done by the elderly and the committee and
12 the peace youth groups, there were many skeleton remains and from
13 what I heard, the skulls were more than 10,000 and there were
14 still many pits, which had not yet been resumed -- exhumed at the
15 time.

16 Q. Fine. Mr. Witness, Civil Party, I would like to ask you a few
17 questions about something that happened after your testimony
18 before the Trial Chamber on 6th of February this year.

19 I am referring, Mr. President, to D219/203, and it probably
20 should be in E something number, but I don't see it on my
21 document. It's ERN 01072285 and it contains a report of a -- of
22 the record conversation. I think, I know -- I think that you know
23 to which document I'm referring.

24 Mr. Civil Party, do you remember that right after you gave
25 testimony on the 5th of February -- 6th of February that you were

1 approached by an Investigator of the Tribunal?

2 A. No, I was not.

3 [15.32.03]

4 Q. So after you finished your testimony, you didn't have a chat
5 with a foreign investigator who was accompanied by a Khmer
6 interpreter?

7 A. I cannot get your question. Please repeat it.

8 Q. Once you had done testifying, you had, I believe, a 10-minute
9 talk with an International Investigator asking you some questions
10 about your testimony somewhere I presume outside of this
11 building; is that correct?

12 A. Yes, I had a small talk. He met me about the worries and
13 concerns when I came to testify before this Court. I was told
14 that I had to be strong. However, I was still concerned and
15 afraid.

16 Q. Do you remember he asked you questions about Rat and about her
17 mother Yeay Nha?

18 A. No.

19 Q. Did he ask you what, according to you, had happened to Rat
20 during her time at Krang Ta Chan? Do you remember you spoke to
21 him about this?

22 A. Yes. I told that individual.

23 [15.34.25]

24 Q. And do you remember what you told him?

25 A. I told that Duch physically touched Rat.

1 Q. And did you tell him that was that you believe that was all
2 Duch done -- had done to Rat?

3 A. Yes.

4 Q. So just to be clear, and I think I can ask this question in an
5 open session, Rat was never raped by Duch according to you; is
6 that correct?

7 A. No. But Rat was physically touched by that individual.

8 Q. Did you speak also informally with this investigator about a
9 female prisoner called Run?

10 A. I never talked with Run, but E Run went into forest with Ta
11 An. Later on, I met E Run and she told me that Ta An gave her
12 instruction when she was with Ta An, and she survived from the
13 period.

14 Q. And did you tell this Investigator informally that you
15 believed that Run had had a love affair with An during her time
16 as a prisoner at Krang Ta Chan?

17 A. Yes.

18 [15.36.48]

19 Q. Did you tell this Investigator also her current address, and
20 in other words, that she is still alive?

21 A. She is still alive. She is living in Dang Tong district,
22 Kampot province.

23 Q. Do you know whether Run was a friend of a -- of another female
24 prisoner who used to be a medic -- a nurse, named Han?

25 A. Her friend was Han and she is now at north -- in the north of

1 Angk Roka, Srae Khvav.

2 Q. So Run was in fact a friend or a co-female prisoner with Han.

3 And both women, you're saying, are still alive; is that correct?

4 A. E Han and E Run are still living today.

5 Q. And would you also be able to give the exact address -- exact
6 current address of Han?

7 MR. PRESIDENT:

8 Please wait, Civil Party. You may now proceed, civil party
9 lawyer.

10 [15.39.01]

11 MS. MOCH SOVANNARY:

12 Mr. President, I would like to object to the last question put by
13 the Defence Counsel for Mr. Nuon Chea. The question is nothing to
14 do with the facts before us. And it's not related to our case
15 file.

16 MR. KOPPE:

17 That's a new objection for me. Mr. President, I think it is very
18 relevant because it seems that both females were incarcerated at
19 Krang Ta Chan. I think we even have their names on possible Krang
20 Ta Chan documents. And locating both women and possibly having
21 them give testimony would, I think, contribute to ascertain the
22 truth. So I think my question as to the whereabouts of both Han
23 and Run are very relevant questions.

24 MR. PRESIDENT:

25 The objection is overruled. The Chamber needs to hear possibly

1 the testimony of the two individuals to ascertain the truth in
2 this case.

3 Mr. Civil Party, you are instructed to give your response to the
4 question by the Defence Counsel.

5 [15.40.35]

6 MR. SORY SEN:

7 I know her address. E Han live in Pou Doh village.

8 MR. PRESIDENT:

9 You may now proceed, Judge Fenz.

10 JUDGE FENZ:

11 Please write the address on a piece of paper, if you know it. Can
12 somebody please provide the witness with a piece of paper, so he
13 can write down the address for us?

14 MR. PRESIDENT:

15 You may now proceed, International Co-Prosecutor.

16 MR. DE WILDE D'ESTMAEL:

17 Judge Fenz, you'd recall that at the hearing of the 4th to the
18 6th of February, the civil party had stated that he cannot read.

19 I am not sure he is able to write either.

20 [15.41.53]

21 MR. PRESIDENT:

22 The civil party can tell the Court officers, and Court officer
23 can help to write the address.

24 (Short pause)

25 [15.44.23]

1 JUDGE FENZ:

2 Witness, could you tell the -- your help -- the full name of the
3 person? Apparently, this only is the first name or -- which
4 wouldn't perhaps allow to identify the person. So if you know
5 more than this part of the name.

6 MR. PRESIDENT:

7 Actually, I saw the word "E" before the name. Is it the surname
8 or the first name?

9 MR. SORY SEN:

10 I often refer the two individual as E Run and E Han. And I can
11 help you to find the two individual addresses.

12 [15.45.39]

13 MR. PRESIDENT:

14 I saw in the paper you wrote the district name, but did you know
15 the commune -- do you know the commune name?

16 MR. SORY SEN:

17 Yes, I know the commune.

18 MR. PRESIDENT:

19 Court officer, please ask civil party to write the district as
20 well in relation to the commune name.

21 (Short pause)

22 [15.46.30]

23 MR. PRESIDENT:

24 Please exclude the word "E" because "E" here is not the surname.

25 You can only write the name -- that is, the first name and

1 together with the individual gender.

2 MR. LYSAK:

3 While the civil party is doing that, for the records, this may be
4 of assistance. The person who I believe he is referring to, the
5 full name can be found at document D157.7; Khmer, 00270874;
6 English, 00866433 through 34; French, 00872808 through 09. This
7 record has both the full name and also a reference to the
8 nickname that has been used here. So, to the extent we're looking
9 for a full name, that's probably it.

10 MR. PRESIDENT:

11 Thank you very much, the International Deputy Co-Prosecutor.

12 Mr. Koppe, you may resume your line of questioning.

13 [15.48.39]

14 BY MR. KOPPE:

15 Thank you, Mr. President.

16 Q. Mr. Civil Party, I have one more question about possible other
17 female prisoner. Do you know a female prisoner with the name Set
18 Yem (phonetic)?

19 MR. SORY SEN:

20 A. It appears that I have never heard of the name.

21 Q. Fine. Returning now to these three other female prisoners --
22 Rat, Run and Han -- do you know -- or are you able to recollect
23 if these three women were in the position to see the same things
24 in relation to the activities of the guards as you?

25 A. I know the three individuals as mentioned by you.

1 Q. Yes, we have established that, Mr. Civil Party. But my
2 question is: would you be able to tell the Chamber whether these
3 three women were able in that period to see the same things that
4 the guards were doing as you have described?

5 A. I did not dare to say anything about this.

6 [15.50.34]

7 Q. I'll move on quickly. Did I hear you testify earlier this
8 afternoon, Mr. Civil Party, that one of the tasks of the guards
9 was also to arrest prisoners?

10 A. Yes, it is true. Soldiers had such rights -- the arrest and
11 execution duties.

12 Q. So, is it your testimony that these soldiers were not only
13 guarding Krang Ta Chan but also went to the villages to arrest
14 the prisoners?

15 A. I knew that they went to Srae Ronoung, Pou (phonetic) villages
16 to get the prisoners from those places.

17 Q. Last question, Mr. Civil Party. You said earlier this
18 afternoon that one of the reasons that you are testifying is that
19 you are -- that you would like to contribute to the search for
20 the truth and that you are in fact acting on behalf -- and I
21 quote you, "of those lost souls". In that mission that you
22 described, is it alright for you to also sometimes not tell the
23 truth to the Chamber?

24 A. I do not get your question. Please, say it again.

25 [15.52.48]

1 Q. You said earlier this afternoon that it is your mission to
2 assist the search for the truth and that you are acting on behalf
3 of those lost souls. My question to you in this mission that you
4 see that you have, is it allowed sometimes or more often to not
5 tell the truth about what you saw during DK to the Chamber?

6 A. I did not know -- I did not think it is necessary to lie to
7 the Court. I will not gain any interest or benefit for myself. I
8 am here to assist the victims and the survivor of the period --
9 the three years, eight months and 20 days. And as I said, I do
10 not gain any interest.

11 Q. One last follow-up question. I asked Saut Saing this afternoon
12 whether he spoke to the Chamber the truth, the whole truth, and
13 nothing but the truth; have you done the same thing?

14 A. I will tell what I experienced, what I saw that is true. A few
15 days ago, I listened to a Radio Free Asia concerning Ta Chhen,
16 who testified before this Court, and Ta Chhen said that please
17 the Court do not believe in Soy Sen testimony. He was too young
18 at that time, and he told lies. And whatever the witnesses talk
19 here, I also knew through radio.

20 MR. KOPPE:

21 Thank you, Mr. President.

22 [15.55.39]

23 MS. GUISSÉ:

24 Mr. President, I was waiting for you to give me the floor. I have
25 the heavy burden of being the last person to put questions to the

1 civil party. I know we are running out of time, so I'll try to be
2 as brief as possible. I'll need the assistance of the Court
3 officer because I understand that the civil party is not able to
4 read. Will it be possible for the Court officer to take document
5 E319.1.4 and read out to the civil party questions 107 and 108,
6 which I have highlighted in yellow in the Khmer copy in order
7 that I may be able to put questions to the civil party
8 subsequently?

9 MR. PRESIDENT:

10 Court officer, you are instructed to assist the civil party in
11 this matter. You may now proceed, International Deputy
12 Co-Prosecutor.

13 [15.56.46]

14 MR. DE WILDE D'ESTMAEL:

15 Thank you, Mr. President. I do not see the relevance in
16 whispering to the civil party. All that this counsel for the
17 defence needs to do is to read out the question and it will be
18 translated into Khmer simultaneously.

19 MS. GUISSÉ:

20 Thank you, Prosecution, for giving me this hint. If I want to
21 proceed in this manner, it is because we have a practice before
22 this Chamber to refrain from divulging the identity of a person
23 who is a victim of rape. So I do not intend to give the name of
24 such persons in an open hearing. So if it is possible for the two
25 questions to be read out to Mr. Say Sen, 107 and 108, and if that

1 is possible, I'll then put questions to him. May I request him to
2 pay particular attention not to reveal the names of the persons
3 in question?

4 (Court officer reads questions to civil party in Khmer)

5 [15.58.54]

6 QUESTIONING BY MS. GUISSÉ:

7 Court officer, have you read out the two questions to the
8 witness, and the answers? And I can now put my questions to him?

9 Q. Mr. Say Sen, my question to you is as follows: Do you recall
10 stating that a female prisoner was raped at Krang Ta Chan? And do
11 you remember giving that name to the Co-Investigating Judges and
12 saying that that rape was reported to you by the mother of the
13 woman who was raped? Do you recall making such an utterance
14 before the Co-Investigating Judges' investigators?

15 MR. SORY SEN:

16 A. Yes, I recall it. Actually, that female prisoner was not
17 raped; she was physically touched. But as for two other female
18 prisoners, those two prisoners were raped, and M-79 bullet heads
19 were inserted in the vagina before they were killed.

20 [16.00.16]

21 Q. Why then, Mr. Say Sen, did you say that those women were
22 raped? Whereas according to your statements today, you did not --
23 why would you make such a statement before the OCIJ
24 investigators, whereas it was not true -- whereas it wasn't the
25 case?

1 A. There were different women. Rat was physically and sexually
2 touched. As for two other female prisoners, they were raped.

3 Q. Following your testimony, may I request you, Witness, not to
4 repeat names.

5 Why, I repeat, did you tell the Co-Investigating Judges that
6 these women had been raped, whereas they hadn't been raped? Why?

7 MR. PRESIDENT:

8 Civil Party, please wait. You may now proceed, Lead Co-Lawyer.

9 MS. GUIRAUD:

10 Thank you, Mr. President. Again, we are trying to leave the
11 Defence to do their work, but in order to be complete, we should
12 also say that that was not the statement of Say Sen during the
13 5th of February hearing. He testified at length on the rape and
14 the two incidents the reality of those incidents separately. We
15 spent a lot of time obtaining clarifications on this matter and
16 he ended up making the following statement -- the following
17 clarification. He said, "as regards the person in question, all I
18 saw is that they played with her, but I did not witness any
19 sexual acts as such".

20 [16.02.31]

21 And lastly, in answer to a question put to him by Counsel Koppe,
22 in the end when he was asked whether he witnessed the rapes of
23 those persons, he stated very clearly at 09.35, "no". So once
24 again, we have had all the latitude to discuss these questions --
25 these issues. Mr. Say Sen spoke on the 5th, 6th, and 7th of

1 February on this matter. His testimony on this matter is clear.
2 He did not witness the rapes of those persons. He pointed out
3 that those persons were touched sexually. I wanted this to be
4 clarified for the sake of the record.

5 [16.03.22]

6 MS. GUISSÉ:

7 Yes, Mr. President, I do quite understand the clarifications of
8 my learned friend, but I must say that my question is all the
9 more relevant because I am not trying to revisit the facts. And
10 Mr. Say Sen said that he was not a witness to those events. And
11 my question is, since he said he wasn't a witness, why did he
12 tell the investigators of the OCIJ that they were raped, whereas
13 he knew that it was not true? That is the question. I know it is
14 relevant since the questions put to him by his counsel -- in
15 answer to those questions, he said he had no reason to lie and to
16 tell things that were not true. My question therefore to him is:
17 why he made that statement before the Co-Investigating Judges,
18 whereas he knew that it wasn't true? My question is why? I'm not
19 asking him to give details or to explain the fact that he did not
20 witness the incident. My question is why he gave a version that
21 doesn't tally with the reality.

22 MR. PRESIDENT:

23 Witness stated clearly already. He said there was a confusion in
24 relation to the incidents. And I believe the question is
25 repetitive. And perhaps, the better question is why there was

1 such a confusion? Is it because of the investigator or it is
2 because of someone else?

3 If it is a repetitive question, Civil Party, you are not
4 instructed to give your response because you stated already that
5 there was a confusion in this matter.

6 [16.05.21]

7 BY MS. GUISSÉ:

8 Q. Mr. Say Sen, you stated that there was a mix-up with regard to
9 this issue, but in answer number 107, you stated that the rape
10 was reported to you by the mother of the woman in question. In
11 the interest of Chamber and the parties, I would refer you to
12 document E3/5844, which is the record of an interview of the
13 mother of the victim in question. In Khmer, the ERN is 01056209;
14 in French, 01056617; in English, 01056615. This is a partial
15 transcript of the audio recording of the interview of that
16 person. And the question is as follows: Mr. Say Sen, you state
17 that the mother of that person told you of an act of sexual
18 assault or rape she was victim of. If I were to tell you that the
19 mother of that person was interviewed by the OCIJ investigators
20 and she stated that none of her children was maltreated at Krang
21 Ta Chan, what reaction would that elicit in you, and would you
22 confirm that the mother of that person said that the daughter
23 suffered any assault of any nature?

24 MR. SORY SEN:

25 A. No. He said that he physically touched her, that's all.

1 [16.07.45]

2 Q. So, you stand by your statement that it was the mother of that
3 person who told you of the touching?

4 A. Yes.

5 Q. And regarding the supposed death of that person, was that also
6 a mix-up?

7 A. Please repeat your question.

8 Q. In the part of your statement that was read out to you, you
9 also referred to the death of that person. So my question to is
10 whether that was also a mix-up in what you told the investigators
11 regarding the supposed death of those two persons?

12 A. I knew that two women brought in from Srae Ronoung were raped
13 by him and after they died, he inserted the M-79 bullet heads
14 into their vaginas. And that's what I told the investigator when
15 I was interviewed, because I told them what I saw -- what I was
16 told by him.

17 [16.09.35]

18 Q. Who related that to you?

19 A. Mr. President, can I say his name?

20 Q. Someone related it to you and if that is not the name of a
21 victim, yes, you are entitled to give you that name.

22 A. Yes, and I was told by Bong Duch.

23 Q. Should I take it then that you did not witness the incident,
24 but it was someone who told you about that incident, and you say
25 that it was Duch? Little Duch or Senior Duch?

1 MR. PRESIDENT:

2 Civil Party, please wait, and the International Deputy
3 Co-Prosecutor, you have the floor.

4 [16.10.55]

5 MR. DE WILDE D'ESTMAEL:

6 Thank you, Mr. President. I have the impression here that we are
7 in a mix-up here. We talked of a rape and sexual touching, and
8 now the civil party has to explain the circumstance of the death
9 of two women who were raped and grenade heads were inserted in
10 their vaginas, and now we're told it is Duch who said that. Now
11 we're in a mix-up and it's very difficult for us to follow the
12 examination.

13 MR. PRESIDENT:

14 Defence Counsel, please wait.

15 (Judges deliberate)

16 [16.12.24]

17 JUDGE FENZ:

18 Counsel, how many more questions do you have? Question of time
19 management at the moment.

20 MS. GUISSÉ:

21 I believe that if I'm allowed to obtain the clarifications on
22 these issues I would have about five minutes left and I have
23 three minutes of questions on another matter. But if the answers
24 are clear, there shouldn't be any need for further time.

25 (Judges deliberate)

1 [16.15.09]

2 MR. PRESIDENT:

3 Due to the practical issues and there seems to be a confusion of
4 the exchanges of questioning and answering session just then, and
5 in order to ensure that the response shall be clear and brief,
6 then the Defence Counsel must make sure that the question she put
7 to him shall be the one that can be asked publicly. And if you
8 want to ask the question on the sexual rape or harassment at
9 Krang Ta Chan, you need to seek permission from the Chamber
10 first, as the Chamber may decide whether it shall be held in
11 closed session or not, and that is for the sake of ascertaining
12 the truth in this case.

13 MS. GUISSÉ:

14 I do very well understand, Mr. President, and I will take your
15 advice into consideration. But it appeared that the Chamber had
16 decided that we cannot mention the names of the persons raped,
17 but that we could refer to the facts in public session, so I'm
18 paying particular attention to avoid having names of such persons
19 mentioned before this Chamber.

20 [16.16.40]

21 JUDGE FENZ:

22 The idea is that you go ahead with questions that had nothing --
23 you said you had additional questions that had nothing to do with
24 the rape or sexual assault. You ask these questions in open
25 session, then we close the session, that allows an open debate

1 with names, et cetera, to clarify the couple of things you still
2 want to have clarified about sexual offences. So please go ahead
3 now with the questions that have nothing to do with the sexual
4 offences, then we'll go into closed session where everybody can
5 use the names of the victims, which will make the debate much
6 easier. At least we hope so. Is that clear?

7 [16.17.23]

8 BY MS. GUISSÉ:

9 It is clear, Judge Fenz. I wanted to avoid a closed session,
10 because it will be a further waste of time, but I do understand.

11 Q. Mr. Say Sen, at the hearing, in the course of your testimony,
12 you stated that -- that was at the hearing of the 4th of February
13 2015, E1/256.1, shortly after 15.45.27, the question put to you
14 was as follows -- your answer was: "When they were taken out to
15 cultivate rice"-- and you were referring to prisoners, there were
16 seven prisoners --"and since there were many, we were asked to
17 stay and watch them and to pay attention. If a prisoner had
18 escaped, I would have been executed. Yes, I did such monitoring
19 on the worksite." End of quote.[Free translation]

20 Today, a guard, Saut Saing, pointed out that, amongst his duties
21 was the task of watching prisoners when they worked outside of
22 the Krang Ta Chan Security Centre.

23 My first question is as follows: Who assigned you to play the
24 role of watching prisoners? Do you agree that such a role
25 corresponded to the role played by the guards?

1 MR. SORY SEN:

2 A. I was a prisoner and I had been there quite longer than
3 others. So, when the chief left, then we were told that amongst
4 the six or seven of you had to guard the prisoners and if any of
5 them attempted to flee and if one of them fled then you all will
6 be in trouble.

7 [16.19.58]

8 Q. And what did you do to prevent the prisoners from escaping?

9 A. Nobody fled, because those prisoners were all female -- that
10 is, Yeay Nhor/Nha and her family members and Ta Chhen and myself.

11 Q. And did you not have any weapons as part of your guard
12 duties?

13 A. Of course, I was a prisoner and I was not given any weapon.

14 Q. Did the other prisoners know that one of your roles was to
15 watch them?

16 A. No.

17 Q. So they thought you were a prisoner on the same footing as
18 they were?

19 A. Yes, they considered me as just another prisoner.

20 [16.21.31]

21 Q. A while ago in answer to a question put to you by your counsel
22 you stated that you did not feel any hatred or anger towards the
23 guards at Krang Ta Chan and you explained that you had testified
24 without any hatred. I would like to read out to you a statement
25 you gave to DC-Cam, and it is document E3/4846, and the ERN in

1 French is 00943276; the ERN in English is 00527786; and the ERN
2 in Khmer is 00527748. And in answer to a question regarding the
3 facts, your answer was that: "To think about those years again
4 and to hear the names of those persons again, makes me so angry.
5 My memories are clear. I sometimes feel like taking an axe and
6 killing all those people." End of quote.

7 Would you agree with me, Mr. Say Sen, that when you were
8 interviewed by DC-Cam you made a statement which is at variance
9 with what you have told this Chamber today?

10 MR. PRESIDENT:

11 Civil Party, please wait, and the Deputy Co-Prosecutor, you have
12 the floor.

13 [16.23.44]

14 MR. DE WILDE D'ESTMAEL:

15 This is (sic) an objection, but in the interest of the public
16 that is watching us, I want to say that the interview to DC-Cam
17 is 2004 -- took place in 2004.

18 BY MS. GUISSÉ:

19 Q. So, let me repeat my question, if need be.

20 Do you agree that the statement you made to DC-Cam is different
21 from what you are telling the Chamber today?

22 MR. SORY SEN:

23 A. Yes, I agree, because at that time, there was no law in this
24 regard, and now we have a proper legal system with a proper
25 court, so my view is different.

1 [16.24.51]

2 Q. I would like us to move to questions relating to
3 clarifications regarding the rape. I believe I can ask my
4 questions without having us go into closed session, because I
5 don't intend to give the names of the persons concerned, but I am
6 in the Chamber's hands, but I believe I can ask those questions
7 without referring to the names of the supposed victims.

8 MR. PRESIDENT:

9 If you don't mention the name of the individual, but please try
10 to simplify your question so that he can respond. From what I
11 listened to the Khmer interpretation, your questions are so
12 complicated. So please try to do that.

13 BY MS. GUISSÉ:

14 I hope, Mr. President, that they are less complicated in French.
15 I will endeavour to avoid such complications.

16 Q. Mr. Say Sen, you made mention of three persons. One person is
17 alleged to have been a victim of touching and two other women
18 were victims of rape with M-79 grenades. Do we agree that you are
19 making the distinction between the woman, the woman whom you said
20 today was a victim of sexual touching and two other women who
21 were raped with grenades? Do you make the distinction between the
22 two?

23 [16.26.48]

24 MR. SORY SEN:

25 A. Yes, I knew about the two women who were raped and later on

1 M-79 bullet heads were inserted into their vaginas. As for
2 another woman, she was only physically touched, and I mentioned
3 that clearly.

4 Q. Very well, my questions to you now have to do with the two
5 women you said were raped with ammunition. Is that clear? Would
6 you like to add anything, Mr. Say Sen? Is it now clear to you
7 that the questions that I'm going to put to you now have to do
8 with the two women you say were raped with ammunition?

9 A. Yes, I told you repeatedly already about the two women. And,
10 actually, I mentioned that since my first testimony last time.

11 [16.28.20]

12 MR. PRESIDENT:

13 Civil Party, please wait for the question to be put to you, and
14 please make your response brief and precise. You need to listen
15 to the questions first.

16 BY MS. GUISSÉ:

17 Q. I am not asking you to revisit the description of the facts,
18 what I'm asking you to do is to clarify before this Chamber,
19 first of all how you witnessed those rapes.

20 MR. SORY SEN:

21 A. I also testified on that point. After he raped the two women,
22 he killed them and then he ordered me to bury the dead bodies of
23 the two women.

24 [16.29.23]

25 Q. A while ago when we referred to those facts, I heard that Duch

1 related the incidents to you and that you did not personally
2 witness the rapes. Can you tell the Chamber whether you witnessed
3 those rapes by saying yes or no?

4 A. No. I did not witness the rape, and it was Duch himself who
5 told me that, that he raped them, he killed them and then he
6 asked me to bury them, and then he asked whether I saw the M-79
7 bullet heads in their vaginas and I said yes, I did.

8 Q. So, can you specify whether it was Little Duch who related the
9 rape he committed and who asked you whether you had seen the M-79
10 grenades?

11 A. Yes, it was the Little Duch.

12 Q. And that was on the very day of the events? Was it on that
13 same day that he related the incidents regarding the rape to you?

14 A. Yes, it was just a little while after it happened.

15 Q. At the hearing on the 5th February 2015, you stated that the
16 Little Duch and Saut Saing committed those rapes. Who told you
17 that Saut Saing was also present when those rapes were committed?

18 A. It was Duch who told me that.

19 [16.31.51]

20 MS. GUISSÉ:

21 Mr. President, I'm done with my questions, but I'd like to make a
22 motion, because in view of the gravity of the allegations and the
23 fact that the two witnesses are available, we should confront
24 them in order for the truth to be brought to light.

25 MR. PRESIDENT:

1 What about other Parties? Do you wish to make any comments
2 regarding the requests?

3 MR. DE WILDE D'ESTMAEL:

4 Mr. President, it is not clear whether the Defence cannot make a
5 written application. We've talk of -- she's talked of confronting
6 the witnesses. We've talked of Saut Saing, we've talked of Duch.
7 I don't think there is need for a lengthy debate on this, whereas
8 the Defence could have made a written motion. I have no problem
9 with making a written application.

10 [16.33.17]

11 MS. GUIRAUD:

12 Thank you, Mr. President. We will also need a bit of time to
13 react to that application, and if it is in writing, it will be
14 simpler for us. We have heard the two persons at length today and
15 each of them has a different version, and I don't see how the
16 confrontation before this Chamber will bring the truth to light.
17 And we should also bear in mind that this application is rather
18 tardy. We've had the investigations and since then, since the
19 Closing Order, we've had a lot of time and the Defence had
20 several opportunities to make such an application. It has never
21 done that. It never did so during the investigation. And the
22 civil parties are of the view that it is tardy and it is
23 irrelevant to the manifestation of the truth. We have two
24 persons, each of whom will dig in their heels and stick to their
25 statement. So, subject to the possibility of making our remarks

1 in writing and if the Defence agrees to make an application in
2 writing, we will then object to such a confrontation taking
3 place, in writing, as well.

4 [16.34.48]

5 MR. KOPPE:

6 If I may briefly reply, Mr. President. I think it might be a good
7 idea to have a written procedural -- proceedings about this. What
8 I do like to note is that I don't think the civil party lawyer
9 should be the one discussing this issue. I think there are two
10 lawyers both representing one civil party and the other civil
11 party. It would be a conflict of interest, I think, if one lawyer
12 now is giving the position on, I think, both civil parties. We
13 all agree you have actually asked that question to the civil
14 parties that there is a conflict of interest, so I don't think it
15 is appropriate now for one lawyer to speak about this issue.
16 However, having said that, it's late. We won't have a
17 confrontation right now; I think that's unfeasible, so maybe we
18 should have a written proceeding about this.

19 [16.35.57]

20 MR. PRESIDENT:

21 The Chamber now instructs the initiator to submit it in writing
22 to the Chamber.

23 Mr. Say Sen, as a civil party, you are given an opportunity to
24 make a statement regarding the crimes alleged against the two
25 Accused, Nuon Chea and Khieu Samphan, and which caused you harm

1 during the Democratic Kampuchea regime and which led you to apply
2 as a civil party for collective and moral reparations, as well as
3 the harms inflicted upon you physically, emotionally and
4 materially which are the direct result of the crimes. If you wish
5 to do so, the floor is yours.

6 MR. SORY SEN:

7 I am grateful to you, Mr. President, for allowing me to testify
8 before this Khmer Rouge Tribunal on behalf of the victims
9 throughout the country in order to enlighten the Court on behalf
10 of those who died during the regime. I myself do not benefit from
11 my testimony, but it is the benefit for the young generation and
12 also for those lost souls who would reincarnate in the next life
13 and without having to go through such heinous crimes again. And I
14 have a question to put to you, Mr. Chamber, which is the
15 following: Why, when there was plenty of food around people were
16 deprived of food and as a result they died? I just want to have a
17 clear few words to this question and that is all, Mr. President.

18 [16.38.16]

19 MR. PRESIDENT:

20 Thank you, Mr. Say Sen. The Chamber would like you to inform that
21 on the eight (sic) testimony, the Chamber observed that the two
22 Accused still wish to retain the right to remain silent and so
23 far there is no indication as they change their position. Once
24 the Chamber is expressly informed of their status, and that will
25 be the responsibility of the Accused and their counsel that they

1 have to immediately inform the Chamber if the Accused changes his
2 mind and wishes to respond to any questions put to any of them by
3 the Bench or by the Parties, but so far we have not received any
4 such response on the change of their status of their exercise of
5 rights to remain silent. And as such, the Chamber cannot instruct
6 the Accused to respond to your questions, as they are protected
7 by their right to remain silent.

8 [16.40.03]

9 Today's proceeding has come to an end. We will adjourn today's
10 proceeding now and we will resume tomorrow morning, commencing
11 from 9 o'clock in the morning. And for tomorrow, the Chamber will
12 hear the testimony of 2-TCCP-880 (sic). This information is for
13 the concerned parties and the general public.

14 Mr. Say Sen, the Chamber is grateful for your testimony as a
15 civil party, in addition to your previous testimony. And your
16 testimony may contribute to ascertaining the truth. And now your
17 testimony is concluded and you may be excused from the courtroom
18 so that you can return to your place of residence or wherever you
19 wish to go, and the Chamber wish you a safe journey.

20 Court officer, in collaboration with WESU, please make necessary
21 transportation for Mr. Say Sen to return to his residence or
22 wherever he wishes to go to.

23 Security personnel, you are instructed to take the two Accused
24 back to the detention facility and have them back into the
25 courtroom tomorrow morning before 9 o'clock.

1 The Court is now adjourned.

2 (Court adjourns at 1641H)

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