



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

ព្រះរាជាណាចក្រកម្ពុជា  
ជាតិ សាសនា ព្រះមហាក្សត្រ

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Nation Religion King  
Royaume du Cambodge  
Nation Religion Roi

អង្គជំនុំជម្រះសាលាដំបូង  
Trial Chamber  
Chambre de première instance

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

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

27 July 2015  
Trial Day 304

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

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KHIEU Samphan

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SENG Leang

For Court Management Section:  
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I N D E X

Mr. SEN Sophon (2-TCCP-220)

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**List of Speakers:**

Language used unless specified otherwise in the transcript

Speaker	Language
Mr. BOYLE	English
Ms. GUIRAUD	French
Ms. GUISSÉ	French
Mr. HONG Kimsuon	Khmer
Mr. KONG Sam Onn	Khmer
Mr. KOPPE	English
Judge LAVERGNE	French
Mr. LYSAK	English
The President (NIL Nonn)	Khmer
Mr. PICH Ang	Khmer
Mr. SENG Leang	Khmer
Mr. SEN Sophon (2-TCCP-220)	Khmer

1 PROCEEDINGS

2 (Court opens at 0901H)

3 MR. PRESIDENT:

4 Please be seated. The Chamber continues its hearing in Case  
5 002/02.

6 As scheduled by the Trial Chamber, and which has been informed to  
7 the public and the concerned Parties, the Chamber shall hear  
8 testimonies of witnesses and civil parties in relation to  
9 Trapeang Thma Dam worksite. And today, the Chamber hears  
10 testimony of a civil party -- that is, 2-TCCP-220.

11 However, the Chamber has been seized by a submission of the  
12 Co-Prosecutor, on 24 July 2015, concerning its latest disclosure  
13 of Case 004 statements, in relation to Trapeang Thma Dam, that  
14 the statements shall be included in Case 002/02. For that reason,  
15 the Chamber will hold a brief submissions and observations by  
16 both the Co-Prosecutors and the concerned Parties before we  
17 proceed to hear testimony of a civil party, 2-TCCP-220.

18 For the substantive hearing today, and the following days, the  
19 Chamber wishes to inform the Parties that it is likely that from  
20 today, and it may last for two weeks, Judge Fenz is absent due to  
21 urgent personal matters. And after the Bench deliberated the  
22 matter, Judge Martin Karopkin has been selected to replace Judge  
23 Fenz during her absence, until such time she is able to return to  
24 the Bench. That decision is based on Rule 79.4 of the ECCC  
25 Internal Rules.

2

1 Greffier, Ms. Se Kolvuthy, please report the attendance of the  
2 Parties and other individuals at today's proceedings.

3 [09.05.55]

4 THE GREFFIER:

5 Mr. President, for today's proceedings, all Parties to this case  
6 are present. Mr. Nuon Chea is present in the holding cell  
7 downstairs, as he requests to waive his direct presence in the  
8 courtroom. His waiver has been delivered to the greffier. The  
9 civil party who is to testify today, namely 2-TCCP-220, is ready  
10 to be called by the Chamber. Thank you.

11 MR. PRESIDENT:

12 Thank you. The Chamber now decides on the request by Nuon Chea.  
13 The Chamber has received a waiver from the Accused, Nuon Chea,  
14 dated 27 July 2015, which notes that due to his health, namely  
15 headache, backache, and that he cannot sit and concentrate for  
16 long and in order to effectively participate in future hearings,  
17 he requests to waive his rights to participate in and be present  
18 at the 27 July 2015 hearing. The Defence for the Accused has  
19 informed his client of the consequences of the waiver, that it  
20 cannot be construed as a waiver of a fair trial right, or right  
21 to challenge evidence presented or admitted to the Court at all  
22 times.

23 Having seen the medical report on Nuon Chea by the duty doctor  
24 for the Accused at ECCC, dated 27 July 2015, who notes that Nuon  
25 Chea has chronic back pain when he sits for long and recommends

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1 that the Chamber grant him his request so that he can follow the  
2 proceedings remotely from the holding cell downstairs. Based on  
3 the above information, and pursuant to Rule 81.5 of the ECCC  
4 Internal Rules, the Chamber grants Nuon Chea his request to  
5 follow today's proceedings remotely from the holding cell  
6 downstairs via an audio-visual means.

7 The AV Unit personnel are instructed to link the proceedings to  
8 the room downstairs, so that Nuon Chea can follow it remotely.  
9 That applies for the whole day.

10 [09.08.28]

11 And before the resumption of its hearing, the Chamber wishes to  
12 inform the Parties and the public that on 24 July 2015, it was  
13 seized with the International Co-Prosecutors latest disclosure of  
14 Case 004 statements, and its submissions that all 54 statements  
15 and civil party applications relate to the Trapeang Thma Dam  
16 worksite, that is document E319/25.2.

17 Considering the effect disclosure may have on the Chamber's  
18 present schedule, at the outset of the hearing, the Chamber  
19 informed the Parties and invites them to provide observations  
20 whether the disclosure will make an impact on the hearing of the  
21 Trapeang Thma Dam. And on 29 and 30 July 2015 respectively, the  
22 Chamber actually scheduled to hear two witnesses who are not  
23 related to the Trapeang Thma Dam worksite. However, it may have  
24 some relationship to the disclosure of the statements requested  
25 by the International Co-Prosecutor. The two witnesses are

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1 2-TCW-866, on Kampong Chhnang Airport, and after that, the  
2 Chamber will hear another witness -- that is, 2-TCW-926, on the  
3 1st January Dam worksite.

4 And the Chamber would like to ask the Co-Prosecutors as to when  
5 those disclosures would be made per your request, and whether it  
6 has any impact on the facts being debated in relation to Trapeang  
7 Thma Dam worksite. The Chamber will then hand the floor to the  
8 Lead Co-Lawyers and the Defence teams to respond to the  
9 submission by the Co-Prosecutors, and each team will have 10  
10 minutes to make such an observation to the Co-Prosecutors'  
11 submission.

12 And first, the Chamber would like to give the floor to the  
13 Co-Prosecutors to make an oral submissions in regards to the  
14 impact of your request of disclosures concerning the scheduling  
15 of hearings already made by the Trial Chamber for today and the  
16 following days in relation to the Trapeang Thma Dam worksite. And  
17 Co-Prosecutor, you may proceed.

18 [09.12.13]

19 MR. LYSAK:

20 Thank you. Good morning, Mr. President, Your Honours, Parties.  
21 Let me first answer the first issue that was raised in the email  
22 you circulated on Friday, which is to address the substance and  
23 timing of the disclosure. There are essentially two types of  
24 documents that were disclosed in this filing. The first was five  
25 recent OCIJ interviews from Case 004 that contain some

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1 information relevant to Trapeang Thma Dam. As this Court is  
2 aware, there have been a large number of witness interviews  
3 conducted in Case 004, relating to Preah Netr Preah district, and  
4 therefore touching upon the Trapeang Thma Dam. Over 60 such  
5 interviews were disclosed earlier this year, in March and April.  
6 Since that time, there have been five new OCIJ interviews  
7 relevant to this subject that were notified to us, and which we  
8 received translations between May and July, 2015. So that is the  
9 first group of documents disclosed -- five new OCIJ interviews.

10 [09.13.38]

11 The larger part of the disclosure consists of civil party  
12 applications, a total of 47 civil party applications from Case  
13 004 that relate or contain some references to the Trapeang Thma  
14 Dam. There are two things I would like to note about those civil  
15 party applications. First, in regards to the number of pages  
16 disclosed. If you were to add up the total number of pages of the  
17 civil party applications, it would look fairly high, over 500  
18 pages. But as this Court knows, most of the pages in the civil  
19 applications are form matters with procedural content, where the  
20 civil parties check boxes, biographical information, addresses,  
21 and such things, copies of National ID cards.

22 For each of these civil party applications, there are usually a  
23 one or two page insert at the end in which the civil party  
24 describes the information they have, in terms of what they  
25 experienced during the regime. So, we've gone through them, and



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1 the actual number of pages from these 47 civil party applications  
2 in which there are actual statements from the civil party, is  
3 only 94 pages. For the five new OCIJ interviews, fortunately they  
4 are fairly short, so they total about 44 pages between the five.

5 [09.15.29]

6 I would also note that only part of these filings actually relate  
7 to Trapeang Thma. When you look at these civil party  
8 applications, you usually see that there's perhaps one paragraph  
9 out of the one or two page description, that is about Trapeang  
10 Thma. So, there is -- perhaps my first comment is that there's  
11 not as much material to review as may appear if you look at the  
12 ERN pages. I was -- myself, I was away in Canada for the past  
13 three weeks, so the first time I saw these new materials was on  
14 Friday. And even in my jet-lagged condition, I was able to get  
15 through those materials in the afternoon.

16 [09.16.24]

17 The second point I want to make sure that is understood about the  
18 civil party applications, is that the date which appears in the  
19 annex we filed is the date that the document was prepared or  
20 signed by the civil party. It is not the date that the document  
21 was notified to our office, or put on the case file.

22 Civil party applications, as you may know, go through a process  
23 where they go through the Victims Unit, who enters them into a  
24 database, and does some other things that I'm not completely  
25 familiar with, before they get to the case file. So, let me give

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1 you an example of the timing relating to these civil party  
2 applications. If you look at the first civil party application in  
3 our annex, that's number 2 in the chart, a document that's now  
4 been assigned the number E319/25.3.2, E319/25.3.2, in our annex  
5 you'll see the date of 1 June 2013. That is the date the  
6 application was signed by the civil party.

7 The document was processed by the Victims Unit on 27 June 2014,  
8 so about one year later. When you look at these documents, the  
9 stamp that you will see on the cover page with the date, is not  
10 the date it was put on the case file, it's the date it was  
11 processed by the Victims Unit. So this application, signed June  
12 2013, processed by Victims Unit June 2014, the application, the  
13 original Khmer, was notified and placed on the case file on 1  
14 September 2014, and the English translation of that application  
15 was placed on the case file on 11 March 2015.

16 [09.18.44]

17 Another thing I want to bring to the Court's attention is that  
18 some of the dates listed in our annex, which is a printout from  
19 our case map database, turn out to be incorrect. I was -- I  
20 checked into this because when I looked at the annex on Friday,  
21 there was a number of applications that had 2009, 2011 dates.  
22 That seemed early for me. And when I checked the actual dates of  
23 these, there are 17 applications that we listed as -- that were  
24 listed from the case map printouts as 2009 or 2011, which were  
25 all actually dated or signed by the civil party in 2013. There is

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1 only two of these applications that were earlier, and again to  
2 give you a sense of the timing related to these applications, let  
3 me point out one of those.

4 Number 33 on our annex is one of the two civil party applications  
5 that was from 2011. It was signed by the civil party applicant on  
6 14 June 2011, filed by his lawyer on 30 June 2011, processed by  
7 the Victims Unit on the 13th November 2012, and not placed on the  
8 case file and notified to the Parties, including us, until 8 May  
9 2013. The English translation of that application was posted 30  
10 April 2015.

11 [09.20.36]

12 So, in terms of your question regarding timing, it should be  
13 understood that the dates in our annex, in addition to some of  
14 them being incorrect, do not represent the dates these materials  
15 became available to our office.

16 All that said, we all understand it is far from ideal -- far from  
17 ideal for us to have to file these the week before trial segment  
18 is to begin. That is certainly something we don't want to do, and  
19 would like to try to avoid. Everyone in this Court works with  
20 limited resources, including the people who have to process and  
21 file the civil party application, which I presume is why they  
22 take a while to work their way from the civil party into the case  
23 file.

24 [09.21.35]

25 So, while it is -- if you look at the actual dates, the English

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1 translations of these applications generally became available to  
2 us between 2014 - 2015. Nonetheless, our office has to set  
3 priorities in terms of what we do. So, our first priority with  
4 the Case 004 investigation and disclosure issues, was the  
5 interviews, the witness interviews, conducted by OCIJ. Those  
6 struck us from the beginning as something that was an important  
7 source of evidence, and our first effort was to get on top of  
8 those, and make sure the witness interviews were disclosed where  
9 relevant. The civil party applications were a second and next  
10 priority of our office, and that is part of the reason that this  
11 timing comes now rather than earlier in this year. I wish we were  
12 able to have the resources and the ability to review all these  
13 civil party applications as soon as they come in. That's simply  
14 not the case. If we had allocated resources to review the some  
15 1000 civil party applications in Case 004, we would have had to  
16 take away resources from other things. So, I think that -- I hope  
17 that answers your first question in terms of the substance and  
18 timing of what we disclosed.

19 [09.23.21]

20 Let me address your other question, which is: does this affect  
21 the ability to go forward? I believe the answer to that is no.  
22 Reason: there are almost 100 OCIJ witness interviews relevant to  
23 Trapeang Thma that have been before the Parties for some time.  
24 Those from Case 002, which have been available since the judicial  
25 investigation, and those from Case 004, which were made available

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1 in March or April of this year. There are another 84 witness  
2 statements, primarily DC-Cam interviews, some originating in Case  
3 002, and others that were part of a later group of DC-Cam  
4 interviews that were included in our June 2014 trial document  
5 list. And there were 99 civil parties who filed applications or  
6 supplementary statements relating to Trapeang Thma Dam in Case  
7 002. Why am I telling you all this? There is a wealth of  
8 information that has been available to the Parties for a long  
9 time, and because of that, it is highly unlikely that there is  
10 any unknown or new information in these largely civil party  
11 applications, that would have any effect on how our office, or  
12 the other Parties, will proceed in questioning the witnesses who  
13 are to be heard on Trapeang Thma.

14 [09.25.06]

15 It's inconceivable to me, with there being almost 200 witness  
16 interviews, and 100 civil party applications relating to this  
17 Trapeang Thma Dam, that these new case -- civil party  
18 applications from Case 004 cover any new ground. I've looked over  
19 them myself, and indeed, I would describe them as what you would  
20 expect. They're corroborative of what the other hundreds of  
21 victims, who have statements already before this Court, have said  
22 about the general conditions at this dam. Is this something that  
23 would affect how we would proceed this week? No. The only  
24 document I would point out that I believe is likely to be used  
25 over the next few weeks is a civil party application that comes

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1 from 2-TCW-908. This document is number 48 on our annex, and this  
2 is an individual who is scheduled to testify. He is the last  
3 Trapeang Thma Dam witness, however, number 11 on the list. So I  
4 am assuming or estimating that he won't testify for probably  
5 three weeks. So that, I hope, answers your questions. I'm  
6 prepared to answer any other questions you may have.

7 [09.26.46]

8 MR. PRESIDENT:

9 Thank you, and Judge Lavergne, you have the floor.

10 JUDGE LAVERGNE:

11 Thank you, President, for giving me the floor. And thank you, Mr.  
12 Prosecutor, for these explanations. I have a question. I read  
13 through the annex, and I have noticed that for some documents,  
14 the ERNs are not mentioned, neither in Khmer, English or French.  
15 Could you perhaps shed some light on the matter? On the versions  
16 that are available either in Khmer, English or French, I imagine  
17 that all these documents are available in Khmer. I would like to  
18 be certain of that. Could you tell us how many of these documents  
19 are available in an English version? Perhaps they are all  
20 available in English. And which ones are available in French? You  
21 said that on the civil party applications, 94 pages were  
22 relevant. I presume that these are 94 pages in English. That is  
23 my first question to you, Mr. Prosecutor.

24 [09.28.16]

25 MR. LYSAK:

12

1 Thank you, Judge Lavergne. I'm not sure which documents you are  
2 referring to that lack ERNs. The version of the annex that I'm  
3 looking at has ERNs. Perhaps there has been some error. There are  
4 a small number that -- there's maybe one of them, or two, that  
5 are only in Khmer, and there is one that is listed only in -- is  
6 available only in English. But the others, I believe, all have  
7 Khmer and English ERN, but I'd need to go through. I'm flipping  
8 through it right now, and at least in the version that I have,  
9 almost all of them have both Khmer and English ERN. A smaller  
10 number have French translations. My observation is that the --  
11 with both the witness interviews and the civil party applications  
12 in Case 004, they're being translated into English first, French  
13 after that. So, I don't know whether there's a specific document  
14 that you're concerned of, whether there's something wrong with  
15 the annex that made it through into the filing. But the annex  
16 that I have does have those ERNs.

17 [09.29.46]

18 JUDGE LAVERGNE:

19 Well, the document I was referring to is E319/25.3, documents 4,  
20 6, 8, 9, 11, 14. There's a certain -- a relatively high number --  
21 17, 18, 19, 22, 28, 29, 36. A high number of documents have no  
22 ERNs, and that is why I'm raising the issue. For example, 40, 42,  
23 43, 45, 46, 49, 52. None of these documents have the ERN, which  
24 is why I'm wondering if these documents are available in the  
25 various languages of the Court.

13

1 MR. LYSAK:

2 They are available, Your Honour. I'll need to take a look at  
3 what's happened. I can assure you that there is an annex that was  
4 prepared, and I believe it was our original annex filed, that has  
5 ERNs for all of those. I have no idea why you have a version of  
6 an annex that doesn't have those ERNs. We will look into that,  
7 and we will get -- make sure that there is a version -- we'll  
8 make sure there is a version circulated that has the ERNs. I  
9 don't know why that is, because the copy that I'm holding has  
10 ERNs for every document, with the exception of three; two that  
11 are only in Khmer, one that's only in English. But I will look  
12 into that, and make sure that they're there. But I can assure you  
13 that, in terms of what will be placed into the folders, the  
14 electronic folders, there are Khmer and English translations for  
15 all these documents, except for three which are only in one  
16 language.

17 [09.32.08]

18 JUDGE LAVERGNE:

19 Thank you very much for that information. I have no further  
20 questions to the Prosecutor.

21 MR. PRESIDENT:

22 Thank you. The Chamber now would like to hand the floor to the  
23 Lead Co-Lawyers for Civil Parties to make an observation  
24 regarding the submission by the Co-Prosecutor. You may proceed.

25 MS. GUIRAUD:



14

1 Thank you, Mr President. Good morning to everybody. Is it  
2 possible for us to make our comments after we have heard the  
3 comments from the Defence, so that we can respond to any specific  
4 demands that our colleagues might make? Otherwise, at this stage  
5 I can make some general comments, and I may ask for the floor to  
6 respond to the Defence subsequently. It's as you wish, Mr.  
7 President.

8 [09.33.29]

9 MR. PRESIDENT:

10 The Chamber requires you to make an observation now, so that we  
11 can expedite our proceedings. As you may be aware, the Defence  
12 teams will have the last chance to speak.

13 MS. GUIRAUD:

14 Thank you very much. In that case we have some very brief  
15 observations to make, just to recall that Ang Pich and myself are  
16 co-lawyers in the same predicament as the Defence co--lawyers. We  
17 do not have access to case files 003 and 004, and so we came  
18 across these documents on Friday as the other Parties did. In the  
19 folder provided, we can see there are 54 documents in Khmer, 54  
20 in English, and we are therefore assuming that all of the  
21 documents have been translated into English. On the other hand,  
22 only 20 are in French. We have perused these documents on Friday  
23 afternoon, and we defer to the wisdom of this Court as to whether  
24 the hearing of certain witnesses from Trapeang Thma should be  
25 deferred or not. We also have points to make about the

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1 disclosures. We understand the requests and objections from the  
2 Defence. Each party must, of course, be able to decide by itself  
3 and for itself about what information is necessary for this new  
4 segment. We're also keen to point out what is important to us,  
5 namely that the trial should move forward as swiftly as possible,  
6 and therefore, we defer to the Chamber to weigh up these  
7 different rights within the trial, but we do assume that this  
8 week can go forward because we have one witness on Trapeang Thma  
9 Dam, and one on the 1st January Dam. But again, we defer to the  
10 wisdom of the Tribunal on this point, and we do understand that  
11 any objection -- that objections may be raised by other Parties.  
12 Thank you, Mr. President.

13 [09.36.05]

14 MR. PRESIDENT:

15 Thank you. The floor is now given to the Defence teams for the  
16 Accused. First, the Defence team for Mr. Nuon Chea. You may  
17 proceed to make an observation in relation to the disclosure of  
18 new documents by the OCP. You may now proceed.

19 MR. KOPPE:

20 Thank you, Mr. President. Good morning, Your Honours. Good  
21 morning, Counsel. I think it might be worthwhile to put this last  
22 disclosure in a little bit of perspective. We have done some  
23 math, and have now seen that this is the thirteenth disclosure  
24 since the first one in November, 2014. Those 13 disclosures bring  
25 us to a total of 7,744 pages, plus an estimated 600 pages, a

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1 total of 8,344 pages, so almost eight and a half thousand pages.  
2 To remind the Chamber of earlier disclosure, I would like to  
3 refer to, for instance, the disclosure of 20 March 2015, where we  
4 received about 2,600 pages. Disclosure number 10, April -- 28  
5 April 2015, where we received about 1,057 pages. Now, with  
6 another 600 pages, like I said, bringing it to a total of eight  
7 and a half thousand pages. Speaking about resources, have we been  
8 able -- has the Defence been able to read all these new documents  
9 coming from Case 003 and 004? The only answer that we can give to  
10 that question is: marginally. We have had a very demanding trial  
11 schedule in the last months before the recess. Of course, we had  
12 to prepare for the three hearings in appeal, held by the Supreme  
13 Court Chamber early July. Have we really been able to properly  
14 read these documents, in the sense of really evaluating the  
15 documents as evidence? No. The question is -- the answer to the  
16 question is no. Have we been able to discuss the content of these  
17 disclosures with our client? No.

18 [09.39.13]

19 So, now again, a day before we start a new segment, we are again  
20 being confronted with 600 new pages. So it's simply for us  
21 impossible to even pretend to having read these documents. I have  
22 no idea how the judges -- how you, the Judges of the Trial  
23 Chamber, are doing this. We certainly can't, especially taking  
24 into consideration our resources in relation to the Prosecution.  
25 That's my first point.

17

1 My second point is, I'm still a little bit puzzled as to the  
2 timing. I've heard -- I listened carefully to the International  
3 Co-Prosecutor on the timing of, the filing of these civil party  
4 applications. Even if it's -- even if the date that I'm looking  
5 at, for instance, number 3 civil party application, document  
6 D5857, if it's not from 2009, but let's say from 2013, why did it  
7 take two years to present this civil party application of this  
8 civil party? Why did we have to wait until now? I don't  
9 understand the delay in time of another two years.

10 [09.40.59]

11 There are a number of other documents that are not civil party  
12 applications, in respect of which the timing also doesn't really  
13 make sense to us. For instance, the first document is an OCP  
14 interview of somebody whose name I shall not mention. But that's  
15 dated the 5th of August 2008. Why was that filed seven years  
16 later? I don't understand. There's also a report of an execution  
17 of rogatory letter, dated September, 2011, and that's being filed  
18 now. Also that is something that I don't understand. Actually the  
19 same goes also for the written records of investigation of the  
20 witnesses in Case 004. I've looked through them, but most of them  
21 -- one is from March, 2015. One is from April, 2015. One is from  
22 May, 2015. One is from 10 June 2015. One is from April, 2015. We  
23 are all fully aware that this segment was even scheduled before  
24 the recess. I really don't see a reason why we are being  
25 confronted with these WRIs at this stage. So, I would say that

18

1 the categorisation as 'far from ideal' is maybe the  
2 understatement of the year, I wouldn't say, but it's quite an  
3 understatement. What it all boils down to is that we simply have  
4 no room -- we have no possibility to properly question the  
5 witness or the civil party that is upcoming.

6 [09.42.59]

7 Obviously, we need to have a look, even only a marginal look, at  
8 these new civil party applications, whether they have any bearing  
9 or effect on these upcoming witnesses. Of course, maybe the most  
10 principled question is why should we even allow these civil party  
11 applications to enter our case? What is their material importance  
12 that would allow them to be brought into our case file? Why can't  
13 we simply say, "Let the lawyers and the judges in Case 003 and  
14 004 deal with these civil party applications"? What's the  
15 necessity, what's the strong necessity to have these civil party  
16 applications become part of Case 002? Of course I understand  
17 what's behind it, or it's maybe speculation. But the idea that  
18 Case 003 and 004 will ever happen, that's of course very  
19 unlikely. That's probably the reason why we are still being  
20 flooded with all that new evidence coming from Case 003 and 004.

21 [09.44.11]

22 But going back to the remarks I made in the beginning, putting  
23 this in perspective of almost eight and a half thousand pages, I  
24 think we have now reached a moment that we should say, "Enough is  
25 enough. Let these civil party applications belong to where they

19

1 were originally filed, in Case 003 and 004. Let them deal with  
2 it." And if you think that should not be the situation, then  
3 obviously we need some time to have a look at them. We didn't  
4 receive them yet. We are in the lucky position, or lucky between  
5 brackets, that on Wednesday and Thursday we have two witnesses  
6 who are not related to this segment. So by postponing today's  
7 civil party and tomorrow's witness, we would in effect have in  
8 total a week extra. But of course, I say that with the big caveat  
9 that actually having the resources and time to properly read  
10 these civil party applications, I don't think that is really the  
11 issue.

12 [09.45.29]

13 Last remark: I might add that civil party applications are not  
14 just merely applications. In the Judgement in 002/01, these  
15 applications have formed a very important part of the used  
16 evidence. So, based on our experience in Case 002/01, these civil  
17 party applications need to be considered, need to be given the  
18 same weight as proper evidence coming from witnesses. And in  
19 addition, we have seen in 002/02, in this trial, that a lot of  
20 those civil party applications have all kinds of defects in them.  
21 Witnesses sometimes come here and say, "I've never said that."  
22 They are written down by unknown people, who have sometimes no  
23 idea what the actual civil party has said. So, we have to be  
24 very, very careful with these civil party applications. Will we  
25 now let them in like this? They're in, they will never go out,

20

1 and that is problematic. So, I don't think we should make any  
2 distinction, really, between civil party applications as such and  
3 WRIs of proper witnesses. So, Mr. President, one: dismiss the  
4 request. Two: if you do not dismiss the request, give us at least  
5 today and tomorrow to have a first look at these new disclosures.  
6 Thank you.

7 [09.47.11]

8 MR. PRESIDENT:

9 Thank you. Now the Defence team for Mr. Khieu Samphan have the  
10 floor.

11 MS. GUISSÉ:

12 Thank you, Mr. President. Good morning to you, Sir, to the  
13 Chamber, to all of the Parties here. Mr. President, from the  
14 standpoint of the Khieu Samphan Defence, we see this problem of  
15 repeated disclosures as being something that is taking on  
16 alarming proportions, and which is challenging even the fairness  
17 of the trial. I think it's a little bit lightweight of the  
18 Co-Prosecutors to say that in one afternoon you can go through  
19 these 54 new documents. I think that's taking the work of the  
20 Defence somewhat lightly, because when documents are  
21 communicated, it's not a matter of simply reading through them.  
22 You have to do proper Defence work, cross-check information  
23 contained in the documents with other documents, and carry out  
24 thorough-going analyses. Now, if the Co-Prosecutor is picking up  
25 on work that's already been done by his colleagues, so he can go

1 through the documents quickly, well, that is something that he is  
2 entitled to do. But you can't expect the Defence to do the same.  
3 The most important point, perhaps, is the phenomenon we've seen  
4 over the last few months whereby within Trial 002, we are seeing  
5 a whole lot of documents relating to an investigation that is  
6 currently underway. And I must stress this because, as my  
7 colleague from the Nuon Chea Defence team has said, there are  
8 defence teams that are working on the investigations for Cases  
9 003 and 004, and there are rights that are attached to those  
10 people being investigated, and they have the right to demand that  
11 certain documents are drafted and that is not our case here.

12 [09.49.44]

13 My colleague referred to the actual figures for documents just  
14 now, documents that we don't really -- that we're not really  
15 acquainted with. Now, today, what we're trying to find out is to  
16 know what the purpose is of the disclosure by the Prosecution. Is  
17 this a possibly exculpatory material? In which case, we might  
18 need to know on what points. Is this a case of further evidence  
19 in Case 002? In which case, is the evidence not sufficient  
20 already? What I've also heard appears to be; well, we can go  
21 through these documents pretty briskly because they don't provide  
22 any new information. In which case, if they don't provide any new  
23 information, I would say then why bring them into the file? Why  
24 have tons and tons of new evidence that we are not acquainted  
25 with? I remind you that we are not basing ourselves on the



1 investigations for Cases 003 and 004.

2 [09.50.49]

3 So, my first reaction is: if these documents are so significant,  
4 then they should be rejected, and therefore there won't be any  
5 delays. In the last few months, we have to continually beg for  
6 extra time, so as to review documents that might lead to  
7 sentences for our clients. And we are therefore working under  
8 difficult conditions. We have other jobs to do at the same time,  
9 and we are being asked to be endlessly more and more flexible, to  
10 work in harder and harder conditions, and in conditions that will  
11 make it harder and harder to defend our clients. Well, yes, the  
12 trial must go on, but not under any conditions whatsoever.

13 Now, today, we've been told 54 documents -- well, there's only  
14 500 pages, but only X number of pages are actually useful to the  
15 case. Well, that may be the position of the Prosecution, but as  
16 we stand here and now, I haven't seen these documents in depth.  
17 We have to sign off before seeing the documents, and on Friday we  
18 weren't actually in the office and so, today, this morning, we  
19 can only sign the paper that will allow us to see the documents.  
20 Most of these documents are not available in French anyway. So,  
21 here again, the question of the necessary time to review them  
22 comes up, so that we can sit down with the people who work in  
23 Khmer, the people who work in English, in our team.

24 [09.52.52]

25 Now we're being told, "Oh, we can push forward. There's no

1 problem really. It's not going to make things too difficult for  
2 the Defence. Don't worry." Well, what is the point of the 54  
3 documents if we can just proceed with business as usual? If  
4 there's no particular point to them, let's simply withdraw them.  
5 If they have a purpose, and if they're useful, and if the  
6 Prosecution is intending to use them either now or later on by  
7 requesting their filing, then I simply state that we should be  
8 given the time to look at them. It is just a matter of equal arms  
9 between the Parties.

10 Today we are speaking blindly. I'm talking about documents that  
11 I've only seen the description of in the annexes. I don't know  
12 what the contents of the documents are. I don't know if we can  
13 continue with the civil parties in this way. So, the simple  
14 conclusion is to take these documents off the file, and to  
15 continue while we are trying Case 002, to allow the  
16 investigations for Cases 003 and 004 to continue.

17 As my colleague Nuon Chea said, a few weeks ago a certain number  
18 of civil parties have stated that a number of documents filled  
19 out in their name were not actually reliable, and I don't wish to  
20 see them filed without knowing that we're going to hear those  
21 civil parties.

22 [09.54.38]

23 Therefore, as I have said, if there are important reasons why the  
24 Prosecution would like to see these documents on file, or for the  
25 witnesses to be summoned, then fine. In which case, the proper

1 work of the Court will continue with cross-examination of  
2 witnesses and adversarial debate. If there are witnesses to be  
3 summoned, then they should be summoned, but we should not simply  
4 file thousands of written papers into the proceedings that some  
5 of the Parties have not seen. Therefore, if you believe that the  
6 Parties should be seeing these documents, and that they can be  
7 used by the Parties, then quite clearly there will not be any  
8 time to hear a witness at this stage talking about Trapeang Thma  
9 Dam. We cannot just proceed with business as usual and then leave  
10 us blindly at a disadvantage, vis-a-vie the Prosecution, in this  
11 way.

12 [09.55.59]

13 Then there's another question that we have to come back to, which  
14 is that of the weight to be given to the statements that have  
15 already been put on the case file, and the requests that may be  
16 made by the Prosecution. But let me remind you that there is a  
17 trial going on, in which Mr. Khieu Samphan has certain rights,  
18 and statements cannot be taken at face value just like that, if  
19 they're also going to be coming up for debate in Cases 003 and  
20 004. So either completely reject all of these new documents, and  
21 then we can continue. If you wish us to base our debates on these  
22 documents, then I'm afraid we have to have the time to review  
23 them, and two days of hearing today are not going to be enough.  
24 Either a proper deferral of one week in addition to the two days  
25 of this week right now, because we don't have any problem with

25

1 dealing with witnesses about Kampong Chhnang and the 1st January  
2 Dam, but you cannot say that this is something that has almost no  
3 relevance to the work of the Defence. That's the way the  
4 Prosecution sees it perhaps, but this is simply not true. Thank  
5 you very much.

6 [09.57.40]

7 MR. PRESIDENT:

8 You may now proceed, Deputy Co-Prosecutor.

9 MR. LYSAK:

10 Thank you, Mr. President. First, I wanted to update the  
11 information I received in regard to Judge Lavergne's question. I  
12 think what happened is, before we did the formal filing, we  
13 circulated a preliminary version of the annex, so that the  
14 process of assigning document numbers and processing could begin.  
15 And what made it into your hands was not the filed version of the  
16 annex, but a preliminary version. So, I'm told that's the reason  
17 that you may have ended up with the version of the annex that  
18 doesn't have the ERNs in it.

19 [09.58.28]

20 Second, I do want to respond to the issue of when these documents  
21 -- when the Defence could have started reviewing these documents.  
22 They were offered to them lunchtime Friday. The Nuon Chea team  
23 responded, saying they didn't want the documents. They wouldn't  
24 sign the acceptance. They didn't want them until lunchtime on  
25 Monday. As I said, and I was not relying on anyone else's work, I

1 went through these materials by myself Friday afternoon to see  
2 what was there. They refused to take the documents Friday at  
3 lunchtime. The Khieu Samphan team didn't respond -- even respond  
4 to our email sent at Friday lunchtime, offering to make these  
5 documents available. The second thing I want to make sure is  
6 clear: this is not a request for admission of these documents.  
7 This is a disclosure. It is a disclosure so that these civil  
8 party applications, which are in Case 004, are available should  
9 the Trial Chamber, should the Parties want to look at them. It's  
10 not our intention to request that these be admitted. The only  
11 ones I foresee potentially being admitted, for sure, are the ones  
12 that relate to, for example, the witness who is going to testify.  
13 I would think that probably one of the Parties will want to make  
14 use of that document.

15 But there is already -- it is certainly true there is already  
16 plenty of corroborative, civil party applications, victim  
17 statements from people who won't testify as witnesses here,  
18 without us having to admit these. So the reason we are disclosing  
19 them is just so they are available, should one of the other  
20 Parties look and say, "Oh, this particular individual looks quite  
21 interesting to me. I would like to request them to come and  
22 appear at some time in these proceedings, which will continue for  
23 another year." We want that option to be available.

24 [10.00.34]

25 Now should the Defence not want us to disclose further civil

1 party applications, we would be happy to be relieved from that  
2 burden. But it will need to be done with the clear waiver and  
3 statement from the Defence. We of course would continue --  
4 instead of doing what we did here, which was to make available as  
5 a disclosure all the interviews, all the civil party  
6 applications. We would still disclose ones obviously that related  
7 to people who would testify. If there was a civil party  
8 application that was exculpatory, we certainly would make it  
9 available. If there was something that was of particular  
10 significance, we would do that. What we have done here is a  
11 disclosure of the civil party applications relating to Trapeang  
12 Thma Dam, as a matter of fairness to make sure they are  
13 available, not as a request to admit these documents. That's an  
14 important, important distinction.

15 [10.01.38]

16 A couple of other points. The OCP interview from 2008: this  
17 disclosure was done while some of us from the trial team were not  
18 here. The reason this was not disclosed earlier was because it  
19 really doesn't have any substantive information on Trapeang Thma.  
20 It's someone who said they knew of the site, but then said they  
21 didn't have any information about it. Our instructions to people  
22 were to err on the side of disclosure, but not to disclose  
23 documents where someone mentions Trapeang Thma Dam, but doesn't  
24 provide any information. So, the 2008 document is, as you will  
25 see when you look at the documents, not one that has any material

1 information. It probably -- it should not have been disclosed.

2 I think I've responded to the issues that have come up, so unless  
3 you have any further questions?

4 [10.02.45]

5 MR. PRESIDENT:

6 Judge Lavergne, you have the floor.

7 JUDGE LAVERGNE:

8 One clarification, that I would like the OCP to give us. What is  
9 the number of the document? Or in the annex, this 2008 document  
10 that you just mentioned, that should not have been communicated  
11 because it is not relevant. What is the number on your list? Is  
12 it the first one? The 1.3.11.3?

13 MR. LYSAK:

14 Yes, the documents are in alphabetical order, by the name. And so  
15 the name of this person -- yes, this is the first one that  
16 appears. And it's not as if there's any -- anything that's been  
17 improperly disclosed. It's simply, when I read this interview on  
18 Friday, the witness says that they participated in the building  
19 of the Trapeang Thma Dam, but then when asked what were the  
20 conditions, said, "I did not participate in the work." For me, if  
21 I were here when this disclosure was made, we wouldn't have  
22 disclosed this, just because it does not seem to be of any  
23 weight. That's simply the point I'm making about this 2008  
24 document. The reason it wasn't disclosed earlier was because we  
25 reviewed it, and decided it wasn't of any particular relevance.

1 And somehow in the process of doing this disclosure, it got  
2 thrown into the mix.

3 [10.04.39]

4 MR. PRESIDENT:

5 Any other Parties, do you wish to make an additional observation?

6 Anyone? It seems none.

7 (Judges deliberate)

8 [10.05.29]

9 MR. PRESIDENT:

10 The Chamber wishes to express its sincere thanks to all Parties  
11 for your submissions on this matter -- that is, on the disclosure  
12 of statements in Case 002, or Case 004 to Case 002/02. And the  
13 Chamber will take a break now and resume at twenty to 11.00, so  
14 that during this break, the Chamber will deliberate this matter  
15 amongst the Judges of the Bench. Then we will proceed after the  
16 break.

17 (Court recesses from 1006H to 1104H)

18 MR. PRESIDENT:

19 Please be seated.

20 The Chamber would like to inform the Parties and the general  
21 public that the submission made by the Co-Prosecutor this  
22 morning, as well as the observations made by the respective  
23 Parties to the case, the Chamber deliberated during the break.  
24 However, we have not yet reached a conclusion, and we need more  
25 time to make such a ruling. For that reason we will adjourn the



30

1 Chamber -- we will adjourn the proceedings this morning, and  
2 resume at 1 o'clock this afternoon.

3 Security personnel, you are instructed to take Khieu Samphan to  
4 the waiting room downstairs, and have him returned to attend the  
5 proceeding this afternoon, before 1 o'clock.

6 The Court is now in recess.

7 (Court recesses from 1105H to 1310H)

8 MR. PRESIDENT:

9 Please be seated. The Court is back in session. And before we  
10 proceed with hearing testimony of a civil party as scheduled, the  
11 Chamber will present a rescheduling of the Trapeang Thma Dam  
12 worksite regarding the request for disclosures by the  
13 Co-Prosecutor. In fact today, the Trial Chamber is scheduled to  
14 start hearing evidence on a Trapeang Thma Dam worksite and we are  
15 scheduled to hear evidence from a civil party -- that is,  
16 2-TCCP-220. However, on Friday 24 July 2015, the International  
17 Co-Prosecutor filed a notification disclosing documents that he  
18 had identified as relevant to the Trapeang Thma Dam worksite.  
19 Having considered the overall submissions of the Parties made  
20 this morning as to the impact of this disclosure, the Trial  
21 Chamber decides that it will proceed to hear 2-TCCP-220 today, to  
22 be followed by 2-TCW-858. In keeping with the Trial Chamber's  
23 prior practice, the materials disclosed by the International  
24 Co-Prosecutor are not yet admitted into evidence in Case 002.  
25 This would require an application which satisfies the

1 requirements of Internal Rule 87. No such application has been  
2 made and at this point in time, the Trial Chamber only takes not  
3 of the disclosure which makes the concerned documents available  
4 to all the Parties. As for the impact of the disclosure on  
5 scheduling, 2-TCCP-220 is here at the ECCC having travelled a  
6 considerable distance. 2-TCW-858 has also been brought to Phnom  
7 Penh. To reschedule their evidence would cost significant  
8 practical difficulties. If a reasoned application is made in the  
9 future which demonstrates that the Parties were prejudiced by the  
10 International Co-Prosecutor's disclosure, persons can be recalled  
11 for further questioning.

12 [13.14.00]

13 Following the conclusion of 2-TCW-858's evidence, the Trial  
14 Chamber will hear evidence from 2-TCW-866, in relation to Kampong  
15 Chhnang Airport. Then the Trial Chamber will hear evidence from  
16 2-TCW-926, in relation to the 1st January Dam. These were persons  
17 previously selected by the Trial Chamber but who were unavailable  
18 to testify when scheduled earlier in the year. Their evidence is  
19 not affected by the latest disclosure. As for scheduling next  
20 week, the Trial Chamber rules that the Parties must be given an  
21 adequate opportunity to review the disclosed materials before  
22 continuing further with Trapeang Thma Dam witnesses.  
23 For that reason and considering the fact that this is the latest  
24 of numerous disclosures and that the Parties have been heavily  
25 engaged in appeal proceedings at the beginning of this month, the

1 Trial Chamber will make adjustment to next week's schedule. The  
2 Trial Chamber has also taken into consideration the fact that the  
3 two Judges will be unavailable in the coming week. Therefore  
4 following the conclusion of 2-TCW-926 evidence, the Trial Chamber  
5 will not sit next week. That concludes the Trial Chamber's  
6 ruling.

7 Court officer, please usher civil party, 2-TCCP-220, into the  
8 courtroom. And please also invite the TPO staff with the civil  
9 party in order to provide support to this civil party during the  
10 testimony.

11 (Civil party enters courtroom)

12 [13.17.26]

13 QUESTIONING BY THE PRESIDENT:

14 Good afternoon, Mr. Civil Party. What is your name?

15 MR. SEN SOPHON:

16 A. My name is Sen Sophon.

17 Q. And thank you, Mr. Sen Sophon. When were you born?

18 A. I was born on 3rd May 1960.

19 Q. Thank you. And where were you born?

20 A. I was born in Os Tuk village, Kampong Preang commune, Sangkae  
21 district, Battambang province.

22 Q. And where is your current address?

23 A. I live in Phsar Kandal (phonetic) village, Poipet commune,  
24 Poipet district, Banteay Meanchey province.

25 [13.18.44]

1 Q. What is your current occupation?

2 A. I am a labourer.

3 Q. What are the names of your parents?

4 A. My father's name is Sokh Yon and my mother's name is Sanh Sal.

5 Q. Thank you. And what is the name of your wife and how many  
6 children do you have together?

7 A. Her name is Lok Tan (phonetic) and we have four children  
8 together.

9 Q. Thank you. And the Chamber would like to inform you that at  
10 the conclusion of your testimony, you will be given an  
11 opportunity to make a statement of impact on the suffering that  
12 occurred during the Democratic Kampuchea period if you wish to do  
13 so. And the Chamber would like to inform the Parties and the  
14 public that sitting next to the civil party is a TPO staff, Sieng  
15 Hun Taing, who is allowed by the Trial Chamber to sit next to the  
16 civil party in order to provide support to the civil party per  
17 his request regarding his testimony. And that pursuant to Rule 91  
18 bis, the Chamber will hand the floor to the Lead Co-Lawyers for  
19 Civil Parties first to put questions to this civil party. And the  
20 combined time for the Co-Prosecutors and the Lead Co-Lawyers for  
21 Civil Parties is half day session. And you may proceed.

22 [13.20.58]

23 MR. PICH ANG:

24 Good afternoon, Mr. President, Your Honours and everyone else.

25 For questioning this civil party, Sen Sophon, 2-TCCP-220, Lawyer

1 Hong Kimsuon is assigned to lead the questioning. Thank you.

2 MR. PRESIDENT:

3 Yes, you may do so. And Hong Kimsuon, you may proceed.

4 QUESTIONING BY MR. HONG KIMSUON:

5 Good afternoon, Mr. President, Your Honours. And good afternoon,  
6 everyone in and around the courtroom as well as the audience in  
7 the public gallery, and everyone else who is following these  
8 proceedings. And good afternoon, Mr. Sen Sophon. My name is Hong  
9 Kimsuon and I'd like to put some questions to you regarding your  
10 personal experience from 17 April 1975 to 6 January 1979.

11 Q. Could you please briefly tell the Chamber where you lived  
12 before 17 April 1975?

13 [13.22.28]

14 MR. SEN SOPHON:

15 A. Before April 1975, I lived in Phnom Penh in Lot Number 3 in Ou  
16 Ruessei quarter.

17 Q. Thank you. Were you living with your parents or were you  
18 living by yourself?

19 A. I was living with my parents and my siblings at the time.

20 Q. How many persons in your household at the time?

21 A. There were six of us.

22 Q. Please describe.

23 MR. PRESIDENT:

24 Mr. Civil Party, please observe the microphone.

25 [13.23.40]

1 MR. SEN SOPHON:

2 A. There were my parents and myself and my younger siblings.

3 Altogether, there were six of us.

4 BY MR. HONG KIMSUON:

5 You refer to your parents, you mean your father and your mother?

6 MR. SEN SOPHON:

7 A. Yes, there was my mother and there was my father and my three  
8 siblings and myself.

9 Q. Thank you. And on the 17 April 1975, namely your family  
10 members, your parents, your siblings, were you still living in  
11 the same house or were you living elsewhere?

12 A. Please repeat your question.

13 Q. My question to you is the following. On 17 April 1975, did  
14 your family go to live elsewhere -- that is, to leave Phnom Penh?

15 A. On 17 April 1975, the Khmer Rouge attacked and took control of  
16 Phnom Penh. We were told by Khmer Rouge soldiers to leave Phnom  
17 Penh and that we had to clear the city in three days' time. And  
18 in fact, only on the 18 April 1975, we left the city.

19 [13.25.38]

20 Q. Your answer is rather unclear. You said the Khmer Rouge  
21 entered Phnom Penh on the 17th, and my question to you is the  
22 following: did you go anywhere on the 17th? And if not, on which  
23 day that you left the city?

24 A. I left on the 16th of April.

25 Q. I don't get your response is rather confusing. You said you

1 saw the Khmer Rouge enter Phnom Penh on the 17 and you said that  
2 you did not leave on that day. And my question to you is that  
3 after the 17 April 1975, did your family members go to live  
4 elsewhere?

5 A. We left Phnom Penh to S'ang district -- that is, to Preaek  
6 Reang village in S'ang district.

7 Q. Please if you do not understand my question, ask me to  
8 rephrase it before you respond. Now I ask you again about your  
9 journey to another location from Phnom Penh and I want to know  
10 the exact date, since your response so far is rather confusing.  
11 As you said that you left on the 16th, but 16th means it's before  
12 the 17 April. Please try to recall it clearly as to which day you  
13 actually left Phnom Penh.

14 [13.27.54]

15 A. My apology. In fact. We left the city on the 18th April.

16 Q. Thank you. So you left Phnom Penh to S'ang district in Kandal  
17 province. And can you recall as to which month you arrived in  
18 S'ang district, Kandal province?

19 A. I arrived in S'ang in March -- my apology, it was in May.

20 Q. As I said, please listen to my question carefully before you  
21 respond. Now I move on to my next question. And I'd like to refer  
22 to your civil party application form -- that is, document  
23 E3/4821. It exists in the Khmer language and the English  
24 language. And I'd like to refer to your evacuation in 1976. Do  
25 you recall that you were evacuated elsewhere in 1976?

1 A. We were evacuated from Preaek Reang village to Battambang  
2 province.

3 [13.30.06]

4 Q. Can you elaborate a little bit further, that is for the time  
5 period when you were transferred from Preaek Reang village to  
6 Battambang province? Under whose instruction were you sent to  
7 Battambang province?

8 A. The village chief made an announcement that we should leave to  
9 S'ang, Preaek Touch in order to be with other families and that  
10 we will be subsequently sent to return to Phnom Penh.

11 Q. Did you then go by yourself or you went with your family  
12 members?

13 A. All family members went together and there were also other 17  
14 April People who were with us.

15 Q. Can you please tell the Chamber when you were evacuated from  
16 your last residence to Battambang province, as to which village  
17 or commune you were sent to Battambang?

18 A. We were sent to Bat Trang village, Preah Netr Preah district.

19 [13.31.53]

20 Q. And do you recall the sector and the zone?

21 A. It was in Sector 5.

22 Q. Did you know what the name of the province or zone was at the  
23 time?

24 A. I do not know where it was because I had to travel a long way  
25 by a vehicle.



1 Q. I would like to know about your journey from Preaek Reang to  
2 Preah Netr Preah. How did you go to Preah Netr Preah? Did you go  
3 by boat, did you go on foot, what was the means of  
4 transportation?

5 A. After we left Preaek Reang village, we pass an open field for  
6 three kilometres, and after that we arrived in S'ang, Preaek  
7 Touch.

8 Q. Could you please go on and elaborate, elaborate the fact.

9 A. When we arrived in S'ang, Preaek Touch, there were 20  
10 vehicles. All people were called to board the vehicles. And after  
11 everyone boarded the vehicles, the vehicles left the area. And  
12 the vehicles went past Phnom Penh. Everyone was doubtful at that  
13 time why we had to come back to Phnom Penh and we were talking to  
14 each other that perhaps they lied to us. And the vehicles were  
15 heading to Preaek Touch. And at that time, my vehicle was first  
16 in the convoy and the vehicle stopped for a while to wait for  
17 other vehicles to arrive. I witnessed the incident at that time.  
18 I saw no one in the city. There were only rubbish in the city. I  
19 could see people, few of them were walking in the city.

20 [13.34.57]

21 Q. I want you to tell the Court about the time when you arrived  
22 in Battambang. So what happened?

23 A. We arrived at the railway station in Battambang province and  
24 we were told to board the train. We were told that we could not  
25 go by road because the road was cut. We went further from

1 Battambang towards Serei Saophoan. And when we arrived at Serei  
2 Saophoan, we could see a few tractors there.

3 Q. Thank you. I would like to backtrack a little bit. When you  
4 boarded the vehicle at Preaek Reang and the vehicle left for  
5 Battambang, at that time were you allowed to bring along  
6 belongings namely rice, pots and other important tools?

7 [13.36.16]

8 A. We were not given any tools or rice. We could only bring the  
9 rice that we brought along from the village.

10 Q. Did the vehicle stop along the way to allow people to relieve  
11 themselves or to cook to eat?

12 A. When the vehicle passed Kampong Chhnang, they stopped for a  
13 short period of time. And after that, the vehicle went on until  
14 we arrived in Battambang province.

15 Q. You arrived in Battambang and after that you went further to  
16 Serei Saophoan. How long was it -- how long did it take to arrive  
17 in Serei Saophoan?

18 A. It took us two days and one night.

19 Q. Did you and your family live in Bat Trang until the fall of  
20 regime?

21 A. My family and I lived in Bat Trang village until the fall of  
22 the regime.

23 [13.37.55]

24 Q. Thank you. In 1976, you stated you lived in Bat Trang village,  
25 Preah Netr Preah district, Battambang province. What group were

40

1 you in at that time and where did you work?

2 A. The village chief told me to be in the middle age group doing  
3 the rice farming.

4 Q. Concerning your group, what group was it?

5 A. It was called adult group or middle age group.

6 Q. So you were in that group and you stated that you worked in  
7 the field. So how long did you work in that group?

8 A. I was told to plough the field for a period of one year so  
9 that we could have the land to grow potato and rice.

10 Q. I would like to know about the food ration when you were in  
11 the middle age group. What was the food ration like?

12 A. The food was not enough for everyone. We receive only two cans  
13 of rice for 15 of us.

14 [13.40.14]

15 Q. What about working conditions and working hours, could you  
16 tell the shifts of your work?

17 A. Everyone had to wake up at 2 a.m. in the morning so that we  
18 could take cattle to the field. And we worked in the field in the  
19 very early morning and we had to work until 11.30 after which we  
20 could have time to have lunch.

21 Q. You stated you work in the middle age group or adult group.

22 Did you ever witness that anyone from your group was arrested?

23 A. No. I never witnessed it.

24 Q. Thank you. I would like to move on to the period of 1977. In  
25 your document E3/4821, you stated the time that you were in a

41

1 mobile unit. Could you tell the Court where were you assigned to  
2 work when you were in a mobile unit?

3 A. The cooperative chief told us and gathered us to form a group  
4 so that we could go and build Trapeang Thma reservoir.

5 [13.42.24]

6 Q. Could you tell the Court when did your group -- when was your  
7 group sent to construct Trapeang Thma reservoir?

8 A. It was in 1977.

9 Q. Do you recall where Trapeang Thma construction site was, what  
10 district or sector was it in?

11 A. It was in Phnum Srok district, Sector 5.

12 Q. Thank you. What was the assignment like and what were the  
13 working conditions at that time?

14 A. We were required to finish three cubic metres of soil per day.

15 Q. What about working hours, what time were you told to work?

16 A. At 4 a.m. in the morning, unit chief bang the bell so that  
17 everyone woke up and went to carry the earth and we had to work  
18 until 11.30 after which we were allowed to eat gruel.

19 Q. What about the afternoon, from what time until what time were  
20 you required to work? And when did you have rest?

21 A. We resumed our work at 1.00 in the afternoon and we had to  
22 continue working until 9.00 or 10 p.m. If we could not finish the  
23 work quota, we had to make our best efforts to complete it.

24 [13.45.02]

25 Q. Do you recall where exactly were you required to work on that

1 site?

2 A. I was instructed to work at Spean Reap (phonetic).

3 Q. Thank you. I would like to move back a little bit. You stated  
4 that the work quota was three cubic metres per worker per day. So  
5 I would like to know: Was the work quota the same for everyone?

6 A. The work quota was different from one another. Some were  
7 required to complete three cubic metres per day, some 3.5 cubic  
8 metres, some four cubic metres. And for me, I was asked only to  
9 complete three cubic metres of soil per day.

10 Q. Could you tell the Court why were you required to complete  
11 only three cubic metres per day?

12 A. Because I was in a group as I told you.

13 [13.46.37]

14 Q. You stated that you were told to work at Spean Reap (phonetic)  
15 at that time. Could you tell the Court was the place where you  
16 have to carry the earth away from the place where you dump the  
17 earth?

18 A. It was about 15 metres away from the place where I dumped the  
19 soil that I carried.

20 Q. Could you tell the Court how high the dam was and how large  
21 was the dam?

22 A. The dam itself was different inside. And the place where I  
23 work, the crest was about 30 metres and the base of the dam was  
24 about 50 metres.

25 Q. I would like to know whether there were female workers in your

1 group or unit.

2 A. There were many of them. I could see many female workers  
3 everywhere at the base of the dam and at other worksites.

4 [13.48.28]

5 Q. I would like to ask you about the sleeping quarters. Were  
6 houses built or were proper shelters built for all workers in  
7 mobile units?

8 A. A long hall was built and the hall was not tall, it was high  
9 enough for us to go in and sleep.

10 Q. How long did you work at that Trapeang Thma worksite?

11 A. I had to carry earth at that worksite for a period of two  
12 months. I was the last one to join the group. And after two  
13 months, I was asked to go to work at another site.

14 Q. Besides sleeping quarter, I would like to know about the  
15 health condition of the workers. Were there any medics at the  
16 worksite or was medicine given to the sick?

17 A. No medicine at all for the sick. Anyone who fell sick had to  
18 rest in the hall. And even the rice, sometimes we were not given  
19 any rice to eat as for the sick.

20 Q. What about the torture and arrest, have you ever heard or  
21 known that people were arrested and tortured?

22 A. I do not know but I noticed that people disappeared from the  
23 unit. I noticed that members of my unit disappeared one after  
24 another from time to time.

25 [13.50.56]

1 Q. What about clothes and drinking water, was there enough water  
2 to drink or was there enough clothes for you to wear?

3 A. There was not enough water for us to eat. The horse cart had  
4 two containers and the water was kept in that two containers and  
5 it was not enough for workers.

6 Q. Do you recall the name of the leader who was in charge of that  
7 Trapeang Thma worksite?

8 A. Yes, I could recall the name. His name was Ta Val.

9 Q. Was Ta Val the one who was in charge of your only unit or he  
10 was in charge other units as well?

11 A. He had overall supervision in Sector 5. And everyone said that  
12 Ta Val was the chief leader.

13 Q. While you were carrying earth at that Trapeang Thma worksite,  
14 did you ever witness high ranking people visited the worksite?

15 A. No, I never witnessed anyone visiting the site.

16 [13.52.51]

17 Q. Thank you. You have just stated that you worked in a mobile  
18 unit carrying earth for a period of two months. And after that  
19 you were assigned to work at Psang -- Spean Trang (phonetic)  
20 worksite. Was it away from Trapeang Thma worksite?

21 A. It was not far away from each other. In fact, the dam  
22 connected to each other.

23 Q. You have answered about working condition and food ration  
24 already. I would like to move on and would like to know about the  
25 time that you were working at Spean Tbaeng (phonetic). Were you

1 allowed to take a rest while you were working at that place?

2 Spean Sraeng.

3 A. No resting time for all workers. No holiday even during the  
4 time that we deserve to have.

5 Q. While you were working at the two worksites, were you able to  
6 make a request to visit your parents at home?

7 A. I had made a request to visit my parents but the request was  
8 rejected. I was not allowed to visit my parents.

9 [13.54.57]

10 Q. Again I would like to know about clothes. While you were  
11 working at that Spean Sraeng dam worksite, were you given with  
12 clothes and shoes to wear?

13 A. Frankly speaking, only one set of clothes was given to each  
14 worker in addition to one scarf or krama.

15 Q. I would like to move to the period of 1978. In your document  
16 E3/4821, do you recall or where were you assigned to work after  
17 you left Trapeang Thma or Spean Sraeng worksites?

18 A. After the two worksites, I was assigned to dig the canal at  
19 Phnum Lieb worksite.

20 Q. Was it a canal that you had to dig or was it a dam that you  
21 had to build?

22 A. It was a canal that I was assigned to dig.

23 [13.56.53]

24 Q. Thank you. What about the working conditions, were the working  
25 conditions different from those at Trapeang Thma and Spean Sraeng



1 worksites?

2 A. The working conditions were the same. We had to complete three  
3 cubic metres of soil per day that I had to dig. And I had to  
4 complete it every day.

5 Q. How far was it from Trapeang Thma to Phnum Lieb worksite?

6 A. It was in a long distance from Trapeang Thma to Phum Lieb. I  
7 could not tell you exactly how long it was.

8 Q. Thank you. Could you tell the President and the Chamber what  
9 happened to you while you were building Phnum Lieb dam?

10 A. As I said, I was assigned to dig the canal at Phnum Lieb  
11 worksite and I -- after 15 days, I noticed there was a woman. At  
12 that time, it was 10 p.m. I was going to get the rice. That lady  
13 came to tell me that, "Uncle Phon, you will be taken away and  
14 killed". I was horrified at that time.

15 [13.59.26]

16 Q. Take your time, Mr. Sophon. I will have a few more questions  
17 to ask you. As you were told by the President, you will have time  
18 to make victim impact statement lastly.

19 Could you tell the Court what happened after you were told that  
20 you would be taken away and killed?

21 A. Sra Em told me that, "Uncle Phon, you will be taken away and  
22 killed". And unit chief were told about that and the message were  
23 relayed to the militiaman. At that time, I was running away and  
24 was trying to find way to escape with the containers to keep  
25 rice. I was making my effort to make an escape. I did not know

1 where I was heading at that time.

2 Q. Where was you thinking at the time and where were you heading  
3 to?

4 A. I was not thinking of anything besides making an escape. I was  
5 doing my utmost to make an escape.

6 [14.01.25]

7 Q. Where did you go and where did you arrive?

8 A. I was making my way to the north of Phnum Lieb mountain. I was  
9 heading westward at that time and I arrived at Prey Moan. It was  
10 during the night-time that I had to travel. I was so exhausted at  
11 that time, so I fell asleep in the open field.

12 Q. And where did you go, where did you arrive at the time?

13 A. I arrived at Chrab commune.

14 Q. From Phnum Lieb canal to Chrab, how long did it take you and  
15 how did you survive by means of food?

16 A. It took me more than a week to be on foot and I did not have  
17 any rice to eat. And when I arrived at Prey Moan, I saw a potato  
18 farm. So I actually took some potato. And I also saw a well  
19 there. They left some potato on the farm, so I actually cooked  
20 those potatoes and I kept it with me and I continued my journey  
21 until I reached Chhuk (phonetic) village.

22 [14.03.35]

23 Q. Thank you. So you said you reached Chrab village. Did you stay  
24 there or did you continue with your journey?

25 A. I reached Chrab village as I stated and I saw an older woman

1 who knew me and asked where I was heading to. And I asked her how  
2 long she had lived there. And she said that the area that we  
3 previously lived was flooded and she asked whether I knew about  
4 what happened to my parents. And I said I did not know. He said  
5 that both my parents were taken away and killed. That's what she  
6 told me. And she asked where I was heading to and I told her I  
7 did not know since my parents were dead. And I told her that I  
8 did not know which unit I would go to and I did not have anything  
9 to eat. She said since your parents and your younger siblings had  
10 all been killed and you had nowhere else to go, then I could stay  
11 with her.

12 [14.05.28]

13 Q. Thank you. And the village that you arrived -- that is, Chrab,  
14 that you met this woman by the name of Trap, how far was it from  
15 that village to the Trapeang Thma Dam worksite, if you can  
16 recall?

17 A. I do not know the exact distance. I think the distance from  
18 Chrab mountain to Trapeang Thma Dam was more than 20 kilometres.

19 Q. Thank you. And did that old woman, Trap, tell you the reasons  
20 that your parents and family members were killed?

21 A. In fact, it was my father who was taken first to be killed  
22 since he was a former soldier. But then my mother said if my  
23 father was going to be killed, then there was no point of living.  
24 Then we would go with my father. But in fact, by the time they  
25 did not tell them that they were taken away to be killed but that

1 they were to be moved to a distant location. However, they were  
2 all killed.

3 [14.07.20]

4 Q. Thank you. Were you being tracked when you met the old woman,  
5 Trap?

6 A. No, they did not send anyone to track me down. And the old  
7 woman Trap told me that I could stay with her as -- just to be  
8 treated as her son and that I could be included into a unit as  
9 she herself was in a widows unit. And there were more than 70  
10 widows in the unit. She told her unit chief and she actually  
11 convinced her to have me included in the unit. And I was in the  
12 unit for only three days and I did not even know members of the  
13 unit. As we almost had nothing to eat; it was a very watery gruel  
14 with only a few pieces of rice in it. I became so fatigued. I was  
15 so skinny and the knees were as big as my head. So then I was  
16 assigned with another person to go and find fish in order to  
17 supplement our food condition. And off I went.

18 Q. Thank you. And in your document, that is same document  
19 E3/4821, you talked about foraging fish in Kambao river. And what  
20 happened there?

21 A. I was using a net to catch fish in the river there. I was with  
22 another person and we were on a small boat. While we were fishing  
23 -- and I heard a few gunshots not far from our location, so then  
24 we jumped into the river. And in fact, a person was shot dead  
25 while he was jumping into the river. And three or four days

1 later, the body floated or surfaced.

2 [14.10.18]

3 Q. And did you know reason for that man being shot?

4 A. No. I don't know the reason for him being shot as I was at a  
5 distance from where he was shot dead.

6 Q. While you were working at the Trapeang Thma Dam worksite and  
7 also while you worked at a canal in Phnum Lieb, were you under  
8 the same supervision of Ta Val while you were working at these  
9 two separate worksites?

10 A. Ta Val controlled the two mobile units. However, workforce was  
11 assigned separately. For instance, a workforce -- a group of  
12 workforce was assigned to go to one worksite while another was  
13 assigned to a separate worksite.

14 Q. Do you know the name of the unit chief at Phnum Lieb worksite?

15 A. By the later time, the Southwest group actually arrived and by  
16 that time, Ta Val name was no longer spoke of and I heard of  
17 another name of a woman by the name of Chaem, Yeay Chaem.

18 [14.12.06]

19 Q. Did you see this person Yeay Chaem in person?

20 A. I neither saw Ta Val nor Yeay Chaem, I only heard of their  
21 names.

22 Q. And after you survived the regime -- that is, after the  
23 collapse of the Khmer Rouge regime on 6 January 1979, did you  
24 ever attempt to locate your parents?

25 A. I tried every means of finding them. I went to Siem Reap, I

1 went to Battambang, to their native place of birth, but I could  
2 not find them. And I knew that they were dead.

3 Q. Since you survived the regime, do all those events that  
4 happened during the Khmer Rouge regime still live on in your  
5 memory or they simply disappeared?

6 A. The events and experience are with me always. Every time it  
7 comes to my mind, I just barely can afford myself not to weep.

8 [14.14.19]

9 Q. Before the Trial Chamber of the ECCC, you're entitled to  
10 request for reparation. And what kind of reparation that you wish  
11 to seek?

12 A. My request is to adjudicate this case; to prosecute the Khmer  
13 Rouge leaders as I lost everything. I lost my house, my land and  
14 my family members. And that's all I want from this Court.

15 Q. And do you have any questions that you would like to ask the  
16 Accused? However, you cannot put any direct question to the  
17 Accused, you have to make a request to the President of the  
18 Chamber. Or maybe at the conclusion of your testimony after you  
19 make your statement of suffering, you can put questions to the  
20 Accused through the President. And that's all the questions that  
21 I have for you, Mr. Sen Sophon.

22 And thank you, Mr. President.

23 MR. PRESIDENT:

24 Thank you. The Chamber now gives the floor to the Co-Prosecutors  
25 to put questions to this civil party. And you may proceed.

1 [14.16.15]

2 QUESTIONING BY MR. SENG LEANG:

3 Good afternoon, Mr. President, Your Honours. And good afternoon,  
4 everyone in and around the courtroom. My name is Seng Leang. I am  
5 a National Deputy Co-Prosecutor and I have some questions to put  
6 to the witness.

7 Q. My first question is the following. When you went to work at  
8 the Trapeang Thma Dam worksite, did you volunteer?

9 MR. SEN SOPHON:

10 A. No, I did not. I was assigned by the cooperative chief.

11 Q. Could you refuse to go?

12 A. No, I could not. If I refused to go, I would be accused of  
13 being an enemy and I would be taken away and killed.

14 Q. So you said you did not refuse. Did you not want to refuse or  
15 did you dare not to refuse?

16 A. The fact is I was afraid to die.

17 [14.18.05]

18 Q. And through your experience, did you know if anyone actually  
19 refused to go to work at the Trapeang Thma Dam worksite?

20 A. No. But we knew that whenever -- whoever was appointed by  
21 Angkar to work, we had to go and work.

22 Q. And actually who made that statement?

23 A. It was chief of the cooperative.

24 Q. And what is the name?

25 A. It's Uncle Phon. The name is as my name.

1 Q. You said that you went to work at the Trapeang Thma Dam  
2 worksite in 1977, could you please specify the month of the year?

3 A. I cannot recall the month, however, I recall that it's around  
4 mid-1977.

5 [14.19.35]

6 Q. Mr. President, with your permission, I'd like to read an  
7 extract of the civil party application in order to refresh this  
8 civil party recollection. The document is E3/4821 and the Khmer  
9 ERN is 00523263, and the English ERN is 00916890, and the French  
10 ERN is 00909833. In your civil party application, you said that  
11 "in May 1977, the chief of the cooperative, Phon, assigned me to  
12 work in a mobile unit at Preah Netr Preah together with Oeun. And  
13 there were 10 of us altogether".[Free translation] And Mr. Civil  
14 Party, does that refresh your memory?

15 MR. PRESIDENT:

16 And defence counsel, Victor Koppe, you have the floor.

17 [14.21.19]

18 MR. KOPPE:

19 Thank you, Mr. President. I know -- I realise that a question as  
20 phrased is framed by the Co-Prosecutor is allowed by the Trial  
21 Chamber or has been allowed already many times. However, I would  
22 like to point the Trial Chamber to practice that is now being  
23 adopted by the Supreme Court Chamber in its recent hearings. In  
24 its recent hearings, the Supreme Court Chamber has specifically  
25 directed Parties not to read excerpts from their own statements



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1 and then ask for confirmation. Now I realise that that is not a  
2 decision as such, so technically you are not bound by a practice.  
3 However, I think it is worthwhile noting to the Trial Chamber  
4 that that is now what we are supposed to do in appeal. So I think  
5 we have a new situation and my request would be to the Chamber in  
6 light of this adopted practice by the Supreme Court Chamber to  
7 reconsider its practice and forbid the Prosecution to simply read  
8 an excerpt and then ask for confirmation.

9 MR. PRESIDENT:

10 Judge Lavergne, you have the floor.

11 [14.23.10]

12 JUDGE LAVERGNE:

13 Counsel Koppe, could it be possible, Mr. Koppe, so that the  
14 Chamber may render a decision on what you say, could you give a  
15 reference to the transcript of hearings where this practice was  
16 explained?

17 MR. KOPPE:

18 Not now by heart but it was a written decision. It wasn't an  
19 actual instruction during the hearings itself. It was laid down  
20 in decision on guidelines and practices before the Supreme Court  
21 Chamber in respect of the witnesses. It's F26. I have the French  
22 version but I'm happy to read the French version to you. It's  
23 French, ERN 01110269. For the interpretation booth, I now would  
24 try my best French: "Except if there are anything to the  
25 contrary, examination should not consist of only reading to the

1 witness an excerpt of their previous declarations and asking them  
2 to confirm it. Previous statements can be used to test the  
3 credibility of a witness or to shed some clarity on any  
4 contradictions that may exist between different statements."

5 [14.25.36]

6 MR. PRESIDENT:

7 The International Deputy Co-Prosecutor, you may proceed.

8 MR. BOYLE:

9 Thank you, Mr. President. Just a couple of brief observations.

10 First, this was not a situation where counsel was asking to  
11 confirm a statement. This was a situation where he asked a  
12 question and then asked the President's leave to refresh the  
13 witness's memory. So I want to make that distinction.

14 Second of all, as counsel noted, the practice of reading  
15 statements to witnesses and to civil parties is one that has been  
16 followed for a long time in this Chamber. I think if counsel  
17 intended to ask this Chamber to change that practice, it's  
18 certainly something that could have been made in writing and then  
19 giving all Parties an opportunity to respond to that suggestion.

20 And third of all, I just like to make the observation that of  
21 course this Trial Chamber has wide discretion in regards to how  
22 it chooses to conduct its hearings and the way that the Supreme  
23 Court Chamber chooses to conduct its hearings in the context of  
24 evidentiary hearings on appeal do not necessarily have bearing in  
25 regards to how this Chamber chooses to conduct its hearings.

1 Thank you very much.

2 (Judges deliberate)

3 [14.34.24]

4 MR. PRESIDENT:

5 I'd like to hand the floor to Judge Lavergne to respond to the  
6 observation made by the defence counsel for Nuon Chea, Counsel  
7 Koppe, on the questioning put last by the Deputy National  
8 Co-Prosecutor to the civil party. And Judge Lavergne, you have  
9 the floor.

10 JUDGE LAVERGNE:

11 Thank you, President. The Trial Chamber understands this  
12 recommendation coming from the Supreme Court Chamber. Seeking to  
13 avoid a general practice during the examination of a civil party  
14 or a witness, which would -- simply nearly reading out passages  
15 repeatedly statements by this person, and indeed this is not an  
16 appropriate way to conduct an examination. However, for limited  
17 reasons such as refreshing a civil party or witness's memory or  
18 to test their credibility, it is possible a Party may refer to  
19 previous passages of statements. But it must be explained  
20 clearly. That is why the last question that the civil party  
21 lawyer asked be rephrased so it may be clear to all Parties what  
22 is the purpose of such a quote from a previous statement. It must  
23 be made clear to everyone that the objective, the purpose here is  
24 asking the civil party if he remembers having said what is stated  
25 and if it does indeed correspond to what he remembers. And so

1 this could be the practice henceforth with the Trial Chamber.

2 Thank you.

3 [14.36.45]

4 BY MR. SENG LEANG:

5 Thank you very much, Your Honour. I would like to rephrase my  
6 question. Civil party stated that he worked at Trapeang Thma  
7 worksite in 1977, but not the year. So I wanted to know about the  
8 month of the year that he was working at that Trapeang Thma  
9 worksite. To get the response in relation to the month, I had to  
10 resort to the document -- that is, E3/4821. Now I would like to  
11 rephrase the question so that the civil party can understand my  
12 question clearly. I would like to read the statement again.

13 Q. You stated in May 1977, unit chief named Phon called me and  
14 told me to work in a mobile unit in Preah Netr Preah together  
15 with Van (phonetic). I do not know whether Van (phonetic) is  
16 alive or dead. Wun (phonetic) is deceased. I was assigned to work  
17 together with 10 other workers.[Free translation]

18 Do you stand by your statement? You stated in your document that  
19 you went to work at Trapeang Thma worksite in May 1977. Do you  
20 stand by the statement in your document?

21 [14.39.14]

22 MR. SEN SOPHON:

23 A. Yes, I was working there in May 1977.

24 Q. Thank you, Mr. Witness. You have just given your responses to  
25 the question by civil party lawyer. You stated that you worked at

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1 Trapeang Thma worksite for two months after which you went to  
2 work at Spean Straeng (phonetic). Is it correct what I have just  
3 read to you?

4 A. Yes, it is correct.

5 Q. After you arrived at Trapeang Thma worksite in May 1977, was  
6 the dam completed already?

7 A. The construction of the dam was about to finish.

8 Q. So does this mean that after you left that worksite, the dam  
9 was not completed yet; is that true?

10 A. It was not 100 per cent completed when I left.

11 [14.41.00]

12 MR. PRESIDENT:

13 Thank you, Mr. Deputy Co-Prosecutor for the National side. It is  
14 now convenient time for the break. And we will take the break  
15 from now until 3 o'clock.

16 Court officer, please find a proper room for this witness to take  
17 rest during the break time, and please invite him back together  
18 with TPO staff into the courtroom at 3 o'clock.

19 The Court is now in recess.

20 (Court recesses from 1441H to 1458H)

21 MR. PRESIDENT:

22 Please be seated.

23 The Court is back in session and again the Chamber hands the  
24 floor to the Deputy Co-Prosecutor to continue putting questions  
25 to the civil party and you may proceed.

1 BY MR. SENG LEANG:

2 Thank you, Mr. President.

3 Q. Mr. Witness, before the break I asked you a question that you  
4 actually went to work at the Spean Sraeng worksite. Could you  
5 elaborate a little further, what kind of work were you involved  
6 in the Spean Sreang worksite and did it have any connection to  
7 the Trapeang Thma Dam worksite?

8 MR. SEN SOPHON:

9 A. We actually built a dam at the Spean Sraeng worksite and in  
10 fact that dam was linked to Trapeang Thma Dam.

11 Q. What was the purpose of construction of Spean Sraeng dam?

12 A. No, I don't know the reason for its construction.

13 [15.00.50]

14 Q. Let me turn to the Trapeang Thma Dam worksite. Can you tell  
15 the Court how many workers were on site at the Trapeang Thma Dam  
16 worksite?

17 A. There were thousands of workers.

18 Q. Were those workers mixture of male and female for example, and  
19 their age range, can you elaborate on that?

20 A. The workers were between 18 years old to 30 years plus, they  
21 were in mobile units.

22 Q. Were they mainly men or there were mixture of men and women?

23 A. There were both male and female workers. There were male and  
24 female youth workers; that's what they used to call at that time.

25 Q. Did the worker have the right to choose the work that they did

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1 or they only had to follow the work assignment by their  
2 respective unit chiefs?

3 A. They did not have any work choice. They had to complete the  
4 work assignments by units chief.

5 Q. Did anyone refuse to carry out the work assignment and if so  
6 what happened to them?

7 A. No, I do not know if there was anyone who dared to refuse.

8 [15.03.25]

9 Q. In your response to the lawyer for civil parties, you said  
10 that you were required to carry three cubic metre of soil per  
11 day. You also added that certain workers in certain groups had to  
12 do three and half cubic metres and even up to four cubic metres  
13 per day. Can you tell the Court why your group was assigned three  
14 cubic metres each and why in other groups they had to do 3.5  
15 cubic metres while the other group had to do four?

16 A. I was in a group with less than regular manpower and we were  
17 assigned less than the regular manpower units.

18 Q. What is the difference between a regular manpower group and  
19 your group, for instance, does that refer to the members of the  
20 group due to their personal strength, for instance?

21 A. My group was selected from the rear -- from the so-called rear  
22 battlefield, while the regular work force groups were already  
23 assigned to the front battlefield in terms of engaging in that  
24 kind of work.

25 [15.05.28]

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1 Q. Were there any groups that were assigned to carry less than  
2 three cubic metres per day?

3 A. No.

4 Q. In doing the three cubic metres of soil per day, what kind of  
5 tools or equipment were given to your group?

6 A. The only things that we were given were baskets, carrying  
7 poles and hoes.

8 Q. Were heavy machines used to aid your work?

9 A. No, the things we had were the hoes.

10 Q. So does it mean you had only carrying baskets and hoes to  
11 complete the three cubic-metre work assignment per day?

12 A. Yes, we had to use the hoe to dig the soil and some time we  
13 had to use our hands to put the soil onto the basket and carry  
14 the basket to dump the soil at the dam.

15 [15.07.09]

16 Q. Were you able to complete the three cubic-metre work quota on  
17 a daily basis?

18 A. I don't understand your question.

19 Q. Allow me to rephrase my question. You stated that you were  
20 assigned to carry three cubic metres of soil per day and that was  
21 the daily plan assigned by your unit chief and what did you do in  
22 order to complete this work quota?

23 A. If I could not complete the three cubic metre work quota, I  
24 would be deprived of food until -- and I had to continue working  
25 until 10 o'clock at night before I would be allowed to stop



1 working and eat.

2 Q. You also stated that you started working at 4 a.m. in the  
3 morning and at night-time you continued to work until 9.00 or 10  
4 o'clock through the night. Did you have sufficient rest time in  
5 order to resume your work again?

6 MR. PRESIDENT:

7 The defence counsel, Kong Sam Onn, you have the floor.

8 [15.08.54]

9 MR. KONG SAM ONN:

10 Thank you, Mr. President. From what I heard, the civil party  
11 confirms that by 4 o'clock, the unit chief actually rang the bell  
12 and it was not the time that they commenced working in the field.

13 BY MR. SENG LEANG:

14 Q. Allow me to clarify that with the civil party.

15 Mr. Civil Party, what time actually did you start working in the  
16 morning?

17 MR. SEN SOPHON:

18 A. We would work whenever it was clear enough that we could see  
19 other workers.

20 Q. Did you have to wake up when the unit chief rang the bell at 4  
21 o'clock in the morning?

22 A. The bell was rung at 4.00, and if anyone did not get up by  
23 that time then the person would be whipped.

24 [15.10.09]

25 Q. You went to sleep at 10 o'clock at night and you had to wake

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1 up at 4.00 in the morning; did you have sufficient sleep to  
2 continue working the next day?

3 A. No. I did not have the actual strength to work the next day  
4 but I had to force myself; otherwise, I would be deprived of  
5 food.

6 Q. You said in the unit there were both men and women, and were  
7 female workers required to carry three cubic metres of soil as  
8 men?

9 A. Everyone, every worker had to engage in the three cubic metres  
10 work quota on a daily basis.

11 Q. In your response to the lawyers for civil parties, that you  
12 had to carry the soil for a distance of 15 metres; can you  
13 actually tell the Chamber how many kilos of earth you put on each  
14 basket that you carried?

15 A. The weight was about 30 to 40 kilograms.

16 [15.11.48]

17 Q. On a daily basis, who actually engaged in doing the inspection  
18 in order to ensure that workers completed the daily work quota  
19 that you and your group did?

20 A. It was unit chief Val who did that inspection.

21 Q. You stated earlier that you would be deprived of food until  
22 such time that you completed your work quota -- that is, by 10  
23 o'clock at night, and if you couldn't complete your work by 10  
24 o'clock at night, were you still given food to eat?

25 A. We would be given food to eat by 10 o'clock even if the work

1 was not, or the quota was not completed.

2 Q. Did you ever hear that some workers were accused of being  
3 lazy?

4 A. There were workers who were accused of being lazy and they  
5 were deprived of gruel; however, workers who were sick were given  
6 gruel to eat.

7 Q. Did you ever hear about any measure taken against any worker  
8 who was alleged of being lazy; for example, they were assigned to  
9 a separate unit?

10 A. No. If, for example, a worker was lazy, the unit chief would  
11 come and whip him and then chase him to go to work.

12 [15.14.30]

13 Q. Also in your response to the lawyer for the civil parties, you  
14 made a request to visit your home but it was not allowed. Were  
15 you given the reason that you were not allowed to visit your  
16 home?

17 A. No, they did not give any reason. They said that I was not  
18 simply allowed to visit home.

19 Q. In your unit, was there any member who actually missed home a  
20 lot and without authorisation that person actually ran home to  
21 visit his or her home?

22 A. No, there was no such case in my group.

23 Q. In your case you sought permission but it was not granted and  
24 you did not go as a result; and can you tell the Court the reason  
25 why you did not go?

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1 A. I dared not go because I was afraid that I would be killed if  
2 I was still stubborn and went I would be killed by Angkar.

3 [15.16.22]

4 Q. And how did you learn that?

5 A. It was spread through the unit chief during the meeting that  
6 if anyone did not obey Angkar, the person would be taken away and  
7 killed.

8 Q. At the Trapeang Thma Dam worksite were there any guards or  
9 soldiers who were watching over the workers?

10 A. There were no soldiers. However once in a while I saw a  
11 militiaman carrying a weapon walking up and down at the worksite.

12 MR. PRESIDENT:

13 Court officer, could a check -- I think there is an alarm bell  
14 ringing or something? It seems there is nothing and the Deputy  
15 Co-Prosecutor, you may continue.

16 [15.17.51]

17 BY MR. SENG LEANG:

18 Thank you Mr. President.

19 Q. Now on the seriousness of the work condition, did you ever  
20 hear or see any worker die from overwork or from starvation?

21 MR. SEN SOPHON:

22 A. I saw with my own eye that a person died from starvation,  
23 however, that happened when I was at the ploughing unit, the  
24 person was actually starving and begged for a piece of rice but  
25 no rice was given and the person actually died and it happened in

1 front of me.

2 Q. What about any -- what about those -- were there any workers  
3 who died from overwork?

4 A. No, I did not see any.

5 Q. In your response to the lawyer for civil parties on the  
6 sleeping quarter, what kinds of necessities given to you at the  
7 sleeping quarter; for example, was a mosquito net, a sleeping mat  
8 or a blanket given to you?

9 [15.19.45]

10 A. No. There was no mosquito net, no pillow, no mat; we had to  
11 find means of sleeping by ourselves. For example you could find a  
12 piece of mat and you actually slept on it and other people  
13 actually slept on the ground itself.

14 Q. During the time that you worked at the worksite, was there any  
15 day that it rained or any night it rained while you were sleeping  
16 at your sleeping quarter?

17 A. Yes, sometimes it rained at night and due to the patchy roof,  
18 the raindrops fell in and we could not sleep, we had to sit up  
19 all night and we had to still start working in the early morning  
20 the next day.

21 Q. Did you mean that your group members were soaked under the  
22 rain and that you could not sleep at night when it was raining?

23 A. We were not allowed to rest the next day as we had to continue  
24 working despite the rain the previous night.

25 [15.21.26]

1 Q. Were there any toilets or any facilities that you could  
2 relieve yourselves nearby your sleeping quarter or the work  
3 place?

4 A. No, there was no toilet or anything. Actually people relieved  
5 themselves in bushes nearby.

6 Q. Were there insects or mosquitoes -- or, rather, flies on site?

7 A. If you talk about flies, there were swarms of flies and you  
8 could actually see the darkness of flies on your bowl of gruel.

9 Q. Did you have access to drinking water or to bathe yourselves  
10 at the worksite?

11 A. No. Water was transported by ox cart to the worksite for rice  
12 cooking and we had to go and wash ourselves in the nearby stream.

13 Q. So there was no sufficient water on site and the water had to  
14 be transported from elsewhere. Where was the water transported  
15 from?

16 A. They would go and fetch water from any available stream or  
17 pond nearby the worksite.

18 Q. And was the water that you drank properly filtered or boiled?

19 A. No, it was rather muddy but we had to drink it.

20 [15.23.55]

21 Q. Since there was no sufficient water and no toilet facility,  
22 what happened to those female workers for example who experienced  
23 their monthly cycle?

24 A. I cannot tell you about that.

25 Q. During the time that you worked at the Trapeang Thma Dam

1 worksite, did you ever fall sick?

2 A. Yes, twice. Actually I contracted fever twice; I was mainly  
3 given two tablets of rabbit drop pallets.

4 Q. So you had fever and you were given rabbit drop pallets; and  
5 if you were sick of other diseases, what kinds of medicines were  
6 given to you?

7 A. No, I cannot tell you about that but there were no proper  
8 medicines on site.

9 Q. What about the medical staff, were they experienced in terms  
10 of providing medical care?

11 A. I did not know whether they were knowledgeable, however, the  
12 pallets that were given to us were in the shape of rabbit drops.  
13 [15.25.57]

14 Q. How old were the medical staffs?

15 A. The ages ranged between 22 to 23 years old, they were female  
16 medical staff.

17 Q. While you were working at the Trapeang Thma Dam worksite, did  
18 you see any work-related accidents on site?

19 A. Yes, there was; people nearby the place that I was digging the  
20 soil, and accidentally the hoe hit the head of another worker and  
21 he was bleeding everywhere.

22 Q. And where was the person sent for treatment?

23 A. No, he was not sent anywhere but to the sleeping quarter to  
24 rest there and then a female medical staff would attend to the  
25 wound.

1 [15.27.20]

2 Q. Do you recall if at the worksite or at your sleeping quarter,  
3 a loudspeaker was used to make announcement or to play music?

4 A. Yes, a loudspeaker was used and they played the revolutionary  
5 songs including the victory of the 17th April day.

6 Q. Besides songs played over the loudspeaker, was other  
7 information broadcast?

8 A. No. Besides songs there was nothing else played over the  
9 loudspeaker, however, loudspeaker was used when workers were  
10 called to attend a meeting.

11 MR. SENG LEANG:

12 Mr. President, I don't have any further questions for this  
13 witness and I would like to cede the floor to my international  
14 colleague and thank you Mr. Civil Party.

15 MR. PRESIDENT:

16 Thank you. And the International Deputy Co-Prosecutor, you may  
17 proceed.

18 [15.28.45]

19 QUESTIONING BY MR. BOYLE:

20 Thank you, Mr. President.

21 Mr. Civil Party, I just have a few questions to follow up on from  
22 what my colleagues have asked you earlier.

23 Q. Can you please tell us how many people were in your mobile  
24 unit when you were working at the Trapeang Thma Dam?

25 MR. SEN SOPHON:



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1 A. There were 70 workers in my unit and my unit was known as 100  
2 men unit and there were other -- rather, it was a big unit and  
3 there were other units in the form of 100 men unit or 1000 men  
4 unit.

5 Q. Who was in charge of your 100 men unit?

6 A. There were other units and respective chiefs, and in my unit  
7 there were 70 workers and we were under the supervision of the  
8 unit chief.

9 [15.30.18]

10 Q. You remember the name of the unit chief?

11 A. No, I forget his name.

12 Q. Other than Ta Val whom you mentioned and the chief of your 10  
13 men group Ra, do you remember anyone at Trapeang Thma who had  
14 supervisory authority?

15 A. Yes, there were unit chiefs at different level. For example  
16 100 men unit chiefs, or big unit chiefs but I do not recall their  
17 names.

18 Q. You mentioned earlier that when you were at Trapeang Thma Dam,  
19 you were in Sector 5; do you remember what zone Sector 5 was in?

20 A. It was under the Northwest Zone.

21 Q. And did you know who was in charge of the North West Zone?

22 A. I do not know. I know only Ta Val.

23 Q. Were you aware of a time while you were in the Northwest Zone  
24 that people from Southwest Zone took control?

25 A. Yes, I know. Yeay Chaem.

1 [15.32.44]

2 Q. And do you remember when it was that you were aware that  
3 people from the Southwest Zone had taken control of the Northwest  
4 Zone?

5 A. I cannot recall it well. What I can say is that it was in  
6 1978; Yeay Chaem was the one who came to arrest Ta Val and my  
7 parents to be killed.

8 Q. And how did you learn that Ta Val had been arrested?

9 A. People in mobile units said that Ta Val was taken away and  
10 killed and they said that those from the Southwest were good  
11 people and they came to replace the old cadres. After a period of  
12 time, Yeay Chaem was even crueller than others.

13 Q. Can you explain how Yeay Chaem was crueller than the previous  
14 persons in charge?

15 A. What I know is that after Yeay Chaem came to replace the  
16 previous cadre, many people died. Before that, not many people  
17 died when Ta Val was in charge.

18 [15.34.56]

19 Q. Did your life as a worker get worse, better or stay the same  
20 after the persons from the Southwest Zone took control?

21 A. Quota -- work quota remained the same. We were assigned -- I  
22 was assigned to complete three cubic metres of soil.

23 Q. Thank you. Can you tell us how many times a day while you were  
24 at the Trapeang Thma Dam, were you allowed to eat?

25 A. At the beginning we were allowed to eat three times a day.

1 Later on we were reduced to have only the thick gruel.

2 Q. Later on would you still eat three times a day?

3 A. No. The rice was running out and later on we were allowed to  
4 have rice at lunch time and we received another meal in the  
5 evening.

6 [15.37.07]

7 Q. So am I correct in understanding that later on you would only  
8 eat twice a day, once at lunch time and once in the evening.

9 A. Yes, that is correct.

10 Q. While you were living in Preah Netr Preah, were you ever asked  
11 to write your biography?

12 A. No, no biography was asked, no notebooks, no pencils at that  
13 time, nothing at all.

14 Q. You referred to yourself earlier as a 17 April person; can you  
15 explain what that means?

16 A. 17 April People were evacuated to live in Preah Netr Preah  
17 district and the local people there were named Base People and  
18 the newcomer would be named New People or 17 April People.

19 Q. And how would people know that you were a 17 April person or a  
20 new person versus being a base person?

21 A. It was -- it is known by the way we speak. Base People spoke  
22 with their accents, so they would know that we were New People by  
23 our accents.

24 [15.39.45]

25 Q. And who would refer to you as a 17 April person or as a new

1 person?

2 A. The cooperative chief. The cooperative chief said that we were  
3 the 17 April People because we were new at the place and 17 April  
4 People were allowed to have only gruel not rice. Rice was  
5 reserved for Base People.

6 Q. Were there any other ways that 17 April People were treated  
7 differently from Base People?

8 A. Sorry, I could not get your question.

9 Q. You just mentioned that 17 April People would receive gruel  
10 whereas Base People would receive rice to eat and I was wondering  
11 if there were other ways in which 17 April People were treated  
12 differently from Base People.

13 A. Base People did not work very hard; they could tell the New  
14 People or the 17 April People to work instead of them.

15 Q. Were there a lot of New People working at Trapeang Thma Dam?

16 A. There were thousands of them.

17 [15.42.20]

18 Q. Were you ever required to attend any meetings while you were  
19 working at the dam?

20 A. Yes. Sometimes we were called into a rally or big meeting, to  
21 alert us to strive in our work and we were required to be in the  
22 meeting to make a commitment that we had to meet three cubic  
23 metres of soil per day.

24 Q. And who would speak at these meetings?

25 A. Unit chiefs, the big unit chiefs, chief of 100 member units,

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1 chief of 1000 member units, they did not mention their names at  
2 the meetings.

3 Q. And would they discuss anything else besides that you had to  
4 meet your work quota?

5 A. We were told to meet the work quota set by Angkar.

6 Q. Were you aware of any people who were considered to be  
7 Vietnamese or to have Vietnamese ancestry that were working at  
8 the Trapeang Thma Dam worksite?

9 A. I have never heard of people talking about that matter at my  
10 worksite.

11 [15.44.50]

12 Q. Were you aware of any persons who were Cham who were working  
13 at the Trapeang Thma Dam worksite?

14 A. Chams were living with us. They spoke with accent and Cham  
15 people sometimes said they did not eat pork and workers teased  
16 them because of that statement.

17 Q. And from what you observed, were Cham persons treated any  
18 differently from other workers at the Trapeang Thma Dam worksite?

19 A. At my worksite nothing happened as you said. Perhaps something  
20 happened at other worksites.

21 Q. You mentioned earlier that you were aware of people going  
22 missing. Were you aware of people going missing from your unit or  
23 was it people going missing from a bigger group of workers?

24 A. Members from my unit or group disappeared. Oeun disappeared;  
25 he was taken away and killed.

1 [15.46.50]

2 Q. Did you see Oeun being taken away?

3 A. No, I did not witness. But I did not see him, he disappeared.

4 Q. And why do you conclude that he was killed after he  
5 disappeared?

6 A. I have told the Court already, in one instant I was told to  
7 get the string of the earth basket and at that time I was told  
8 that I would be taken away and killed so I was -- managed to make  
9 an escape. I told the civil party lawyer already about this.

10 Q. And were you aware of other workers, other than Oeun, who also  
11 disappeared?

12 A. I cannot recall all the names. Many people disappeared from  
13 time to time.

14 Q. From the time that you were expelled from Phnom Penh until  
15 early January 1979, were you aware of any marriages that took  
16 place?

17 A. Yes, I was aware of the marriage. The men and women did not  
18 love each other at that time and they were paired up and they  
19 were allowed to get married, 10 or 20 couples married at a time.

20 [15.49.35]

21 Q. And these marriages that you're referring to, did they happen  
22 when you were in Kandal, when you were in Preah Netr Preah or in  
23 both?

24 A. When I was at Spean Sreang, I noticed there was a marriage, I  
25 noticed that there was five men and five women, they were paired

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1 up and they were told to sit across each other and in that  
2 ceremony they were asked to stand up to make a commitment that  
3 they would get married. I was not forced to get married at that  
4 time but I was there as a witness in the ceremony.

5 Q. And do you know who made the pairings of the man and the woman  
6 and who led the ceremony?

7 A. The unit chiefs.

8 Q. And what happened after the marriage ceremony was concluded?

9 A. I did not know what happened after the marriage.

10 MR. BOYLE:

11 Thank you, Mr. Civil Party.

12 Thank you, Mr. President, no further questions.

13 [15.51.40]

14 MR. PRESIDENT:

15 Thank you.

16 It is convenient time for the adjournment because we still have  
17 only a few minutes. The Chamber adjourns its hearing now and it  
18 will resume its hearing tomorrow on the 28 July 2015, and it will  
19 continue Mr. Sen Sophon. After that we will hear 2-TCW-858,  
20 please be informed.

21 Thank you very much, Mr. Sen Sophon. The hearing of your  
22 testimony as a civil party has not come to an end yet. You are  
23 therefore invited to be here again at 9 a.m.

24 Court officer is instructed to send Mr. Sen Sophon to the place  
25 where he is staying at the moment and please invite him back into

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1 the courtroom before 9 a.m.

2 Thank you as well, Mr. Sieng Hun Taing, TPO staff. The Chamber  
3 would like to invite you to be here again to support the civil  
4 party during the Court proceeding tomorrow at 9 a.m.

5 Security personnel are instructed to bring Mr. Nuon Chea and  
6 Khieu Samphan back to the detention facility of the ECCC and have  
7 them returned tomorrow before 9 a.m.

8 The Court is now adjourned.

9 (Court adjourns at 1553H)

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