



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

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

ឯកសារដើម
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ថ្ងៃ ខែ ឆ្នាំ (Date): 25-Aug-2015, 08:00
CMS/CFO: Sann Rada

TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

18 August 2015

Trial Day 313

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

The Accused: NUON Chea
KHIEU Samphan

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INDEX

Mr. CHHUM Seng (2-TCW-828)

Questioning by Mr. DE WILDE D’ESTMAEL resumes..... page 6

Questioning by Ms. GUIRAUD page 16

Questioning by Ms. TY Srinna..... page 22

Questioning by Judge FENZ page 29

Questioning by Judge LAVERGNE page 33

Questioning by Mr. KOPPE page 38

List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
Mr. CHHUM Seng (2-TCW-828)	Khmer
Mr. DE WILDE D'ESTMAEL	French
Judge FENZ	English
The GREFFIER	Khmer
Ms. GUIRAUD	French
Mr. KONG Sam Onn	Khmer
Mr. KOPPE	English
Judge LAVERGNE	French
The President (NIL Nonn)	Khmer
Ms. TY Srinna	Khmer
Mr. VERCKEN	French

1

1 PROCEEDINGS

2 (Court opens at 0905H)

3 MR. PRESIDENT:

4 Please be seated.

5 On behalf of the Trial Chamber, I would like to inform Parties
6 and the public that witness Chhum Seng has health issues and he
7 is not able to come to testify during the first session. The duty
8 doctor at the ECCC is now treating him and we will wait and see
9 the report from the doctor whether we can proceed to hear his
10 testimony in the second session this morning. So now, the Chamber
11 decides that the Chamber will not hold the hearing in the first
12 session this morning. And the Chamber will start to hear this
13 testimony of Mr. Chhum Seng in the second session this morning
14 after the Chamber receives the report from the duty doctor. So
15 now, the Chamber would like to take a break and we will come back
16 at 10.30.

17 (Court recesses from 0906H to 1028H)

18 MR. PRESIDENT:

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

20 Today, the Chamber will continue to hear the testimony of witness
21 Chhum Seng. And he is accompanied by Mr. Duch Phary, the duty
22 counsel.

23 Greffier, please report the attendance of the Parties and other
24 individuals at today's proceedings.

25 [10.29.59]

2

1 THE GREFFIER:

2 Mr. President, for today's proceedings, greffier notes that all
3 Parties in the case are present, except the national counsel for
4 Mr. Nuon Chea, who is a bit late but he will be arriving soon.

5 Mr. Nuon Chea is present in the holding cell downstairs and has
6 waived his right to be present in the courtroom. The waiver has
7 already been received by the greffier.

8 A witness who is to continue testifying today is Mr. Chhum Seng,
9 and Mr. Duch Phary, the duty counsel, is also present in the
10 courtroom.

11 MR. PRESIDENT:

12 Thank you, Ms. Sivhoang. Now the Chamber decides on the request
13 by Nuon Chea.

14 The Chamber has received a waiver from Mr. Nuon Chea, dated the
15 18 August 2015, which states that due to his health reasons:
16 headache, back pain, and he cannot sit or concentrate for long
17 time, and in order to ensure effective participation in future
18 hearings, he waives his right to participate in and present at
19 the 18 August 2015 hearing.

20 [10.31.25]

21 Having seen the medical report of Nuon Chea by the duty doctor
22 for the Accused at the ECCC, dated the 18 August 2015, who notes
23 that Nuon Chea has chronic back pain when he sits for long and
24 recommends that the Chamber grant him his request and allow him
25 to follow the proceedings remotely from the holding cell

1 downstairs.

2 Based on the above information and pursuant to Rule 81.5 of the
3 ECCC Internal Rules, the Chamber grants Nuon Chea leave to follow
4 today's proceedings remotely from the holding cell downstairs via
5 audio-visual means for the whole day today. And as Nuon Chea has
6 waived his right to be present in the courtroom, the Chamber
7 instructs the AV Unit personnel to link the proceeding to the
8 room downstairs so that Nuon Chea can follow the proceedings from
9 there.

10 And now, I give the floor to the Prosecution to resume the
11 examination of this witness. I wish to advise the Prosecution and
12 the Lead Co-Lawyer for the civil parties that you have only one
13 session to complete the examination of this witness.

14 Please, hold on. Now, Counsel Vercken, you may proceed.

15 [10.32.55]

16 MR. VERCKEN:

17 Thank you, Mr. President. Very quickly, I'll like to revisit
18 yesterday's incident. In fact, following the advice given to me
19 by the Chamber, I read in its entirety your decision of --
20 Severance Decision of the 4th of April 2014, E319/9/1. I read the
21 extract in paragraph 44 and I do not find, Mr. President, in that
22 decision any explanation following my questions as to the
23 reasoning of the Chamber which consists in accepting that we
24 consider the questions of former officials of the Khmer Republic.
25 I do not understand that decision, I have a problem. And I note

4

1 that in your memo of October, E318, that is the memo of the 13th
2 of October 2014, the Chamber wrote in paragraph 2 that, if it
3 turns out that during the proceedings in Case 002, any concrete
4 issues arise regarding a legal certainty in the Defence's
5 preparation of the second trial, this would be discussed and
6 settled on a case-by-case basis. I believe we find ourselves in
7 such a situation, a situation in which we face a problem
8 regarding the scope of trial.

9 [10.34.40]

10 What is possible? Is it possible to consider these matters in
11 this second trial segment or not? I heard the pleading by the
12 civil party International Lead Co-Counsel, and that reasoning is
13 not that of the Chamber. So I am therefore requesting that the
14 Chamber refer us specifically to the paragraph and the passage in
15 the decision of April 2014 regarding the second Severance Order,
16 in order that we may know clearly what is the scope of the trial
17 that is ongoing at this point in time. I thank you.

18 MR. PRESIDENT:

19 The International Deputy Prosecutor, you may proceed.

20 [10.35.36]

21 MR. DE WILDE D'ESTMAEL:

22 Thank you. And good morning, Mr. President, Your Honours. I will
23 respond rapidly bearing in mind that a lot of time has already
24 been devoted to the (inaudible) and it is encroaching on the time
25 allotted to the Co-Prosecutors and the civil parties to examine

5

1 this witness. May I ask that we should look at the policy
2 regarding enemies and Lon Nol soldiers, all issues that have to
3 do with Lon Nol troops?

4 Within the framework of the worksite of Trapeang Thma, all these
5 issues are relevant since we are talking of the crimes of
6 political prosecution. And that is paragraph 4, 14, and 117 of
7 the Closing Order. And we are dealing with ex-Lon Nol soldiers
8 and workers. The Closing Order regarding Trapeang Thma Dam is
9 also the subject of research regarding the biographies of workers
10 of the site, and this is the case so long as they were members of
11 the former regime. Having said so, I would wish that you'd give
12 us additional time, if it is possible, 10 minutes in addition to
13 the time allotted to us so that we may complete the examination
14 of this witness.

15 (Judges deliberate)

16 [10.38.06]

17 MR. PRESIDENT:

18 Since this issue is rather complex and the document is
19 voluminous, and this has happened several times and subsequently
20 the Chamber has ruled on this issue, and it has some impacts on
21 the other Parties to put the questions to the witness, for that
22 reason, the Chamber grants leave for the Prosecution and the Lead
23 Co-Lawyers for the civil parties to put the questions to the
24 witness.

25 As for the observation made by counsel Vercken, the Chamber will

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1 respond via email in due course to your observation.

2 And International Deputy Prosecutor, you may resume your
3 examination.

4 [10.39.13]

5 QUESTIONING BY MR. DE WILDE D'ESTMAEL:

6 Q. Thank you, Mr. President. Mr. Witness, I resume my questioning
7 regarding the Trapeang Thma Dam worksite where you worked. It is
8 not quite clear regarding the time you spent there working. Can
9 you tell us approximately how many months before the arrival of
10 the Vietnamese did you leave the Trapeang Thma Dam worksite?

11 MR. CHHUM SENG:

12 A. I left there for about five or six months and I, at that time,
13 left for the cotton plantation. Then the Vietnamese troops came.

14 Q. And when you left the Trapeang Thma Dam worksite, what work
15 did you still have to do in order to complete the work 100 per
16 cent? Because when you stopped work, the works had not yet been
17 completed.

18 A. At the time, we completed Trapeang Thma Dam for about 95 per
19 cent. There remained only the construction of bridges: Bridge 1,
20 2, and 3. And the reason for the delay in the construction of the
21 bridges was due to the lack of cement, iron bars, and few other
22 materials. And in addition, they sent out some of the forces to
23 reinforce the plantation of cotton.

24 [10.41.25]

25 Q. Very well. Just one clarification regarding the number of

7

1 workers on the worksite: Yesterday you talked of approximately
2 10,000 and you made a distinction between those who worked in the
3 mobile brigade of the 5th sector and those who came from the
4 mobile units in cooperatives. Approximately how many people were
5 there in the Sector 5 mobile brigade to which you belonged?

6 A. On this issue, I did not do the counting and neither did I
7 know the exact number. I only knew the members in my company,
8 which consisted of 300 members.

9 Q. Yesterday, you said at about 15.14 that there was a special
10 unit of people in charge of monitoring the workers in the units,
11 that contributed to the building of the Trapeang Thma Dam. Who
12 were these persons therefore who had to monitor within the units
13 the workers and what did they have to do exactly?

14 [10.43.06]

15 A. They were the cadres from the Northwest Zone. At that time,
16 they designated them to monitor in the unit or company or
17 battalion. For example, in my company, there was one person
18 designated but we did not know that that person actually came to
19 monitor. He actually came to work like other workers as well in
20 the site and then he kept asking us as what we did in the
21 previous regimes or so.

22 Q. Were there people in your company who had been discovered in
23 the past and who subsequently were led away and disappeared?

24 A. In my company, two members disappear, Phorn and Rom (phonetic)
25 -- both of them disappeared. Because it could have been that they

1 failed to conceal their backgrounds. But Phorn used to be the
2 lieutenant of the Lon Nol soldiers in the Lon Nol regime and the
3 other one was from the rich family during the previous regime. So
4 the Khmer Rouge soldiers arrested both of them, and they were
5 taken away, and they disappeared ever since.

6 Q. Did you find out where those persons were led to or that is
7 something you never was able to find out?

8 A. They disappeared, but I have no idea where they took them to.
9 Ever since they took them away, they never returned.

10 [10.45.24]

11 Q. Yesterday, we talked of arrests and executions at the dam
12 worksite. You gave another name in your interview before DC-Cam,
13 that of a nephew of In Tam, who was a member of your group. Can
14 you tell us what happened to him?

15 A. Nephew of In Tam, whom I did not know his full names; I call
16 him by his alias, A Map (phonetic). He used to work with me. And
17 then he asked me to leave and look for his uncle. And I ask him,
18 "where was your uncle?" And he said that his uncle was in
19 Thailand. I did not actually allow him to leave. I dare not allow
20 him to leave. But he insisted and then he fled. And he went for
21 about a week or so, and then he returned back. He got injured on
22 his arms, and then I asked him what had happened to him. He said
23 that he was almost there near Cambodian-Thai border, but he was
24 shot by the soldiers guarding the borders. And he had to flee for
25 his life. And he returned.

1 [10.47.00]

2 Q. And upon his arrival, what happened to him? Did he join his
3 company again or he was arrested?

4 A. Upon his arrival, nobody knew except me. So I did not report
5 to anybody. I hid him within my company.

6 Q. In your interview with the DC-Cam, E3/1010, page 32 in
7 English; 55 in Khmer; you said that two persons left and one of
8 them was killed. Do you confirm that In Tam's nephew left with
9 someone else and that person was killed?

10 A. That Map (phonetic) told me that he went with another man, but
11 that man was shot dead by the Khmer Rouge soldier. And he alone
12 escaped that and he returned to the place.

13 Q. Do you know of other persons who were arrested and executed
14 while you were at the Trapeang Thma Dam worksite, whether they
15 were in your company or other battalions, to your knowledge?

16 A. Only two members disappeared. But as for other companies or --
17 I did not know.

18 [10.49.14]

19 Q. Perhaps your memory can be refreshed if we look at the
20 interview you gave to the DC-Cam interview, E3/9010 on page 31 in
21 French, 33 in English, and 56 to 57 in Khmer. And this is what
22 you stated: "Several workers were executed." And further on,
23 "There was a person I knew -- I usually called him Ta Nhob. I did
24 not know his real name. He was sent somewhere else." And later
25 on, you state that: "Three people led him away to bury him under

10

1 the third bridge where there was a big reservoir. I had heard
2 some say that he had golden jewellery. Some people did not hand
3 their jewellery to Angkar, and if Angkar found out, they were
4 executed. At least some of them hadn't handed in their
5 jewellery."

6 Do you remember someone who was executed because he had golden
7 jewellery and had not handed such jewellery to the cooperative?
8 [10.50.43]

9 A. In my company, one member had some problem with his eye sight.
10 He had to put on eye glasses. One day he fell sick and he had to
11 stay back. And then he disappeared. And I ask other people, and
12 they say that he was sick. And then later on, the cook told me
13 that the man had passed away. And then when I went to find out, I
14 saw him die there. And then people carry him to bury about 300
15 metres away from the hall. And then, people ask whether or not I
16 saw the jewellery with him. And then I did not see it, but those
17 who carried him for burial, he actually told me that they found
18 his jewellery and some of the remains from his parents.

19 Q. Very well. Thank you. Regarding that particular person, did he
20 die of ill health or following an arrest and execution?

21 A. This man who had a problem with his eyes, he actually die of
22 the diseases. He died at his bed when he was sick.

23 Q. Thank you. Were any instructions issued by the upper echelon
24 as to what had to be done to persons who refused to obey orders
25 or who were opposed to Angkar?

1 A. For the upper echelon, they only made it clear that if anybody
2 betray Angkar or disobey the instructions of Angkar, they were
3 subject to be executed.

4 [10.53.33]

5 Q. In Sector 5 mobile brigade, was there a unit of special cases
6 of persons who were less hardworking than others who were sent
7 for re-education? Did you hear of any such cases?

8 A. Yes, I heard of it. And the chief was a man by the name of
9 Sres (phonetic). And I also heard that there was some protest
10 against Angkar. And then Angkar gathered them. And those who are
11 the protester were put under the supervision of Sres (phonetic).
12 That was the situation that happened at Trapeang Thma worksite at
13 the time.

14 Q. And what had to be done specifically in that unit? Did they
15 have to work more, each less? Was there anything special in that
16 unit?

17 A. As for the food regime and ration, we were given the same
18 ration of food. But in Cambodia, there is a proverb that goes
19 "even the fish die if it talks too much". So at that time, those
20 who dare protest against Angkar, they were gathered in one group
21 and then they were placed under the supervision of one person, so
22 that it's easier for Angkar to monitor them.

23 [10.55.33]

24 Q. You referred to the fact that there was the brigade of Sector
25 5 and the other groups consisted of units from cooperatives in

1 the various neighbouring districts. Were food rations different
2 from that of Sector 5 mobile brigade and the rations of the
3 different cooperatives in the districts?

4 A. As for the mobile units from the cooperatives, I was not aware
5 of. I did not know the living condition of the people living in
6 the cooperatives. I only knew the living conditions of those who
7 were working in the mobile brigades attached to Trapeang Thma
8 construction worksite.

9 Q. Very well. You told the members of DC-Cam interview E3/9010,
10 page 19 in French, page 20 in English, and pages 30 and 31 in
11 Khmer -- in referring to cooperatives, this is what you stated:

12 "There was a shortage of food because they received no assistance
13 from the regional mobile brigade. It was the cooperative that was
14 in charge of providing food."

15 And my question is as follows: "If the cooperatives gave more,
16 they would consequently receive more. So it was up to the
17 cooperative they belonged to."

18 And your answer was: "That's right. It was up to the
19 cooperatives. If the cooperatives could not provide more, they
20 ate watery rice soup." End of quote. [The first part was a free
21 translation]

22 [10.57.53]

23 Did you have the opportunity to see workers from the cooperative
24 units at Trapeang Thma -- outside of your own unit, were you able
25 to see them? And in particular, what did those people look like

1 physically?

2 A. At that time, the cooperative attached to Thma Puok, they were
3 also working closely with our company. I knew the cooperative
4 chief by the name of Khan. I met him. The overall working
5 condition and particularly the physical look of the members of
6 cooperative according to my observation at that time, the members
7 of cooperatives were skinny. They were even skinnier than the
8 workers in the mobile brigades.

9 [10.58.55]

10 Q. Thank you. I do not have much time left. Yesterday, you talked
11 about the difficulties in finding clean drinking water. And you
12 were told that water was provided to you only during meals and
13 that water that was supplied by trucks was not clean, it was
14 muddy. Did you try to dig wells in order to solve this water
15 supply problem?

16 A. At that time in my company, we assigned people to dig wells
17 but actually the waters did not appear. And we only could
18 generate small amount of water, one bucket or so or two from the
19 well. But we had to use the truck to carry water and distribute
20 it to the unit.

21 Q. Regarding the working conditions at Trapeang Thma, I would
22 like to read to you an excerpt of a magazine from the period,
23 which is called "Revolutionary Youth" and that describes
24 precisely these working conditions as well as the issue of
25 drinking water. And this is document E3/771, dated July-August

1 1977, and the pages in French, 00594053 to 55; English,
2 0050968687; and in Khmer, 00376343 to 45. Regarding -- so I'm
3 going to quote different segments of this article and I'm then
4 going to ask you to react. So I quote:
5 "This workshop was inaugurated on 16 February 1977." Later on, on
6 the following page: "During the offensive to build the hydraulic
7 system at Trapeang Thma, up until then, the young men and women
8 from the Battambang area called, relied upon all of their
9 psychological strength and on all of their physical strength, and
10 demonstrated pure abnegation in order to serve the common
11 interest of the community and to fulfil the Party plan with
12 complete success. The compatriots were living on the worksite for
13 months on end. The compatriots fought to remove the earth, to
14 carry earth on shoulder poles, to transport the earth night as
15 well as during the day under the blazing sun during the entire
16 dry season without complaining in the least, without --quite on
17 the contrary, during the entire period, our compatriots were
18 always joyful."
19 And then finally a little later on, "concretely, they had to
20 fight against the shortage of water for their daily use, indeed
21 the carts and the water transportation vehicles were not able to
22 supply on time the needs." End of quote.
23 [11.03.19]
24 So my first question: Do you, first of all, agree with what is
25 written here -- that is to say, that the workers would work

15

1 joyfully during this period under the blazing sun during the day
2 as well as at night? Was in fact the work joyful?

3 MR. PRESIDENT:

4 Please wait, Mr. Witness. You may now proceed, Counsel Kong Sam
5 Onn.

6 MR. KONG SAM ONN:

7 I would like to make an observation on the question. The witness
8 already gave precise timeline when he was working at Trapeang
9 Thma Dam worksite. There were differences in timeline concerning
10 the dam site. So the question in relation to this segment, I
11 think it is not properly raised.

12 MR. PRESIDENT:

13 Mr. Witness, you are instructed to give the response to the
14 question.

15 MR. CHHUM SENG:

16 A. I recalled what I have told you.

17 [11.04.59]

18 BY MR. DE WILDE D'ESTMAEL:

19 Q. The question was: Was the working atmosphere joyful among the
20 workers who had to work day and night under the blazing sun
21 without stopping?

22 MR. CHHUM SENG:

23 A. It is not true. We were working under the sun. We did not have
24 enough food to eat. We had to work because we were afraid of
25 being killed by Angkar. It was not joyful.

16

1 Q. Did the workers have any say about working under those
2 conditions? Could they say, for example, no, I don't want to
3 work?

4 A. No one dared to refuse the assignment. One who dares to refuse
5 the assignment means that this individual opposed Angkar. He or
6 she would be killed.

7 [11.06.21]

8 Q. And can you tell me -- this would be my last question: During
9 this offensive period when you were building the Trapeang Thma
10 Dam, were the workers allowed to leave the worksite and to go
11 visit their families when they wanted to?

12 A. During the time, we could not even move from one unit to
13 another one. We had no rights to make a request so that we would
14 be allowed to visit home.

15 MR. DE WILDE D'ESTMAEL:

16 Thank you very much. I no longer have the time to put any further
17 questions. Thank you very much, Witness, for having taken the
18 time to answer my questions.

19 QUESTIONING BY MS. GUIRAUD:

20 Thank you, Mr. President. Good morning to all of you. Good
21 morning, Witness. My name is Marie Guiraud. I am a civil party
22 lawyer and I have very short questions to put to you since the
23 Co-Prosecutors have raised the main points that I wished to
24 raise. So I only have a few follow-up questions for you.

25 Q. First of all, I wanted to know if there were people who were

1 sick within the unit that you led.

2 MR. CHHUM SENG:

3 A. Within my unit or company, people were frequently sick but not
4 all of them got sick.

5 [11.08.20]

6 Q. What kind of illness were they suffering from?

7 A. The main disease was malnutrition. Some of them got swelling
8 in the body and the cause was because of lack of food.

9 Q. Was there any staff to check the people who said that they
10 were ill?

11 A. There was one medical staff within one unit or company. Every
12 time one fell sick, he or she would be prescribed with the rabbit
13 dropping pellets. For the sick who had swelling in the body or
14 had whatever disease, they would be prescribed with that
15 so-called rabbit dropping pellets.

16 [11.09.37]

17 Q. Did you receive any particular instructions from the higher
18 echelons with regard to the people who were ill? How were they
19 treated? Were they allowed to rest or did they have to go work?
20 So could you tell us about the instructions you may have received
21 from your superiors regarding this matter?

22 A. For those who got serious illness, they would be referred to a
23 hospital inside the Trapeang Thma pagoda. And for those who were
24 not seriously ill, they would be prescribed with the rabbit
25 dropping pellets to have. And they were afraid and concerned of

1 the imaginary sickness at the time.

2 Q. Well indeed, I was going to put that question to you with
3 regard to this term, "imaginary sick people". So what did you
4 understand by that -- by these people who were imaginary sick
5 people? What kind of fate was reserved for these people?

6 A. Imaginary sickness was a kind of sickness that one pretended
7 to be ill. If one was actually sick, he or she would be allowed
8 to rest. And unless they were seriously ill or they had swelling
9 in the body, they would be allowed to rest; otherwise, they had
10 to go to work.

11 [11.11.40]

12 Q. Who would decide on whether or not these people were really
13 sick or were pretending to be sick?

14 A. It reflected by the activities or the work that we did. Some
15 people may have said they got sick and they would be allowed to
16 rest at the sleeping quarter. But after all workers had gone to
17 work, this pretending -- this imaginary sick person would go out
18 and try to seek food.

19 Q. Did you receive the order to punish in any way whatsoever
20 people who pretended to be sick?

21 A. Not many people within my company fell sick. I rarely imposed
22 any punishment on my workers.

23 Q. You explained to us yesterday that you had to produce a report
24 and that you had to watch over one worker per day, and that you
25 would report to your superiors about that. So did you receive

1 orders to report on people who were pretending to be sick?

2 [11.13.42]

3 A. I was required to attend a meeting held by Ta Val. Ta Val was
4 in attendance at that time. And there was instruction from him
5 that as a cadre, we had to monitor and try to search for the
6 worker who had the bad background and who had any activities
7 against Angkar.

8 Q. When you say "activities against Angkar", can you give us a
9 few examples of what was considered an activity against Angkar?

10 A. By that, I mean there were many activities against Angkar. No
11 one was allowed to whisper each other at night-time. If we
12 happened to secretly chit-chat at night that we had no food to
13 eat, no rice to eat, the work was very difficult, these kind of
14 verbal complains could be considered the activities against
15 Angkar. Work assignment had to be completed by the workers, for
16 example, carrying dirt, etc.

17 Q. And being ill, was that something against Angkar, was that
18 something you would discuss back then?

19 A. If one was really sick, it was not considered an activity
20 against Angkar because that individual was actually and really
21 sick.

22 [11.15.58]

23 Q. And what about the people who were pretending to be sick, were
24 they considered to be people doing something against Angkar?

25 A. For the so-called imaginary sickness, it was considered one

1 activity against Angkar because that person did not go to work
2 and did not try to help Angkar to complete the job. That person
3 was using his luck to try to stir the water so that the work was
4 obstructed.

5 Q. You said just right now that chit-chatting at night could be
6 considered an activity against Angkar. So does that mean that the
7 workers were watched over at night?

8 A. At the time, militiamen would conduct surveillance on the
9 workers who had any bad activities. Some of these militiamen
10 would be sleeping close to us and they would try to eavesdrop
11 what we were chit-chatting. If we happened to complain about the
12 work condition; for example, the work was so difficult, so on and
13 so forth -- and these kinds of verbal complaints or activities
14 were considered those against Angkar.

15 [11.18.04]

16 Q. Were the militiamen armed as far as you can remember?

17 A. It was at night-time that the militiamen were with us and I
18 did not know whether they were armed. At one time, when I woke up
19 at night to relieve myself, there was one militiaman that was
20 sleeping nearby, and that person was wearing bag clothes. As for
21 weapon, whether he or she was armed, I did not know because it
22 was dark at the night-time.

23 Q. Thank you. I have one last question for you. Did you ever
24 attend wedding ceremonies at the Trapeang Thma Dam?

25 A. I got married together with other 20 couples. It did not

21

1 happen at Trapeang Thma Dam worksite. My marriage was held for me
2 in Kang Va, the cotton plantation, perhaps in late 1978 or early
3 1979.

4 Q. And when you were at Trapeang Thma, did any members of your
5 unit get married?

6 A. At the time, people were divided into classes. Some people
7 were considered New People, Base People, 17 April People, or
8 Liberated People. And it was an instruction that only the same
9 class of people could get married with each other.

10 [11.20.40]

11 Q. Where did this order come from -- did you hear it or -- where
12 did it come from?

13 A. Ta Khoeng (phonetic) and Ta Vorn (phonetic) convened a meeting
14 and the instruction was distributed and it relayed to chiefs of
15 battalions and companies.

16 Q. So in your Battalion 1, if I'm not mistaken, were marriages
17 organised among people of the same class in order to obey the
18 orders that you had received?

19 A. It is true what you said.

20 Q. Personally, did you attend marriages organised within your
21 unit or within your battalion?

22 A. Company chief or chief of squads or groups were not allowed to
23 attend the marriages. Ta Val or chief of battalion upwards could
24 be allowed to attend and present at the wedding.

25 [11.22.32]

1 Q. Did you have any role to play in the marriage? And in terms of
2 the choice of spouses, did you have any kind of function in that
3 regard?

4 A. For example, if I love one lady, I had to make a request. And
5 if that lady agreed to marry me, and then it was fortunate for
6 me, I could get married with her.

7 MS. GUIRAUD:

8 I will of course finish with this optimistic note. Mr. Witness,
9 thank you very much.

10 Mr. President, I have no further questions.

11 MR. PRESIDENT:

12 You have the floor now civil party lawyer. Ten minutes is
13 additionally given to you because of the time lost this morning.

14 [11.23.58]

15 QUESTIONING BY MS. TY SRINNA:

16 Good morning, Mr. President, everyone in and around the
17 courtroom. Good morning, Mr. Witness. My name is Ty Srinna, civil
18 party lawyer. I have a few questions for you.

19 Q. Yesterday you made mention about the work which was required
20 for workers to do. You stated that workers had to work in the
21 field regardless of rain or thunderstorm. Could you tell the
22 Court, could workers ask permission to rest waiting for the rain
23 to stop?

24 MR. CHHUM SENG:

25 A. If there was -- the rain was not so heavy, workers would be

1 allowed -- would be told to work. However, when there was heavy
2 rain and there was flood at the base of the dam, we had time to
3 rest because we could not do the job. The plateau was about
4 (inaudible), that is why we would be allowed to rest and stop
5 working.

6 [11.25.29]

7 Q. Thank you. So in the rainy season, all workers were required
8 to dig the canal and build the dam; is that true?

9 A. Yes, that is true.

10 MR. PRESIDENT:

11 You may now proceed, Counsel Kong Sam Onn.

12 MR. KONG SAM ONN:

13 I would like to make an observation. I heard civil party lawyer
14 mention the names 1st January Dam worksite. So are we now
15 changing the topic to be debated?

16 MS. TY SRINNA:

17 Thank you, Mr. Counsel, for reminding me of the term.

18 MR. PRESIDENT:

19 Please repeat your last question, Civil Party Lawyer.

20 BY MS. TY SRINNA:

21 Q. In rainy season, sometimes the rainy season may have lasted
22 for several months or sometimes, it may have been in a few
23 months, two or three months, so I want to know whether all
24 workers were required to work in rainy season.

25 [11.27.32]

1 MR. CHHUM SENG:

2 A. I told you already, when there was light rain, we had to
3 continue digging the soil and we had to continue working. But if
4 there was flood at the bottom of the dam, we were allowed to
5 rest.

6 Q. Thank you. While they were working, did you observe anyone
7 fell down while they were working?

8 A. No one collapsed and died at the worksite. But yes, I observed
9 that people collapsed, fell down to the ground. And this happened
10 also within my company or unit.

11 Q. Thank you. Were there children required to work at that dam
12 site?

13 [11.28.49]

14 A. Yes, there were children. But those children were placed in a
15 different unit. They were required to cut "kantreang khet" at Ta
16 Sokh village. And for some children who were well built, they
17 would be required to carry soil or dirt; for example, some of
18 them would receive one or two cubic metres of soil to carry per
19 day.

20 Q. What about work quota, did children receive the same work
21 quota as the adult did do?

22 A. I do not know about this. So I am not able to say about it.
23 Regarding work quota, I have no idea. The members in my company
24 or unit were working in a place far away from those that the
25 children were working.

1 Q. Thank you. Yesterday you told the Chamber rice was provided to
2 workers at the worksite and the distribution was given -- the
3 distribution of rice was not in equal amount. Some of them
4 receive one or two cans of rice, but some other receive less or
5 more. So could you tell the Court about the rice distribution
6 whether rice was distributed for the whole group or each
7 individual received specific amounts of rice?

8 [11.30.44]

9 A. Regarding this matter, one can was for one person,
10 particularly for the one who could complete only one cubic metre
11 of dirt per day. But for those who could accomplish two to three
12 cubic metres of soil per day, they perhaps received two or three
13 cans of rice per day. It depended on the rice -- if the rice was
14 transported in time and then they would receive more amount of
15 rice.

16 Q. Did this apply until the end of the regime?

17 A. This was the instruction since the beginning. And there was
18 one who was in charge of distributing the rice, and the cook
19 would be responsible for cooking; for example, two meals for
20 workers per day.

21 Q. Now I would like to ask you about the purges of enemies. While
22 working at Trapeang Thma Dam worksite, were biographies made? If
23 yes, were traitors searched for?

24 A. No. I am talking about my unit. Biographies were not required
25 to produce within my unit or company. I did not know about what

1 happened in other units. And as I said, there was one militiaman
2 assigned to monitor us.

3 [11.33.01]

4 Q. Thank you. Have you ever heard that during the time, CIA, KGB
5 agents were searched for?

6 A. Generally speaking, Ta Val convened a meeting and he told us
7 to search for these groups of people, particularly, "Yuon".

8 "Yuon" who came to reside in Cambodia, they were the targets.

9 Q. Thank you. Did arrests happen in relation to those who were
10 linked to CIA agents or "Yuon" agents?

11 A. I am talking about my company or unit. Such thing did not
12 happen within my company or unit. I do not know about what
13 happened in other units.

14 Q. Thank you. Regarding your company or unit, perhaps you had
15 time to discuss and know what happened within your units. I would
16 like to know whether you had any information -- you learned any
17 information from others about the disappearance of members from
18 different units.

19 A. I knew that Sres (phonetic), Tuon (phonetic) disappeared
20 because chief of units discussed the matter and I learned from
21 them that the two individuals disappeared. And for members below
22 the battalions or above, I have no idea whether or not they
23 disappeared.

24 [11.35.40]

25 Q. Thank you. Now I would like to ask you about the inauguration.

1 Did inauguration happen at that time?

2 A. The Trapeang Thma Dam worksite was not completely built but
3 the inauguration was held at that time. I was in attendance. The
4 distinguished speaker said that at that time, there was a
5 presence of Chinese delegation. And Cheng Yonggui -- and
6 individual by the name Cheng Yonggui was mentioned, and that
7 person came to visit the Trapeang Thma Dam worksite during the
8 inauguration ceremony.

9 Q. Did you recall when was the inauguration held?

10 A. The inauguration was held in 1978.

11 [11.37.13]

12 Q. Could you tell the Court again whether the inauguration was
13 held in 1977 or 1978?

14 MR. PRESIDENT:

15 Please wait, Mr. Witness. Please observe the microphone before
16 you speak.

17 MR. CHHUM SENG:

18 A. From my recollection, it was held in 1978.

19 BY MS. TY SRINNA:

20 Thank you. I have two last questions for you before I conclude.

21 In relation to leaders, have you ever heard people mention about
22 Bong Ti Muoy or Brother Number One or Number Two?

23 MR. CHHUM SENG:

24 A. I have never heard of the terms Brother Number One or Brother
25 Number Two.

1 Q. What about the term "Om Pol Pot", "Om Nuon" or "Om Hem"; did
2 they attend the inauguration ceremony at that time?

3 [11.38.46]

4 A. I knew Ta Val very well at that time. Besides him, I did not
5 know. Ta Val was speaking in the inauguration ceremony that there
6 was a Chinese delegate at that time. And I could notice two
7 people with a white complexion -- with fair complexion. And the
8 two individual were not mentioned by Ta Val. Only one Chinese
9 delegate -- that is, Cheng Yonggui, was mentioned at that time by
10 Ta Val.

11 Q. Thank you. While you were working at the dam site from the
12 beginning until the end, did you notice that senior leaders
13 visited the dam site at any point in time?

14 A. When the inauguration was held, I noticed that there was
15 Chinese delegation there. And besides that, I have no idea.

16 [11.40.08]

17 MR. PRESIDENT:

18 Thank you very much, Ms. Civil Party Lawyer. It is now time for
19 lunch break and the Chamber will take break from now until 1.30.
20 Court officer, please find a proper place for this witness during
21 the lunch break, and please invite this witness together with the
22 duty counsel back into the witness stand before the Chamber at
23 1.30.

24 Security personnel are instructed to bring Mr. Khieu Samphan back
25 to the holding cell downstairs and have him returned into the

1 courtroom before 1.30 this afternoon.

2 The Court is now in recess.

3 (Court recesses from 1140H to 1328H)

4 MR. PRESIDENT:

5 Please be seated.

6 The Court is back in session and the Chamber now gives the floor

7 to the defence teams for the Accused to put questions to this

8 witness. Please wait, defence counsel for the Accused. Judge

9 Claudia Fenz may have some question to put to this witness.

10 You may now proceed, Judge Fenz.

11 QUESTIONING BY JUDGE FENZ:

12 Q. Yes, it's two short questions following up questions from the

13 Co-Lead Lawyers. You said yesterday many people felt sick and

14 many were taken away for execution because they were accused of

15 conscious illness, obviously meaning fake imaginary illness. Can

16 you tell me who made the decision on whether an illness was true

17 or faked? And I'm not interested at the moment in the story about

18 the blindness and the embers. I remember this story but aside

19 from this story, who made the decision if an illness was a real

20 illness or a faked illness?

21 [13.30.48]

22 MR. CHHUM SENG:

23 A. When there were many workers in one unit fell sick, the

24 medical staff would go around and check. The medical staff was

25 the one who decided whether or not one particular individual got

1 real sickness.

2 Q. And this is the medical staff whom you described as having no
3 medical expertise or no -- is that true or did they have any
4 training?

5 A. Those medical staff were all illiterates, they were not
6 educated. And there were only the so-called rabbit dropping
7 pellets for the sick. And the medical staff was the one who made
8 the decision whether or not one got imaginary illness or real
9 illness.

10 Q. Can you give me an example how this worked? The medical staff
11 went to the person who said, my belly hurts like hell, what
12 happened then, what did the medical staff do? Did he ask
13 questions, did he examine the person or did he just look at him?
14 [13.32.31]

15 A. To my observation, the medical staff had a small bag and
16 within that bag there were herbal medicines and most of the time
17 the medical staff would go to the sickness and touch the body of
18 the sick and the medical staff would ask questions, what kind of
19 illness one particular person had. And then the sick would reply,
20 after which the medicine would be administered or prescribed for
21 that sick person.

22 Q. And can you describe a case where the medical staff said no,
23 you're lying, this is a fake illness? Or were there cases where
24 he touched a person and said you are lying?

25 A. Within my unit, I did not see my workers had such so-called

31

1 fake illness and the medical staff never found anyone in my unit
2 to have such fake illness. And I observed that the medical staff
3 would go to the sick and hand it out, the medicines for the sick
4 to have. And perhaps in other units, there may be some people who
5 got fake illness, but I do not know about that.

6 [13.34.24]

7 Q. You said yesterday and I quote I think verbatim, "many were
8 taken away for executions because they were accused conscious
9 imaginary illness". I'm quoting you, that's what you said
10 yesterday, page 64 of the draft transcript.

11 MR. PRESIDENT:

12 Please wait, Mr. Witness; you may now proceed, Mr. Kong Sam Onn.

13 MR. KONG SAM ONN:

14 Your Honour, Judge Fenz, could you tell us the time mark in that
15 transcript.

16 JUDGE FENZ:

17 No, because I couldn't find it; it's page 64 in the English
18 version of the transcript that came this morning. I am quoting it
19 verbatim.

20 MR. PRESIDENT:

21 Judge Fenz, could you please repeat your question.

22 [13.35.46]

23 BY JUDGE FENZ:

24 Q. I'll repeat the question by repeating what you said yesterday
25 at least according to the draft transcript, the English version

1 as was delivered this morning. There was a discussion about flies
2 first. And then you said, "many people fell sick and many were
3 taken away for executions because they were accused of conscious
4 illness".

5 MR. CHHUM SENG:

6 A. The so-called imaginary sickness, it -- some people said they
7 had such so-called imaginary sickness. There were people who
8 pretended that they were sick in my unit. However, when we were
9 all working in the field, the one who said that he or she was
10 sick, went around to pick up vegetables or plants and this person
11 would be accused of having the imaginary sickness. And in my
12 unit, there was no one who had the imaginary sickness, and I told
13 the Court already that I do not know about other units.

14 [13.37.26]

15 Q. But then again, why did you say what I just quoted? I am
16 quoting you. You said yesterday, "many were taken away for
17 executions because they were accused of imaginary illness".
18 That's what you said.

19 A. Yesterday I made mention about workers health issue. There
20 were many flies and many people fell sick. And some who had
21 imaginary people were taken away and killed. And I recall that
22 perhaps I may not have said about the people who had imaginary
23 illness.

24 Q. Well, I can only quote from the English script. Now just to be
25 clear now, do you know outside your unit -- I understand in your

1 unit this never happened. But are you aware of cases outside your
2 unit where people with imaginary illnesses were taken away and
3 executed?

4 A. Beside the members of my unit, I have no idea what was going
5 on in other units.

6 JUDGE FENZ:

7 And it might make sense to review the transcript and see if it's
8 correctly translated.

9 Thank you, that's all from my side.

10 [13.39.29]

11 MR. PRESIDENT:

12 You have the floor now, Judge Lavergne.

13 QUESTIONING BY JUDGE LAVERGNE:

14 Yes, thank you, Mr. President.

15 Q. Witness, I understood from your testimony that the situation
16 of the workers at Trapeang Thma was different depending on the
17 fact if they were part of mobile units, depending on the
18 cooperative or they were part of mobile unit of the region. And I
19 understood that the workers who were assigned to the cooperative
20 mobile units suffered a lot from malnutrition, that some became
21 ill because of this, and that some even died. And that those who
22 like you were part of units that were directly tied to the sector
23 would receive food rations that were adequate. So, did I
24 understand your testimony properly?

25 [13.40.52]

1 MR. CHHUM SENG:

2 A. Those who accomplished three cubic metre of soil per day got
3 two cans of rice. And if the rice was combined together with that
4 of other workers, that was enough for us to eat.

5 Q. In your unit or in the units that were tied to the sector,
6 were there people who suffered from malnutrition? I'm not
7 speaking here about the units that were tied to the cooperatives.
8 I'm speaking about the units that were either tied to the
9 district or to the sector. In these units, were there people who
10 suffered from malnutrition?

11 A. Regarding mobile units at the sector level, actually there was
12 no supplementary diet or food for all of us and they suffered
13 from malnutrition.

14 Q. Fine. I am not sure that I understood perfectly well. Let me
15 put the question to you again. In your unit for example, were
16 there people suffering from malnutrition, were there people who
17 did not have enough to eat, given the energy that they would have
18 to spend for the work that was assigned to them?

19 A. Yes, I could get your question. The work was hard labour and
20 as for food, the food was not enough for us.

21 [13.43.20]

22 Q. Fine. So I understand that in all units, all workers were
23 hungry but maybe some were hungrier than others. Is that what I
24 must understand?

25 A. It is true. In that period, cadres had a little bit more food

1 than the other. And for people below or people other than cadres,
2 they did not have enough food to eat.

3 Q. Thank you for this clarification. Now, I would like to put a
4 few questions to you concerning the technicians -- the
5 technicians who worked at the worksite. At one point in time, did
6 Ta Val ask the unit leaders to look for people who had certain
7 skills to build dams? And did certain people assist Ta Han
8 (phonetic) in looking for these people?

9 A. Ta Val convened a meeting among all chief of units. He was
10 looking for engineers to build bridges, 1, 2 and 3 along the dam.
11 He asked me whether there were any engineers in my unit. And I
12 replied and told him that in my unit there were only illiterate
13 members. And later on, I heard that Ta Val could find some
14 engineers from perhaps other units, but I do not know where they
15 were from.

16 [13.46.03]

17 Q. Do you remember the names of these engineers and do you
18 remember what happened to them later on?

19 A. Yes, I recalled the name at that time, Chhim Kaing (phonetic)
20 or Ta Kaing (phonetic). He said he was a former engineer in the
21 previous regime. He was a real engineer. And this engineer asked
22 Ta Val how large of the bridge Ta Val wanted to build. And at
23 that time, Ta Val told Ta Taing (phonetic) -- that is, the
24 engineer, of the intention that he wanted to build the bridge.
25 And iron bar or the barbed wires and cements were taken for that

1 engineer and the construction was started based on what the
2 engineer told.

3 Q. So if I understood well, this engineer supervised the
4 technical execution of the building of the dam. And do you know
5 what happened to him later on, did he survive the regime?

6 [13.47.57]

7 A. Bridges 1, 2 and 3 were not completely built when the engineer
8 was there because there was lack of cement, iron bars, and barbed
9 wires. And engineers were relocated to work at Char Kontea
10 (phonetic). Later on, my unit was relocated to work elsewhere,
11 and I do not know whether that engineer survived the period or
12 died in that period.

13 Q. This morning you spoke about the onsite visit of certain
14 servicemen and you also spoke about the visit of Chen Meng Hoy
15 (phonetic), someone from China. So can you tell us if aside from
16 this individual, there were Chinese technicians who came to visit
17 the dam worksite or who were there on a permanent basis or who
18 were there on a regular basis? Did you note the presence of
19 Chinese technicians aside from Chen Meng Hoy (phonetic)?

20 [13.49.52]

21 A. At Trapeang Thma Dam site, there were no sleeping quarters for
22 the Chinese technicians. Later on in 1978, the inauguration
23 started but the construction of the dam was not yet fully
24 completed. Ta Val gave an instruction to invite the well-built
25 people to stand in the front line to welcome the Chinese

1 delegation. And he told us that when the well-built workers
2 arrived at the scene, workers had to say, welcome the Chinese
3 delegation Chen Yeng-Kuei (phonetic). At that time, we could see
4 three fair complexioned people. They came to visit the dam
5 worksite. Ta Val introduced the three individuals at that time,
6 but we could notice there were some other people with white
7 complexion or fair complexion. But they were not introduced by Ta
8 Val except the three Chinese that I mentioned earlier.

9 Q. You're speaking about this visit and you said that it took
10 place in 1978. So do you believe that this visit took place
11 before the arrival of the Southwest Zone cadres or did it take
12 place after that? And do you remember if, for example, Ros Nhim
13 was present during this inauguration? And if you don't remember,
14 simply say you don't remember.

15 A. Back then, I heard of the name Ros Nhim but I did not know
16 this individual personally. I did not know at the time whether he
17 was among the delegation.

18 [13.52.40]

19 Q. And did this visit of the Chinese dignitary occur after or
20 before the arrival of the Southwest Zone cadres?

21 A. The inauguration was held, and two or three days after, there
22 was the arrival of Southwest Zone cadres.

23 Q. At the dam worksite at Trapeang Thma, was there any kind of
24 equipment such as trucks, bulldozers or any other kind of
25 machinery that was used? And if that was the case, was there a

1 lot of equipment? What can you tell us about this?

2 A. During the construction, I noticed there was a vehicle. The
3 vehicle was used to transport the rock. And I noticed there were
4 travel vehicles and earth-carrying trucks. I noticed also there
5 were the rock-carrying trucks and also the trucks which were used
6 to transport sand. These are the materials or vehicles that I
7 noticed at the site.

8 [13.54.47]

9 Q. And do you know where these vehicles came from?

10 A. From my observation, the vehicle remained from the Lon Nol
11 regime and these vehicles were taken and used. There were no new
12 vehicles or material from any country; namely, China.

13 JUDGE LAVERGNE:

14 Thank you very much, Witness, for all of this clarification. And
15 I have no further questions to put to you.

16 MR. PRESIDENT:

17 Thank you, Judge. The floor is now given to defence team for Mr.
18 Nuon Chea to put questions to this witness, if any. You may now
19 proceed.

20 [13.56.05]

21 QUESTIONING BY MR. KOPPE:

22 Thank you, Mr. President. Good afternoon, Your Honours, Counsel,
23 Mr. Witness.

24 Q. Mr. Witness, we -- you have been speaking about Ta Val
25 extensively today and yesterday. You said in your statement to

1 DC-Cam that you were close to Ta Val and you repeated this
2 yesterday at the hearing. You also said in your DC-Cam statement
3 that you got along well with him. But you also said that you
4 dared verbally to confront him sometimes. That is on page
5 00728625, in English; French, 01123591; and Khmer, 00730786. When
6 you said that, Mr. Witness, that you dared verbally confront him
7 sometimes--

8 MR. PRESIDENT:

9 Mr. Koppe, please slow down to allow space or time for
10 interpreters to interpret the reference you mentioned. Please
11 speak slowly so that it is for the benefit of audience and also
12 for the proceedings.

13 [13.57.55]

14 BY MR. KOPPE:

15 Certainly, Mr. President.

16 Q. Mr. Witness, when you said that you dared to verbally confront
17 him sometimes, what did you mean with that, when you said that to
18 DC-Cam investigator?

19 MR. CHHUM SENG:

20 A. At that time, Ta Val and I were close to each other. I was
21 close to him. When he instructed me to do the job, I would do and
22 I would make the report to him frankly. And if I could not
23 perform the task I was assigned by him, I would not do. And I
24 would reject the assignment by him if I could not take it. And
25 after I performed my duty as assigned by him, I would come back

1 to tell him and tell him the truth of what I saw, what I
2 observed.

3 Q. And how did he then usually react when you were confronting
4 him with your report?

5 A. He said nothing; he never used a big voice against me. But he
6 warned me that I had to be cautious with my duties. He wanted me
7 to be cautious of what I did.

8 [13.59.57]

9 Q. Let me -- I will get back to Ta Val but now let us go, Mr.
10 Witness, to the inauguration of the dam. You were just asked
11 questions about this and you said that Ta Val spoke at this
12 inauguration and that the Chinese delegation was there, Chen
13 Yeng-Kuei (phonetic) was there. Do you remember Ta Val's exact
14 words?

15 A. At the time I was with him and he said as I told the Court, he
16 told us that the Chinese delegation came to inaugurate the
17 construction. And at the time, Ta Val also reported on the
18 progress made on the construction of the worksite, for example,
19 the length of the dam, the work force deployed for the
20 construction. And there was also interpreter for the Chinese
21 delegation, and I noticed, at the time from the distance that he
22 knock (sic) the head but I did not hear him interpreting.

23 [14.01.43]

24 Q. When Ta Val spoke to the Chinese delegation, how much of the
25 dam was already finished? Was that what you said earlier, 95 per

1 cent of the dam was already finished when Ta Val spoke?

2 A. At the time, the work was not completed; it was not up to 90
3 per cent. I think it may have been around 60 per cent or so
4 completed. And after the delegation came, the completion timeline
5 was about 95 per cent or so at that time, and we tried to pile up
6 the ground for the construction of the bridges.

7 Q. Let me read a small excerpt, Mr. Witness, from your DC-Cam
8 statement in relation to this visit -- English, ERN 00728631;
9 French, 01123597; and Khmer, 00730797 and 98 -- and after having
10 read this, I will ask your reaction, Mr. Witness.

11 [14.03.40]

12 "Chen Yuen-Kuei drove a car when he came to Trapeang Thma. They
13 saw our brigades. Ta Val asked the workers to weave a palm leaf
14 hat with red pieces of cloth for the Chinese delegate because he
15 wanted it. Really?" is the question. "Yes", you answered, "the
16 Chinese wanted the palm leaf hat. We normally did not use the
17 tiny cloth but we laughed when the Chinese delegate wore it
18 awkwardly. But we were told not to laugh. We secretly said this
19 person was crazy because he put on that hat wrongly. Ta Val did
20 not say anything because he did not speak the Chinese language."

21 Question: "Did Ta Val speak Chinese?"

22 "No, he did not. He just smiled and greeted them."

23 "So did the Chinese also spoke Khmer?"

24 "He knew some greeting words."

25 Question: "Did he come with Ta Hoeng?"

1 "Yes he came with Ta Hoeng once."

2 Do you recall having said that, Mr. Witness, to DC-Cam?

3 [14.05.03]

4 A. Well, yes, I do recall that answer. When the Chinese
5 delegation arrived, we clapped our hands to welcome them. And for
6 the Chinese delegations, they wanted to wear the palm leaf hat
7 that we traditionally made, you know. And one of the Chinese
8 delegates actually took the palm leaf hat and he put it on his
9 head. But generally, when we present it as a gift for our
10 friends, we would tie a red bow in front of it. But then when the
11 Chinese delegate put on his head, he just put the bow to the back
12 and everyone was laughing at him.

13 Q. Now you said that Ta Val spoke at this inauguration meeting --
14 ceremony. Did Ta Hoeng also speak?

15 A. At that time, Ta Hoeng was from the zone committee level but
16 participating in the inauguration. He did not make any speech at
17 that time. He only sat nearby the Chinese delegation.

18 Q. Mr. Witness, I would like to ask you something and I would
19 like to ask you to think very clearly about what I'm going to ask
20 you. We know for a fact that the Chinese delegation came to visit
21 the dam at the inauguration in mid-December 1977. We also know
22 for a fact that Ta Hoeng and Ta Val were arrested in June 1977,
23 six months earlier. Can you explain to me how it was possible
24 that Ta Val and Ta Hoeng spoke six months after their arrest?

25 [14.07.34]

1 A. When they inaugurated the Trapeang Thma construction dam, Ta
2 Val -- both Ta Val and Ta Hoeng had not been arrested yet. Both
3 of them were arrested when the Southwest Zone cadres arrived in
4 the Northwest Zone.

5 Q. But I'm telling you, Mr. Witness, there is undisputed evidence
6 that the visit took place in December '77, and all parties agree,
7 I think, that Ta Val and Ta Hoeng were arrested in June '77. So
8 they could not have been speaking at the inauguration ceremony in
9 December; is that correct?

10 A. That is not correct. Certainly not correct. Why? It was
11 incorrect because the inauguration ceremony was held and Ta Val
12 had not been arrested yet. Upon the arrival of the Southwest Zone
13 cadres in the Northwest Zone, Ta Val was arrested then. And as
14 for other date, I might got confused with the dates, but this one
15 I am precisely clear.

16 [14.09.15]

17 Q. Precisely clear as in 100 per cent sure?

18 A. It happened more than 30 years ago. I cannot recall the entire
19 story completely. So whatever I have testified, and if I have
20 misstated the date unintentionally, then I seek apology from the
21 Bench.

22 Q. Well, Mr. Witness, I put it to you that what you have been
23 describing as what you have seen at the dam, Ta Val speaking,
24 receiving the Chinese guests was impossible. So you're not making
25 a mistake with the dates, you're making -- you're telling

44

1 something that didn't happen; is that correct?

2 MR. PRESIDENT:

3 Mr. Witness, please hold on. Mr. International Prosecutor, you
4 may proceed.

5 MR. DE WILDE D'ESTMAEL:

6 Thank you. I don't want to put a question to the witness that
7 sounds unfair. Perhaps we should have asked the witness to
8 clarify. This is for the Defence to do, to clarify whether the
9 Chinese delegations went to the site on several occasions,
10 because the first confusion may have to do with the dates of
11 visits. The witness may be mixing up the dates of different
12 visits.

13 [14.11.10]

14 MR. KOPPE:

15 Sure, Mr. Prosecutor. We were talking about the visit of vice
16 premier Chen Yuen-Kuei. It is ample evidence that he only came to
17 visit DK once. He was on a 15-day tour in December. So there's
18 absolutely no confusion as to what we're talking about. I
19 understand that the Prosecution tries to save this witness but I
20 don't think that's appropriate, so I'm entitled to make sure what
21 the witness is saying--

22 MR. PRESIDENT:

23 Witness is directed to respond to the question put to you by the
24 counsel for Mr. Nuon Chea. And at this juncture, I wish to also
25 inform the witness to be very clear on the two things: one is the

1 inauguration ceremony; the other one is the visit. So this is two
2 distinct events, so I hope that you did not get confused. The
3 official visit is one thing and the inauguration ceremony is
4 another. So these two functions are distinct. So when -- in
5 answering or responding to the questions, you should understand
6 these two.

7 [14.12.46]

8 MR. CHHUM SENG:

9 A. I do not get the question very well. Could you please put the
10 question again.

11 MR. PRESIDENT:

12 Mr. Koppe, could you please put your last question again to the
13 witness.

14 BY MR. KOPPE:

15 Let me try to rephrase it.

16 Q. Mr. Witness, you said there was an inauguration ceremony, the
17 Chinese vice premier Chen Yuen-Kuei was there. You said that the
18 dam had been finished 60-70 per cent .and you also said that Ta
19 Val spoke and that Ta Hoeng was present. Now both Ta Hoeng and Ta
20 Val were arrested six months before this inauguration ceremony.
21 So I'm putting it to you that your memory cannot be correct that
22 Ta Val and Ta Hoeng weren't there; is that correct?

23 [14.13.54]

24 MR. CHHUM SENG:

25 A. That is not correct. Because at the inauguration ceremony of

1 Trapeang Thma, Ta Val delivered a speech and he said directly
2 that, they - he said that was an official visit and it was also
3 the inauguration of the construction worksite. So I only repeat
4 the words that Ta Val said during his speech at the time. So
5 there was no distinction actually between the inauguration
6 ceremony and the official visit. I only repeat Ta Val's words
7 that this was an official visit and that was also an inauguration
8 ceremony. And as for Chen Yuen-Kuei, at the time he also came to
9 visit the first bridge, and at that time Ta Val had not yet been
10 arrested.

11 Q. Thank you, Mr. Witness. I will move on to some more questions
12 now, going back again to Ta Val. Was Ta Val, in your
13 recollection, an intellectual?

14 [14.15.45]

15 A. It is my guess -- I did not know whether or not he was an
16 intellectual. But based on his literacy, his ability to write and
17 read, I think that he was educated. He wrote very well. And for
18 example, when he wrote to me he said, "Beloved Comrade Seng",
19 please carry out this action or that action so on and so forth.
20 And he said tomorrow you had to deploy the force and withdrew the
21 troop from one place to another place. And I also used to see him
22 write something as well, particularly on the sketch of the
23 construction dam structure at the time. So he was, to me, to my
24 observation, he was fairly educated.

25 Q. Did you ever hear him speak French?

1 A. No. I never heard him speak French, but I only used to see him
2 drink the whiskey.

3 Q. There is a witness who testified to DC-Cam that when he and Ta
4 Hoeng would walk on the dam site, they would speak French to each
5 other. Have you ever heard that or have you ever noticed this?

6 A. No, I have never heard of that. I have never heard him speak
7 French.

8 [14.18.10]

9 Q. In your DC-Cam statement, Mr. Witness, English, 00728629;
10 French, 01123594; and Khmer, 00720793; you said that if Ta Val
11 would come visit the dam worksite, you would listen to the sound
12 of the spades. And if you heard hurried spades, then he was
13 arriving. Were you trying to say that once word came out at the
14 dam site that Ta Val was approaching, everybody started working--

15 MR. PRESIDENT:

16 There was no Khmer translation. That might have been because of
17 the technical glitch.

18 Court officer, can you please check if the interpretation system
19 is functioning.

20 (Technical problem)

21 [14.19.53]

22 MR. PRESIDENT:

23 Counsel Victor Koppe, could you please repeat your last question
24 because there was disruption in the interpretations. It could
25 have been because of the translation issue. So please slow down a

1 bit, so that it is clear for the record for everyone.

2 BY MR. KOPPE:

3 I will, Mr. President.

4 Q. Mr. Witness, I wanted to confront you with an excerpt from
5 your own DC-Cam statement, in which you said that you remembered
6 that when Ta Val was approaching or entering the dam worksite,
7 that you heard the sounds of hurried spades, spades were going
8 quicker, and that if you heard hurried spades, everybody was in
9 chaos because Ta Val came; is that something that you said to
10 DC-Cam?

11 [14.21.13]

12 A. Yes, that is correct. I did give my statement to DC-Cam
13 because the labourers, to my understanding, all the workers --
14 myself included -- were very afraid of Ta Val. There was time
15 when we had to be on the offensive to complete the project. And
16 one day, Ta Val disguised himself as the workers and he put the
17 palm leaf hat and stick. And he just went to oversee the workers
18 working in the construction site. And if anybody was not working,
19 he would beat that person with the stick he was carrying. So at
20 that time, we were vigilant. So if we heard, we had to keep our
21 ears open all the time and we had to be on alert. If we knew that
22 people were working very hard on the other side, we had to do it
23 because we understood that people would be monitoring the
24 activities of the workers. And of course Ta Val did go out at
25 night to monitor the work when labourers were working during

1 night shift.

2 [14.22.45]

3 Q. Now something else you said about Ta Val in your statement was
4 on page ERN English, 00728623; and French, 01123589; and Khmer,
5 00730783. You said that the only mistake of Ta Val was the
6 killing of people; is that something that you said to DC-Cam? And
7 if yes, what did you mean with that?

8 A. Because Ta Val was the leader of the sector mobile brigade, so
9 I believe that without the permission from Ta Val - or, he was
10 lenient on the punishments on his subordinate below his rank to
11 carry out the execution, nobody would have carried out the
12 execution.

13 Q. Mr. Witness, the picture that you have painted of Ta Val is
14 quite explicit. I can imagine the moment that you heard the news
15 that he was called for a study session and subsequently never
16 came back, and later turned out that he was arrested, that that
17 must have made you very happy at the time; is that correct or is
18 that not correct?

19 [14.24.52]

20 A. On this point, Ta Val often called us for meeting. At that
21 time, actually, the study sessions or meeting was used
22 interchangeably. So at the time -- so all of us, at the time,
23 whenever Ta Val called us for meeting and others, say called us
24 for study sessions and other used meeting, so sometimes we were
25 called for a meeting and then he issued reprimand for us; for

1 example, we were tardy in our work. And there was one point in
2 time when he called for meeting, he gave everyone the cigarette
3 and he offered jackfruit for others. At the time, he shared with
4 everyone. And there was one man reported to him, one on the
5 challenges in their tasks, the easy things and the difficult
6 things that they had to do at the time. For example, others
7 reported that they did not have the knife to cut the bushes. They
8 had to use the hoe to cut them. And Ta Val advised that if it was
9 difficult, then he would ask the workers to plant cotton
10 somewhere along the National Road 6. After saying that, he passed
11 the cigarette to some workers at the time.

12 Q. Maybe, Mr. Witness, my question didn't come across well. My
13 question was: When you found that Ta Val had been called to a
14 study session and never came back, were you not happy that this
15 killer, this cruel man was finally arrested?

16 [14.27.31]

17 MR. PRESIDENT:

18 Witness, please hold on. International Prosecutor, you have the
19 floor.

20 MR. DE WILDE D'ESTMAEL:

21 I would object to this question. To ask whether someone would be
22 happy if someone was executed doesn't appear to be very
23 appropriate. There is a link between the arrest and the execution
24 of Ta Val. No link has been established to that effect. This is
25 not something that could lay the foundation for a question of

1 this nature because no such link has been established by counsel.

2 BY MR. KOPPE:

3 You've lost me completely, Mr. Prosecutor. My question actually
4 was whether the arrest – or, I actually formulated it differently
5 -- whether the calling to a study session and not returning of Ta
6 Val was something that made the witness happy considering the
7 things that he has been saying about Ta Val. So I think that is
8 an appropriate question. I wasn't actually asking about the
9 execution, I was asking about the arrest.

10 Q. Did the fact, Mr. Witness -- let me reformulate -- that Ta Val
11 all of sudden was gone and didn't come back, did that make you
12 happy or not at all?

13 [14.29.05]

14 MR. CHHUM SENG:

15 A. Everything under Ta Val administration, nobody was happy with
16 him. Once he disappeared, everyone was happy and people actually
17 wanted him to be removed. So everyone wished that he were taken
18 away.

19 Q. Thank you, Mr. Witness. Now you've also said, answering a
20 question, I think it was from the Prosecution, that Ta Val said
21 he was loyal to the Party. Now if he had been loyal to the Party,
22 do you know why he was arrested?

23 A. At that time, he did advise everyone to be loyal to the Party,
24 and he himself was loyal to the Party. Of course, this would have
25 been lip service. We did not really know what he was thinking at

1 the time, we did not whether or not he was genuinely loyal to the
2 Party.

3 [14.30.48]

4 Q. I understand what you're saying, Mr. Witness. But what was the
5 reason -- did you hear at the time why Ta Val but also Ta Hoeng
6 and others were arrested? What was the reason for their going to
7 a study session and subsequently being arrested?

8 A. I do not know the reason. They were in the management or
9 leadership. However, upon the arrival of Southwest Zone cadres,
10 the cadres at that Northwest Zone disappeared one after another.
11 As I said, I do not know what happened, why they disappeared.

12 MR. KOPPE:

13 Mr. Witness, I would like to confront you with a statement of
14 somebody else about Ta Val and Ta Hoeng, and I would like to ask
15 your reaction.

16 Mr. President, with your leave I would like to show the name of
17 this witness -- it's the same person that I referred to
18 yesterday. It's E3/9076. And I would like to show this first
19 Khmer page of his statement and then ask the witness whether he
20 knows this name.

21 [14.32.35]

22 MR. PRESIDENT:

23 Your request is granted.

24 BY MR. KOPPE:

25 Q. Mr. Witness, do you, without saying the name -- but do you

1 know who this person is?

2 Just say yes or no if you know the person; don't -- please don't
3 mention his name.

4 Do you know this man?

5 MR. PRESIDENT:

6 Court officer, please check the sound system of his headset.

7 Mr. Koppe, please repeat your last question.

8 [14.34.59]

9 BY MR. KOPPE:

10 Q. Mr. Witness, without saying the name out loud, but do you know
11 this man?

12 MR. CHHUM SENG:

13 A. I do know this person.

14 Q. Do you know him well?

15 A. Yes, I know him very well.

16 Q. And is he someone who knew Tal Val at a time also quite well?

17 A. We were in different units at that time. Whether that
18 individual was close to Ta Val or whether this individual knew Ta
19 Val well, I cannot say.

20 [14.36.05]

21 Q. Now let me read an excerpt from his DC-Cam statement to you
22 and then I would like to ask for your reaction.

23 The excerpt, Mr. President, is E3/9076, English, ERN 00731171;
24 Khmer, 00728870 and 71. There is no French ERN yet.

25 Mr. Witness, I'm reading now a question and answer session to

1 this witness.

2 "How about Ta Cheal?"

3 "Ta Cheal, if he came with Ta Hoeng, it was Jeep A2."

4 "Did they arrive together?"

5 "Yes. Officially, he came and talked normally."

6 "How about Ta Nhim, did he come?"

7 "He came but did not get out of Jeep A2"

8 "Did he not?"

9 "No. He came but did not get out of the car"

10 [14.37.18]

11 "What for?"

12 "Yes. He headed, Nhim headed to Ta Val's place, less a walk

13 around. Ta Cheal said when Ta Nhim came, Ta Hoeng assigned

14 regional four to five person to escort him."

15 "Did he come quite often or never?"

16 "He came quite often" is the answer. "When there was a plan,

17 later on he came in at night and day time, in the evening and

18 sometimes at 2.00 p.m."

19 "What did he Ta Nhim come for?"

20 "He brought sandals, Cambodian sandals from the Eastern Zone for

21 the mobile units."

22 "Wow, bring sandals?"

23 Answer: "Nice sandals were given to us. At the time, there was a

24 plan. I was very afraid of that plan."

25 Question: "What kind of plan?" Answer: "When Ta Val spoke at the

1 same time, scarves, cigarette lighters and white shirts were
2 given to the leaders. Then he would say you are all captains. He
3 repeated, you are all captains, colonel. He pointed at and walked
4 out joking with the cadres after the meeting. He compared the
5 selection of mobile unit, the same the military did. The plan was
6 at Phnom Kaun Khlaeng. The plan could not be executed but I just
7 learnt about that plan, not meeting for killing people. If there
8 was a meeting to have a plan, it was in secret."

9 [14.39.05]

10 "In what year?"

11 "The year was in late, probably late 1977."

12 "Was there a plan?"

13 "There was a plan to arm the mobile unit, but it could not be
14 executed. The supplies had already arrived, the progress of this
15 plan was not known and we were unable to speak about it. It was
16 clear, so we did not need to speak this out."

17 "When there was a plan as such, you were armed and then went on?"

18 "No arms were given and the plan was never executed. The arrest
19 was launched, then it became quiet."

20 "Who was arrested?"

21 "At the time, Ta Hoeng and Ta Val were arrested and taken away."

22 [14.39.58]

23 Now this is, Mr. Witness, an excerpt of a witness that you just
24 said you recognised about Ta Val. You yourself said that you knew
25 Ta Val quite well. Does this somehow jog your memory?

1 MR. PRESIDENT:

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

4 MR. DE WILDE D'ESTMAEL:

5 I object to this reading. Given, of course the fact that the
6 witness confirmed that he knew the person who stated this and
7 that they both knew Ta Val, but the Defence took no care to put
8 any questions on the possible existence of a plan. So the counsel
9 reads a whole paragraph – two pages practically in fact, to
10 influence any answer that may come from the witness because here
11 we're speaking about someone the witness knows. So I don't
12 believe that this is an acceptable method. I think it would have
13 been better to ask open questions first. And then possibly
14 confront him with what someone else might have said. Now in this
15 particular case, I think this can influence the witness. So we
16 should revert to open questions.

17 [14.41.35]

18 MR. KOPPE:

19 Mr. President, I've asked the witness whether he knew why Ta Val
20 and Ta Hoeng were arrested. He said he didn't know. Now there's
21 another witness who seems to give a reason for their arrests.
22 After having asked whether he knows this other witness, he
23 confirms. And I think I was now entitled to read this excerpt
24 from that statement to the witness.

25 (Judge deliberate)

1 [14.43.25]

2 MR. PRESIDENT:

3 The objection by the International Deputy Co-Prosecutor to the
4 last question put by the defence team for Mr. Nuon Chea, Mr.

5 Koppe, is overruled. You can now repeat your question, Counsel
6 Koppe.

7 BY MR. KOPPE:

8 Q. I read, Mr. Witness, an excerpt from that person's statement
9 to you. He talks about a meeting where Ta Val spoke, handing out
10 cigarettes and scarves and white shirts. Does that somehow jog
11 your memory or not at all?

12 MR. PRESIDENT:

13 Please wait, Mr. Koppe. Judge Lavergne, you have the floor now.

14 [14.44.36]

15 JUDGE LAVERGNE:

16 Yes. I have an issue here. There might be a problem here in the
17 interpretation. But each time you ask, you put a question to the
18 witness, you ask him if this jogs his memory. But we should first
19 of all determine if these memories are the exact memories. So I
20 don't know why we're speaking here about jogging his memory.

21 You're confronting him with a statement of another witness, so he
22 does not necessarily have the same memories. So the point is not
23 to jog his memory but to confront him with what was said by
24 someone else.

25 BY MR. KOPPE:

1 Fine. I have no problem in reformulating at all.

2 Q. Mr. Witness, can you give your reaction to this statement,
3 please?

4 MR. CHHUM SENG:

5 A. Could you repeat the question, Counsel. I am not able to get
6 it.

7 [14.45.45]

8 Q. This witness spoke about a meeting, a meeting during which Ta
9 Val spoke. He spoke to members of the mobile unit it seems,
10 handing out scarves, white shirts, there was a plan, a secret
11 plan that wasn't executed. Can you give a reaction to this
12 statement that I just read to you?

13 A. The statement by that individual is not known by me. In
14 relation to scarves, clothes, and sandals, yes, we received those
15 kinds of stuff. And the chief of battalion handed out those stuff
16 to all of us. And as for 100 members at Kaun Klaeng, I was the
17 one who went to Kaun Klaeng and withdrew the forces, 100 members.
18 I was there and I could see that there were spades and the
19 labourers tried to cover one lake at that place, so that they
20 could do rice farming. I went to that place with Tao (phonetic)
21 to withdraw the force back.

22 [14.47.43]

23 Q. It's interesting that you mention Kaun Klaeng. This particular
24 witness was saying that the plan was at Phnom Kaun Khlaeng.
25 Because you yourself to DC-Cam when interviewed said the

1 following: English, 00728632; French, 01123597; and Khmer,
2 00730798:

3 Question: "What happened?"

4 You answered, "When So Nhim and So Phim were hunted, about 200 to
5 300 people were sent to Kaun Klaeng, but later were called back
6 to Trapeang Thma."

7 Now let me first ask you about the first part of this sentence.

8 "When So Nhim and So Phim were hunted" what did you mean with
9 that?

10 [14.49.03]

11 A. Regarding this matter, when you are talking about So Phim, I
12 have no idea at all. But as for Ta Nhim, I may have known
13 something about him. I was talking and I have been talking about
14 Ros Nhim. So if you're talking about So Phim, I think there was a
15 mistake in relation to typo.

16 Q. I'm not sure about that because in the very same page you
17 referred to Ta Nhim and Ta Phim again, so I see on the English,
18 same page, Ta Phim and Ta Nhim; and Khmer, one page later; and
19 French, one page later, Ta Nhim and Ta Phim. So you spoke two
20 times to this investigator about So Phim. Why did you mention So
21 Phim?

22 [14.50.13]

23 A. As for Nhim, it was Ros Nhim. For Phim, I did not know the
24 surname, I do not know this person by the name Phim. It is
25 perhaps the typo mistake. I have never talked anything about So

60

1 Phim or Ta Phim. It is true that I was mentioning Ros Nhim in
2 that document not So Phim.

3 MR. KOPPE:

4 Mr. President, maybe we can take the break and look for the Khmer
5 version whether he actually speaks of So Phim.

6 MR. PRESIDENT:

7 Thank you, Counsel. It is now convenient time for a short break.
8 The Chamber will take a short break from now until 10 past 3.00.
9 Court officer, please find a proper room for this witness and
10 duty counsel during the break time, and please invite them back
11 into the courtroom at 3.10.

12 The Court is now in recess.

13 (Court recesses from 1451H to 1507H)

14 MR. PRESIDENT:

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

16 I hand over the floor to the defence team for Mr. Nuon Chea to
17 resume his examination on the witness in question. You may
18 proceed.

19 BY MR. KOPPE:

20 Thank you, Mr. President.

21 Q. Mr. Witness, before the break, we were speaking about So Phim.
22 You said that you never mentioned that name to the investigator
23 of the DC-Cam.

24 Mr. President, with your leave, I would like to show to the
25 witness two Khmer pages of his DC-Cam statement and ask him

1 whether he sees the name So Phim there and whether he in fact did
2 use the name So Phim in his statement.

3 MR. PRESIDENT:

4 Leave granted.

5 [15.11.11]

6 BY MR. KOPPE:

7 Q. Mr. Witness, did you talk to the investigator about So Phim?

8 MR. CHHUM SENG:

9 A. Yes. I talked about Ros Nhim, but in this typing, it was So
10 Nhim or So Phim, so it was not correct in that point. His name
11 was not So Nhim, it was Ros Nhim. I think there was a typo in
12 this document.

13 Q. However, a little further down in the other document, it says:
14 "Because of the unstable situation, later I heard that Ta Nhim
15 and Ta Phim arrested Ta Cheal and a few others." So there you say
16 Ta Nhim and Ta Phim again.

17 A. I did talk about Ta Nhim and his disappearance. As for Ta
18 Phim, I never made mention of Ta Phim.

19 [15.13.05]

20 Q. Very well, Mr Witness. So let's -- I will limit my questions
21 to Ros Nhim. But you did say in that statement when So Phim was
22 hunted, about 200 or 300 people were sent to Kaun Klaeng, but
23 later were called back to Trapeang Thma. What exactly happened to
24 these people that were sent to Kaun Klaeng?

25 A. At the time I heard from Ta Val directly that Ta Nhim sent

1 reinforcing force of around 200 or 300 people. And then he
2 withdrew them back. That is what I heard directly from Ta Val.

3 Q. And did Ta Val say why Ta Nhim sent 200 or 300 forces to Kaun
4 Klaeng?

5 A. That I did not know. I only heard that around two to 300
6 forces whom we sent almost to the destination already, but I did
7 not know where the destination was. But then the forces had to be
8 withdrawn back. That's what I heard from him at the time.

9 [15.15.02]

10 Q. Let's first talk about Kaun Klaeng. How far is Kaun Klaeng
11 from the Trapeang Thma Dam?

12 A. I never measured the distance. But if we went straight, it
13 could have been around more than 20 kilometres. But if we had to
14 go through the detour, then it may be longer than 30 kilometres.

15 Q. And were these forces armed when they went to Kaun Klaeng?

16 A. I did not know about that. But when I was sent to withdraw the
17 troop back, I only saw them carrying hoes; they had a hoe each.
18 But as for arms, I did not see any rifles with them.

19 Q. And did these forces have anything to do with Ta Vit
20 (phonetic) and Ta Sreh (phonetic)?

21 A. I knew Ta Vit (phonetic) but I did not know Ta Sreh
22 (phonetic).

23 Q. Was Vit (phonetic) Sreh's (phonetic) older brother?

24 A. Not Sraeng (phonetic), but Sreh (phonetic), Sreh (phonetic),
25 so.

1 Q. I apologise for my pronunciation, but Sreh (phonetic) and Vit
2 (phonetic) were two brothers; is that correct?

3 A. Yes, that is correct. Vit (phonetic) is the elder brother of
4 Sreh (phonetic).

5 [15.17.44]

6 Q. Now did these forces -- and if you don't know then please say
7 so -- but did these forces that went to Kaun Klaeng have anything
8 to do with the secret plan to arm the mobile unit that the other
9 witness spoke about? Were these two connected?

10 A. As for the communications among them, I did not know. But for
11 the sending of forces, I did not know for sure at this point. But
12 what I was so certain of was that Ta Val sent me to withdraw the
13 force back. But as for other things, I was not aware of.

14 [15.18.57]

15 Q. Mr. Witness, I would like to confront you with an excerpt of a
16 statement of another witness. And I would like to do the same as
17 with the other witness, I would like to give a piece of paper on
18 which his name is mentioned, and then I would like to ask you if
19 you know this person without saying the name out loud.

20 Mr. President, I'm referring to document E3/7805, more
21 particularly I will be talking about an excerpt at English, page
22 00277817 and 18; Khmer, 00267746; and French, 00315176 and 77.
23 And here I have the first page in Khmer and I would like to show
24 the witness the name and ask him whether he knows the name --
25 whether he knows this person.

1 MR. PRESIDENT:

2 Leave granted.

3 BY MR. KOPPE:

4 Do you know him, Mr. Witness?

5 MR. CHHUM SENG:

6 A. Yes, I do know the person.

7 [15.20.57]

8 Q. Do you know him well?

9 A. Yes, very well.

10 Q. Did he have the same function as you at the time? Was he also

11 a unit leader who supervised 100 persons or a company at the

12 Trapeang Thma Dam worksite?

13 A. This name, I know him very well. But as for his duties and

14 responsibility, I did not know very well. But it is my

15 understanding that he was also in the leadership of the mobile

16 brigade, but I did not know whether or not he was in charge of

17 the company or platoon. That, I did not know.

18 Q. Let me read to you an excerpt from his statement, Mr. Witness,

19 and then I will ask you your reaction.

20 Question: "Did you see upper level come down to inspect the

21 Trapeang Thma Dam?"

22 "Upper level did come down to inspect, for instance, Ta Cheal,

23 who was in charge of Sector 5. I've heard that he is dead. And Ta

24 Nhim, alias Moul Sambath the father of Ta Cheal. I've heard he is

25 dead. From what I know, Ta Nhim was an in-law of the leader of

1 the East Zone at the time and wanted to stir up half the
2 Northwest Zone. He sent a message to his in-law in the East Zone.
3 Then they arrested the Northwest Zone cadres and the group from
4 the Southwest came to take control over the Northwest Zone and
5 they arrested and killed them all. They called me to meetings at
6 Svay two or three times. Ta Nhim sent the messages to go to the
7 meetings. Ta Nhim personally led the meetings."

8 [15.23.30]

9 A little further down he talks about Sreh (phonetic), the same
10 person we just spoke about. "They arrested him, threw him in a
11 truck and took him away. Vit, Sreh's older brother, led his
12 mobile unit to flee to Thailand. I've heard they all died."

13 Can you give a reaction to this statement of your former
14 colleague, company leader?

15 A. Both Vit (phonetic) and Sreh (phonetic) were biological
16 siblings. When Sreh (phonetic) was arrested, it was done in front
17 of me, and Nhim was there. And at that time the army arrived and
18 then he was arrested and he was put on the truck. And then Tuon
19 (phonetic) and others fled the military unit, and I did not know
20 where they had gone. And at that time, I did not know what was
21 going on, at that time, and I was worried myself. I did not know
22 who were the targets for the arrests at that time.

23 [15.25.15]

24 Q. It seems, Mr. Witness, that both persons of whose statements I
25 read excerpts seem to know the situation well at the Trapeang

66

1 Thma Dam and they both seem to speak about Ta Nhim stirring up
2 half the Northwest Zone or alternatively collaborate in a secret
3 plan, probably for armed rebellion. Does that -- when I read that
4 to you, does that sound familiar or not at all?

5 MR. PRESIDENT:

6 Is there any issue? Please maintain order in the courtroom. And
7 if you need to talk on your personal matter, you have to leave
8 the courtroom. Avoid disrupting the ongoing proceedings.

9 Counsel, you may continue your examination.

10 [15.26.39]

11 BY MR. KOPPE:

12 Q. I will reformulate my question. Mr. Witness, I read to you
13 excerpt of statements of two people that you know very well and
14 who were quite well acquainted with the Trapeang Thma Dam. Both
15 talk about Nhim, the leader of the Northwest Zone being involved
16 in stirring up half the Northwest Zone, starting an armed
17 rebellion, together with Val and Hoeng. Is it correct what these
18 two persons are saying or is it something that you don't know
19 anything about?

20 MR. CHHUM SENG:

21 A. That I did not know. I would like to tell you that I did not
22 know about that.

23 Q. I understand, but a last question and I will move on. Do you
24 have an explanation for why you don't know anything about this,
25 having testified earlier that you were close to Ta Val and that

1 you knew him very well? Can you give me an explanation?

2 MR. PRESIDENT:

3 Mr. Witness, please hold on. And Judge Claudia Fenz, you may
4 proceed.

5 [15.28.33]

6 JUDGE FENZ:

7 It's the second time, I think, in three days that you have asked
8 a witness to give an explanation to explain why he does not know
9 something. I don't think that works. Perhaps you could achieve
10 your purpose by rephrasing the question.

11 BY MR. KOPPE:

12 Well I can explain why I don't speak Khmer for instance, because
13 I never learned it. So I have a reason for it. So it is a
14 possibility for having a reason for not knowing something, I
15 think. But I will move on.

16 Q. Mr. Witness, let me now speak to you or let me ask you
17 questions about the military structure of the work at the dam
18 site. In your DC-Cam statement, you spoke about an organisation
19 in terms of a military hierarchy, you referred to the work being
20 organised in a military structure, you also spoke about respect
21 for the chain of command. Do you know the reason as to why the
22 work at the dam was organised in a military way?

23 [15.30.06]

24 MR. CHHUM SENG:

25 A. It was organised in a military way -- was actually the

1 initiative by Angkar. And Angkar actually gave the name to the
2 units. So the mobile brigades were tasked to carry dirt and build
3 dyke and dam. And as for the organisations of the mobile brigades
4 to be the army or so, I did not know. As for the two persons I
5 knew, I cannot actually tell with certainty about how they
6 communicated or had any plan, I did not know.

7 Q. How do I have to understand your testimony when you said that
8 the chain of command should be respected? Does that mean that
9 when you give an order to your subordinate, your subordinate has
10 to follow the order? And at the same time when you receive an
11 order from your superior, that you have to follow this order? Is
12 that what you meant?

13 A. Yes, that is correct. For instance, Ta Val order Ta Khauv and
14 Ta Khauv further ordered to me, and then I had to hand down the
15 order to my subordinates down below the line. That was the chain
16 of commands we had to respect.

17 [15.32.03]

18 Q. Now I understand you have been in the Lon Nol army. There was,
19 I suppose, in the Lon Nol army a chain of command as well. Was
20 the chain of command in the military structure at the Trapeang
21 Thma Dam similar to what you were used to when you were a soldier
22 in the Lon Nol army? Is that the same kind of chain of command?

23 A. For the army, of course, there was an instruction. There's a
24 pistol that we had. We did not simply carry it for, you know, the
25 good look of it, but we had to use it to actually shoot anybody

1 who did not follow the instruction or did not listen to the
2 command. And the same actually applied to the situation when we
3 worked with Ta Val. Anybody who did not follow the instruction or
4 direction, that person was to be taken for execution. That was
5 the absolute command of Ta Val.

6 [15.33.38]

7 Q. I understand very clearly what you are saying. But in your
8 DC-Cam statement, you testified, and I believe you confirmed this
9 at the hearing, that chiefs, such as yourself, had a right to
10 kill. Can you explain how that fits into a rigid chain of command
11 structure? Is it possible to decide on your own as a chief to
12 kill while at the same time not following orders from above?

13 A. On this matter, right was bestowed to us by Ta Val. For chiefs
14 of units who had known well the background of their members,
15 those chiefs had rights to kill their own subordinates. For me,
16 for my case, I have never killed anyone in my unit.

17 Q. So am I to understand that there was a sort of standing order
18 situation from Ta Val to the unit chiefs that he, more or less,
19 gave a carte blanche to the chiefs; is that what you're saying?

20 A. Ta Val convened meetings among chief of companies and
21 battalions. For me, I was a chief of a company. I had a right to
22 kill any individual who opposed Angkar or refused the assignment
23 by Angkar. For "Yuong" agents and CIA agents, as well as American
24 agents, chief of a unit had a right to kill them.

25 [15.36.31]

1 Q. And this right was derived from a standing order from Ta Val;
2 is that correct?

3 A. Yes, that is correct.

4 Q. And where did Ta Val get his order from? On which did he base
5 himself to give you and your fellow unit chiefs this standing
6 order?

7 A. Regarding this point, I do not know where Ta Val got or
8 obtained the order. In my capacity, I was the one who directly
9 received an order from Ta Val.

10 Q. Now let us move now to the execution of 11, or 12, or 10
11 people that you described yesterday. Let's first start with
12 exactly where this alleged execution took place. You said Bridge
13 Number 1. Where is Bridge Number 1 compared to the dam site?

14 [15.38.18]

15 A. The worksite at the Bridge 1 was close to the previous
16 worksite. At that area, we had to carry earth or dirt in order to
17 fill the area and a bridge could be built. And there was a test
18 at the time, and ember was set on fire for the 12 people to walk
19 on. And Phorn was one among those groups. Phorn stepped on the
20 ember, and the other 11 avoided the ember. And after the 11
21 avoided the ember, they were taken away by the soldiers. The day
22 after, in the morning, certain people were assigned to carry dirt
23 and cover the body. I was not among the people who carried earth
24 to cover the body, but I was there to flatten the place where the
25 bodies were buried.

1 Q. Do you know any of the names of these 11 or 12 workers?

2 A. I do not know their names. However, I know that they were
3 people evacuated from Phnom Penh.

4 Q. In which unit were they working? Who was their commanding
5 officer? Or who was leading the unit in which they were working?

6 A. I am not quite sure which unit they were in. And people who
7 were found sleeping in that long hall would be taken away. I have
8 no idea what their unit chief -- who their unit chiefs were. I
9 cannot tell you about that.

10 [15.41.21]

11 Q. But then, do you know who gave the order for their execution?
12 If I understand correctly, you said chiefs had a standing order,
13 they could decide to execute. Who was it that ordered the
14 execution?

15 A. It is a repeated question and it's put to me once again and
16 again. Ta Val was the one who gave the order. Besides him, no one
17 dares to issue such an order.

18 Q. But you just said that all chiefs had the right to kill
19 because they were a chief; or am I mistaken?

20 A. It is true what you said. Chiefs of unit had a right to
21 execute any individual, and the order came from Ta Val. Lon Nol
22 soldier, KGB agent, CIA agent and other agents could be killed by
23 chiefs of units.

24 Q. Did you hear with your ears Ta Val giving the order to
25 whomever to execute these people? Did you hear Ta Val give the

1 order?

2 [15.43.14]

3 A. I did not hear the order personally. However, whenever Ta Val
4 convened a meeting, I was always there. As I mentioned earlier,
5 only chiefs of companies and battalion and upwards had the right
6 to attend the meeting convened by Ta Val.

7 Q. But do you know who it was who actually told the persons who
8 did the killing to kill these people?

9 A. I do not know about that matter. Who else above Ta Val? I do
10 not know about that. I only knew that Ta Val gave an order.

11 Q. Do you know who did the actual physical killing?

12 A. I have no idea. I have never seen them doing the actual
13 physical killings.

14 Q. How do you know that it was 11 persons who were killed?

15 A. Eleven of them. I told already. They were told to walk on
16 ember, and they did not step on ember. One individual walked on
17 the ember, and this individual was allowed to go back and sleep.
18 The 11 individuals were taken away by the army or soldiers. I did
19 not know where they were taken to. The day after, in the morning,
20 I was on the crest of the dam to flatten the place where the
21 bodies were buried. When I was doing my task, I noticed there
22 were 11 bodies, which may have been killed the day before.

23 [15.46.05]

24 Q. Which may have been killed? How did you know that the bodies
25 that you were burying were the same people as the people who, the

1 day before, were involved in this testing of their night
2 blindness? How do you know that they were the same people? Who
3 told you this?

4 A. I was at the scene. The testing place was not quite away. It
5 was not far away from where I was standing, or stationed. I was
6 close by. I witnessed the incident. I witnessed the testing
7 administered to those 12. Phorn was in the -- was in front of the
8 other 11. And as for the killing or other matters that happened
9 after the test, I have no idea.

10 Q. But when you were involved in flattening the earth, as you
11 said it, did you recognize any of the corpses as being one of the
12 people that you saw the day before with this test?

13 A. I do not know the 11 people who died. I do not know their
14 names.

15 [15.48.15]

16 Q. One more last question, Mr. Witness: Can you try to explain to
17 me how you concluded that the corpses that you -- over which you
18 were flattening the earth, were the same people who were alive
19 the day before and who were part of that test?

20 A. Why I said that they were the same people? Most of the corpses
21 wore no shirts, and most of them had only trousers. When I
22 happened to see those corpses, they wore no shirts. I was
23 covering some parts of the bodies at the time, because I was
24 doing the job -- that is, flattening the place where the corpses
25 were buried.

1 Q. Did you ever speak to Ta Val after this incident or mass
2 execution? Did you ever speak to Ta Val and ask him in a verbally
3 confronting way, as you did sometimes, why he did that?

4 [15.50.10]

5 A. I was close to Ta Val, however, I was afraid of him like a
6 tiger. When Ta Val was walking from southwards, I would walk
7 northwards. Even I did not feel to relieve myself, I would run
8 into the forest to stay away from Ta Val. Ta Val always called me
9 and assigned the work for me to do. And I would report what I
10 saw. For example, if I did not see anything at the place where he
11 assigned me to go and observe, I would report the same thing. And
12 I would do the task assigned by him.

13 Q. Have you ever heard that his involvement in this execution of
14 11 people was a reason for his arrest?

15 A. Regarding the arrest of Ta Val, I have no idea why he was
16 arrested. What I knew is that after the arrival of Southwest Zone
17 cadres, Ta Val disappeared.

18 Q. Do you know of any similar execution of workers after Ta Val
19 had disappeared? At the Trapeang Thma worksite, I mean.

20 A. On this matter, I did not know and I did not do the job. After
21 the killings of the 11 individuals, I was relocated to work at
22 the cotton plantation at Kang Va.

23 [15.52.42]

24 Q. I think, Mr. Witness, you stated to DC-Cam that after Ta Val's
25 arrest, you stayed four to five months. Did you stay four to five

1 months at the Trapeang Thma Dam worksite?

2 A. Yes, that is true. After Ta Val had been arrested, I was there
3 at the dam, working for four or five months. I was there
4 constructing bridges, but since there were no cement materials
5 such as wires -- barbed wires, or iron bars, I was reassigned and
6 worked at cotton plantation.

7 Q. But did you, in those four to five months that you kept
8 working at the dam site after Ta Val's arrest -- any similar mass
9 executions? Or was it the one and only execution that you've
10 heard of?

11 A. After Ta Val had been arrested, Ta Nhim (phonetic) and Ta
12 Cheng (phonetic) came to take control and replaced Ta Val. They
13 were from Southwest Zone. I have never seen the two individuals
14 gave any order to kill someone, or they did not kill anyone, from
15 what I saw.

16 MR. KOPPE:

17 Thank you, Mr. Witness. I'm moving to a completely new subject
18 now, Mr. President. I can start, but it's also almost 4 o'clock.
19 It's been a long day. But it's up to you, of course.

20 [15.55.18]

21 MR. PRESIDENT:

22 Thank you, Counsel. The hearing today comes to an end. The Court
23 is now adjourned, and we will resume tomorrow, on 19 August 2015,
24 at 9 a.m. And tomorrow, the Chamber will continue to hear witness
25 Chhum Seng, and then we will start to hear 2-TCW-908. Please be

1 informed, and be here on time.

2 Thank you, Mr. Chhum Seng. The hearing of your testimony as a
3 witness has not come to a conclusion yet. You are therefore
4 invited to come here and testify once again tomorrow at 9 a.m.

5 You may now be excused.

6 Court officer with WESU unit, please send Mr. Chhum Seng to the
7 place where he is staying at the moment, and please invite him
8 back into the courtroom at 9 a.m. tomorrow. Thank you as well,
9 Mr. Duch Phary, the duty counsel. You are also invited to
10 accompany Mr. Chhum Seng tomorrow while he is testifying before
11 this Chamber.

12 Security personnel are instructed to bring Mr. Khieu Samphan and
13 Nuon Chea back into the detention facility of the ECCC, and
14 please have them back into the courtroom before 9 a.m.

15 The Court is now adjourned.

16 (Court adjourns at 1556H)

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