



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
ORIGINAL/ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ (Date): 11-Sep-2015, 13:39
CMS/CFO: Sann Rada

TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

7 September 2015

Trial Day 323

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

The Accused: NUON Chea
KHIEU Samphan

Lawyers for the Accused:
Victor KOPPE
LIV Sovanna
SON Arun
Anta GUISSÉ
KONG Sam Onn

Trial Chamber Greffiers/Legal Officers:
Niccolo PONS
SE Kolvuthy

Lawyers for the Civil Parties:
Marie GUIRAUD
PICH Ang
TY Srinna
VEN Pov

For the Office of the Co-Prosecutors:
Vincent DE WILDE D'ESTMAEL
Dale LYSAK
SENG Leang

For Court Management Section:
UCH Arun

I N D E X

Mr. IT Sen (2-TCW-813)

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Questioning by Ms. TY Srinna..... page 95

List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
Mr. DE WILDE D'ESTMAEL	French
The GREFFIER	Khmer
Ms. GUISSÉ	French
Mr. IT Sen (2-TCW-813)	Khmer
Mr. KONG Sam Onn	Khmer
Mr. KOPPE	English
Mr. LYSAK	English
The President (NIL Nonn)	Khmer
Mr. PICH Ang	Khmer
Mr. SENG Leang	Khmer
Ms. TY Srinna	Khmer

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1 PROCEEDINGS

2 (Court opens at 0903H)

3 MR. PRESIDENT:

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

5 Today the Chamber will hear the presentation of key documents and
6 it will be the responses from the defence team for Khieu Samphan
7 to those key documents presented by the Co-Prosecutors and the
8 Lead Co-Lawyers for civil parties last week, and that is in
9 relation to the three worksites. And after the conclusion of such
10 responses, the Chamber will hear the testimony of a witness --
11 that is, in relation to the treatment -- targeted treatment of
12 Cham.

13 [09.05.35]

14 And before we proceed with today's schedule, the Chamber would
15 like to inform the Parties and the Public that for today and for
16 the following days, Judge You Ottara is absent due to his urgent
17 personal matters. And after the Bench held a deliberation, Judge
18 Thou Mony, a National Reserve Judge, is to sit in place of Judge
19 You Ottara until such time he is able to return to the Bench to
20 sit with the proceedings of the Trial Chamber, and that is
21 pursuant to Rule 99.4 of the ECCC Internal Rules.

22 Ms. Se Kolvuthy, please report the attendance to the Parties and
23 other individuals at today's proceedings.

24 [09.06.43]

25 THE GREFFIER:

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1 Mr. President, for today's proceedings, all Parties to this case
2 are present.

3 Mr. Nuon Chea is present in the holding cell downstairs; he has
4 waived his right to be present in the courtroom. The waiver has
5 been delivered to the greffier.

6 A witness who is to testify today -- that is after the hearing of
7 the key documents presentation -- that is, 2-TCW-813, confirms
8 that to his best ability, he has no relationship by blood or by
9 law to any of the two Accused -- that is, Nuon Chea and Khieu
10 Samphan, or to any of the civil parties admitted in this Case.

11 The witness will take an oath before the Chamber.

12 We also have a reserve civil party -- that is, 2-TCCP-244. Thank
13 you.

14 [09.07.54]

15 MR. PRESIDENT:

16 Thank you. The Chamber now decides on the request by Nuon Chea.

17 The Chamber has received a waiver from Nuon Chea dated 7

18 September 2015, which notes that due to his health, headache,

19 back pain, he cannot sit or concentrate for long, and in order to

20 effectively participate in future hearings, he requests to waive

21 his right to participate in and be present at the 7 September

22 2015 hearing. He affirms that his counsel has advised him about

23 the consequences of this waiver that it cannot in any account be

24 construed as a waiver of his right to be tried fairly or to

25 challenge evidence presented to or admitted by this Court at any

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1 time during this Trial. Having seen the medical report of Nuon
2 Chea by the duty doctor for the Accused at the ECCC, dated 7
3 September 2015, who notes that Nuon Chea has severe back pain and
4 dizziness when he sits for long and recommends that the Chamber
5 grant him his request so that he can follow the proceedings
6 remotely from the holding cell downstairs.

7 [09.09.14]

8 Based on the above information and pursuant to Rule 81.5 of the
9 ECCC Internal Rules, the Chamber grants Nuon Chea his request to
10 follow today's proceedings remotely from the holding cell
11 downstairs via audio-visual means. The Chamber instructs the AV
12 Unit personnel to link the proceedings to the room downstairs so
13 that he can follow the proceedings. This applies to the whole
14 day.

15 And the Chamber would like to hand the floor now to the
16 co-defence counsel for Khieu Samphan to make observations to the
17 key document presentation by the Co-Prosecutors and the Lead
18 Co-Lawyers for the civil parties for the three worksites that
19 were made last week.

20 And Counsel, you may proceed.

21 [09.10.14]

22 MS. GUISSÉ:

23 Thank you, Mr. President. Good morning to all of you. Good
24 morning also to the public since these document hearings are
25 public and this also has educational purposes and I'm going to

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1 start proceeding with what I believe is the essence of the Trial
2 -- that is to say, responding.

3 Responding means making observations, interpreting certain
4 elements that may be different from the way the Prosecution may
5 interpret these elements and also doing what is at the core of a
6 criminal trial should be -- that is to say, to stage an
7 adversarial debate. We have fought, in the Khieu Samphan team,
8 for a long time for these document hearings not just simply to be
9 a catalogue of documents but to be something meaningful and to
10 stage an adversarial debate. So even if Khieu Samphan has not
11 presented any documents for this key document hearing, it is
12 important for him to be able to react and respond.

13 [09.11.35]

14 The role of these key document hearings, as you reminded Mr.
15 President on 26 August, is to ask the Parties to choose the most
16 important documents to support their case and the aim, you
17 reminded us, is to allow the Chamber to better assess the weight
18 that we should give to the evidence at the end of the substantive
19 hearing in Case 002/02 -- that is to say, the weight, the
20 importance of the evidence and that is the core of your work when
21 you're going to deliberate and today my comments go in that
22 direction -- that is to say, we're going to share the Defence's
23 understanding of the weight to give to this evidence and to
24 discuss the probative value of the documents that were put before
25 the Chamber by the Prosecution and the civil parties. This may

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1 take on different shapes: first, I'm going to make generic
2 observations and then site per site, I'm going to focus on
3 specific comments and mention specific parts of the documents
4 that were presented because once again the quest for truth and
5 adversarial debating require that we take into account documents
6 as well as elements in documents that were not necessarily
7 underscored by the Prosecution or the civil parties. And I would
8 like to remind the public that my comments regarding the sites
9 are going to of course be restricted to the 1st January Dam
10 worksite, and then to the Kampong Chhnang Airport worksite, and
11 then finally to the Trapeang Thma Dam.

12 [09.13.26]

13 Now regarding my generic comments or observations, a certain
14 number of documents that were presented by the Prosecution and
15 the civil parties are witness statements -- witness written
16 statements -- that is to say, witnesses who have not appeared
17 before the Chamber.

18 A criminal trial is first of all an oral trial. Why? Because when
19 a witness comes here to provide information and may be in fact
20 accuses in certain way, the Parties should examine and
21 cross-examine to understand where this witness or civil party
22 draws his or her information from and that there'd be a
23 confrontation, a debate and it is in this debate that we can find
24 the details and we can assess properly the probative value of the
25 statements and also allows us to understand how the person

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1 behaves before the trial, to see how the person reacts when she
2 or he is faced with certain questions so this also allows to
3 assess credibility.

4 So when we present to you as essential documents, written
5 statements of witness do not appear before the Chamber, well, we,
6 in the Khieu Samphan defence, feel that in terms of the general
7 principle, there is weak probative value here. Why am I saying
8 this? We have seen often here in this Court, civil parties and
9 witnesses who have come to correct things that were written in
10 the written statements, they came to provide details and
11 sometimes even there was a gap between what was said here before
12 the Chamber and what they wrote in their statements.

13 [09.15.30]

14 I'm focusing, first of all, on the civil party applications and
15 the information forms that were presented as key documents before
16 this Chamber and this might be the most blatant example of this
17 gap between written statements and what witnesses or civil
18 parties say before the Chamber. A very few recent examples I can
19 mention; for example, last week even on September 1, the -- Chao
20 Lang, civil party, explained -- in fact even went beyond
21 explanation, in fact he was providing a new testimony in relation
22 to what was in his written application.

23 You remember he was speaking about a Filipino medic who was his
24 colleague and this person became a colonel, a Filipino colonel
25 but in charge of transporting explosives from the United States.

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1 So, you see here -- and this person was -- apparently was not his
2 colleague but his father's colleague, so you see drastic
3 differences sometimes between what is written in the statements
4 in co-operation with the civil party lawyers -- that is to say,
5 in the process of gathering information sometimes of course
6 information lost, sometimes when forms are processed by the ECCC
7 services and I remember my colleague telling me that there was no
8 direct contact between the civil party and the person drafting
9 the summary of the civil party's statement. So, of course there
10 are many possible errors here, so you can understand that when we
11 are presented with such documents as being key documents, we can
12 only draw the Chamber's, as well as the parties attention, to the
13 fact that we can only grant low probative value to documents
14 whose drafting is filled with issues in terms of reliability, but
15 also we can only remind that there is nothing better than putting
16 questions to the witness or to the civil party in order to get
17 the true account.

18 [09.18.15]

19 And I know that you ruled on the issue of civil party statements
20 in the investigations of Cases 003 and 004, but what we're saying
21 regarding the lack of reliability of these documents has once
22 again been blatantly demonstrated during the various hearings on
23 the impact of the crimes.

24 I would like to remind you that this is exactly what happened on
25 the 20th August 2015 with witness Tak Boy, and here I am

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1 reminding you of written record of interview, E3/331, and Judge
2 Fenz probably remembers that because she noted that what was
3 written in the statement had nothing to do with what the witness
4 said before the Chamber and witness before the Chamber said "I
5 never said this." So here again we have a clear example that
6 there are inconsistencies with the written statements of the
7 civil parties.

8 [09.19.27]

9 And I would like to remind you, and this is another important
10 element because we're speaking about civil party statements here
11 and the Co-Lead Lawyers of the civil parties also brought up
12 these issues and I'm reminding of the hearing of 3 April 2015,
13 document E1/288.1 where my colleague, Marie Guiraud, in a very
14 honest way acknowledged -- it was a little before 09.42 -- the
15 issues in some of the civil party statements and I quote her for
16 us to be clear. This is what she says at that hearing on the 3rd
17 April 2015. This regards the effect of the crimes in the
18 co-operative and the fact also that there were certain number of
19 civil party statements that were indicating that the civil
20 parties were Khmer Krom, but during the hearing the civil party
21 said they were not Khmer Krom. So, my colleague said: "I'm
22 obliged to acknowledge that this is a reality. We will have to
23 shed light on the way the information was gathered and on the way
24 we intend to put documents before the Chamber, and I would like
25 this discussion to happen at another moment. It is now

1 contaminating the hearing of the impact of suffering. So what
2 matters today is the oral statement of the civil party," she
3 says. "And once again, I accept that from the Defence that it
4 will be up to us as Co-Lead Lawyers to clarify the situation
5 because the errors are repeated and are clear in the VIFs, as
6 well as in the supplementary information forms that were filed.

7 End of quote. [Free translation]

8 [09.21.22]

9 So this is the context in which I am reminding you today that
10 there are indeed problems with the civil party statements and
11 that you should consider them with the greatest caution possible
12 when you will deliberate. And why am I insisting upon this, Mr.
13 President and Your Honours? Well, in your Judgment of 7 August
14 2014, you relied in great part on a great number of civil party
15 statements and this gives rise to the issue of reliability
16 because you have to ground your decision on the basis of the
17 documents and in the Khieu Samphan defence, we believe that you
18 cannot rely on such documents to sentence a defendant when civil
19 parties do not come to testify before the Court.

20 And as I was saying earlier, you also produced a memo --
21 E319/14/2 -- in which you indicated the way to follow regarding
22 the disclosure of civil party statements in Cases 003 and 004,
23 and indeed you noted the issues that may come about and the issue
24 of the probative value of the information contained in these
25 statements and of their reliability of this information in the

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1 case of a judgement.

2 [09.22.57]

3 This leads me to another general observation on Cases 003 and
4 004; this is an important point because this was at the root of
5 the incident that occurred at the beginning of the document
6 hearings in which the Prosecution and the civil party presented
7 their documents last week and I am obliged to reiterate the
8 Defence's stance on this matter regarding Cases 003 and 004 and
9 the issue here is the presentation by the Co-Prosecutors of
10 documents coming from the Trapeang Thma site. And let me remind
11 the public what the proper procedure was in this case.

12 [09.23.50]

13 We are here at the ECCC -- and I reminded you of this last
14 Thursday when the issue was raised with regard to the witness for
15 the next segment -- we are in here in a procedure in which there
16 was an investigation. And I would like to remind you that on 18
17 July 2007, the Co-Prosecutors filed an introductory submission.
18 And I would like to remind you that on 16 August 2010, the
19 Co-Prosecutors filed their final submission -- that is to say,
20 the elements they felt were useful to give to the Investigating
21 Judges before they drafted their Closing Order. And a Closing
22 Order was issued and the Co-Prosecutors did not appeal this
23 Closing Order and so my conclusion is that they believe that the
24 information in the Closing Order and the evidence was sufficient
25 for them to demonstrate -- or to attempt to demonstrate the guilt

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1 of the defendants in Case 002.

2 [09.25.05]

3 There was no appeal and I'm noting this because so many times we
4 have heard from the Chamber when we were endeavouring to prove
5 that there were issues during the interviews by the investigators
6 of the OCIJ, that there were issues when we noticed the
7 differences between what was written in the statements and what
8 was heard on the audio tapes and so many times the Chamber told
9 us yes, there is an investigation, you should have done your job,
10 during the investigation, it's too late, it's too late, that's
11 what we were being told and I must confess that I don't
12 understand why when the Co-Prosecutors today in 2015, tried to
13 introduce an important number of elements from other
14 investigations, I don't understand why they're not also told to
15 do their job properly.

16 Please, let's be clear about the statements regarding Trapeang
17 Thma that were statements from other cases that were presented by
18 the Co-Prosecutors. Yes, we agree the Co-Prosecutors filed a
19 submission asking to introduce these elements and we did not
20 react fast enough in our team; it's true, that I confess. We did
21 not react in a timely manner, I agree. However, I would like to
22 remind you that it is not because the Parties do not respond that
23 they necessarily agree and that the Chamber also is still
24 required to monitor these documents.

25 [09.27.06]

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1 I would like to refer you to our submissions regarding the
2 general issues of the -- or the general obligations of the
3 Co-Prosecutors with regard to the disclosure of documents coming
4 from other investigations, but I would like to remind you -- for
5 things to be completely clear, I would like to remind you of the
6 Martić jurisprudence before the ICTY. This was a decision of 19
7 January 2006. In paragraph 11, this is what is said -- and I only
8 have the English version of this paragraph, so please excuse me
9 for my accent. This is what is said in paragraph 11:

10 "Principles: Principles in matters of admissibility of evidence.
11 The Trial Chamber is, pursuant to the Statute of the Tribunal,
12 the guardian and guarantor of the procedural and substantive
13 rights of the Accused. In addition it has obligation to strike a
14 balance in seeking to protect the rights of victims and
15 witnesses. As the Trial is an often complex journey in search for
16 the truth in relation to the alleged individual criminal
17 responsibility of the accused, bearing in mind that the truth can
18 never be fully certified, the Trial Chamber considers the
19 question of admissibility of evidence do not arise only when one
20 of the parties raises an objection to a piece of evidence sought
21 to be brought forward by the other party."

22 [09.29.14]

23 I would like to underscore this part: "As an inherent right and
24 duty to ensure that only evidence which qualifies for admission
25 under the rules will be admitted. For this purpose, as may turn

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1 out to be necessary from time to time, the Trial Chamber will
2 intervene ex officio to exclude from this proceeding this piece
3 of evidence which, in its opinion for one or more of the reason
4 laid down in the rules, ought not be admitted in evidence." End
5 of quote.

6 Why I am - am I recalling this jurisprudence and this principle
7 today, it is because they are at the very centre of what we
8 pointed out when my counsel Vercken explained why he and the Nuon
9 Chea team objected to the presentation of essential documents
10 since that was the purpose of the hearings, why documents were
11 presented that were not the subject of investigations and the
12 prosecutor is able to make applications or to lodge appeals
13 before the Pre-Trial Chamber and it didn't do so.

14 [09.30.51]

15 All these hearings regarding documents from Cases 003 and 004 do
16 not exclude the issue of reliability as I pointed out at the
17 beginning of my submissions. You pointed out that as regards
18 Cases 003 and 004 it is no longer possible to consult the audio
19 recordings of those interviews which means that we, the defence
20 teams, who were not a part of those investigations can only rely
21 on what is presented to us in the statements of interview. We
22 have asked for clarifications before the Chamber about persons
23 who testified and whose testimonies had discrepancies between
24 what was written and what was said before the Chamber and during
25 these documents hearings we are unable to do so, and -- so we

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1 have the issue of reliability and it also raises the issue of
2 fairness, the fairness of the trials.

3 [09.32.11]

4 Written statements of witnesses who are not going to appear
5 before this Chamber are presented as essential documents and they
6 will not be up to scrutiny, they will not be subject to
7 examinations by the Parties who will be able to ask questions and
8 obtain clarifications. What you're saying is, this is what the
9 witness says, we don't know how the witness obtained that
10 information, we cannot cross-check to ascertain whether it is
11 hearsay or not. So we have seen before this Chamber that
12 sometimes what is presented as assertions in written statements
13 turn out to be hearsay evidence when the witness appears to
14 testify. The witness says: I heard this; it was rumour; and so on
15 and so forth. So it is not possible for the Parties to impeach
16 the witness and to cross-check the veracity of what they're
17 saying. And under these conditions, you cannot therefore accord
18 any significant weight to those statements because they are not
19 subject to the principle of adversarial hearings, and we cannot
20 cross-check the sources of such information.

21 [09.33.22]

22 Having highlighted these points, what does the Khieu Samphan team
23 say in the face of the statements from Cases 003 and 004? These
24 statements raise a general question regarding the Trapeang Thma
25 Dam worksite segment regarding documents that were presented as

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1 essential documents, key documents. And this brings me to talk
2 about the time when the Accused can respond.

3 Mr. Honourable Judge Lavergne, you've noted that it is possible
4 to raise new issues and these issues should truly be new issues.
5 And it should be proven that the parties were not in a position
6 to obtain such information in advance and the Chamber has to
7 defend, protect the rights of the Accused. And it may well be
8 that new documents may be raised but the timing of such
9 introduction of new evidence is important during a trial that is
10 already being conducted. It may be investigations that were not
11 properly conducted regarding Trapeang Thma or some other site and
12 in that case it is not acceptable to import documents from other
13 cases that have already been subject to investigations. And in
14 such a situation, we should bear in mind that my client was
15 placed in custody on the basis of such materials.

16 [09.35.27]

17 The Parties should not be allowed to import documents or
18 materials to stopgaps in their case regarding materials that is
19 already on record and I am referring to documents that were the
20 subject of your decisions and that were admitted as part of Case
21 001 and that are considered as part of the case file. Let me
22 remind the Chamber that the Chamber has a possibility of
23 revisiting its decisions when a right was violated and such a
24 violation was not pointed out to the Chamber. In that case it is
25 incumbent on the Chamber -- and again I'm recalling the

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1 jurisprudence of ICTY -- the Chamber has to play its role as the
2 custodian of the rights of the Accused and to police the evidence
3 that is tendered before the Chamber.

4 [09.36.31]

5 And regarding the possibility of returning, going back on your
6 decision, let me remind you of a -- the footnote 1994 in which
7 you admitted that you could go back on a decision that you made
8 because it would confirm Khieu Samphan's alibi. This means that
9 you're not bound by a decision which turns out to be incorrect.
10 So, when you find that evidence was admitted when it wasn't
11 supposed to be admitted, you can go back on your decision. And I
12 wanted to point this out at the very beginning of my submissions
13 on the key documents presented by the Co-Prosecutors in order
14 that the position of the Defence should be as clear as possible
15 and as precise as possible in order that we should understand,
16 over and beyond, the decision that the motion we filed regarding
17 the obligations of the Prosecution in our disclosures regarding
18 Cases 003 and 004. This is a broader debate, but as regards to
19 key documents regarding key -- regarding Trapeang Thma, it is
20 possible for you to revisit your decision and we request that you
21 should take into account all these preliminary submissions I've
22 made on the weak probative value of the evidence relating to
23 witnesses who do not appear before you.

24 [09.38.12]

25 As I pointed out earlier, a fair trial is, first of all, a trial

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1 that is subject to adversarial proceedings and we're talking
2 about a fastidious exercise. But I think it is very useful in
3 your deliberations when you have to consider documents that are
4 being presented by the various parties. And I would like to talk
5 about the respective sites and submissions and any additions of
6 quotations that I consider necessary in the case of the defence
7 of my client, Khieu Samphan.

8 First of all as regards documents relating to the 1st January
9 Dam, document E3/2412, it is an article by François Ponchaud,
10 titled "Kampuchea Revolutionary Economy". The International
11 Co-Prosecutor quoted a part of that article and I would like to
12 call your attention to another party who gave another perspective
13 of the situation. The ERN is as follows: in French is 00410765;
14 and the ERN in Khmer is 00812343; ERN in English, 00598519. The
15 part that I consider relevant is as follows: "Our motto is that
16 if we have rice, we can have everything because the people can
17 eat to their fill. We have rice for exportation and we can then
18 import the goods we need with rice. We can have everything. We
19 can have steel, factories, energy and tractors." [Free
20 translation] End of quote.

21 [09.40.31]

22 As part of the presentation of key documents, the Prosecution
23 pointed out that they presented the construction of dams and
24 agriculture as a war. Indeed it was a war to have rice which was
25 the only economic commodity of Democratic Kampuchea. This is a

1 point I wanted to highlight in this document by François
2 Ponchaud.

3 Another point regarding the utility of dams to agriculture; it is
4 the last page of this document, the ERN in French is 00410772; in
5 English, 00598525; and in Khmer, 00410772. I would like to
6 underscore what was mentioned by various witnesses who appeared
7 before this Chamber -- that is, the fact that they didn't have to
8 deal with only rice growing but the growing of other crops and
9 this is what Ponchaud says in his article and I quote:

10 "Apart from rice farming, depicted as crucial in meeting the
11 people's needs and for export, emphasis is laid on the growth on
12 the following food crops called 'strategic crops': bananas, soya
13 beans, sweet potatoes, sugarcane, yams, sesame, maize, etc. Radio
14 reports frequently indicate the number of hectares on which the
15 various crops are grown, the number of banana trees, sweet potato
16 tubers, coconut trees, so on and so forth." This is a point that
17 is considered essential by the Prosecution, which shows that, as
18 part of the construction of dam and the irrigation system, there
19 was a commitment to growing food crops for the people.

20 [09.42.42]

21 The second document I would like to point out to the Chamber is
22 the record of interview of Ieng Chham, and it is document
23 E3/5513. In that document the Co-Prosecutors read Question/Answer
24 45 particularly to say and to stress the fact that there were
25 problems in technical training of technicians who worked on the

1 dam worksite, and notably that questions 46 and 49 had been
2 mentioned by the Prosecution as well in connection with Answer
3 45. I would like to highlight Question/Answer 45 and
4 Question/Answer 54.

5 Question and Answer 45: "Do you think if the study at that time
6 had been carried out was scientific?" He's talking about the
7 techniques that had to be acquired by people who had to work on
8 the worksite. This is Ieng Chham answer: "I believe that the
9 techniques at the time were fundamentally good. I think that it
10 was modern for that time being because, at that time, we
11 practised on machineries, they taught us to know tools and taught
12 us modern techniques of those tools." End of quote.

13 [09.44.32]

14 And as regards the plan of the 1st January Dam, this is the
15 question that was put to the witness and it's Question 54:
16 "During the dam construction, did you see the project or the
17 master plan?"

18 Answer: "I just saw only the plan drawn in detail about the water
19 gates." End of quote.

20 These two points are points I consider important in key documents
21 presentation because, as I understood from the Co-Prosecutors
22 submissions, they were challenging the master plan of that dam
23 and in this statement, you have information that confirms the
24 fact that techniques that were current during that period were
25 used. And I say this in connection with what witness Pech Sokha

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1 said at the hearing of 21st July 2015, and I refer to the record
2 of interview, E3/209 (phonetic), and he said that his boss
3 confirmed that the plan was correct and it was E1/6302
4 (phonetic).

5 [09.46.07]

6 Another document I would like point out to the Chamber is
7 document E3/35; it's the interview of Ke Pich Vannak and the ERN
8 in French, 0037732; in Khmer, 00340564; and the ERN in English,
9 00346150. The Co-Prosecutors quoted on the same page statement
10 regarding persons who died due to ill health or lack of medicines
11 on the site but they did not press on to say what the witness
12 actually stated. And when we look at the following answer by the
13 witness and - so the last sentence quoted by the Co-Prosecutor
14 was as follows -- and this is what the witness said: "During the
15 construction of the dam, I knew that people died of ill health
16 and the lack of medication." And he goes on to say and this is
17 what I'm adding to the quotation: "Then I heard that Ieng Thirith
18 had issued instructions that traditional medicines be boiled in
19 order to obtain black tablets." To have more information on this
20 story, you ask Dr. Sek. At the time he was a military doctor and
21 surgeon at the military hospital, situated south of the
22 administrative headquarters of Kampong Cham province, and this is
23 what the witness says precisely: "I heard about the fabrication
24 of medicines when I drove Ieng Thirith and the Laotian delegation
25 to visit the 1st January Dam. I was not sure whether or not Ieng

21

1 Thirith knew about people who had died from the lack of
2 medicines. At that time, Ieng Thirith said that we lack medicines
3 but we are doing the researches on the traditional medicines so
4 that they can be used for treating patients. Sometimes later they
5 brought quinine trees from China to grow in Cambodia. Those
6 quinine trees still remain in Kampong Thom province in an area
7 east of Tang Krasang, Santuk district. Later on there was an
8 announcement about that." End of quote.

9 [09.48.55]

10 This part is relevant to us because we've spoken at length of
11 traditional medicines as if there was a deliberate decision not
12 to take measures regarding -- issues - problems relating to
13 malaria. And let me point out that quinine is an essential
14 component of medicines used to kill malaria. Perhaps the measures
15 taken were not sufficient, perhaps they were not up to the task
16 of treating patients but there were traditional medicines used to
17 treat the population and this is information that is important to
18 note.

19 [09.49.45]

20 Another point I would like to highlight is in document E3/9349;
21 it is the record of interview of witness Chuop Non; the French
22 ERN is 00277537; and the ERN in Khmer, 00239922; and the ERN in
23 English is 00244157; and the part that is of relevance to me is
24 the question asked and it is as follows:

25 "Can you describe the government structure at that time?"

22

1 Answer: "I knew there were sub-district chiefs, village chiefs
2 and mobile unit chiefs, but I don't know what level the
3 sub-district chiefs received orders from." End of quote.
4 This passage is important to my mind because it supports,
5 corroborates what the Co-Prosecutors said when they were
6 presenting their key documents and they said that they didn't
7 have many contemporaneous documents on the worksite and that was
8 the reason why they were relying very much on witness statements.
9 Here again it is important to point out and I believe the
10 evidence we heard on the worksite shows that most of the
11 witnesses who appeared before this Chamber spoke at length about
12 local cadres, but they did not know the exact instructions they
13 received and who gave those instructions. This part of the
14 testimony illustrates that point and it is important to bear this
15 in mind in your deliberations.

16 [09.51.45]

17 We have another point and it is from E3/2782, and also 2783
18 because there are different reference numbers for the French and
19 English and I'm interested particularly in the English version.
20 It is the supposed biography of Ke Pauk before he died. The Khieu
21 Samphan defence is of the opinion that this document is of a very
22 low probative value and I don't know under what conditions that
23 document was obtained and I don't know under what conditions
24 questions were put to the witness. Were they designed to elicit
25 comments from the person who wrote that statement? Be that as it

1 may, I would like to draw the attention of the Chamber to the
2 English version E3/2782 and the ERN in English is 00089716 and
3 this is the caption that appears in English and I'll quote in
4 English:

5 [09.52.58]

6 "This document is incomplete and copied from the original
7 document but it is not known how many pages left." End of quote.

8 So this document is a priori incomplete and we don't know
9 anything about the missing pages unless DC-Cam provides those
10 pages. We do not have the original version in our possession so
11 we should ask for those pages and this raises issues as to the
12 probative value of this document since the sources are not known
13 at this point in time and there are missing pages.

14 Lastly, my last remarks on the key documents presented on the 1st
15 January Dam. We have a number of documents -- E3/84, E3/86 --
16 regarding a media article presented by the Prosecution alleging
17 that those media articles talked about the tours of foreign
18 delegations that went to visit the 1st January Dam. The
19 Prosecution also pointed out that it was very likely that the
20 leaders were proud of the construction of that dam.

21 [09.54.29]

22 The remark I would like to make at this stage is to note that it
23 is particularly relevant to bear in mind that Khieu Samphan does
24 not feature as one of the persons who accompanied those
25 delegations to the 1st January Dam in these media articles. This

1 is something important to bear in mind in light of Elizabeth
2 Becker's testimony when she said that during her visit she did
3 not see Khieu Samphan. This is important when we talk about the
4 role of Khieu Samphan but I wanted to highlight this point
5 because it also transpires from documents presented as key
6 documents by the Prosecution.

7 As regards documents presented by the civil parties, I will refer
8 you to my introductory remarks. As far as written statements by
9 civil parties are concerned, with all the difficulties I refer to
10 this morning, we have to take them with a pinch of salt as
11 regards to probative value to be given to those documents.

12 [09.55.43]

13 I would like to talk about the issue of documents relating to the
14 Kampong Chhnang Airport, particularly the documents presented by
15 the International Co-Prosecutor. I would like to refer
16 particularly to the comments and the remarks that arise, as far
17 as the Defence is concerned, regarding documents relating to the
18 Kampong Chhnang Airport. These are military documents. When I
19 talk of military documents, I mean transcripts of meetings with
20 district secretaries and so on and so forth. In document E3/182,
21 which is the record of interview of the Standing Committee of the
22 9 October 1974, the Prosecution said that this document proves
23 that Khieu Samphan was informed of the building of the military
24 airport so he was aware of the plan.

25 My first remarks are that, the fact that this arose in a general

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1 meeting of the Standing Committee whether or not they talked
2 about the possibility of building the airport at Kampong Chhnang.
3 We cannot infer from this that there was any willingness on the
4 part of Khieu Samphan to want to adhere to a plan that had to do
5 with the ill-treatment of persons at that Kampong Chhnang Airport
6 construction site. That is my first remark.

7 [09.57.23]

8 The second remark has to deal with numerous issues raised: you
9 talked about documents relating to the chain of military command;
10 you also talked about the documents mentioned by the Prosecution
11 in which Comrade Khieu is mentioned. This is important for the
12 defence of Khieu Samphan is that Comrade Khieu was Son Sen and
13 that was the only Khieu who had military duties and
14 responsibilities and when mention is made of Khieu in the
15 testimony of the witness before the Chamber, we should bear in
16 mind that the people during that period did not necessarily know
17 the leaders and they could have mixed up the names. In any case,
18 let us bear in mind that Comrade Khieu, Son Sen, was the person
19 who was in charge of military affairs and he was the one who
20 managed very closely the matters regarding Kampong Chhnang
21 Airport. Let me refer to you document E3/229, in French,
22 00334958; ERN in Khmer is 00000713; and it continues on the next
23 page, the ERN in English, 00182625. It is important to note that
24 in these documents it is said that Comrade Khieu reported as
25 follows -- and it's sub-paragraph (a) in document E3/229,

1 sub-paragraph (a) he said that, Comrade Khieu raised a number of
2 issues related to the air and naval assistance and we understand
3 that Comrade Khieu alias Son Sen is the person in charge of such
4 matters.

5 [09.59.16]

6 So, I'm making the same remarks regarding document E3/222, Super
7 Comrade says -- and French ERN is 00323892; Khmer, ERN 000084;
8 and ERN in English, 00182625; and it continues on the next page,
9 Super Comrade Khieu states the following.

10 Now regarding document E3/236, also in document E3/236 that was
11 presented by the Co-Prosecutors, it's also interesting to see
12 that the list of the attendees is not always there and it's also
13 interesting to see that we're dealing here with decision-making
14 without exactly knowing what was related regarding the operations
15 at Kampong Chhnang Airport. So, we in the Khieu Samphan defence
16 team believe that we cannot use these key documents to consider
17 that there was any plan to mistreat the soldiers who were working
18 at the Kampong Chhnang Airport site. And to be complete here,
19 because once again, most documents presented regarding this
20 airport are military documents because this was a military
21 airport. I must remind you of your Judgment of 7 August 2014 in
22 paragraph 318 in which you already concluded that the Chamber is
23 convinced that Khieu Samphan never held personal power in the
24 military area and also held no responsibilities there. So this is
25 an element that we should consider, and in the context of these

1 military key documents, I have to stress this point in relation
2 to what the Co-Prosecutors are presenting.

3 [10.01.42]

4 Another point that I think is important and which I -- is the
5 fact that in these written records or minutes of meetings, there
6 were certain number of points that were brought up that
7 demonstrate that the issues of food and rice were being taken
8 into consideration. It's a point that was put forth in Case
9 002/01, but that is also important for the Defence with regard to
10 the reason why dams were built -- that is to say, explanations of
11 very important issues, very important food issues that the
12 population was facing and the necessity to solve these issue as
13 soon as possible. And this is what is said in document E3/13,
14 which are the minutes of the meeting -- of the meeting between
15 division secretaries -- E3/13, French, ERN 0023323892 (phonetic);
16 Khmer, 0052416; English, 00183994 (phonetic); and the paragraph I
17 would like to focus on is paragraph 3 and this is what is said
18 regarding the living conditions of the soldiers:

19 [10.03.45]

20 "A) As of 20 December, 23 cans of rice should be given to 10
21 people and they should be able to eat two or three times.

22 B) A litre of fish sauce per person per month.

23 D) It is necessary to raise many animals and to surpass the plans
24 that were set during the Third Congress. What's important is to
25 solve the production problems for our brothers in arms.

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1 E) We have to grow many vegetables and give more energy to the
2 movement. We have to make sure that we grow popular vegetables
3 such as squash, pumpkins, papaya, (inaudible), all kinds of
4 aromatic leaves, chives, papaya, as well as morning glory. "And
5 later it is said to propose to each unit to nominate people to
6 monitor the living conditions of the soldiers on a permanent
7 basis." Regarding clothing: "Our brothers in arms should be
8 properly dressed. We have to raise many pigs, as well."

9 Points 4 and 5--.

10 [10.05.09]

11 MR. PRESIDENT:

12 Counsel, please wait, and the floor is now given to the Deputy
13 Co-Prosecutor. You may proceed

14 MR. DE WILDE D'ESTMAEL:

15 Thank you, Mr. President; and good morning to you, all of you.
16 The Defence has just said that they were reading out an excerpt
17 of document E3/13, but in fact it is an excerpt from document
18 E3/804. So I want to be clear about this for the record. So -
19 yes, I'm making this necessary correction.

20 [10.05.54]

21 MS. GUISSÉ:

22 Indeed, thank you very much for having drawn my attention to this
23 mistake. Yes, indeed I was speaking about document E/804. But
24 reverting to document E3/13 that I brought up first, I would like
25 to let you know that the issue of rice was a central issue for

1 the army and that it was in this -- in any case was obvious on
2 the last page of E3/13 in which we see that there are statistical
3 data regarding the replanted rice paddy. But now I will revert to
4 document E/804 in which I quoted part of sub-paragraph 3 and now
5 I would like to get to sub-paragraph 6, French, ERN 00386209;
6 Khmer, 008482-84; and English, 00233719; and on the following
7 page.

8 And regarding point 6, regarding general production work,
9 sub-paragraph (a) regarding the harvesting of paddy: "All forces
10 have to be gathered to harvest on time. The work that is not
11 necessary is to be cast aside. Even education has to be stopped
12 on a temporary basis if necessary. We have to harvest the paddy
13 that is about to ripen by gathering forces for the harvest. The
14 paddy that is about to be ripened has to be dried and we have to
15 propose to thresh the paddy after the harvest before the paddy
16 grains are stored. We have to also solve the problem of mats and
17 if there is a lack of water, we have to pump water; not let the
18 paddy just dry up."

19 [10.08.02]

20 "B) The problem of seeds: We have to put aside a sufficient
21 number of seeds and store them. The issues of dry season paddy,
22 and floating rice paddy, we should come up with plans."

23 And finally -- and this is the last page of this document:

24 French, it is 00386210; the same pages in Khmer and in English as
25 the ones I gave before so it's written down "ours" so I suppose

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1 it means our resolve. So, this would be applied as of 20th of
2 December: "The forces doing heavy work should have 23 cans of
3 rice and the other forces will have 20 cans." End of quote. So
4 here, once again, this is a document that is considered as a key
5 document by the Prosecution and this document proves that there
6 is constant concern with regard to what kind of rice can be
7 harvested and what kind of rations can be provided to the army.

8 [10.09.16]

9 Now I would like you to send to the document -- that is, document
10 E3/807 or E3/1114, which are minutes of meetings or
11 correspondence that has been sent to S-21 that was brought up by
12 the Prosecution, and here just to let you know that we're
13 speaking here again about military documents regarding military
14 management.

15 Another document that I think is interesting is E3/849 and I'm
16 going to be looking at the English version; it's a single page
17 document -- ERN 00183956. As Judge Lavergne underlines, in French
18 there is a missing mention and this should be checked against the
19 Khmer but what I note in this document and what I think is useful
20 is that, in March 1977, it is shown in number 2 and 3 of this
21 table that Division 310 and Division 450 were in Kampong Chhnang
22 and their numbers are listed, 827 in Kampong Chhnang for Division
23 310 and 6 -- 1526 in document -- for Division 350, so what we
24 note that, in March 1977, these forces are considered as being
25 part of the Revolutionary Army of Kampuchea.

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1 [10.11.08]

2 Another document which I would like to revisit is document
3 E3/5263 which is a written record of interview of witness Sreng
4 Thi, who -- and who was mentioned many times by the International
5 Co-Prosecutor. And I would like to draw your attention to the
6 fact, as the President noted back then, that he is speaking about
7 a security centre called S-22 in -- Bill Smith gave his
8 interpretation of what S-22 was. But as the President said, S-22
9 is not included in the current segment. And more generally
10 speaking, it's not a security centre for which there were
11 findings in the Closing Order. So, we cannot consider this part
12 of the testimony with full confidence because these witnesses
13 have been neither heard by the Chamber nor by the Parties, and
14 therefore, the Defence cannot properly exercise its right to
15 request clarifications and indications of the sources of the
16 information provided by the witness.

17 [10.12.45]

18 Two other documents seem interesting to us as well; these are the
19 two written records of interview of witness Chhouk Rin -- that is
20 to say, document E3/362 and E3/361. Chhouk Rin was heard during
21 the first Trial -- 002/01 -- and he is one of the witnesses who
22 said that Khieu Samphan held no military responsibilities. What's
23 interesting to know aside from the fact that his testimony maybe
24 considered useful by the Prosecution, but it's a pity that he was
25 not asked to speak before the Chamber because this would have

1 allowed us to cross-examine the information presented by the
2 prosecutor as essential to its case. But, in any case, an
3 important point in this document -- E3/361 --at French, ERN
4 00268884; Khmer, ERN 00194467; English, 00766453; and this is a
5 point that was not noted by the Prosecution but which is
6 important however because it regards the purges and this is what
7 the witness says in his written statement in any case. The
8 question that is put to him is the following: "Can you clarify
9 how you received orders?" So the person putting the question is
10 speaking about the order to go to the East Zone and this is what
11 Chhouk Rin answers: "High level military commanders, including
12 myself, received orders by telegram to travel to the East Zone
13 and we also received verbal orders in a special military meeting
14 in Phnom Penh and this meeting was held during about the same
15 time as the Party Annual General Assembly." And a specific part
16 that I would like to focus on and I quote: "There were separate
17 meetings for military commanders and the civil side. I attended
18 the meeting for military commanders for approximately 40 to 50
19 division and regimental commanders in attendance." So, once again
20 when we speak about purges and military decisions and purges
21 within the army, it's interesting to note that Chhouk Rin himself
22 indicated that there were separate meetings for civilians and for
23 the military so this is an important element for the Khieu
24 Samphan defence case because this refers us to the fact that we
25 have already concluded that Khieu Samphan held no military duties

1 and no Party appealed this in the current Appeal and therefore it
2 is considered res judicata.

3 [10.16.18]

4 Another important point that I would like to bring up regarding
5 documents relative to the Kampong Chhnang Airport, there is
6 document E3/5276, which is the written record of interview of
7 witness Sin Sot that was presented by the Prosecution. And again
8 we have - we are expressing of course all our reservations with
9 regard to witness who is not appearing before the Chamber but
10 however there is a point that seems interesting with regard to
11 how the Kampong Chhnang Airport operated. It is at French, ERN
12 00339922; at Khmer, ERN 00282954; and English, ERN 00287356; and
13 this is the question that is put to the witness:

14 "Did you see the senior Khmer Rouge leaders visit the Kampong
15 Chhnang Airport?"

16 His answer: "I never saw anyone come and I did not know anyone
17 either. I never knew the name of the people controlling the
18 airport construction site but I saw many hundreds of Chinese
19 experts overseeing the airport construction site. The Chinese
20 were wearing white shirts and khaki trousers." End of quote. So,
21 this part of Sin Sot's statement has to be put in parallel with
22 the elements that you might have heard before this Chamber with
23 regard to the presence of many Chinese experts at the Kampong
24 Chhnang Airport and it is interesting to note that Sin Sot is
25 indeed speaking about the Chinese overseeing the works at the

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1 construction site.

2 [10.18.24]

3 And a last point regarding this airport -- the Kampong Chhnang
4 Airport -- are the statements that were used by the Prosecution
5 as essential elements relative to crimes that they understand
6 themselves are not of course levelled against the Accused because
7 these crimes occurred after the arrival of the Vietnamese in
8 Cambodia, but however, they are asking you to take these crimes
9 into consideration, so this is document E3/3962. This is the
10 interview of Khoem Samhuon of Division 310: French, ERN 00355878;
11 Khmer, 00287540; English, 00293369; and the part I would like to
12 focus on because we're told to consider facts that follow the
13 facts we are seized of, but however, we oversee an important
14 point that I'm going to read to you and this is the question that
15 is put to the witness:

16 Question: "Do you have anything to add regarding the events that
17 occurred at the Kampong Chhnang construction site?"

18 The witness's answer is the following: "I wish to tell you that
19 those who were ill at the worksite were sent to the Kampong
20 Chhnang provincial hospital. I never saw anyone die at the
21 Kampong Chhnang Airport site." End of quote. [Free translation]

22 [10.20.20]

23 So this here regards the facts you are seized of and this is what
24 the witness says but what the Prosecution tells you is, "No, it's
25 true; yes" and I will of course quote what the Prosecution - what

1 prosecutor Bill Smith said and this is what he said on 3
2 September 2015 -- a little bit past 1.44 in the afternoon -- and
3 this what he said:
4 "The Co-Prosecutor's office is aware of the fact that the Accused
5 are not being charged with these execution crimes because
6 apparently they occurred after the *ratione temporis* jurisdiction
7 of the trial but they are not - however, we are asking the
8 Chamber to take into account this evidence in order to see if
9 these workers from the East Zone were persecuted or not at the
10 Kampong Chhnang Airport" End of quote. [Free translation] So
11 here, I have a real legal problem -- that is to say, we are
12 speaking here about facts that you're not seized off and we're
13 told that it's not again to prove the crimes but I have written
14 statements that are speaking about facts that do not concern
15 charges levelled against my client, facts that occurred after the
16 Tribunal's *ratione temporis* jurisdiction. And also, this is what
17 prevented us from gathering specific information about these
18 points, such as under which circumstances these executions took
19 place. But we are asked, however, nonetheless, to take these
20 elements into account without having heard witnesses regarding
21 this because, of course, these elements are not part of your
22 jurisdiction but we are asked to take these into account to prove
23 a *prima prosecution*. This again is a particularly poorly founded
24 request especially since the Co-Prosecutor made sure not to quote
25 the passage that I just quoted to you, which is showing that the

1 -- at the Kampong Chhnang Airport worksite, the witness saw no
2 one die. So I'm asking you, please, to dismiss the prosecutor's
3 argument with regard to this point and to note that you're not
4 seized of facts relative to executions that occurred after the
5 arrival of the Vietnamese troops. And once again, we have very
6 few elements surrounding the circumstances of these facts and
7 therefore you cannot use these elements to prove a crime of
8 prosecution here, which is what the prosecutor is seeking.

9 [10.23.30]

10 MR. PRESIDENT:

11 Deputy Co-Prosecutor, you may proceed.

12 MR. DE WILDE D'ESTMAEL:

13 Thank you, Mr. President. I simply would like to mention in
14 passing that paragraph 398 of the Closing Order relative
15 therefore to the Kampong Chhnang construction site mentions
16 massacres that occurred after 6 January 1979 and therefore the
17 Investigating Judges considered that these elements were
18 important. Of course, this does not fall within the exact
19 temporal scope of this Case, but however it is important in order
20 to assess intentions that might have driven certain categories of
21 people.

22 [10.24.23]

23 MS. GUISSÉ:

24 Once again, let me fall back on the explanations that I just gave
25 to you. If we agree that the facts are not part of the temporal

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1 scope of the Trial, if we agree that we do not know what were the
2 specific circumstances explaining these executions that took
3 place after the 6 January 1979, I do not see how we can conclude
4 that there was a specific intention behind this based on elements
5 that occurred before. In any case, with regard to the facts that
6 fall within your temporal scope, I would like to mention again:

7 "I saw no one die at the Kampong Chhnang Airport."

8 So Mr. President, I'm going to turn now to the documents relative
9 to Trapeang Thma so maybe now we can take a break.

10 MR. PRESIDENT:

11 Thank you. Let us take a short break; we will take a break now
12 and return at 20 to 11.00.

13 The Court is now in recess.

14 (Court recesses from 1025H to 1043H)

15 MR. PRESIDENT:

16 Please be seated.

17 The Court is back in session and the floor is now given to the
18 defence counsel for Mr. Khieu Samphan to resume her submission in
19 relation to the response to documents presented by the
20 Co-Prosecutors and Co-Lead Lawyers. You may now proceed.

21 [10.45.04]

22 MS. GUISSÉ:

23 Thank you, Mr. President. I am coming to the end of my responses
24 and I will now deal with documents presented by the Prosecution
25 on the Trapeang Thma dam. And I will look at a number of

1 documents, particularly reports of the committees of Region 5.
2 The first document is E3/178; the ERN in French is 00623317, and
3 the ERN in Khmer is 00275596, and the ERN in English is 00342719.
4 And it continues on the next page. This first passage that is
5 relevant to me is still in line with what I consider as relevant
6 in these documents. And it is also relevant to note that the
7 Prosecution is of the view that these documents were drawn up
8 regarding what happened in the regions and this is what is stated
9 in the ERNs I have just quoted regarding the growing of maize and
10 beans in the Phnum Srok district. "It was continuously damaged on
11 two occasions, on tens of hectares of land on which they planted
12 these crops, whereas it rained only once. But once those crops
13 were planted, it didn't rain, so the crops dried up. And again,
14 they started planting again and again, the drought caused the
15 plants to dry up. Now the objective is to wait a little bit for
16 the rains to start and to continue in order for the crops to
17 grow."

18 [10.47.32]

19 Regarding other strategic crops like cassava and sweet potatoes,
20 they had to grapple with the same problem of drought. And since
21 there was very scarce rain in certain regions, the general
22 offensive could not be launched. The same is true of vegetables
23 and fruit trees that were provided for in the plan. In the face
24 of such an abnormal drought, we made proposals to Angkar in May
25 and June. As a matter of fact, if the drought persisted, we

1 proposed that water be collected from Stueng Thum and that it be
2 used for irrigation through dikes." End of quotation. [Free
3 translation] This passage highlights the problems faced by the
4 local leaders in farming. It also shows that the problem of food
5 shortages faced by the people cannot be presented as the
6 Prosecution has done as part of a commitment to keep the people
7 famished. That was a problem faced by the people.

8 [10.49.01]

9 Another passage has to do with a district that came up during the
10 presentation on evidence on the Trapeang Thma dam in Phnum Srok.
11 So the ERN of this document in French is 006233128 and it
12 continues on the next page; and the Khmer ERN is 00275597; and
13 the ERN in English, 00342721. The ERN in French was 00623318 up
14 to 319. The paragraph that is of interest to me has to do with
15 the food situation faced by the people. The second paragraph in
16 this document after the title is as follows:

17 "Regarding the Phnum Srok district, as of April, it is facing
18 food shortages and we are providing food to them using the
19 vehicles in the region. We noted that the food provided each day
20 is consumed on the same day. In our view, the food sent from
21 Phnum Srok cannot be enough since new paddy will be harvested in
22 October if we apply the regime imposed by Angkar. Up to then, we
23 have the months of June, July, and August. In this regard, as a
24 measure to resolve the problem in this district, we must
25 endeavour to launch the offensive to harvest rice at the

1 beginning of the season, endeavour to plant maize, beans,
2 cassava, sweet potatoes, and all kinds of vegetables.

3 "Secondly, the food supply made available from the Thma Puok
4 district must be used economically and mixing with cassava, sweet
5 potatoes, and vegetables in order to combine this with the paddy
6 harvest at the beginning of the season." End of quote. [Free
7 translation]

8 [10.51.10]

9 And further down, this is what is stated in second paragraph
10 before the end of the document: "Consequently, in this year,
11 1977, in the districts of Phnum Srok and Preah Netr Preah, while
12 there is storm attack to fulfil the 77 duty, there is also a
13 concern about the food; but for this concern, we are absolutely
14 determined based on the collective solution in the sector both in
15 Thma Puok district, Sisophon district to join together to resolve
16 and achieve it all at all costs in order to gather the forces to
17 storm attack vigorously to achieve the duty of the Party.

18 "About the ration in the front line in charge of carrying out
19 storm attack on the strategic early rice, currently only two tins
20 of rice are provided because if a ration of three tins continues
21 taking place, it will affect the districts of deficiency. If a
22 ration of two tins is set, the remaining one tin can be given to
23 the deficient districts." End of quote. This passage is relevant
24 to us because it tries to show that whenever there were food
25 shortages due to the problem of drought, there was also an

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1 internal management system in the region and the zone and it is
2 important to note that, apparently, they organized food supply
3 from one place to the other. And this passage shows that this
4 document was addressed to the Zone secretary in Office 870. And
5 it notes that in the internal management system, food supplies
6 were managed differently, and this shows that there were
7 adjustments in solidarity with other zones. So this shows
8 problems with these documents considered as essential by the
9 Prosecution.

10 [10.54.01]

11 Another document in the same line which shows that there were
12 concerns with regard to food and the weather, document E3/179,
13 the ERN in French is 00236772, the Khmer ERN is 00008501, and the
14 ERN in English is 00183016. It has to do with the Fifth Region
15 and this is what is stated:

16 "Crops like soybean were damaged because of the drought. Same
17 applies to potatoes, hemp, and vegetables. We focussed on animal
18 husbandry and with animal caging and sheltering in progress
19 gradually." This is what the Prosecution said regarding the
20 construction of reservoirs in Trapeang Thma. And we must not
21 forget the first previous passage regarding farming conditions
22 following the drought. These are issues that we consider
23 important to raise.

24 [10.55.50]

25 Another document that we would like to look at is document E3/950

1 which, in principle, is a report addressed to Angkar, Office 870,
2 by Nhim, and the ERN in French is 00296222, and the ERN in Khmer
3 is 00021044, and the ERN in English is 00185216. And this is what
4 is stated in this document:

5 "Measures: Prevent it more carefully; to be more highly vigilant
6 in accordance to the regime of Angkar by using a can of rice in
7 the long future and one and a half cans of rice in the immediate
8 future. This includes subsidiary crops, such as potato, maize,
9 and beans. Besides such matters as clothing, malaria, and
10 dwelling must be gradually addressed. As for fish and meat, it
11 must be managed to have enough of them as well. It is important
12 to take this into account because the issue of food shortages and
13 the living conditions of the people were under the responsibility
14 of the officials, and this transpired in their report. And they
15 said on each occasion that they were working hard to resolve the
16 problems faced by the people to settle the matter." That is the
17 term used in the document. "This is important to us. And once
18 more, it is a contextual fact that we must take into account when
19 we talk about the problem of the water basin raised earlier since
20 it has to do with efforts made to resolve the problems faced by
21 the people."

22 [10.57.58]

23 Another document -- another document which deals with the same
24 matter is E3/863, and is the first page in all three languages,
25 and in French it is 00623408; ERN in Khmer, 00076286; ERN in

1 English, 00321961; and it is in sub-paragraph 3 of this document.
2 Since part of this document was quoted by the Prosecution but
3 they didn't quote what came before, and I wanted to place this
4 passage in context. This is what is stated in sub-paragraph 3.
5 Report on production and productivity are also included here, but
6 I would like to specify on some issues.
7 "We have done good works in every sector planting the early
8 season and end season rice and various crops. However, these
9 crops are not yet ready for reaping. This year, we have done
10 better than last year. There are already some rains in the fields
11 in addition to water in reservoir where we can always pump from.
12 There is also water in canals. So these resources give us a
13 chance to work effectively in every place. In every sector, seed
14 has been prepared accordingly for all available land areas. But
15 Sector 5 still has a problem with seed shortage for the early
16 season rice." And this is where the quotation comes in -- the
17 quotation referred to by the Prosecution: "I worked with Comrade
18 Rin on this problem asking him to send me 14,000 sacks of rice
19 seed so that we can plant them on the whole land areas as planned
20 by him." End of quote. So then, again, we are putting back in
21 context this issue of the drought and of irrigation in order to
22 overcome the issues related to the drought and to make it
23 possible to harvest rice, but also other foods.
24 [11.00.36]
25 Finally, and this would be my last point regarding Trapeang Thma

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1 basically to close the chapter -- so I will return to what I was
2 speaking about this morning -- that is to say, another important
3 point of the documents presented by the Prosecution with regard
4 to Trapeang Thma are witness statements coming from other
5 investigations. And of course, I have-- I would say to you again
6 that maybe we were not reactive enough by not systematically
7 objecting to the introduction of documents coming from Cases 003
8 and 004 from witnesses who are not testifying before this Court,
9 or documents which are not connected to people who are deceased
10 or who are unable to come testify. However, in any case, we will
11 be vigilant in the future. And as we reminded you with quite a
12 bit of insistence, when documents are tendered into evidence that
13 should not have been tendered into evidence, the necessary
14 decision should be made -- that is to say, that these documents
15 have very little probative value and they should be therefore
16 cast aside from a ruling that you may issue once the inculpatory
17 and we hope exculpatory evidence is presented. So what we did is
18 that we tried to put things back into context this morning
19 because we're providing to you evidence here and some parts may
20 be inculpatory, some parts may be exculpatory. And you in the
21 Bench, you have to weigh both and not just restrict yourself to a
22 linear reading of the documents. And you must understand what may
23 also be corroborated in our case by documents that we consider
24 are essential.

25 So I am done with my presentation. And thank you for the time

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1 that you have granted to me to do so.

2 [11.03.16]

3 MR. PRESIDENT:

4 Thank you. We now conclude the proceedings of hearing the
5 presentation and the response to key documents in relation to the
6 three worksites: the 1st January Dam, Kampong Chhnang Airport,
7 and Trapeang Thma Dam, respectively.

8 The Chamber now proceeds with hearing testimony of a witness --
9 that is, 2-TCW-813, for the treatment of the Cham people.

10 Court officer, please usher the witness 2-TCW-813 into the
11 courtroom.

12 (Witness 2-TCW-813 enters courtroom)

13 [11.06.21]

14 QUESTIONING BY MR. PRESIDENT:

15 Q. Good morning, Mr. Witness. What is your name?

16 MR. IT SEN:

17 A. My name is It Sen.

18 Q. Thank you, Mr. It Sen. When were you born? And Mr. It Sen,
19 please observe the microphone -- that is, when you see the red
20 light on the tip of the microphone before you speak, so that your
21 response will go through the system, in particular through the
22 interpretation system, so that your response can be
23 simultaneously interpreted into two other languages to the Court,
24 namely, French and English.

25 Again, Mr. Witness, when were you born?

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1 A. I cannot recall that, Mr. President. I am 63 years old now.

2 Q. That is fine. And do you recall where you were born, Mr. It
3 Sen? Again, please observe the microphone.

4 A. I was born in Ampil, Peus, Krouch Chhmar, Kampong Cham
5 province.

6 [11.08.18]

7 Q. And where is your current address?

8 A. I live in Ampeak village, Dambae, Kampong Cham -- rather
9 Trabaek (phonetic), Tboung Khmum, Kampong Cham province.

10 Q. It is now in Tboung Khmum; is that correct?

11 And what is your current occupation, Mr. It Sen? Again, please
12 observe the microphone.

13 A. In Ampeak village, I worked in a plantation -- in a cashew nut
14 farm.

15 Q. And what are the names of your parents?

16 A. My father is It, and my mother is Veu - Math Tivoeu.

17 Q. And what is your wife's name? And how many children do you
18 have together?

19 A. My wife's name is Man Keah, and we have six children -- that
20 is, five sons and one daughter.

21 [11.10.15]

22 MR. PRESIDENT:

23 Thank you. And I noticed the defence counsel Kong Sam Onn is on
24 his feet. You may proceed.

25 MR. KONG SAM ONN:

1 Thank you, Mr. President. I noticed that the witness seems to
2 read from a piece of paper that he's holding in his hand.

3 BY MR. PRESIDENT:

4 Court officer, please can you go and see what is in his hand --
5 or allow me to tell you, Counsel, in fact in his hand is a
6 swearing text that he will be instructed to do soon.

7 Q. And Mr. It Sen, according to the verbal report by the
8 greffier, none of your parents, children, or wife, or any of
9 other relatives have any relationship by blood or by law to any
10 of the two Accused -- that is, Nuon Chea and Khieu Samphan, or
11 any of the civil parties admitted in Case 002; is that
12 information correct?

13 MR. IT SEN:

14 A. Yes, that is correct.

15 [11.11.32]

16 Q. Thank you. And Mr. It Sen, which religion are you practising?

17 A. I practise the Koran.

18 MR. PRESIDENT:

19 And Mr. Witness, you're required to make an affirmation or to
20 swear before the Chamber so that your testimony can be used
21 officially.

22 And Ms. Se Kolvuthy, please follow with the procedure of the
23 swearing-in of this witness according to his religion.

24 [11.12.34]

25 THE GREFFIER:

1 Mr. Witness, allow me to lead you with the process of
2 swearing-in. Please, place your right hand on the Koran -- Bible.
3 I will read the text and please repeat my words - that is, the
4 following text.

5 "I would like to answer only the truth from what I witnessed,
6 heard, know, and remember in the name of an Islamic believer who
7 have only Allah as God; Mohammed as Allah's messenger; and the
8 Holy Koran as the guideline for me to follow. I would like to
9 swear in front of the Holy Koran, wallahi billahi, which verify
10 that all what I am going to say is true." Please repeat the
11 words.

12 [11.13.33]

13 MR. PRESIDENT:

14 And Mr. Witness, please wait until the light on the tip of the
15 microphone is on.

16 MR. IT SEN:

17 "I would like to answer only the truth from what I witnessed,
18 heard, know, and remember in the name of an Islamic believer who
19 have only Allah as God; Mohammed as Allah's messenger; and the
20 Holy Koran as the guideline for me to follow. I would like to
21 swear in front of the Holy Koran, wallahi billahi, which verify
22 that all what I am going to say is true."

23 BY MR. PRESIDENT:

24 Thank you, Mr. It Sen. The Chamber now will read you your right
25 and obligation.

1 Mr. It Sen, as a witness you enjoy the right against
2 self-incrimination, and however, you are obliged to respond to
3 any questions by the Bench or relevant Parties, except where your
4 response or comment to those questions may incriminate you as the
5 Chamber has just informed you of your right as a witness. And you
6 must tell the truth that you have known, heard, seen, remembered,
7 experienced or observed directly about an event or occurrence
8 relevant to the questions that the Bench or Parties pose to you.

9 Q. And Mr. It Sen, have you been interviewed by investigators
10 from the Office of the Co-Investigating Judges? If so, how many
11 times, when and where?

12 [11.16.19]

13 MR. IT SEN:

14 A. I was initially interviewed at Ampil village in Peus commune,
15 Krouch Chhmar district. And then I was interviewed a second time
16 in Ampil. So in total, I was interviewed twice.

17 Q. Thank you. And have you reviewed or read the written record of
18 your interviews that you just said that you gave to the OCIJ
19 investigators for the two interviews in order to refresh your
20 memory?

21 A. I recalled every account; I recalled how I was mistreated
22 during the regime.

23 Q. And have you actually reviewed or read the two WRIs?

24 A. I have just read them.

25 Q. And to your best knowledge and recollection, are the

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1 statements you provided in the two WRIs consistent with the
2 actual words you provided to the OCIJ investigators during the
3 two interviews?

4 A. I read the written records and they reflect the actual words
5 that I used.

6 [11.18.36]

7 MR. PRESIDENT:

8 Thank you. And pursuant to Rule 91bis of the ECCC Internal Rules,
9 the Chamber will hand the floor first to the Co-Prosecutors to
10 put questions to this witness. And the combined time for the
11 Co-Prosecutors and the Lead Co-Lawyers for civil parties are two
12 sessions. It means you have the whole afternoon today. You may
13 proceed.

14 QUESTIONING BY MR. LYSAK:

15 Thank you, Mr. President, Your Honours, counsel. Good morning,
16 Mr. Witness -- Mr. It Sen. My name is Dale Lysak. I'll be asking
17 you some questions for the rest of this morning and this
18 afternoon. And I'd like to start with some questions about your
19 background, where you're from, and what it means to be a Cham.

20 Q. In your OCIJ interview, you've indicated that Khmer Rouge
21 arrived in your area in 1973 at which time you were living in
22 Ampil village, Krouch Chhmar district, Kampong Cham. Can you tell
23 us, was Ampil a Cham village?

24 [11.20.18]

25 MR. IT SEN:

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1 A. In fact, it was an adjacent village to a Khmer village. We
2 lived in that village and adjacent to our village was a Khmer
3 village, and adjacent to that Khmer village was another Cham
4 village.

5 Q. Did you say you were adjacent to a Khmer village? And if so,
6 what was the name of that village?

7 A. It was Preaek Krouch, near the village that I lived. In the
8 adjacent village was Peus. So we actually had Khmer people living
9 in Peus village and the adjacent was another -- was also a Peus
10 village, but it was the part where the Cham resided.

11 Q. And as of 1973, what's your best recollection of how many Cham
12 families lived in Ampil village?

13 A. I could not have the figure but to my recollection, there were
14 more Cham people living there than the Khmer people. And I refer
15 to that village and the adjacent villages as well, but I cannot
16 give you the total number of families as there were Cham people
17 living in other villages within that commune.

18 [11.22.32]

19 Q. Thank you. You are a first witness in the trial segment that
20 is going to deal with the treatment of the Cham people. Sir, I
21 wanted to start by asking you a fairly general question. Can you
22 tell the Court, as best you can, who the Cham people are? What
23 does it mean to be Cham?

24 A. The Cham practice the Koran Bible (sic) and they were
25 considered ordained Muslims.

1 Q. Did the Cham people have their own language?

2 A. Yes. And they practice the Koran Bible (sic).

3 Q. And did the Cham have their own culture and traditional
4 clothing? And can you tell us a little bit about the Cham culture
5 and traditional dress worn by its people?

6 A. Some follow the traditional practice in terms of tradition and
7 dress while others practice the modern tradition.

8 Q. What about back in the early 1970s before the Khmer Rouge
9 arrived in your area, did most people wear traditional clothing
10 back then, or was it mixed as you've just described?

11 A. The Khmer Rouge took control of us the Cham people and they
12 forced the Cham women to cut their hair short. And we were not
13 allowed to practice our prayer.

14 [11.25.48]

15 Q. Thank you, Mr. Witness. I am going to get to what happened to
16 your people when the Khmer Rouge arrived fairly soon. I want to
17 talk a little bit about what life was like for you before the
18 Khmer Rouge. Can you tell us -- for people who travel around
19 Cambodia, most of us recognize Cham villages and Cham people by
20 the traditional clothing and the headdress worn by the Cham
21 women, I wanted to ask you, are there other distinct features of
22 the Cham people that allow you to identify a person who is Cham?
23 And what I mean by that is, aside from clothing, how would you
24 recognize or tell if a person was Cham?

25 A. Besides the costumes, you can identify a person was a Muslim

1 when he or she went to mosque to pray and that they refrained
2 from smoking for a certain period of months in a year.

3 Q. And what about when Cham people speak the Khmer language, do
4 you know whether Cham have a distinct accent or dialect that can
5 be recognized when they speak Khmer?

6 A. From the time that the Khmer Rouge took control of the
7 country, the Khmer Rouge forced us to speak Khmer and not to
8 speak our Cham language. And that happened since 1971 or '72.

9 [11.28.37]

10 Q. What about names used by the Cham people, are there distinct
11 or unique names that are used by Cham that are different than
12 Khmer names?

13 A. I did not grasp the situation.

14 Q. My question was about names that you gave to your children.
15 Are the names that Cham people use, are they unique or different
16 than names that are used by Khmer people?

17 A. For the Islamic people, we named our children differently from
18 those names used by the Khmer people, namely Seng, Sok, Ipsom, or
19 Ismael.

20 Q. And can you tell us where the Cham people lived in Cambodia
21 during the early 1970s? Were there particular areas in Cambodia
22 where the Cham people were concentrated?

23 A. Our Islamic people like to live together. Although it might
24 seem crowded, we do not want to live separately.

25 [11.31.10]

1 Q. Yes. And my question was: Was there particular parts of the
2 country, particular provinces, districts or areas where most of
3 the Cham people lived?

4 A. There were many of us living in Kampong Cham province. And I
5 can say the majority of Cham people lived in various parts of
6 Kampong Cham province.

7 Q. Were there a lot of Cham people who lived along the Mekong
8 River in Kampong Cham?

9 A. Yes, there were many. Many Cham came to live along the area
10 and at new lands; villages are full of Cham people in this area.

11 Q. I want to ask you specifically too about the district you
12 lived in, Krouch Chhmar district. Can you tell us -- give us an
13 estimate of what percentage of the people in that district were
14 Cham back in the early 1970s?

15 A. There were many of us living together close to Khmer villages.
16 We lived along the river in Kampong Cham. We were in adjacent
17 villages. There are some -- for example, one village consisted of
18 Cham people, and then there would be Khmer village in Krouch
19 Chhmar. I could say that there were Khmer -- two Khmer villages,
20 and adjacent to two Khmer villages there was one Cham village.

21 [11.33.53]

22 Q. I want to get your reaction -- read to you something that was
23 written by an author who has written about the Cham, a person
24 named Ben Kiernan. This is in document E3/1593, ERN Khmer,
25 00637755; English, 00678632; and French, 00639022. This is what

1 he wrote:

2 "Muslims form a near majority in only one district, Krouch Chhmar
3 in northern Kampong Cham. They lived together in big villages,
4 their houses clustered side by side. In the 1950s, the Cham there
5 numbered well over 20,000 in very big communities of garden
6 farmers, fisher folk, butchers, foresters, and weavers." End of
7 quote.

8 Mr. Witness, does that help refresh your memory about the number
9 of Cham who lived in Krouch Chhmar district? Is it correct that
10 the Cham people were nearly the majority of people in that
11 district?

12 A. I'm sorry, Mr. Co-Prosecutor, I could not get your question.
13 Could you repeat it please? It is not clear to me.

14 [11.36.10]

15 Q. Thank you. My question is: Do you remember whether the Cham
16 people were almost a majority of the total number of people in
17 Krouch Chhmar district?

18 MR. PRESIDENT:

19 Please wait, Mr. Witness. You have the floor now, Mr. Koppe.

20 MR. KOPPE:

21 Thank you, Mr. President. I don't think this witness would be in
22 a position to give estimates as to majority of Cham in this
23 particular district. I think he is able to say something about
24 his own village, maybe some adjacent villages. But it goes too
25 far, I think, to ask from this witness such demographic details

1 as to the population composition. I think he cannot answer that
2 question.

3 MR. LYSAK:

4 Mr. President, I think--

5 [11.37.10]

6 MR. KONG SAM ONN:

7 Mr. President, according to the testimony of this witness a while
8 ago when the Co-Prosecutor asked about Muslim in the Ampil
9 village, the witness said that he did not know the number or
10 figure of people living in Ampil. And now the Co-Prosecutor
11 started to ask the population in Krouch Chhmar. And I believe the
12 witness may not have any knowledge about the population. And I
13 heard witness stated a while ago that after -- adjacent to two
14 Khmer villages, there was one Cham village. So I believe there
15 were many villages -- Khmer villages in that area. The
16 Co-Prosecutor now is quoting the figure from book by Ben Kiernan,
17 and I believe that this witness may not be able to recount or
18 tell the figure of Cham people living in that area.

19 [11.38.24]

20 MR. LYSAK:

21 Mr. President, I appreciate the comments. I'm not asking him for
22 a specific number; I'm asking him for his memory as to whether as
23 Ben Kiernan has written, the Cham people were nearly the majority
24 in the district in which he lived. I think it's a fair question.
25 If he can't answer it, he can't answer it. But I think the

1 question can be put to him.

2 MR. PRESIDENT:

3 Mr. Witness, are you able to give your answer to the last
4 question put by Co-Prosecutor? If you do not know, please say so.

5 MR. IT SEN:

6 A. I have no idea about the figure. And perhaps at that time, I
7 was working in the farm and I did not have any idea about the
8 figure at that time.

9 MR. PRESIDENT:

10 The witness has stated very clearly that he had no knowledge
11 about the figure of Cham people. The witness did not say that he
12 did not understand the question.

13 Now it is time for the break. And we will have lunch break now
14 and we will resume in the afternoon at 1.30.

15 Court officer, please find a proper place for this witness during
16 the lunch break and please return him into the courtroom at 1.30.

17 Security personnel are instructed to bring Mr. Khieu Samphan to
18 the holding cell downstairs and have him returned into the

19 courtroom at 1.30 in the afternoon.

20 The Court is now in recess.

21 (Court recesses from 1140H to 1332H)

22 MR. PRESIDENT:

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

24 Before I give the floor to the Co-Prosecutors that the witness

25 sometimes feel difficulty to respond to long questions put by the

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1 Co-Prosecutor. And when the witness speaks, it is very difficult
2 as well for us to understand in Khmer. And I think perhaps the
3 witness has difficulty in understanding Khmer language as well.
4 So I suggest and instruct the Co-Prosecutor to put simple and
5 short questions so that the witness can respond to the questions,
6 otherwise, it will pose trouble in ascertaining the truth in our
7 case. Now the floor is given to the Co-Prosecutor to resume his
8 line of questioning. You may now proceed.

9 [13.33.57]

10 BY MR. LYSAK:

11 Thank you, Mr. President. Good afternoon, Mr. Witness. I want to
12 ask you a few more questions about your background. Could you
13 tell us about your family in Ampil village back in 1973? Were you
14 married and did you have children then?

15 MR. IT SEN:

16 A. I was married in 1973 and I had two children at that time in
17 Ampil village.

18 Q. And was there a mosque in Ampil village?

19 [13.35.01]

20 A. Yes. There was a big mosque and the mosque remains until now.

21 Q. Can you tell us a little bit about the Cham leaders in your
22 village or district, for example, did you have hakim in your
23 village and who was he?

24 A. Li was the village -- Li and Lah were the village chiefs
25 during that time, the Lon Nol period.

1 Q. Were they hakim or were they regular village leaders?

2 A. There were hakims at Peus Pir, however, I did not know hakims
3 very clearly at that time.

4 Q. Do you know what happened to the hakims after the Khmer Rouge
5 arrived?

6 A. I have no idea. And I also did not know at that time what did
7 hakims do or what their positions were.

8 Q. I want to now turn to the period when the Khmer Rouge arrived
9 and took control in your area, and to ask you about how things
10 changed in your village when the Khmer Rouge took control there.

11 A. After Khmer Rouge came to control, all kitchen wares had been
12 collected. Halls were built for all of us, we had to eat
13 collectively, communally. And the village, the area was under
14 strict control of Khmer Rouge at that time.

15 [13.38.09]

16 Q. When the Khmer Rouge first arrived, were you still allowed to
17 practise Islam and to speak the Cham language? And if so, how
18 long were you allowed to practise Islam and speak your language?

19 A. No. No more prayers and no more religion. And the situation
20 was strict at that time. Who insisted practising Islam, make a
21 religion, they would be arrested. And we were not -- we could not
22 even sit in group and discuss when I was young.

23 Q. Do you remember who or how it was announced to the people in
24 your village that you were no longer allowed to practise Islam?

25 A. All I know is that comrade Seng was the chief and he was

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1 responsible for Krouch Chhmar district. Comrade Seng, he was
2 strict, he ordered us to have a short haircut, and we were not
3 allowed to practise Islam. And headdress were not allowed to be
4 used also at that time.

5 [13.40.13]

6 Q. When the Khmer Rouge banned you from practising your religion,
7 what was done with all the Korans in your village?

8 A. Korans had been gathered -- collected and burned. And they
9 were collected from houses and burned down. And Kaoh Phal, made
10 mention that time, there was a rebellion within villages to fight
11 against the prohibition and to such acts.

12 Q. I'll be asking you some questions about that rebellion in a
13 little while. Who was it that went around and gathered and burned
14 the Korans in your village?

15 A. Village chiefs, security guards within the -- within villages
16 went around and collect the Korans. They received order from
17 upper echelon.

18 Q. And the mosque in your village, what was it used for when you
19 were no longer allowed to practise your religion?

20 A. Muslim women and old Muslim ladies were called to stay in the
21 mosque and they were assigned to do agricultural farming.

22 Q. Can you explain a little to the Court about the importance of
23 prayer in the Islam religion and what it was like for the Cham
24 people when you were no longer allowed to go to prayer?

25 [13.43.13]

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1 A. No one dare to do so. If one did dare to resist the order,
2 they would be arrested and sent away. We were prohibited from
3 talking. And if we dare to speak freely, we would be arrested.

4 Q. And when you were no longer allowed to practise your religion,
5 were you also not allowed to speak the Cham language anymore?

6 A. No, we were not allowed to speak Cham language absolutely;
7 only Khmer language was allowed to speak at that time. We could
8 speak Cham but you know in a secret way, not loudly if they
9 happened to hear we speaking Cham language, we would be taken
10 away and killed.

11 Q. Were there many Cham people in your area who did not know how
12 to speak Khmer well and who had difficulty when they could no
13 longer speak the Cham language?

14 [13.45.00]

15 A. Cham language was banned, but we could speak very little Khmer
16 at that time. And after three years, we were allowed to speak our
17 language. And during that period, even pork were not allowed to
18 eat -- even the pork were given to all of us to eat, rather.

19 Q. You mentioned that one of the things that happened with the
20 Khmer Rouge was that women, people had to have their hair short.
21 Can you explain, was it against the Cham religion or culture to
22 have -- for women to have short hair?

23 A. For Muslim people, based on the holy book of Koran, we had to
24 -- Muslim women had to have long hair. However, during that time,
25 Muslim women were instructed to have short haircut. So that is

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1 the difference between the religion. During the time, we adhered
2 to their instructions. It was okay because after a while, our
3 hair grew long.

4 Q. How did the Khmer Rouge go about making people cut their hair?
5 Did they send in cadres to do that?

6 A. No. No cadres coming to cut our hairs. The order went through
7 village chiefs and we were instructed to have short hair,
8 otherwise, we were considered opposing Angkar.

9 [13.47.56]

10 Q. And when the Khmer Rouge took control, were you allowed to
11 still wear traditional Cham clothes?

12 A. No. Rather, actually we were allowed to wear our traditional
13 clothing. However, for prayers, practising religion was
14 prohibited. For traditional clothing it does not cause any
15 trouble to all of us. We were allowed to wear our traditional
16 clothing at that time.

17 Q. Was there any point in time where you couldn't wear your
18 traditional clothes and you had to wear all black clothes?

19 A. We had the same black clothes to wear after we were given such
20 clothes.

21 Q. You made mention a little while ago to a rebellion that took
22 place in Kaoh Phal. What can you tell us about what took place at
23 Kaoh Phal?

24 A. We, people within Ampil village, were not allowed to cross
25 over to Kaoh Phal. There were guns or rifles at -- on the Kaoh

1 Phal at that time. And we were not allowed to went into Kaoh Phal
2 because they were afraid that we from our village would go to
3 help Cham people on Kaoh Phal.

4 [13.50.48]

5 Q. How far was your village from Kaoh Phal?

6 A. It was about 2 kilometres away from my village to Kaoh Phal.
7 There were artilleries used by them. And we were afraid to go to
8 Kaoh Phal to help the people there. We had to stay calmly in our
9 village.

10 Q. Do you remember when it was that these events took place in
11 Kaoh Phal?

12 A. Shortly before 1975 -- let me rephrase. There was evacuation
13 in 1975, and after rebellion at Kaoh Phal, all Muslim people were
14 evacuated. There was fighting on Kaoh Phal. And in 1974 and 1975,
15 Cham people were evacuated.

16 Q. Am I correct that Kaoh Phal was an island in the Mekong River?

17 A. Yes, it was on the island in the middle of the river.

18 Q. And when the fighting was going on there, were you able to
19 hear or see what was going on?

20 [13.53.29]

21 A. I was living in Ampil village. My elder sibling was living in
22 -- on the island. He was -- he or she was my elder brother or
23 sister-in-law. He came to my village and tell me. My in-law at
24 that time was living on the island. He fled to Ampil village, and
25 I knew about this from him or her.

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1 Q. What did your in-law tell you about what was happening in Kaoh
2 Phal?

3 A. Those who opposed Angkar were smashed or shot dead and some of
4 them had their throats cut. Most Muslim men were killed. Only
5 Muslim women remained.

6 Q. Do you remember whether the events at Kaoh Phal took place
7 during Ramadan that year?

8 A. I could not get your question, Mr. Co-Prosecutor. Could you
9 repeat it. What did you say a while ago?

10 Q. My question was whether the events that took place at Kaoh
11 Phal, the rebellion, the fighting, did that occur during the
12 Ramadan month?

13 [13.55.51]

14 A. No, it did not happen in Ramadan. I could not tell you the
15 exact month when the rebellion took place. But from my
16 recollection, it did not happen during the Ramadan. Because we
17 were not allowed to practise our religion, that is why there was
18 a rebellion at that time and they brought in troops to curb the
19 rebellion.

20 Q. Do I understand correctly then that at that time, you were not
21 allowed to respect Ramadan? Do I understand correctly?

22 A. Yes, your understanding is correct. Because of this, there was
23 a rebellion happening at that time.

24 Q. You've mentioned that after this rebellion, the Cham people
25 were evacuated. Can you tell us what happened to your family

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1 after the Kaoh Phal rebellion?

2 A. My families together with villages were evacuated at that
3 time. Some were sent to Battambang province, some to Stueng
4 Trang, and some others were transferred to Kratie. For my
5 villagers and my families, we were sent to Kratie. No one were
6 allowed to live in our own villages at that time.

7 [13.58.28]

8 Q. Can you clarify, were all the Cham people from Ampil village
9 required to leave or was it just some of the Cham people from
10 your village who were moved?

11 A. Some could stay in my village. Half of the villagers were
12 transferred to different places.

13 Q. Who was it that told you that you and your family had to leave
14 your home village?

15 A. The district committee and people at the commune level,
16 including the security guards ordered all of us to leave our
17 village. And we were instructed to board a motorboat or ship to
18 Battambang at that time.

19 Q. Where was it that you were sent to board this boat?

20 A. Some others were instructed to board trucks to Battambang, to
21 Kratie, and to other places. And for my families and some other
22 villagers, we were instructed to leave for Sangkae for 20 days.
23 And after that time, we were transferred back to Kratie.

24 [14.00.44]

25 Q. Could you tell us where Sangkae was, what district or commune

1 was that?

2 A. Sangkae was located close to Boeng Ket in Stueng Trang. It was
3 close to Preaek Achi, Trea village, Krouch Chhmar district. So it
4 was located on the different side from Krouch Chhmar.

5 Q. Do I understand correctly then that you were first taken by
6 boat across the river to Stueng Trang district; is that right?

7 A. Yes, we were taken first to Stueng Trang district. All of us
8 were sent there.

9 Q. How many families were sent with you by boat to Stueng Trang?

10 A. There were many people but I cannot recall the exact number.

11 There were around 100 boats loaded with people to Stueng Trang
12 district. And when we arrived, trucks came to take us to various
13 districts to Sangkae and to other areas. And there were not
14 enough trucks for those people leaving the boats. Because we were
15 gathered from various other villages and not only the Ampil
16 village, so there were many, many Cham people. And we were sent
17 together.

18 [14.03.18]

19 Q. Do you know whether all the people who were being moved with
20 you were Cham or whether there were also Khmer people who were
21 being moved out of Krouch Chhmar district?

22 A. No, there were no Khmer people. All were the Cham people who
23 were moved. They were all Cham people, that is, when we were
24 moved from Kampong Cham.

25 Q. Did anyone explain to you why you were being moved out of

1 Krouch Chhmar district?

2 A. We were told the villages were crowded, so that we were being
3 sent to Battambang, since there were plenty of lands for us to
4 live in Battambang. So it would not be as crowded as the villages
5 that we were living in.

6 Q. And you said that when you were taken to Stueng Trang, you
7 spent 20 days in Sangkae. What happened to you after that? Where
8 were you sent, where were you moved after those 20 days?

9 A. Then we were sent to Preaek Achi area that was situated along
10 the Trea village, and near Kampong Treas.

11 [14.05.29]

12 Q. Was Preaek Achi in Krouch Chhmar district?

13 A. Yes, it was located in Krouch Chhmar district. And the Trea
14 village was also located in that district. So we were sent to
15 that village and we were placed into various houses belonging to
16 the Khmer people. And we were put to live mingled with the local
17 Base People who were Khmer there.

18 Q. Did anyone ever explain to you why you were moved for 20 days
19 over to the other side of the river in Stueng Trang and then
20 moved back to Krouch Chhmar?

21 A. They said that because too many people had moved to Battambang
22 and there was no place for us, so we were moved again.

23 Q. How long did you live in Preaek Achi village?

24 A. We were there for about three years, then we returned to Ampil
25 village. So, from my recollection, we left our village for about

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1 three years and then when the attack occurred in the East Zone we
2 were instructed to return to our respective villages.

3 Q. I'll get to that period where you were told to go back to your
4 home village in a little bit. First, can you tell us a little bit
5 about how the Cham people who were moved to Preaek Achi village?
6 How were you treated by the local cadres when you lived there?

7 [14.08.22]

8 A. They didn't do anything to us. The village chief did not do
9 anything to us and if we wanted to remain there we could or if we
10 wanted to move on, we could move on. He didn't chase us away from
11 his village. I refer to the village chief.

12 Q. What were you assigned to do during the years that you lived
13 in Preaek Achi?

14 A. I was actually doing the water wheel into the rice field. And
15 I worked, actually, behind the Preaek Achi village, that is to
16 waterwheel the rice fields there.

17 Q. During the time that you lived in Preaek Achi, were you
18 allowed to practice the Cham religion or to speak the Cham
19 language?

20 A. No, we were not allowed to get in any worship service, and as
21 I said it earlier we were desegregated into various homes of the
22 Khmer people. We were not allowed to engage in any worship at all
23 and we ate communally.

24 [14.10.23]

25 Q. Did you have to eat pork during those years?

1 A. It was mixed. When we didn't want to eat, then they actually
2 mixed the pork meat in the beef meat and we didn't know about
3 that. And every Cham there was forced to eat pork meat. And some
4 of us could not take it so they vomited after they ate it.

5 Q. Did there come a time when you were in Preaek Achi, where the
6 local Khmer Rouge cadres from the East Zone were arrested and
7 replaced by cadres from a different region?

8 A. We were arrested when we were returned to Ampil village. We
9 were told that the ones who came from Preaek Achi village would
10 be relocated to Trea and that was the time that we -- some of us
11 had been arrested and killed.

12 Q. I think you were talking about yourself and the Cham people.
13 Before I ask you about what happened to you and the other Cham, I
14 was asking about the Khmer Rouge cadres from the East Zone. Do
15 you remember whether there was a time where they were replaced by
16 Khmer Rouge cadres from the Southwest Zone.

17 [14.12.54]

18 A. No, there was no replacement. Actually, the Southwest was all
19 in control at the time, that is, after the arrival. The full
20 authority was with them and that happened in every village. And,
21 before that they actually were fighting with the force from the
22 East Zone, and after the battle they took control of every
23 village.

24 Q. What year -- when was it that the southwest cadres took
25 control of your area?

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1 A. The -- so the evacuation took place in 1975, and that happened
2 about three years after. Then I could say it happened around
3 mid-1978, that was the times that the killing, extensive killings
4 took place.

5 Q. You mentioned already that you were instructed to go back to
6 your home village. How long was it after the arrival of the
7 southwest cadres that you were told to leave Preaek Achi and go
8 back to Ampil village?

9 [14.15.01]

10 A. It was not long after we arrived at Ampil village. It was only
11 about a fortnight. And actually, we had stayed at Preaek Achi
12 village for about three years. Then we were relocated back to
13 Ampil village, and about a fortnight later we were sent further
14 to Trea village.

15 Q. Who was it that told you to go back to your home village? And
16 who was it that told you when you got back to Ampil to go to Trea
17 village?

18 A. The village chief told us to return to Ampil village. He was a
19 southwest cadre and they told us that now the peace prevailed and
20 that we could return to our native village. And when we were at
21 Ampil village, Seng, the village chief there, told us that Ampil
22 now was crowded with people. For that reason we were requested to
23 relocate in Trea village after a fortnight remaining in Ampil.

24 [14.16.48]

25 Q. I want read to you a short excerpt from one of your -- the

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1 interview that you gave to Ysa Osman that was published in "The
2 Cham Rebellion". This is document E3/9334, E3/9334; Khmer, ERN
3 00204434; English, 00204442; and French, 00274723. This is what
4 you said in that interview:

5 "In 1978 the cadres of the Central Zone", and I note that in your
6 OCIJ interview you corrected this to Southwest Zone, so let --
7 starting again with your correction: "In 1978, the cadres of the
8 Southwest Zone came in and set up a new administration structure.
9 The people welcomed this because the cadres claimed they were
10 uncorrupted and had come to liberate us from the clutches of the
11 Khmer Rouge traitors. They announced that those people who had
12 come from far away should now go back home to their places of
13 birth. This announcement gave us hope again for the Cham race."
14 End of quote.

15 Who was it that told you -- who was it that referred to the old
16 cadres as traitors? Do you remember?

17 [14.18.50]

18 A. No, I don't. I only heard through group chief and the village
19 chief about that. We heard that the Southwest group came to
20 screen the people and that we would not be in any difficult
21 situation after their arrival, that's what we were told. They
22 said that they came it's because of the difficult condition
23 experienced by us. And that peace should prevail shortly after
24 and that we would be -- would be allowed to return to our home
25 villages.

1 Q. And in the interview excerpt of yours that I just read, you
2 told Ysa Osman that the announcement to return to your home
3 village gave you hope again for the Cham race. Can you explain
4 why you had lost hope for the Cham race at that time?

5 A. It was their policy to seriously mistreat us. We were
6 absolutely prohibited from engage -- from engaging in any prayer
7 or worship. If we were to make even a smallest mistake we would
8 be arrested and killed. Even the village chief or the commune
9 chiefs in succession were arrested and killed after the arrival
10 of the Southwest group. They kept disappearing one after another.
11 [14.21.11]

12 Q. Now, you testified that you returned to your home village, to
13 Ampil village, for a short period. Can you tell us what you
14 observed in 1978, when you went back to your home village? And
15 specifically, how many Cham families were left in Ampil village
16 when you returned?

17 A. There were quite a number of Cham families remained in the
18 village, although I cannot tell you the total numbers. And some
19 Khmer families were living mingled with the Cham people there in
20 Ampil village. So they were living mixing with the Khmer people.

21 Q. Let me read to you another excerpt from the interview you gave
22 to Ysa Osman. This is again, E3/9334. This excerpt is at Khmer,
23 00204435; English, 00204442; and French, 00274723. And you were
24 describing here how you returned to Ampil village. And this is
25 what you said:

1 "I observed that there were only 10 Cham families left in the
2 village out of the hundreds that used to live there. My older
3 sister Afiah was among those who were still there. I stayed with
4 her." End of quote.

5 Does this refresh your recollection about how many Cham families
6 were left when you returned to Ampil village? Is it correct that
7 there were only 10 Cham families there?

8 [14.23.44]

9 A. No, there were more than 10 families living -- still living in
10 that village. But I cannot tell you how many families. It could
11 be between 20, 30 or 40 families living -- still living there.

12 Q. You testified that you were allowed to stay in Ampil village
13 for about a fortnight and that you were then told to go to Trea
14 village. Can you describe for us what happened during your trip
15 from Ampil to Trea village?

16 A. We were told to return -- to go to Trea village. So in the
17 morning we packed our little belonging and everything had to be
18 placed on -- on an oxcart. We believed that we were sent to Trea
19 village and when we arrived in Trea village we didn't even have
20 any rice to eat yet and we saw the Trea village was full of
21 soldiers.

22 Q. How many people or how many families, how many Cham families,
23 were sent with you from Ampil village to Trea?

24 A. There were 20 ox carts and that -- actually the 20 ox carts were
25 full of members from 30 Cham families.

1 Q. And when you were traveling on the road from Ampil to Trea
2 village, did you see other Cham people walking or moving in that
3 same direction?

4 [14.26.51]

5 A. No, I did not. There was only a group of us leaving Ampil
6 village and I saw people, lots of people in Krouch Chhmar village
7 and we were all destined to be killed. And when we arrived in
8 Trea village, the soldiers there ordered us to offload our
9 belongings and place them in a mosque there.

10 Q. I need to have you clarify something for me. When you arrived
11 in Trea village was it just the 30 families that had been sent
12 from Ampil village or were there other Cham people who had also
13 been sent to Trea from other villages?

14 A. There were other Cham families from Saoy village. So, Saoy and
15 Ampil villages were the two villages where the Cham people were
16 sent to Trea village. In fact, more people had actually been sent
17 to Trea village before our turn. And upon our arrival we saw some
18 houses were full of people who had arrived before us.

19 [14.28.36]

20 Q. Where was Saoy village? And, can you tell us approximately how
21 many Cham families were sent from Saoy village to Trea?

22 A. Half of the Cham people was from Cham -- from Saoy village but
23 the rest came from Ampil village. So I could say about 15 to 20
24 families amongst us were from Saoy village.

25 Q. Do you remember, on your way from Ampil to Trea village,

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1 meeting an elderly Cham woman in a village called Khsach
2 Prachheh? Do you remember meeting an elderly Cham woman and do
3 you remember what she told you?

4 A. When we were almost near Trea village, Cham people there were
5 asking us where we were heading through. And we told them that we
6 were told to leave Ampil village and go to Trea village. And we
7 were told that some Cham people were blindfolded and send to the
8 riverbank. And, some Cham women cried and in fact we were told
9 that the -- the blindfolding took place almost every day and
10 those people who were being blindfolded were sent to the
11 riverbank. And, we heard about this information when we were
12 approaching Trea village. And we were told by the Cham people
13 there.

14 Q. How -- How far was it from Ampil to Trea village and how long
15 did it take you to walk there that day?

16 [14.31.27]

17 A. At that time, we travelled on an oxcart so it was rather slow.
18 We started a journey in the morning and when we arrived in Trea
19 village it was in late afternoon. And as I told you Seng, comrade
20 Seng in Ampil village did not allow us to remain anymore in Ampil
21 village and we were sent to Trea village.

22 Q. You've mentioned comrade Seng a number of times. What was
23 comrade Seng doing while you were traveling from Ampil to Trea?

24 A. He had overall responsibility over Krouch Chhmar district. He
25 was among the Krouch Chhmar district committee.

1 Q. When you were sent from Ampil to Trea village, did your entire
2 family go with you? That is your wife and your two children?

3 [14.33.07]

4 A. We went to together. I was traveling with my wife and my
5 toddler and also my mother-in-law was with me at that time.

6 Q. How old was your toddler then?

7 A. My toddler could speak at that time. Perhaps he or she was two
8 or three years old at that time.

9 Q. You said that you went with your wife and your two to
10 three-year-old toddler and your mother-in-law. Where were the
11 other members of your family? Did you have other children at the
12 time and where were they?

13 A. We went together with other family members. Some members
14 within other families were -- some women within other families
15 were pregnant and they -- other families also had small children.
16 Upon our arrival at the designated places, we were separated from
17 each other. The adult or the -- the girls who were full place^
18 (sic) were not allowed to stay together with their parents at
19 that time.

20 Q. Where was it that the girls, the Cham girls were separated
21 from your group?

22 [14.35.39]

23 A. These unmarried girls were put in a different group and as for
24 men and women, they were put in different groups. And at that
25 time the men were allowed to go to have porridge and the women

1 were told to stay at a one particular place. It was during the
2 time when the sun already -- was already down at that time.

3 Q. You said the men were told to go to a house to have porridge.
4 How many men were sent to this house where you were told you were
5 going to have porridge?

6 A. Approximately 40 of them climbed up onto a house.

7 Q. Were you still with your wife and toddler at this time or had
8 you been separated?

9 A. I was separated from my wife to go to have the porridge. My
10 wife was staying in the mosque at that time. We men -- we as men
11 were allowed to go to the riverfront and we were told to stand in
12 line at that time. And they pointed a gun at our necks, at that
13 time. It was that time that I parted from my wife and toddler.

14 [14.38.16]

15 Q. Did you ever see your wife and toddler after that?

16 A. No. After, I was tied up, I was beaten, kicked and they used
17 the rubber sandals to hit our heads. We -- some of us fell down
18 to the ground and they grabbed our hairs. They kicked us
19 repeatedly and they said that these people were Muslims and if we
20 stated that we were Khmer they would repeatedly kick and beat us
21 at that time. We were afraid at that time, that is why we said we
22 were Khmer.

23 Q. You said that when you arrived in Trea village, you saw many
24 soldiers. Can -- can you describe for us where it was that you
25 saw soldiers when you arrived in Trea village and what they were

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1 doing?

2 A. The soldiers were killing people. And people -- ropes were
3 used to tie -- to tie up people. And we were put on a boat, and
4 the boat went into the middle of the river. I was staying in that
5 house, and they came to collect some of us from time to time. I
6 was on the house and we, some of us, were weeping and crying at
7 that time.

8 [14.40.55]

9 MR. PRESIDENT:

10 It is now time for a short break. The Chamber will take a short
11 break from now until 3 p.m.

12 Court officer please find a proper place for this witness during
13 the break time and please invite him back into the courtroom at 3
14 p.m.

15 The Court is now in recess.

16 (Court recesses from 1441H to 1501H)

17 MR. PRESIDENT:

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

19 And the floor is given to the Co-Prosecutor to resume his line of
20 questioning. You may now proceed.

21 BY MR. LYSAK:

22 Q. Thank you, Mr. President. Mr. Witness, we were talking about
23 the events that took place in Trea village, and I want to go to
24 the time where you were brought with a group of at least 40 other
25 men to a house by the river. When you -- when you and the 40 men

79

1 were taken to this house, how many Khmer Rouge soldiers or cadres
2 were at that house with you?

3 [15.03.08]

4 MR. IT SEN:

5 A. I did not count them at that time. There were many of them
6 below the house. We were sleeping on the house, and there were
7 Khmer Rouge soldiers below the house. There were at that time
8 many houses, and I did not know at that time where Cham people
9 were from. There were about 20 houses.

10 Q. I want to talk about when you first arrived at the house, when
11 you were first brought there. Were the Khmer Rouge soldiers that
12 were there, did they have guns?

13 A. They were all armed. For instance, if there were 100 of them,
14 all of them were armed.

15 Q. And was it when you were taken to that house that you and the
16 other men, the other 40 men, were asked whether you were Cham or
17 Khmer?

18 [15.05.01]

19 A. They asked us after they tied all of us up. And we were beaten
20 at that time until they were satisfied with their acts. And it
21 was at 7 p.m. that we were told to climb up onto the house. Doors
22 and windows were locked, and they were sleeping in the hammocks
23 below the house. There were around 10 of them guarding all of us.

24 Q. When you were tied up and asked whether you were Cham or
25 Khmer, who was it that was asking you this question?

1 A. They were military men, and they pointed their guns at our
2 necks, whether we were Khmer or Cham people. Some of us
3 mistakenly said that we were Khmer at that time, and they kicked
4 us, and we fell to the ground. After that, they grabbed our hair
5 and beat us, and kicked us again.

6 [15.06.43]

7 Q. Did they ask you any questions other than whether you were
8 Cham or Khmer?

9 A. There were no other questions. And after we were asked, we
10 were put into that house. Everyone was tied up in that house.

11 Q. And when you were taken to this house, did you see people who
12 were being held in other houses next to yours?

13 A. Yes, I peeped through the window. I could see them, because
14 the houses were close and adjacent to each other. Cham people
15 were full in those houses.

16 Q. How did you know that the people who were in the houses next
17 to you were also Cham?

18 A. Because we talked to one another, that you also came to the
19 houses. So they were all Cham.

20 Q. Did you recognize any of the other people, the other Cham
21 people, who you saw in other houses?

22 A. I did not know where those Cham people were arrested from.
23 However, all I know is that these Cham people were collected from
24 different villages. And Cham people were put in Krouch Chmar
25 district, and some of them were further taken to Trea village.

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1 [15.09.53]

2 Q. You've said that you were locked in this house, and that the
3 guards and people then -- the people around you went to sleep. I
4 want you to now -- I want to go now to the morning, the next
5 morning. Can you tell the Court what happened to the Cham people
6 who were being detained in these houses the next morning, when
7 you got up?

8 A. Nothing happened the next morning. We were in that house for
9 one day and one night. And the militiamen told us that we would
10 be given porridge to eat, and we were waiting until the evening.
11 And in the evening, there was no porridge for us. And the
12 militiamen lied to us once again that the porridge would come in
13 soon. At that time, frankly, we had no water to drink and also no
14 meal to eat.

15 [15.11.22]

16 Q. I want to make sure I understand correctly. Are you saying
17 that after the -- you had arrived in Cham village -- in Trea
18 village, that you spent the next day locked up in that house,
19 without receiving any food? But nothing other than that happened
20 that first day; is that correct?

21 A. No, we did not have anything to eat and drink. And the day
22 after, we were still tied up, and we were taken to the
23 riverfront. At that time, I untied the rope, and I fled the house
24 at the back door. During that night, during the second night,
25 there were no soldiers below the house. And during that time, I

1 could flee the house through the back door.

2 Q. I'll ask you -- I'll come back to what happened to your group,
3 and what happened to you when you were taken out that night.

4 Before -- before you were taken out of the house that night, did
5 you see what was happening to other -- the other Cham people who
6 had been gathered in Trea village?

7 A. They were taken to the riverfront. I noticed that there was a
8 big pit at the riverfront. People, Cham people, were taken out of
9 all houses, and placed at the riverfront.

10 Q. And what happened to the people when they were taken out of
11 the houses and brought to the riverfront?

12 A. I'm sorry. Could you repeat your question? Could you say it
13 again?

14 Q. Yes. My question is: what was done to the people who were
15 brought out to the riverfront?

16 [15.14.56]

17 A. Soldiers came to take all of them out to the riverfront, 30 of
18 them, and one soldier was responsible for one Cham person. All
19 Cham people were taken out to the big grave or pit. I saw the
20 iron bar, with the size of my lower arm, located at the pit or
21 grave.

22 Q. Did you see people being taken into the river?

23 A. After I could manage to flee the house, I was staying secretly
24 close to the route where the soldiers were taking the Cham people
25 to the riverfront. It was lucky for me at that time that the

1 soldiers did not notice my presence at that place.

2 Q. And what is it that you saw the soldiers doing with the people
3 in the river?

4 [15.17.05]

5 A. No screaming, no crying. It was quiet. And after Cham people
6 in one house had been collected by those soldiers, the soldiers
7 would go to take Cham people from another house. And they did
8 this until all people left those houses. I was secretly staying
9 in the bushes, the morning glory bushes, and I watched the
10 incident until they completed the killing.

11 Q. Mr. Witness, did you see the soldiers, the Khmer Rouge
12 soldiers, killing the people who were taken out of the houses?
13 And if so, can you tell the Court how they were killing the
14 people who were taken out of the houses?

15 A. I saw very clearly that Cham people were being walked away to
16 the river. There, they blindfolded Cham people, and tied -- and
17 they tied up Cham people. And after Cham people reached the
18 river, they were told to board the motorboat. And they drove
19 those Cham people to the river, and sink the boat into the river.
20 They did this until they completely collected all Cham people
21 from houses. At night time, I could not see what happened at that
22 place.

23 [15.19.45]

24 Q. Mr. Witness, I want to read to you an excerpt from the
25 interview you gave to Ysa Osman. This is E3/9334, E3/9334; Khmer,

1 00204436 - 437; English, 00204442 - 43; and French, 00274724 -
2 25. This is what you said in that interview, quote: "At about 7
3 o'clock" -- and you were talking about the morning in this
4 passage -- "I saw five or six Khmer Rouge cadres go up into a
5 house nearby. They dragged out the prisoners, each tied up and
6 blindfolded. I stared, watching them. Then I saw them walk the
7 prisoners, one by one, to the river bank. A boat was anchored
8 there, and there were about 30 prisoners waiting nearby. They
9 undressed the prisoners down to their shorts, and put them in a
10 line. All of the prisoners were men. They took a rope from the
11 boat, and ran it through the bonds of each prisoner, from one to
12 the next. One end was tied to the last prisoner in line, and then
13 they tied the other end to the stern of the boat. Then they took
14 off the blindfolds. I was completely terrified, as I watched the
15 men, some crying, some screaming, as they fell to the ground and
16 rolled as the boat pulled away toward the middle of the river. At
17 mid-stream, one Khmer Rouge loosened the end of the rope that was
18 tied to the boat. Then the boat turned back to shore, to repeat
19 the process. We began to whisper to one another as we watched
20 this. We knew our fates would be the same. The boat kept
21 repeating this, over and over throughout the entire day." End of
22 quote.

23 I have a number of things I want to ask you. The first thing I
24 want to clarify with you, Mr. Witness: did you see people being
25 dragged and drowned into the river, while you were still in the

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1 house in which you were being detained? Or did you only see that
2 at night time, after you had escaped from the house?

3 [15.23.00]

4 A. Yes, that is -- that is what I saw during the daytime. They --
5 Cham people were undressed to their shorts. They were dragged out
6 of the houses, blindfolded and tied up. This incident repeated
7 until they completed their task. I did not know where Cham people
8 were transferred from. During that incident, I saw what happened.
9 I was crying, together with other Cham people. And I could manage
10 to flee the house one day. There were piles of clothes, and Cham
11 people were undressed to their shorts. And those remaining
12 clothes were collected back, and they were given to all of us.

13 Q. The house in which you were being detained, how far was it
14 from the river?

15 A. It was about 50 metres away from the river bank. I could see
16 what happened very clearly. It was -- my house was adjacent to
17 another house, and I could see the river and the boats very
18 clearly from my house. I could look through the crack of the
19 wall.

20 [15.25.10]

21 Q. Could you describe for us what this house was like, in which
22 you were detained, and from which you saw what was going on at
23 the riverfront? What kind of house was it? Can you describe?

24 A. It was an old house, 11 metres long and 6 metres wide, the
25 house where I was detained.

1 Q. Was it a traditional country house that had stilts or piles,
2 so that the house was elevated off the ground?

3 A. It was a traditional house. It was elevated up from the
4 ground. It was a steel house. But it was not high from the
5 ground. We could reach the floor of the house with our arms
6 reaching to that floor.

7 Q. And you stated that you saw the boat that was dragging and
8 drowning people in the river, repeating this throughout the day.
9 Can you tell us how many times you saw a boat take people out and
10 drown them in the river?

11 [15.27.34]

12 A. It happened from the morning until the evening. It started
13 from 7 a.m. in the morning until the evening. I did not know how
14 many trips they came to collect Cham people. It happened
15 repeatedly from the morning until the evening, from 7.00 until
16 the evening. I was sitting in the house, watching what was
17 happening. I was crying. I was weeping, and I was thinking that
18 my fate would be in the same way. They were walking past my
19 house, and I could see Seng was walking past my house at that
20 time.

21 Q. Could you tell us now how it was that you managed to escape
22 from your house?

23 A. I fled from the house, and hid myself in the bush. I was
24 crawling toward the river. I was crawling, and I was terrified at
25 that time. When I reached the mosque -- when I reached the

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1 riverfront, I could see there were piles of clothes. At that time
2 I had a water container, and I sank that container in the river
3 so that the water would go into that container. And I swam across
4 the river to Preaek Achi.

5 Q. I want to go back to the time that you were able to escape
6 from the house, before you went to the river, and floated -- swam
7 down the river. How is that you were able to get out of the house
8 in which you were being detained, without the soldiers seeing
9 you? Can you tell us how that happened?

10 [15.31.04]

11 A. At that time, they were tying up the Cham people. The house
12 was 11 metres long, and while they were tying up the Cham people,
13 I fled the house from the back door. They did not know at that
14 time. During that night, it was -- it had a heavy rain, and the
15 sky was really dark. And even with the lanterns, they could not
16 see that I was escaping.

17 Q. Did you leave the house through a door? Or did you leave the
18 house through a plank on the floor?

19 A. In fact, I pried a plank open. It was loose, and it was just
20 big enough for my body physically to get out of the house. Nobody
21 was aware that I could go through that hole, after I removed the
22 plank. And actually, in front, the soldiers were tightening up
23 the knots on those people.

24 [15.33.10]

25 Q. Do I understand correctly, then, that you escaped through that

1 plank at the time that the other people in your house were being
2 taken away? Is that correct?

3 A. Yes, they took everyone out, but in fact about half of the
4 people were -- had already been taken out. When I could loosen
5 the tie then I pried the plank open and I could escape. About 10
6 of the people of the house had been taken away already, and about
7 10 more remaining on the house.

8 Q. And you said that when you got out of the house and went down
9 to the river, you saw a pile of clothes. Where is it exactly that
10 you saw these clothes? And can you describe for us what the size
11 of this pile of clothes was?

12 A. Actually, it was so dark during the night I could not see the
13 big pile. However, I could feel it, and I knew it was a pile of
14 clothes, of those people who were taken out from the village.
15 People were stripped of their clothes near the waterfront, and it
16 was a pile of it. And I did not know what happened to the owners
17 of those clothes, as I only saw the clothes and not the people.

18 Q. This pile of clothes that was by the river, how high was it?
19 Do you remember how high the pile was?

20 [15.35.43]

21 A. Actually, the pile was about two metres wide and the height
22 was about half a metre, or it could be up to my waist.

23 Q. You've told us that you went into the river to escape from
24 Trea. Where did you end up after you swam away in the river?

25 A. I actually reached the other side of the riverbank, at Preaek

1 Achi. Actually, I still had a cousin living in Preaek Achi. And
2 then I went to the house of my cousin, and it was not yet at
3 dawn. But I was so hungry, so actually I ate a raw corn from the
4 plantation. By that time, I had not had anything to eat for two
5 days.

6 [15.37.25]

7 Q. I want to wrap up my questions, so my colleagues have some
8 time to ask you a few questions. Before I complete my questions,
9 you talk about in your interviews of how, after you survived the
10 killings at Trea village, at the end of the Khmer Rouge period
11 you returned back to Ampil village. When you came back to Ampil
12 village at the end of the Khmer Rouge regime, did you ever see
13 again any of the Cham people who had been taken with you to Trea
14 village that day?

15 A. I actually went to Trea village by myself, nobody was taken me
16 there. In fact, I arrived in Ampil village by nightfall, and I
17 hid myself in the house of my elder sibling. Nobody knew that I
18 was there at the house. My elder sibling shared me the gruel, and
19 we kept it very quiet because I was afraid that I would be
20 recaptured and sent back.

21 Q. Thank you, Mr. Witness. I was asking you about after the Khmer
22 Rouge had been driven out of power. But my question is: did you
23 ever see again any of the Cham people who had gone with you to
24 Trea village and been detained in the houses there? Did you ever
25 see any of those people again, after the Khmer Rouge regime was

1 over?

2 A. No, I did not, and I did not recognize the new faces.

3 [15.40.06]

4 Q. The last question I'd like to ask you, before I turn it over
5 to my colleagues: your family members, how many of your family
6 members died during the Khmer Rouge regime? And who was it? Who
7 from your family died during that period?

8 A. In my family, I lost two of my elder siblings -- that is, my
9 two -- my elder two brothers. And in fact, in my family, there
10 were only three boys including myself, but my two elder siblings
11 had been killed during the regime.

12 Q. You've already told us that you never saw your wife and your
13 youngest son again, after they had been taken with you to Trea
14 village. What about your other child? You mentioned that you had
15 two children at the start of the Khmer Rouge period. What
16 happened to your other child?

17 [15.41.44]

18 A. I never saw my wife again, and I conclude that my wife and my
19 child, who was with her, died. However, I did not know how they
20 died. It was possible that they were taken away and killed, or
21 they were drowned, as she was taken at night time.

22 MR. LYSAK:

23 Thank you for answering my questions, Mr. Witness. My colleague
24 has some questions for you. Thank you for your time today.

25 MR. SENG LEANG:

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1 Good afternoon, Mr. President, Your Honours and everyone. In the
2 interests of time, I only have three or four more questions,
3 supplementary to what has been asked to the witness.

4 MR. PRESIDENT:

5 You need to consult with the Lead Co-Lawyers for the remaining
6 time, as we only have about -- less than 20 minutes left for the
7 allotted time to the two teams.

8 MR. PICH ANG:

9 Mr. President, I think the time is manageable, as Ty Srinna only
10 needs about 10 minutes to put questions to the witness, and the
11 Co-Prosecutor can use the remaining time.

12 [15.43.40]

13 MR. PRESIDENT:

14 You may proceed.

15 QUESTIONING BY MR. SENG LEANG:

16 Q. I have about five minutes, so let me go straight into my
17 questions. Mr. Witness, you said you lived for a period of time
18 in Preaek Achi village. Did you ever see any Cham person who was
19 forced to get married while you were living there?

20 MR. IT SEN:

21 A. No, I did not.

22 Q. Let me go back to the time of the arrival of the southwest
23 cadres. Among the New People, you were allowed to return to your
24 home village of Ampil, and that you stayed there briefly, and
25 that the commune chief instructed you, as well as the newcomers,

1 to relocate to Trea village. Can you tell the Court how many
2 newcomers who were instructed to go and resettle in Trea village
3 with you?

4 [15.45.08]

5 A. There were about 20 families from Ampil village, and another
6 20 families from Saoy village. We were all sent together to Trea
7 village.

8 Q. When you were instructed to go and resettle in Trea village,
9 amongst other Cham people, did you make any request to the
10 commune chief or the cadre in charge?

11 MR. PRESIDENT:

12 Mr. Witness, please observe the microphone.

13 MR. IT SEN:

14 A. It was Comrade Seng who told us that next day the newcomers
15 had to be returned to Trea village, and that we had to organize
16 ourselves to start the journey the next day. We were not allowed
17 to stay in Ampil village any longer. And if we were to stay, they
18 would deprive us of gruel.

19 BY MR. SENG LEANG:

20 Q. And did you present any request?

21 [15.46.43]

22 MR. IT SEN:

23 A. Yes, I did. I said that I didn't want to go there. But I had
24 no choice. I knew that I would be killed when we arrived in Trea
25 village. But there was also no point staying behind, because our

1 food and gruel would be deprived. There was no alternative for us
2 but to go.

3 Q. So you knew beforehand that you would be killed when you
4 arrived in Trea village; am I correct?

5 A. Yes, I did. Because a group had been sent there before us.
6 They were told to go there to build houses, but they never
7 returned. And then their families were sent after, and they
8 disappeared, too. For that reason, I didn't want to go, but I
9 could not stay behind because the food would be deprived.

10 Q. And while en route to Trea village, you said that 20 families
11 were travelling together with you. Was it 20 families or 40
12 families -- that is, the families from another village?

13 [15.48.11]

14 A. It was a mixed collection, a mixed gathering from Ampil
15 village and from Saoy village. And I could say maybe there were
16 about 40 families together from these two villages. I saw many
17 men while I was being sent there.

18 Q. And while you were en route, did you observe any security
19 guards patrolling along the road?

20 A. No, there was no guard. We were asked to make our journey by
21 ourselves, and it was comrade Seng who travelled up and down,
22 monitoring us leaving the village -- that is, leaving Ampil to
23 Trea village. He was on his motorbike, observing the procession
24 that we made.

25 Q. Was comrade Seng armed with any kind of weapon?

1 MR. PRESIDENT:

2 Mr. Witness, please observe the microphone.

3 MR. IT SEN:

4 A. I did not see any weapon that he had. However, if he had a
5 weapon under his shirt, I would not notice. But people believed
6 that he believed in superstition and magic.

7 BY MR. SENG LEANG:

8 Q. If there were no guards, and you knew there were about 40
9 families travelling with you together, and you knew beforehand
10 that you would be killed when you arrived in Trea village, why
11 didn't you decide to flee to other villages? Namely, to Preaek
12 Achi village?

13 [15.50.34]

14 MR. IT SEN:

15 A. When we almost arrived at the Trea village, we didn't want to
16 go, as we saw many soldiers at the Trea village. And it was too
17 late to return our ox cart. And we didn't know where to go. If we
18 were to go to the forest with the ox cart, we could not make it.
19 And by that time, some women wept and cried, as it was too late
20 to return or to go back. Because by that time, we reached the
21 point of no return, and we were told that people were being tied
22 up and sent away every day.

23 Q. You said you stopped about half an hour before you entered the
24 Trea village; am I correct?

25 A. Yes, we stopped for about half an hour, and we did not know

1 what to do. We allowed the cows to rest as well, and the women
2 started crying. However, men still stayed on the ox cart. We did
3 not know what to do. We knew that we would be taken and killed
4 when we entered the village, but if we returned, or we go back,
5 it's too late.

6 [15.52.18]

7 MR. SENG LEANG:

8 I'm running out of time, Mr. President. Thank you, and I'd like
9 to cede the floor to the Lead Co-Lawyers.

10 QUESTIONING BY MS. TY SRINNA:

11 Q. Thank you, Mr. President. And good afternoon, Mr. President,
12 Your Honours and everyone. And good afternoon, Mr. It Sen. My
13 name is Ty Srinna. I am a lawyer for civil parties. I have some
14 questions to put to you. Let me go back a little bit to the time
15 when you, the Cham people, were living in Preaek Achi village and
16 later on, you spent two weeks living in Ampil village. These are
17 the two main focus of my questions. Can you tell the Court the
18 living conditions and the food ration for you while you were
19 living in these two respective villages?

20 MR. IT SEN:

21 A. Before that, my elder sibling actually went to collect gruel,
22 and then we distributed the gruel amongst us. Later on, my
23 sibling had dysentery while going to collect the gruel, and could
24 not reach the location.

25 [15.53.53]

1 Q. Mr. Witness, allow me to rephrase my question. My question is
2 in relation to the living condition of the Cham people, as well
3 as the food ration given to the Cham people. What was the living
4 condition like? And what was the food like? Was it abundant? Was
5 the living condition difficult while you were living in Preaek
6 Achi village?

7 A. The situation was extremely difficult. Three kilos of rice was
8 given to people living in a house. We could not cook any rice,
9 but we instead cooked gruel. We never had any luxury of having
10 any cooked rice, from year on end.

11 Q. And you were a Cham Muslim person. Did they respect you in
12 giving you food? I mean, that they did not give you pork to eat?
13 Or what was the condition like?

14 [15.55.20]

15 A. The food was prepared, mixed together. For example, meat --
16 pork meat was mixed while they were preparing food, and it was
17 given to us, the Cham people. We were forced to eat. However,
18 some of us refused to eat, and we were given some grains of salt
19 instead.

20 Q. You said some of you were forced to eat pork. What kind of
21 effect did it have mentally on the Cham people while they were
22 eating pork?

23 A. Of course, it did have an impact upon us, but what could we
24 do? Some of us had to eat, and they threw up after. And they
25 begged for grains of salt instead of pork. And sometimes we had

1 to hide the salt so that we could eat it during our meal time
2 instead of having pork soup.

3 Q. So, according to your religion, the Cham people do not eat
4 meat. And what happened to the Cham people who were forced to eat
5 meat, because that would be contradictory to the discipline in
6 your religion?

7 A. We worship the holy text of Koran, and Allah prohibited us not
8 to eat any dog meat or pork, under any circumstances. These are
9 the two meats that we are prohibited from eating.

10 [15.57.45]

11 Q. Does the holy Koran provide any explanation for the
12 prohibition of consumption of dog meat and pork?

13 A. In the holy Koran, Allah prohibits us from consuming dog meat
14 and pork. As for the rest of the meat, we are -- we have a choice
15 to eat. That's all I know.

16 Q. You have stated about samyang. Can you provide an explanation
17 to what it means to the Court?

18 A. In the holy Koran, Allah mentions samyang, and we worship the
19 holy Koran. Every Muslim has to worship the holy text. And it
20 means that we prayed by worshipping the holy Koran.

21 Q. Do all the Cham people have to engage in the practice of
22 samyang? That is "pray", in English. Does samyang represents a
23 symbolic practice or prayer, of adherence to the holy Koran by
24 all Muslims?

25 [15.59.52]

1 A. Not every Muslim person practices prayer to the holy Koran,
2 but for ordinary Muslims, we all have to practice samyang, or to
3 pray.

4 Q. I'd like to put a few more questions in relation to your time
5 at Trea village. What kinds of people were sent to Trea village?
6 Were you considered making mistakes, so that you were sent to
7 Trea village?

8 A. No, we did not commit any mistakes. We were simply villagers.
9 However, after we returned from Preaek Achi village to our
10 village, then we were instructed to go to Trea village. And it
11 was Seng, who was a southwest cadre, who told us that the area
12 had been liberated, and that we could return to our home village.
13 But it was the policy of resending us further to Trea village, as
14 the area had been liberated, and the country enjoyed peace. So,
15 we were sent to Trea village.

16 Q. And when you arrived in Trea village, you said that you were
17 questioned, and pure Cham people were put in one group, and the
18 half-Cham half-Khmer were placed in another group. Were you
19 questioned on other issues, besides on your ethnicity?

20 [16.02.01]

21 A. No, because those who were sent there were all Cham. There
22 were no Khmer people. However, maybe they tested us by asking us
23 those questions, whether we were half-Khmer, half-Cham. However,
24 they knew that we were all pure Cham people. However, we were
25 afraid that they would beat us if we said that we were Cham, so

1 some of us told them that they were Khmer. And it became even
2 worse, as they even beat us more.

3 Q. Later on, you fled from Trea village, and you survived. Have
4 you ever returned to Trea village after the fall of the Khmer
5 Rouge regime? If that is the case, and as you said, you saw a big
6 pit in Trea village during the Khmer Rouge regime. And if you
7 returned to Trea village after the fall of the Khmer Rouge
8 regime, have you observed whether there was only one single pit?
9 Or there were many more pits?

10 [16.03.20]

11 A. No, I have not returned to the Trea village. And from what
12 people said, we all know there was only one large pit there, with
13 many iron bars scattered nearby. But personally, I never returned
14 again.

15 Q. Were you aware of the killing of the Cham women?

16 A. The wives were killed separately. The single, unmarried ladies
17 were killed separately. The husbands were killed separately. They
18 killed the Cham people in these three different -- separate
19 groups.

20 Q. Have you heard about an event where a Cham woman was asked to
21 lie on a plank, facing down, and then later on, her throat was
22 slashed, and thrown into the pit?

23 A. I saw it. Rather, I heard it. I heard the sound of the killing
24 of those people, but I did not witness it.

25 MS. TY SRINNA:

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1 In the interests of time, I thank you very much for your
2 responses. And Mr. President, I'm grateful for the opportunity.

3 [16.05.20]

4 MR. PRESIDENT:

5 The Chamber will adjourn now, and resume tomorrow -- that is,
6 Tuesday, 8 September 2015, commencing from 9 o'clock in the
7 morning, where we will continue to hear testimony of witness It
8 Sen, and commence hearing testimony of a civil party -- that is,
9 2-TCCP-244.

10 Mr. It Sen, the Chamber is grateful of your time to testify
11 before this Chamber. However, it is not yet concluded, and you
12 are invited to return to resume your testimony tomorrow, starting
13 from 9 o'clock in the morning.

14 Court officer, in collaboration with WESU, please make
15 arrangement for this witness, as well as the reserve civil party,
16 2-TCCP-244, to the place where he's staying, and invite them to
17 return to the courtroom tomorrow.

18 Security personnel, you are instructed to take the two Accused,
19 Khieu Samphan and Nuon Chea, back to the detention facility, and
20 have them return to attend the proceedings tomorrow before 9
21 o'clock in the morning.

22 The Court is now adjourned.

23 (Court adjourns at 1606H)

24

25