



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

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

ឯកសារដើម
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Sann Rada
CMS/CFO:.....

TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

16 September 2015

Trial Day 329

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

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:
CHEA Sivhoang
Niccolo PONS

For the Office of the Co-Prosecutors:
William SMITH
SREA Rattanak

Lawyers for the Civil Parties:
Marie GUIRAUD
Martine JACQUIN
LOR Chunthy
PICH Ang
TY Srinna
VEN Pov

For Court Management Section:
UCH Arun

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
Judge FENZ	English
The GREFFIER	Khmer
Ms. GUISSÉ	French
Ms. JACQUIN	French
Mr. KONG Sam Onn	Khmer
Mr. KOPPE	English
Judge LAVERGNE	French
Mr. MAM Rithea	Khmer
The President (NIL Nonn)	Khmer
Mr. PICH Ang	Khmer
Mr. SMITH	English
Mr. SREA Rattanak	Khmer
Mr. TAY Koemhun (2-TCW-880)	Khmer

1

1 PROCEEDINGS

2 (Court opens at 0902H)

3 MR. PRESIDENT:

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

5 Today the Chamber will hear testimony of a witness 2-TCW-873, and

6 if time permits, we will hear another reserve witness -- that is,

7 2-TCW-252.

8 Greffier, please report the attendance of the Parties and other

9 individuals at today's proceedings.

10 [09.03.31]

11 THE GREFFIER:

12 Mr. President, for today's proceedings, all Parties to this Case

13 are present.

14 Mr. Nuon Chea is present in the holding cell downstairs. He has

15 waived his right to be present in the courtroom. The waiver has

16 been delivered to the greffier.

17 A witness who is to testify today -- that is, 2-TCW-873, confirms

18 that to the best of his knowledge, he has no relationship by

19 blood or by law to any of the two Accused -- that is, Nuon Chea

20 and Khieu Samphan, or to any of the civil parties admitted in

21 this Case. The witness took an oath before the Iron Club Statue

22 yesterday, and he has Mr. Mam Rithea as his duty counsel. Both

23 are awaiting the Chamber's call.

24 We have a reserve civil party today -- that is, 2-TCCP-252.

25 Thank you, Mr. President.

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1 [09.04.44]

2 MR. PRESIDENT:

3 Thank you, Ms. Chea Sivhoang. The Chamber now decides on the
4 request by Nuon Chea.

5 The Chamber has received a waiver from Nuon Chea dated 16
6 September 2015, which notes that due to his health: headache,
7 back pain, he cannot sit or concentrate for long, and in order to
8 effectively participate in future hearings, he requests to waive
9 his right to participate in and be present at the 16 September
10 2015 hearing. Having seen the medical report of Nuon Chea by the
11 duty doctor for the Accused at the ECCC dated 16 September 2015,
12 which notes that Nuon Chea has back pain and it becomes severe
13 when he sits for long, and recommends that the Chamber grant him
14 his request so that he can follow the proceedings remotely from
15 the holding cell downstairs. Based on the above information and
16 pursuant to Rule 81.5 of the ECCC Internal Rules, the Chamber
17 grants Nuon Chea his request to follow today's proceedings
18 remotely from the holding cell downstairs via audio-visual means.
19 And the Chamber instructs the AV Unit personnel to link the
20 proceedings to the room downstairs so that Nuon Chea can follow
21 it. And this applies to the whole day.
22 Court officer, please usher witness 2-TCW-873 as well as his duty
23 counsel to the courtroom.
24 And Counsel Koppe, you have the floor.
25 [09.06.38]

1 MR. KOPPE:

2 Thank you, Mr. President. Good morning, Your Honours. Good
3 morning, Counsel.

4 As indicated in the email earlier this morning to the Senior
5 Legal Officer, I would indeed like to make oral submissions in
6 relation to a request we received yesterday from the
7 International Co-Prosecutor. It was a request to call three
8 additional witnesses in relation to the treatment of the Cham. My
9 submissions are not submissions in response to the request
10 because we will use the opportunity to file written submissions.
11 But we have two requests to make in relation or in reaction to
12 this request now.

13 The prosecutor -- International Co-Prosecutor asked for three
14 witnesses. As I said, one of the witnesses the prosecutor asked
15 for was someone who testified here in Court in Case 002/01. Two
16 others testified as well, but only--

17 [09.08.07]

18 MR. PRESIDENT:

19 Counsel Koppe, the Chamber has just received the document. And I
20 think you should make your submission this afternoon so that the
21 Chamber will have opportunity to review that submission. It is
22 better, then, to leave this matter for the afternoon session
23 starting from 1.30.

24 MR. KOPPE:

25 Fair enough. No problem. Although the request for relief that we

4

1 intend to ask is to stop the present proceedings and give us
2 additional time, however, I don't see a problem in having this
3 witness testify in the morning, and then we can address the issue
4 after lunch.

5 (Short pause)

6 (Witness enters courtroom)

7 [09.09.33]

8 QUESTIONING BY THE PRESIDENT:

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

10 MR. TAY KOEMHUN:

11 A. My name is Tay Koemhun.

12 Q. Thank you, Mr. Tay Koemhun. And when were you born?

13 A. I was born in 1950.

14 Q. And when were you born -- where, rather?

15 A. I was born in Angkor Ban 2 village, or it is also known as
16 Antung Sor (phonetic) village. It is Angkor Ban commune. And I
17 married my wife who was from Peam Chi Kang.

18 [09.10.51]

19 Q. And where is your current address? And please observe the
20 microphone before you respond.

21 A. Currently I live in Sambuor Meas Ka village, Kang Meas,
22 Kampong Cham province.

23 Q. What is your profession or occupation?

24 A. I am a rice farmer.

25 Q. What are the names of your father and mother?

5

1 A. My father is Ly Tay and my mother is Kang May.

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

4 A. My wife is Yim Kimsreang, and we have one child. Actually we
5 have two child; one died during the Pol Pot regime.

6 Q. And Mr. Tay Koemhun, the greffier made an oral report that to
7 the best of your knowledge, you do not have any relationship to
8 any of the two Accused -- that is, Nuon Chea or Khieu Samphan, or
9 to any of the civil party admitted in this case; is that correct?

10 A. Yes, that is correct.

11 [09.12.42]

12 Q. The greffier also reported that you already took an oath
13 before the Iron Club Statue yesterday morning; is that correct?

14 A. Yes, I already took an oath yesterday.

15 Q. The Chamber would like to inform you of your rights and
16 obligations as a witness.

17 Your rights: As a witness in the proceedings before the Chamber,
18 you may refuse to respond to any question or to make any comment
19 which may incriminate you. That is your right against
20 self-incrimination. This means that you may refuse to provide
21 your response or make any comment that could lead you to being
22 prosecuted.

23 Now, on your obligations, Mr. Tay Koemhun, as a witness in the
24 proceedings before the Chamber, you must respond to any questions
25 by the Bench or relevant Parties except where your response or

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1 comment to those questions may incriminate you, as the Chamber
2 has just informed you of your rights as a witness. You must tell
3 the truth that you have known, heard, seen, remembered,
4 experienced or observed directly about an event or occurrence
5 relevant to the questions that the Bench or Parties pose to you.
6 And Mr. Tay Koemhun, have you been interviewed by investigators
7 of the Office of the Co-Investigating Judges? If so, how many
8 times, when and where?

9 [09.14.35]

10 A. I was interviewed once at my home.

11 Q. And do you recall when it happened?

12 A. I cannot recall it, Mr. President.

13 Q. That is all right. And before you appeared before the Chamber,
14 have you reviewed or read the written record of your statement
15 that you provided at your home in order to refresh your memory?

16 A. I have poor eye vision and I asked my elder sibling to read it
17 aloud to me. And I cannot recall everything. However, I can
18 respond to the questions in relation to my statements.

19 Q. And to your best recollection, is the written record of your
20 statement, that you have it read aloud to you, consistent with
21 the actual statements you provided during the interview with the
22 investigator at your home?

23 A. It is about the same.

24 [09.16.10]

25 Q. Mr. Tay Koemhun, now you are being assisted by the duty

7

1 counsel through WESU based on your request, and you have Mr. Mam
2 Rithea who is sitting beside you. Have you been introduced to
3 your counsel?

4 MR. MAM RITHEA:

5 Mr. President -- and good morning, everyone. I am a duty counsel
6 for the witness and I actually made a contact and communicated
7 with my client since yesterday.

8 BY THE PRESIDENT:

9 Q. Mr. Tay Koemhun, is that the case -- that is, what has been
10 stated by your duty counsel?

11 MR. TAY KOEMHUN:

12 A. Yes, that is the case.

13 [09.17.16]

14 MR. PRESIDENT:

15 Pursuant to Rule 91bis of the ECCC Internal Rules, the Chamber
16 will hand the floor to the Co-Prosecutors first to put their
17 questions to this witness. And the combined time for the
18 Co-Prosecutors and the Lead Co-Lawyers for civil parties are two
19 sessions. You may proceed.

20 QUESTIONING BY MR. SREA RATTANAK:

21 Good morning, Mr. President, Your Honours, and everyone in and
22 around the courtroom. And good morning, Mr. Witness. My name is
23 Srea Rattanak. I am a National Deputy Co-Prosecutor. I have some
24 questions to put to you in relation to your experience.

25 Q. Where were you living before 1975?

1 MR. TAY KOEMHUN:

2 A. In 1975 I lived in Sambuor Meas village, Peam Chi Kang
3 commune, Kang Meas district, Kampong Cham province.

4 Q. And from 1975, did you continue living in the same area or
5 were you transferred elsewhere?

6 A. I continued living in the same area.

7 [09.19.02]

8 Q. So you were never relocated elsewhere before and during 1975?

9 Let me break my question into two parts. The first part is
10 relation to your residence before 1975 and the second part is
11 after 1975.

12 A. Before 1975, I lived in Angkor Ban Number 2 village, but at
13 that time, I was unmarried. And in 1972, I moved to live in
14 Sambuor Meas village, Kang Meas district in Kampong Cham
15 province.

16 Q. So, did you live -- did you start living in Sambuor Meas from
17 1972 until today?

18 A. Yes, I've been living there since 1972.

19 Q. Does it mean you only moved from one village to another within
20 the same commune? And please, wait till my question ends before
21 you respond, otherwise, it is difficult for the interpreters to
22 interpret. Do the two villages that you mentioned locate in Kang
23 Meas district?

24 A. Peam Chi Kang and Angkor Ban communes are located in Kang Meas
25 district.

1 [09.21.32]

2 Q. Since you've been living in Kang Meas district, are you
3 familiar with the Au Trakuon pagoda?

4 A. I lived nearby the pagoda.

5 Q. Which village is the pagoda located in?

6 A. The pagoda is located in Sambuor Meas village, Peam Chi Kang
7 commune, Kang Meas district, Kampong Cham province.

8 Q. What do you mean when you said you lived nearby the pagoda?

9 A. My house is located about 50 metres from the compound of the
10 pagoda.

11 Q. What was the pagoda used for during the Democratic Kampuchea
12 regime?

13 A. During the regime, the pagoda was transformed into a prison.

14 Q. You said it was turned into a prison, and in what year did
15 that happen?

16 A. I cannot recall that.

17 Q. Did you know about any event of particular that happened in
18 that prison?

19 A. In the pagoda-turned-prison, I saw people actually being
20 walked into the pagoda. And allow me to tell you that the kitchen
21 hall was just next to the entrance to the road leading to the
22 pagoda.

23 [09.24.25]

24 Q. How often did you see people being walked into the pagoda?

25 A. It was quite often.

1 Q. You said it's quite often, can you tell us the frequency, for
2 example, how many times per day or per week or per month?

3 A. Of course, I did not count. At that time, I was assigned to
4 plough the rice field, so most of the time during the day, I
5 spent ploughing the field and I only returned to the kitchen hall
6 during mealtime.

7 Q. How many times did you actually witness the event?

8 A. It was about four to five times.

9 [09.25.40]

10 Q. And you said you saw people being walked in while you were
11 having meals. And what were the times for your meal?

12 A. I had meal at 11.30.

13 Q. Can you clarify the matter -- what was the time that you saw
14 people being walked in while you were having meal? Did you have
15 lunch or dinner while you saw those people being walked?

16 A. It was right at 11.30.

17 Q. And each time that you saw those people being walked into the
18 pagoda, how many of them?

19 A. I did not count, and I was even afraid to look at them.

20 Q. Were there many or were there only a few?

21 A. Sometimes I saw two people being walked into the compound,
22 sometimes I only saw one person.

23 Q. Did you ever witness a group of people being walked?

24 A. No, I did not.

25 Q. And you said you saw people were being walked there, were they

11

1 always on foot or were they being transported by any other means,
2 for example, on motorbike, bicycle or horse cart?

3 A. They were on foot.

4 [09.28.30]

5 Q. Besides being walked on foot, did you see any other means of
6 people being taken into the pagoda?

7 A. No.

8 Q. In order to jog your memory, in your written record of
9 interview when you spoke to the investigator of the Office of the
10 Co-Investigating Judges in document E3/5257, the Khmer ERN is at
11 00243043 -- rather 4303; and the French ERN is at 00342666; and
12 the English ERN is at 00251016; you were asked whether you saw
13 prisoners being walked into the pagoda and how many times. And
14 you said you saw those prisoners being taken from the boat for
15 one time. Can you confirm that?

16 MR. KONG SAM ONN:

17 Deputy Co-Prosecutor, please specify the Khmer ERN again.

18 MR. SREA RATTANAK:

19 The document is E3/5257 and the ERN is at 00243103.

20 [09.31.02]

21 MR. TAY KOEMHUN:

22 A. No, I did not see prisoners being taken off the boat because I
23 usually ploughed the field in the forest.

24 BY MR. SREA RATTANAK:

25 And about those people that you saw being walked into the pagoda,

1 were they tied up?

2 MR. TAY KOEMHUN:

3 A. Yes, they were.

4 Q. Were they men or women? Were there any children including in
5 that group?

6 A. Yes, there were both children and older people.

7 Q. Were the children tied up?

8 A. No, they were not. The children were walking behind their
9 parents. They were not tied up.

10 Q. You stated that the children were following their parents.

11 Does this mean that they were brought in -- the entire family
12 were brought into that place?

13 A. I have no idea. What I could see is that the three or
14 four-year-old children were not tied up, they were walking behind
15 their parents.

16 [09.33.03]

17 Q. Were they tied in lines?

18 A. No, they were not. They were tied up separately.

19 Q. When they were being walked into that place, were they
20 tortured?

21 A. No. No torture was inflicted on them.

22 Q. How many people who were there who were in charge of leading
23 the prisoners into that place?

24 A. There were two of them. They were quite young.

25 Q. Could you tell the Chamber about the people who were being

1 tied up, were they New People or what kind of them?

2 A. I do not know whether they were New People or any type of
3 people.

4 [09.34.45]

5 Q. Do you know some of them?

6 A. I have never seen these people before. The people who had been
7 arrested were not known by me, and I have never seen them before.

8 Q. What do you mean by that? Do you know them or you know them?

9 A. I do not know the people who had been arrested and being
10 walked.

11 Q. You made mention that you do not know those people. Why were
12 they arrested -- have you got any idea?

13 A. I do not know what was going on at that time and I do not know
14 why they were arrested.

15 Q. Were there any people at the pagoda to receive those people
16 who had been arrested?

17 A. I never entered into the pagoda myself so I have no idea
18 whether there were people there to receive the people.

19 [09.36.45]

20 Q. You said a while ago that your house was located about 50
21 metres away from the pagoda. Did you ever hear the music being
22 played inside the pagoda?

23 A. While I was working, I could hear the music over the
24 loudspeaker. Every time I was at home, I did not hear any music.

25 At night-time, I would go to work to transplant rice seedling and

14

1 work in the field from 6.00 to 10 p.m. I heard the music was
2 being played and I could see the torch used to light the place
3 very dimly. And I was told that people were being killed. So I
4 ran away to my house.

5 Q. Were you working at that time from 6.00 to 10 p.m. when you
6 said you heard the music was being played?

7 A. In fact, I returned from work at about 9.00 or 10 p.m. on that
8 day.

9 Q. You stated that you worked from 6.00 p.m. to 10 p.m., so at
10 what time did you hear the music?

11 A. After I returned from work, I heard the music.

12 [09.38.55]

13 Q. When did the music stop playing over the loudspeaker?

14 A. I did not know when they stopped playing the music at that
15 time.

16 Q. You stated that you heard the loud music being played at
17 around 10 p.m. Did you hear it right after you returned at home?

18 A. I heard the music was being played at 10 p.m. and I did not
19 know when the music started.

20 Q. Could you clarify this point for the Court: when were you at
21 that time and far were you from the pagoda?

22 MR. PRESIDENT:

23 Please hold on and observe the microphone before you speak. While
24 you are waiting for microphone to be activated, you can have some
25 time to think of what you going to respond to the question. I

15

1 have repeatedly told you about the operation of microphone.

2 MR. TAY KOEMHUN:

3 A. Could you repeat your question please, Mr. Co-Prosecutor.

4 [09.40.35]

5 BY MR. SREA RATTANAK:

6 Q. When you heard the music being played over the loudspeaker,
7 how far were you from the pagoda? Where were you at that time? I
8 want to know the exact location.

9 MR. TAY KOEMHUN:

10 A. I was in front of the pagoda. I was to the east of pagoda.

11 Q. So what were you doing at that time? Were you going somewhere?

12 A. I was going to work in the field, transplanting the rice
13 seedlings.

14 Q. Mr. Witness, please listen to my questions carefully. Or
15 perhaps my questions are not clear to you, that is why I receive
16 different answers from you. You stated that you returned from
17 work at 10 p.m. and you also stated that you were about 70 metres
18 away from the pagoda when you heard the music being played. So I
19 would like to know where were you at that time, and were you
20 going somewhere at that time?

21 A. I was going back home from work at that time.

22 [09.42.20]

23 Q. When you arrived home, did you still hear the music?

24 A. No, I no longer heard the music being played over the
25 loudspeaker at that time after I arrived home.

1 Q. What was the location of your house?

2 A. My house was located to the east of the pagoda. However, I was
3 transferred from my house and I was allowed to live one kilometre
4 away from my house.

5 Q. So, at that time, you were not living in your house, you were
6 living about one kilometre away from your house; is that correct?

7 A. Yes, that is correct.

8 Q. Who told you that while the music was being played, there
9 would be killings?

10 A. Villagers told me about that. My work colleagues told me. They
11 said that perhaps people were being killed, that is why the music
12 was being played.

13 Q. Did you hear the music often?

14 A. What kind of music you want to know?

15 [09.44.50]

16 Q. The music over the loudspeakers.

17 A. While I was at work, I could hear the music.

18 Q. Did you hear the music often?

19 A. I could hear the music being played once in a while.

20 Q. Before the pagoda was turned into a security centre, did you
21 ever hear the music being played?

22 A. I heard music, different types of music played during the
23 daytime and also during night time.

24 Q. So you would hear the music being played before the pagoda was
25 turned into a security centre. So when did it happen exactly? You

1 made mention that after the pagoda was turned into a security
2 centre, you would hear the music being played once in a while. So
3 before that time, had you ever heard that kind of music being
4 played over the loudspeaker?

5 A. Before the pagoda was turned into a security centre, I would
6 hear the preaching by a monk being played over the loudspeakers.

7 [09.46.59]

8 Q. Beside the loud music being played over the loudspeaker, did
9 you hear any other music or screaming? I am asking you about the
10 sound from the pagoda. What kind of sound did you hear from the
11 pagoda?

12 A. I only heard the loud music being played over the
13 loudspeakers.

14 Q. Every time you witnessed people were being marched into the
15 pagoda during the daytime, did you hear the music being played at
16 night time or at daytime?

17 A. I cannot get your question, Mr. Co-Prosecutor.

18 Q. On the day that you saw people were being walked into the
19 pagoda, did you hear the music being played at night time on that
20 day?

21 A. I do not know where the people were put into the pagoda. As I
22 told you, while I was returning from work, I could hear the music
23 being played.

24 [09.49.16]

25 Q. Did that happen on the day that you saw people were being

1 arrested -- being marched, rather?

2 A. No. Sometimes, I could hear the music being played.

3 Q. You used the term "sometimes". Perhaps there were on some
4 occasion that you could also hear the music being played. Let me
5 rephrase my question. You often heard the music being played over
6 the loudspeaker while returning from work. At that time, perhaps
7 you were about 50, 70 metres away from the place where the music
8 came from. On the night that you heard the music being played,
9 was it that day that you witnessed people were being marched into
10 the pagoda during the daytime?

11 A. I did not always see people were being marched into the
12 pagoda. Sometimes, I spent my time at the worksite.

13 [09.51.08]

14 Q. My apology. Perhaps my questions are too complicated for you
15 and you cannot get the gist of them. I would like to simplify my
16 questions. Now, you stated that you witnessed people were being
17 marched into the pagoda. What happened to them after they were
18 put into the compound of the pagoda?

19 A. I do not know what happened to them, Mr. Co-Prosecutor.

20 Q. Did you understand my last question or you do not know what
21 happened to them? What happened to those who had been brought
22 into the pagoda?

23 MR. PRESIDENT:

24 Please hold on, Mr. Witness. You have the floor now, Mr. Koppe.

25 MR. KOPPE:

1 Thank you, Mr. President. I think now the time has come to object
2 to these questions. They are repetitive. The underlying
3 assumption is that music was only played presumably when people
4 were killed. I mean there's also the option that music was played
5 and nobody was killed. The other underlying assumption of the
6 Prosecution is that whenever people were brought in, they would
7 be killed the same night. That's also a presumption. The witness
8 has clearly answered that he sometimes heard music and that he
9 doesn't know what happened inside. I think that's all he can say,
10 and Prosecutor should now refrain from asking over and over again
11 the same question.

12 [09.53.10]

13 BY MR. SREA RATTANAK:

14 Q. I can rephrase my question, but I did not ask whether people
15 were killed inside the pagoda. I only asked what happened to
16 those people who had been brought into the pagoda. Document
17 E3/5257, ERN in Khmer, 00243107; in English, 00251021; French,
18 00342672; you provided answers to the investigators of the OCIJ.
19 You were asked: "What did they do to the prisoner who had been
20 brought into the pagoda?" And your answer is: "They were killed
21 in front of the pagoda." So my question is: How do you know such
22 incident?

23 MR. PRESIDENT:

24 Please hold on, Mr. Witness. You may now proceed, Counsel Kong
25 Sam Onn.

1 [09.54.41]

2 MR. KONG SAM ONN:

3 Thank you, Mr. President. I think the question put by National
4 Deputy Co-Prosecutor has no foundation. He did not ask any basic
5 general question first before he went to ask such a question. So
6 please, Co-Prosecutor, rephrase your question.

7 BY MR. SREA RATTANAK:

8 Q. Let me clarify this point with you. You have testified before
9 the Chamber that you do not know about the killing. Before the
10 investigators of the OCIJ, you stated that prisoners were killed
11 in front of the pagoda. So which version of your testimony is
12 correct, is it the statement in the OCIJ written record of
13 interview or the statement before the Chamber now?

14 MR. TAY KOEMHUN:

15 A. I do not know -- I did not know whether prisoners were killed
16 in front of the pagoda at that time. However, later on after the
17 end of the regime, I learned about this.

18 Q. How did you know that those people were killed after the end
19 of the regime -- where did you learn from?

20 A. Villagers went to see the grave-pits.

21 [09.57.10]

22 Q. How large were those grave-pits?

23 A. There were large and small grave-pits.

24 Q. How many grave-pits were there?

25 A. I did not count them.

1 Q. Could you give your estimate, how large the small pit was and
2 how large the large pit was?

3 A. I cannot tell you the estimate, Mr. Co-Prosecutor.

4 Q. What did you see inside the grave-pits when you, together with
5 villagers, went to see the pits?

6 A. I did not go to observe the things inside the pits. However,
7 villagers told me that there were skeletons.

8 [09.58.48]

9 Q. What about clothes or any parts of -- what about clothes and
10 other belongings?

11 A. I was told that there were clothes in those pits.

12 Q. Did they tell you what types of clothes they were? Did they
13 tell you that those clothes belonged to Khmer people or any type
14 of people?

15 A. I was told that they were normal clothes.

16 Q. What do you mean by that?

17 A. I do not know whether the clothes belonged to any other
18 ethnicity, but I was told that they were normal clothes as we
19 used to wear.

20 MR. SREA RATTANAK:

21 Mr. President, I would like to hand over the floor to my esteemed
22 International Co-Prosecutor.

23 MR. PRESIDENT:

24 You may now proceed, Co-Prosecutor for the international side.

25 [10.00.21]

1 QUESTIONING BY MR. SMITH:

2 Good morning, Mr. President. Good morning, Your Honours. Good
3 morning, Counsel. Good morning to the public and good morning,
4 Witness.

5 Q. When did you go to the pagoda after the fall of Democratic
6 Kampuchea? Did you go immediately after in January 1979 or
7 sometime after that?

8 MR. TAY KOEMHUN:

9 A. I actually entered the pagoda compound right in 1979 when the
10 pagoda was being rebuilt and refurnished.

11 Q. And is your evidence correct that you can't remember how many
12 pits there were, and how many were small and how many were large?
13 Is that your evidence, it's hard to remember the numbers of pits?

14 A. Yes, that's what I said.

15 [10.01.45]

16 Q. And is it your evidence that you could see the pits but you're
17 saying that you didn't look inside the pits to see if there were
18 bodies in there or not; is that correct?

19 A. Yes, that is correct. I did not look inside the pit since its
20 stench was rather strong.

21 Q. And what was the stench of, what was the smell?

22 A. It was the stench of corpses.

23 Q. Do you know a person called Chea Maly?

24 A. Do you refer to Chea Maly the commune chief? If that is the
25 case, yes, I do know him.

1 Q. And was Chea Maly, was he a Buddhist monk before 1975?

2 A. Yes, he was a monk staying in that pagoda.

3 [10.03.22]

4 Q. And do you remember whether he went to the pagoda after 1979
5 or early in 1979 to look at the pits? Do you remember whether he
6 went there or not?

7 A. The commune chief was a monk there -- or had been a monk there
8 until the time that he was asked to disrobe. And later on, he got
9 married to a woman whose house was not far from the pagoda.

10 Q. Thank you for that. And do you remember whether he went to
11 look at the pits as well?

12 A. I do not know whether he actually went to look at those pits,
13 as my house was far from his.

14 Q. Are you able to say when he was disrobed as a monk, like in
15 1974, '75, '76 or any other time? When was he disrobed as a monk?

16 A. I cannot recall the year.

17 Q. You may not recall the year but was it in the Democratic
18 Kampuchea regime between 1975 and 1979? Can you say that or can
19 you not?

20 A. He was living there between 1975 to 1979; he was not relocated
21 anywhere.

22 [10.05.58]

23 Q. But when the wat -- when the pagoda was turned into a security
24 office, was he still living there, or when he disrobed, did he
25 have to leave?

1 A. After he disrobed, he left the pagoda and went to live with
2 his family.

3 Q. And was he forced to disrobe or did he do it by his own
4 choice?

5 A. He was forced to disrobe.

6 Q. And who forced him to do that?

7 A. It was the Khmer Rouge group.

8 Q. Thank you. I'd like to put a statement that he made about when
9 he went to the wat and saw the pits, and also about when he
10 disrobed. If I can put that statement to you and if you can tell
11 me -- give me your reaction to it, tell me whether you think it's
12 accurate or not from what you are able to see when you went to
13 the wat earlier in 1979. And I'm referring to E3/7827, English,
14 00210432 to 33; Khmer, 00663 --

15 MR. PRESIDENT:

16 Deputy Co-Prosecutor, please repeat the document number and the
17 ERN slowly. Thank you.

18 [10.08.25]

19 BY MR. SMITH:

20 Sorry, Your Honour, for speaking so fast there.

21 Q. E3/7827, English, 00210432 to 33; Khmer, 00635155 to 56; and
22 French, 00620031. And Witness, this is what Chea Maly told the
23 investigators as to what he saw.

24 "When I visited the wat in 1979 after the end of the Khmer Rouge
25 regime, the wat itself had been removed except for one monastery

1 that had been used by the Khmer Rouge for security. I saw cuts
2 and holes in the wall. In front of the temple, there were about
3 100 to 150 pits. I saw these both in early 1979 and at the end of
4 1979. Some pits had five bodies and some others contained 50 to
5 100 bodies. The pit sizes range from about 2 metres by 2 metres
6 to 5 metres by 5 metres. The pits were not there when I left the
7 wat in April 1976. So they had to have been created between April
8 1976 and early 1979.

9 "The area in which the pits were located has since been used for
10 plantation. The remains that have been collected are just a
11 portion of the bodies buried there. The remains in the stupa at
12 Wat Au Trakuon are only about three-tenths of the total number of
13 bodies that were there."

14 [10.11.00]

15 Witness, he said a number of things in that statement, but what's
16 your comment in relation to that statement? Does it seem accurate
17 to you, inaccurate? Can you give us a comment about what he saw?

18 MR. KOPPE:

19 I object to this question, Mr. President. He just said that he
20 didn't actually look into it, he has no knowledge. He's not in
21 the position to confirm this statement. He can give a comment; I
22 don't have a problem with this. But we just established that that
23 would be -- what he's asking -- the Prosecution -- is beyond the
24 realm of his knowledge. So I don't think that is a fair question.
25 Comments, fine. But not on the specifics.

1 [10.11.47]

2 QUESTIONING BY MR. SMITH:

3 Your Honour, I haven't asked him about the specifics. I just
4 asked his reaction, whether he felt it was accurate or
5 inaccurate. He clearly knows a lot about the pits there because
6 he went there.

7 Q. Rather than have a debate, can you please comment on what Chea
8 Maly said?

9 MR. PRESIDENT:

10 Witness, please hold on.

11 (Judges deliberate)

12 [10.12.38]

13 MR. PRESIDENT:

14 The objection raised by the defence counsel for Nuon Chea is
15 overruled. The question is permissible. And Mr. Witness, please
16 respond to the last question put to you by the Deputy
17 Co-Prosecutor.

18 MR. TAY KOEMHUN:

19 A. I do not make any contact or discuss any matter with the
20 commune chief regarding the pits or the number of pits. So I do
21 not know the actual number of pits there.

22 BY MR. SMITH:

23 Q. Thank you. But you did go to the wat. You testified that you
24 went to the wat to see the pits; that's correct, isn't it?

25 MR. TAY KOEMHUN:

1 A. Yes, I went to the wat in order to prepare for the religious
2 ceremony but not to pay particular attention to the pits. I went
3 to actually clean up the area to pile the broken materials there.
4 [10.14.05]

5 Q. Just one last question, Your Honour. Witness, you talked about
6 the stench of corpses, human bodies. Do you know whether bodies
7 were removed from the wat, from those pits? Were there any
8 exhumations of those bodies, taking them out of the pits?

9 A. The remains were gathered and stored at the stupa which is
10 located just in front of the temple. And actually, the fund for
11 building the stupa was from Excellency Mao Pirum and the current
12 Prime Minister.

13 MR. PRESIDENT:

14 Thank you, Co-Prosecutor. It is now appropriate for a short
15 break. We take a break now and return at 10.30.

16 Court officer, please assist the witness during the break time at
17 the waiting room for witnesses and civil parties, and invite him
18 as well as the duty counsel back into the courtroom at 10.30.

19 (Court recesses from 1015H to 1031H)

20 MR. PRESIDENT:

21 Please be seated.

22 The Court is now back in session and the floor is given to the
23 International Deputy Co-Prosecutor to resume his line of
24 questioning. You may now proceed.

25 BY MR. SMITH:

1 Thank you, Mr. President. Good morning again, Witness.

2 Q. I'd like to move to a different topic. The topic is the Cham
3 population in Peam Chi Kang commune and the Angkor Ban commune.

4 So the first question is: when the Khmer Rouge took control of
5 your area, your commune, were there Cham living in Peam Chi Kang
6 and Angkor Ban communes?

7 MR. TAY KOEMHUN:

8 Yes, there were Cham people there in Peam Chi Kang commune.

9 [10.33.20]

10 Q. In that commune -- I know there's a number of villages -- but
11 can you give an estimate of how many families lived in the
12 commune when the Khmer Rouge came to your area? Just an estimate.

13 A. I do not know how many of them living in that commune.

14 Q. Okay, say maybe in your -- in your village Sambuor Meas
15 village A. In the village that you lived, in your statement, you
16 said that there were Cham that were brought into your village to
17 live. Is that correct, during the Khmer Rouge period?

18 A. Yes, that is correct. During the Khmer Rouge period, Cham
19 families were brought to the village.

20 Q. And where did those Cham families come from?

21 A. I do not know where they were from.

22 Q. And why were they brought to your village?

23 A. I do not know why they were brought to my village.

24 Q. Were other people brought to your village after the Khmer
25 Rouge took control of Cambodia, Phnom Penh in 1975? Were other

1 people brought there, as well as the Cham?

2 A. There were people from Phnom Penh who were also brought into
3 that village.

4 [10.36.12]

5 Q. And about how many Cham people were brought into the village?
6 How many families? How many individuals? If you can give us an
7 idea, in your village, how many came to it?

8 A. I do not know, Mr. Co-Prosecutor, about the number of families
9 who had been brought in.

10 Q. Mr. Witness, thank you for the answer. We certainly don't want
11 you to guess any answer. Only tell us what you know. Thank you.

12 Now, when those Cham were brought into your village during the
13 Democratic Kampuchea period, what happened to them?

14 A. During the Democratic Kampuchea period, Cham people did not
15 create any activities. They were living normally as Khmer people
16 were.

17 Q. Did the Cham people in your village stay there or were they
18 taken away?

19 A. Could you repeat your question once again, I could not get it?

20 [10.38.10]

21 Q. Did the Cham people that were brought to your village during
22 the Democratic Kampuchea period, did they stay there throughout
23 and were they there still in 1979, 1980, or did they leave or
24 were they taken away during that period?

25 A. During that period, Cham people had been living in the

1 village. Regarding them, I do not know. I was living in Kaoh
2 Touch. I would return to my village once in every three months or
3 two months. Once in a while, I would return home. I do not know
4 where they were taken to.

5 Q. So are you saying that they were taken away during the
6 Democratic Kampuchea period? I understand you're saying you don't
7 know where they were taken to, but are you saying that they were
8 taken away from your village during that period?

9 A. I do not know about that. I was living and working in the rice
10 fields in Kaoh Touch. I would return once in every two or three
11 months. I do not know where they were evacuated, where they were
12 sent to.

13 [10.40.20]

14 Q. In 1979 when the Khmer Rouge were defeated, those Cham were no
15 longer in your village. Is that what you're saying?

16 A. Yes, that is true. It is my statement.

17 Q. If I could just refresh your memory with what you told the
18 investigators a few years ago in relation to this topic, the Cham
19 in your village. And I refer to E3/5257, English, 00251019;
20 Khmer, 00243106; and French, 00342671. You were asked this
21 question by the investigator and this what he's recorded you as
22 saying:

23 "Did they arrest the Cham people in the group that had evacuated
24 from Phnom Penh?"

25 And you said: "They arrested that group on sight. The Old People,

1 like me, were not arrested, and the New People were the same.

2 Only the Cham people were arrested."

3 Does that refresh your memory as to what you told the

4 investigator a few years ago?

5 A. I never said about the arrest of Cham people. I do not know

6 about that. I never stayed and lived in my village. I was

7 assigned to work in the field and plough the field. I have no

8 idea about the arrest of Cham people.

9 [10.43.05]

10 Q. You testified earlier that you lived in the Angkor Ban commune

11 until 1972 and then you moved to Sambuor Meas Village A, and

12 you'd been living in that village from 1972 till now. And then

13 you also said that you moved to Peam Chi Kang for a while, in

14 your statement you say for about one year. And you also said that

15 when you were in Peam Chi Kang, you would eat at the dining hall

16 in Sambuor Meas Village A. So your evidence is that you've

17 testified that you were living in Sambuor Meas village. So, is

18 that correct? That's where you were living for most of the time

19 during the Democratic Kampuchea period. That was your evidence.

20 A. During the evacuation time, I may have confused. After the end

21 of the regime in 1979, I was told that Pol Pot would come back to

22 control the country, for this reason I, together with my family,

23 went to live in Peam Chi Kang district. During the interview,

24 perhaps I had just recovered from my illness. I did not stay in

25 Peam Chi Kang. I was assigned to live and evacuated from the

1 pagoda. I was staying around seven kilometres away from the
2 pagoda.

3 [10.45.35]

4 Q. I won't discuss with you about that, because the information
5 you've given is in your statement. But what I would like to talk
6 about is the arrest of Cham in other parts of Peam Chi Kang
7 commune. Not the arrest of the Cham in the village that we just
8 talked about, but the arrest of Chams in other areas. Did you see
9 Cham people being arrested when you were out working during that
10 period?

11 A. I never witnessed it, because as I said, I was working and
12 living on another site of the river. I did not know about the
13 arrests. I did not see it.

14 Q. In you statement, you talk about the job of pedalling water. I
15 think one of your jobs was to pedal water. Can you tell the Court
16 what pedalling water, what that activity is, please?

17 A. Regarding the water wheel, I had to pedal the water wheel in
18 order to bring the water into the rice field.

19 Q. When you were doing that, did some Cham people help you do
20 that or do that at the same time that you were doing it?

21 A. No Cham people were working in that field.

22 [10.47.48]

23 Q. Thank you. Perhaps if I could put a statement that you made to
24 the investigators a few years ago and the one that you read
25 before you came into Court, about what you said about this topic.

1 And I'd like you to comment on that please.

2 Your Honours, it's the same statement, E3/5257 at English,
3 00251019 to 20; Khmer, 00243106; and French, 00342671. And this
4 is what you told the investigator that you said was basically
5 true this morning:

6 "Sometimes when the Cham went to pedal water, security followed
7 them and arrested them there." Question: "What year did they
8 arrest the Cham?"

9 "It was probably in 1976, because the security office inside that
10 pagoda was created in 1976. In 1975, there were still solidarity
11 teams."

12 And then you were questioned: "Do you know why they arrested the
13 Cham?"

14 And you said: "I don't know." You said "No one dared ask about
15 the arrests."

16 The question was put: "Did the arrest of the Cham happen just one
17 time or many consecutive times?"

18 And you answered: "They arrested the Cham successively. Sometimes
19 they followed and arrested the Cham at the ploughing sites."

20 "How did you know" -- this is a question -- "How did you know the
21 Khmer Rouge" -- sorry, I'll repeat. "How did the Khmer Rouge know
22 they were Cham?"

23 And you said: "They had them speak first. For instance, they had
24 me raise my hand and speak, so they were able to know who was
25 Cham and who was not."

1 So my question is: that's what you've told the investigator, is
2 that true?

3 [10.51.02]

4 A. I don't think it is completely correct. While I was ploughing
5 the fields, Cham people were arrested. At that time, they thought
6 I was a Cham person. They pointed the weapons to my neck and at
7 that time, they realized I was Khmer and they left, they went
8 away. It was not during the time that I was working in the
9 fields, it was at a worksite.

10 Q. So you did see the arrest of Cham; is that correct?

11 A. Yes, I saw a few Cham, two or three were arrested at that
12 time.

13 Q. In your statement, you say that they arrested the Cham
14 successively. Did they arrest a lot of Cham over a period of time
15 that you saw?

16 A. I saw two or three Cham people were arrested at that time. It
17 was scary at the time and I did not dare to look at the people
18 who came to arrest the Cham.

19 Q. And what did they do with the Cham that they arrested?

20 A. These Cham people were taken to plough the field.

21 Q. Once those Cham were arrested, did you see them again?

22 A. I saw who? Sorry, Mr. Co-Prosecutor.

23 [10.53.58]

24 Q. Once those Cham who were arrested in the fields, did you ever
25 see them again?

1 A. Yes, I saw them back.

2 Q. And have you seen them, are they alive today, do you know?

3 A. I do not know because they had been arrested.

4 Q. Thank you. Earlier you were asked a question about whether or
5 not you saw people being arrested from a boat, and you said that
6 you hadn't seen anyone arrested or any prisoners on a boat. I'd
7 like to put to you what you said in your statement. And this is
8 E3/5257, at English, 00251016; Khmer, 00243102 to 03; and French,
9 00342667. This is what you said to the investigator:

10 "I saw them arrest more prisoners and take them off boats."

11 Question: "Did you see arrests often?"

12 "Sometimes I saw them, sometimes I did not see them."

13 "How many times did you see them being taken off boats?"

14 And you said: "Once."

15 [10.56.19]

16 "How did you know they were prisoners?"

17 And you said: "They talked about it in the dining hall."

18 Question: "Did those people have their arms tied?"

19 Answer: "Yes, they were tied."

20 Question: "How were they tied?"

21 Answer: "Their arms were tied behind them."

22 Question: "Were there men, women or children?"

23 Answer: "There were men, women and children."

24 And then question: "Were there any small children?"

25 And answer: "Yes, there were small children. All the people saw

1 this because there were hundreds of them at mealtime."

2 Does that refresh your memory now that you did in fact see people
3 being arrested off the boat?

4 [10.57.24]

5 MR. PRESIDENT:

6 Please wait, Mr. Witness. You may proceed, Mr. Koppe.

7 MR. KOPPE:

8 I would appreciate it, Mr. President, if the Prosecution would
9 also read the next sentence of that statement. I'd be happy to do
10 it for him.

11 "When you saw those prisoners, were there any Cham?"

12 Answer: "I don't know."

13 BY MR. SMITH:

14 Thank you, Counsel. This event wasn't put forward to discuss
15 whether or not the Chams were arrested; it was in relation to
16 people being taken to Wat Au Trakuon security centre.

17 Q. So, Witness, do you now remember that you saw people taken off
18 a boat or do you not know?

19 MR. TAY KOEMHUN:

20 I do not know if they were taken off boats.

21 [10.58.43]

22 Q. Mr. Witness, now I'd like to ask you some questions about your
23 role as militia during the Democratic Kampuchea period. Did you
24 work as a militia in the Long Sword Group during that period?

25 A. I was not a militiaman. Back then, I was assigned to plough

1 the field at Sangkae Ou Phdau (phonetic). And at that time, the
2 militiamen called me to be a soldier. So I followed the
3 militiaman and they pointed the gun at me. My wife and my child
4 were crying because they thought I would die. I was allowed to
5 spend a night when I arrived and I was asked the day after how
6 many siblings I had. I told them that I had five siblings, and
7 they asked me about my relatives, cousins, and uncles and aunts.
8 I told them that I had about 20 relatives, aunts and uncle and
9 cousin. After hearing this, they closed the book, and I was
10 assigned to harvest rice.

11 [11.00.47]

12 Q. Were you part of the sub-district militia or were you part of
13 a group called the Long Sword militia? Were you in either one of
14 those militia groups?

15 A. No, I was in neither. Actually, I was tasked to harvest the
16 rice.

17 Q. Thank you. Do you know -- have you ever heard of a group of
18 militia back in the Democratic Kampuchea operating in your
19 commune called the Long Sword Group?

20 A. Yes, I heard people talking about it. However, I did not know
21 about the activities that the group involved in.

22 Q. And you're sure about that. You were never in the Long Sword
23 Group, is that right?

24 A. Yes, that is the truth.

25 Q. And is it also the truth that you have no knowledge of what

1 the Long Sword militia group did.

2 A. Please repeat your question.

3 Q. Is your evidence that you didn't know what the Long Sword
4 Group did as militia in your area in Democratic Kampuchea?

5 A. That is correct. I did not know what they did during the
6 regime.

7 [11.03.40]

8 Q. You were also asked about this topic by the investigator from
9 the ECCC when you spoke to him a few years ago, and some answers
10 on this topic are recorded in your statement. I'd like to read
11 those answers back to you and ask you to comment about it. Your
12 Honours, it's E3/5257, at English, 00251018; Khmer, 00243104 to
13 05; and French, 00342669. And this is the question that was asked
14 to you, Mr. Witness:

15 "Do you remember the Long Sword militia?"

16 Answer: "Yes. There was one."

17 Question: "Were you in the Long Sword team?"

18 Answer: "Yes, I was in that team. They divided the Long Sword
19 team into many teams which were responsible for various works."

20 "Who arrested the people?"

21 The answer: "The security unit."

22 "Were those security personnel in the militia?"

23 Answer: "They called that group security soldiers."

24 Question: "Did the Long Sword Group have the job of arresting
25 people?"

1 Answer: "At that time, the Long Sword Group was divided into
2 teams. Some teams ploughed the fields and some teams did secret
3 work."

4 [11.05.52]

5 Mr. Witness, is that the truth, what I just read out to you? That
6 you did know about the Long Sword militia and you were in the
7 Long Sword militia?

8 A. Yes, the Long Sword Group was subdivided into smaller groups.
9 As for me, because of my not-so-good background, I was tasked to
10 guard the rice barn. And I was briefly later on I was reassigned.

11 Q. So now you're saying that you were in the Long Sword militia
12 group; is that correct?

13 A. Yes, it's correct. However, I did not involve in any activity
14 of the group that was tasked to guard the rice barn. Although the
15 other sub-teams were based not far from where I guard the rice
16 barn and I was not given any long sword to carry.

17 [11.07.30]

18 Q. And Witness, just a few more questions, because time is short,
19 you also said in that statement at E3/5257, English, 00251081 to
20 19; Khmer, 00243105; and French, 00342670; you said in answer to
21 this question "Who was your direct superior in the militia?" And
22 you said, "Doeun". Is that correct, was Doeun your direct
23 superior in the Long Sword militia?

24 A. I only heard of Doeun, but I did not know what he looked like.

25 Q. But was he your superior?

1 A. No, he's not. It was a different one. And actually, I was by
2 myself at the rice barn. As for Ta Doeun, I only heard of his
3 name and he was at a different location.

4 Q. I just have two last questions. I want to put these two
5 statements to you and I would you to respond. A witness Sen Srun
6 has testified in this Court and has given a statement E3/5252,
7 English, 00235517; Khmer, 00235021; and French, 00269891; Sen
8 Srun was asked this question:

9 "Could you tell me who at the time was the chief of the Long
10 Sword?"

11 [11.10.15]

12 He answered: "The chief name Chay and his deputy was Tay
13 Koemhun." And Tay Koemhun, he states, was the chief of the
14 committee at the Au Trakuon pagoda.

15 "What type of persons were Chay and Koemhun?"

16 "From 1975 to 1979, they were the leaders of the Long Sword
17 militias."

18 What's your comment in relation to that statement?

19 A. I did not meet with Srun, and Srun was a soldier. And since
20 then, I did not have any contact with him. Whatever he said is
21 not correct. I did not do that. I was not even a member of the
22 militia, but on the contrary, Srun was a soldier, and of course,
23 I am not his superior.

24 Q. And one last statement I'd like to put and, again, this has
25 been said by Sen Srun in one of his statements, and it's at

1 E3/5302, English, 00210488; Khmer, 00635176; and French, 00623191
2 to 92. And Sen Srun answered this question in relation to the
3 gathering up of Cham people.

4 [11.12.26]

5 MR. PRESIDENT:

6 Please hold on, Mr. Prosecutor. Counsel Kong Sam Onn, you have
7 the floor.

8 MR. KONG SAM ONN:

9 I do not get the ERN number of that document in the Khmer
10 language.

11 MR. PRESIDENT:

12 Deputy Co-Prosecutor, please provide the document and the ERN of
13 the Khmer document.

14 MR. SMITH:

15 Sorry. 00635176. And Sen Srun is answering a question in relation
16 to the gathering up of Cham people.

17 "The person who told me to gather them up was Hoeun, who was my
18 unit chief. He was a local and still lives in this area in
19 Sambuor Meas Kha. Hoeun ordered me to gather the Cham and take
20 them to the wat. I didn't know what their plan was, but I was
21 told that Cham people were a different race and had to be
22 smashed, and that if we kept them, they would rebel against us
23 some time. The person who told me this was the commune security
24 chief, whose name was Tay Koemhun. He is still alive and lives in
25 my village."

1 [11.14.01]

2 MR. PRESIDENT:

3 The Deputy Co-Prosecutor, please hold on, and the defence counsel
4 for Khieu Samphan, you have the floor.

5 MS. GUISSÉ:

6 Yes, I would like to object to the manner in which the document
7 is being presented. I do not deny the fact it is a factual
8 document, but Sen Srun did come back on his statement when he
9 testified and we have a more recent testimony. And in all
10 fairness, to confront this witness with the testimony of another
11 witness, you need to present both documents, both statements.
12 What Sen Srun said in his statement is different from what he
13 said during his testimony.

14 [11.15.06]

15 BY MR. SMITH:

16 Yes, Mr. President, what was quoted was one particular statement.
17 I will tell the witness that at a later time, in another
18 statement, he said that you did not tell him the reason why Cham
19 were being arrested. So he's taken that statement away at a later
20 point in time. But what I'd like to -- and that's what he
21 testified to, that he can't remember saying that.

22 Q. But my question is: In relation to that statement, that first
23 statement that he gave about you telling him that the Cham people
24 were a different race and needed to be smashed, did you say that
25 or not, to Sen Srun?

1 MR. TAY KOEMHUN:

2 No, I did not say it.

3 [11.16.04]

4 Q. Thank you. And my last question: Mr. Witness, isn't it true
5 that the Long Sword militia and Peam Chi Kang commune was
6 responsible for the arrests of Cham and other people, other New
7 People or other people that were detained at Wat Au Trakuon
8 pagoda? Wasn't it the Long Sword militia that had the
9 responsibility, and, in fact, made those arrests in your commune
10 in Democratic Kampuchea?

11 A. I have already testified that I did not live in the village.
12 For that reason, I was not aware of that event. I did not know
13 about the arrest of the Cham people or the New People. I spent my
14 time in the plantation, growing vegetables or other plants, and I
15 stayed there and I slept there and I did not enter the village.

16 MR. SMITH:

17 Thank you, thank you, Mr. Witness. Mr. President, I took an extra
18 five or six minutes or 10 minutes, in fact, over what was agreed
19 to with the civil parties, so I would ask that if the civil
20 parties could have an extra five minutes or 10 minutes to present
21 their submissions -- or their questions. Thank you.

22 [11.18.05]

23 MR. PRESIDENT:

24 The Lead Co-Lawyers, you may proceed.

25 MR. PICH ANG:

1 Thank you, Mr. President. Marie (sic) Jacquin is the assigned
2 counsel to put questions to this witness. Thank you.

3 QUESTIONING BY MS. JACQUIN:

4 Good morning, Mr. President. Good morning, Your Honours. Good
5 morning, the Prosecution, defence counsels, civil parties and the
6 public. Good morning, Witness. My name is Martine Jacquin, civil
7 party lawyer. And I thank you in advance for answering my
8 questions.

9 Q. First question: You stated and confirmed a while ago that you
10 lived very close to the pagoda. And when you said so in your
11 interview a few years ago, you explained that you lived below the
12 house in a sector which was not a public sector, because you were
13 a member of the security office; is that correct?

14 [11.19.14]

15 MR. PRESIDENT:

16 Witness, please hold on. Counsel for Khieu Samphan, you have the
17 floor.

18 MS. GUISSÉ:

19 This is not an objection, Mr. President. I just wish to ask for a
20 reference to the interview counsel is referring to.

21 MS. JACQUIN:

22 It is E3/5257, ERN KH00342101; the ERN in English, 00241015; and
23 00251016 in French; and 003426 and 65.

24 MR. PRESIDENT:

25 Judge Lavergne, you have the floor.

1 JUDGE LAVERGNE:

2 Yes, I have indeed noted the references. I am not sure of the
3 location you are referring to you. You have to specify that. I
4 have the impression that when the witness was interviewed in
5 E3/5257, he referred to Peam Chi Kang, and not where he was,
6 close to the pagoda.

7 [11.20.43]

8 MS. JACQUIN:

9 Mr. President, I would like the witness to clarify that
10 particular situation.

11 MR. PRESIDENT:

12 Counsel, please make sure you speak a bit far from the
13 microphone, maybe 20 centimetres. Please provide the correct ERN
14 number in the Khmer language. It is not clear and incorrect.
15 Please make sure that you are well prepared when you proceed with
16 your questioning. Otherwise, the additional time that you
17 requested is not worthwhile.

18 [11.21.34]

19 BY MS. JACQUIN:

20 Q. Thank you, Mr. President. The witness confirmed a while ago
21 that he lived at a point in time close to the pagoda. In his
22 prior statement, whose reference I gave a while ago, he stated
23 that he was authorized to live in that sector because it was
24 indeed the sector called Peam Chi Kang, because he was a member
25 of the security service. I would like him to clarify both

1 situations.

2 MR. TAY KOEMHUN:

3 A. The fact that I was asked to leave my home because that house
4 was used for the security force and civilians were prohibited
5 from entering the area. The area was guarded by soldiers. Anyone
6 who breached the ban would be shot dead.

7 MR. PRESIDENT:

8 Counsel for the civil parties, you have been reminded to speak at
9 a 20-metre distance from the microphone. And the National Lead
10 Co-Lawyer, the Cambodian one, Mr. Pich Ang, please remind your
11 counsel when she speaks too close to the microphone, the echo is
12 too strong for the interpreter to provide a proper
13 interpretation.

14 [11.24.01]

15 BY MS. JACQUIN:

16 Q. Witness, a while ago you said that your family consisted of
17 about 25 persons and that you had five brothers and sisters
18 today. How many of those people are still alive?

19 MR. TAY KOEMHUN:

20 A. Are you asking about my blood siblings?

21 Q. I am talking of the family you mentioned in your biography,
22 and you gave further information regarding your family members,
23 those are the persons I'm referring to.

24 A. There are several members of my relatives -- close and
25 distance relatives -- who are living today and who survived the

1 regime.

2 Q. You were age 25 during the Democratic Kampuchea regime. You
3 were a rice farmer, you were one of the old persons and your
4 situation was not very difficult given the political regime in
5 place at the time; is that correct?

6 [11.25.48]

7 A. No, that is incorrect. My life was miserable living under the
8 regime. The only food we ate was gruel compounded by hard manual
9 labour.

10 Q. You stated that when they came to fetch you, your wife and
11 child were crying. My question to you is: Why were they so
12 worried? And how many of you were called to be members of a group
13 representing the village?

14 A. I did not know whether I was called to be part of the soldier
15 of the team, because everybody knew that if people were called to
16 go to Au Trakuon pagoda, it means their fate would be sealed
17 there.

18 [11.27.17]

19 Q. You stated in document E3/5257, ERN in Khmer, 00243101; ERN in
20 English, 00251014; ERN in French, 00342663; you made the
21 following statement:

22 "How come you were able to see prisoners being accompanied while
23 you were in Peam Chi Kang?"

24 You said: "I lived in Peam Chi Kang and I had to eat in that
25 place and that is why I was able to witness that event."

1 Question: "Did you recognize the prisoners in question?"

2 "I recognized some of them, including my cousin."

3 "Can you give us the names of those prisoners?"

4 "Yes. They were Thol, my adopted brother, Lim Srun, my cousin.

5 These two men were arrested with their families and children.

6 Another cousin of mine was called You Hao. I had seen many other

7 prisoners being arrested. These persons had alighted from a

8 boat."

9 These persons were not from the boat, but they are prisoners you

10 recognized and you were able to give their names. What happened

11 to them? Did you see them again on the day of that arrest, and in

12 particular, did you see your cousin?

13 [11.29.20]

14 A. I did not know what happened to them since we were at

15 different locations. While I was having a meal, I saw them being

16 walked, so I stopped eating my meal and I left the dining hall.

17 Q. Can you specify where they were being taken to?

18 A. They were taken to the pagoda.

19 Q. And since the moment when they were arrested, did you see them

20 between the time they were arrested and the end of the DK regime?

21 A. No, it is very likely that they had been killed.

22 Q. So you saw a certain number of people, men, women, children

23 enter this pagoda. So when you were in the communal dining hall

24 afterwards, did you sometimes hear the children shout or play?

25 A. No, I did not.

1 MR. PRESIDENT:

2 The assigned counsel for civil parties, how much more time do you
3 anticipate that you need to put questions to this witness?

4 [11.31.18]

5 MS. JACQUIN:

6 Mr. President, 10 extra minutes, which was, in fact, what was
7 scheduled.

8 MR. PRESIDENT:

9 Yes, the Chamber will grant you the 10 additional minutes.

10 However, you may resume in the afternoon, since it is now our
11 lunch break. The Chamber will take a lunch break now and resume
12 at 1.30.

13 Court officer, please assist the witness at the waiting room for
14 witnesses and civil parties during the lunch break and invite
15 him, as well as the duty counsel, back into the courtroom at
16 1.30.

17 Security personnel, you are instructed to take Khieu Samphan to
18 the waiting room downstairs and have him returned to attend the
19 proceedings this afternoon before 1.30.

20 (Court recesses from 1132H to 1331H)

21 MR. PRESIDENT:

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

23 And representative for civil parties have the floor now.

24 BY MS. JACQUIN:

25 Thank you, Mr. President. Thank you, Witness for answering a

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1 question I'm going to put to you. I would like to get back to
2 what you explained earlier which is that when they came to take
3 you, your wife and child were crying because generally when
4 people were being taken to the pagoda they would be executed but
5 for you it was to be recruited as a militiaman, so do you agree
6 with that?

7 MR. TAY KOEMHUN:

8 A. No, I was told that I would become a soldier or a military
9 man.

10 Q. You also told us that you were very afraid when two soldiers
11 had pointed their guns at you, whereas you were in the rice field
12 if I remember, because they thought that you were Cham.

13 A. I -- they said I was Cham and they pointed their guns at me
14 and then I heard people say I was Khmer not Cham. I was so afraid
15 at the time and I was even releasing myself in the field.

16 Q. So had you been Cham, what would have happened to you?

17 [13.33.52]

18 MR. PRESIDENT:

19 Mr. Witness, you do not need to respond to the question because
20 it is a hypothetical question.

21 BY MS. JACQUIN:

22 Q. Why were you so afraid of being taken for a Cham?

23 MR. TAY KOEMHUN:

24 A. At the time I was ploughing the field with Cham workers. While
25 I was collecting the grass and carrying it on my head, they

1 pointed their guns at my neck and I was so afraid at that time I
2 told them that I was not Cham I was Khmer person, after hearing
3 that they went away.

4 Q. Can we say that back then it was very dangerous to be Cham?

5 A. If I had been a Cham person, I would have been in the same
6 situation as Cham people had.

7 Q. We recalled earlier the people that you knew, the people that
8 you saw enter the pagoda and among these people there was your
9 adopted brother, I'm looking for his name now, there was your
10 cousin as well and you also said that you thought that they had
11 been executed, were these people thieves, were these people
12 murderers, would that warrant their execution?

13 A. That person was an innocent one. He was not part of the thief
14 group.

15 [13.36.55]

16 Q. So why, according to you, were these people taken away to be
17 executed, entire family such as your family, Thol, Lim Srun, your
18 cousin Deus (phonetic), You Hao, also with children, if they were
19 not criminals, why were then taken to the pagoda?

20 MR. PRESIDENT:

21 Please do not respond to that question because the witness is not
22 entitled to draw any conclusion.

23 BY MS. JACQUIN:

24 Q. Thank you, Mr. President. I would like to know if the witness
25 saw people coming out of the pagoda since he saw people coming

1 into the pagoda.

2 [13.38.10]

3 MR. TAY KOEMHUN:

4 A. Later on I was not staying in the village; I did not -- I no
5 longer stayed in my house. I was reassigned to work in the forest
6 growing pumpkins and other vegetables. I was working in a
7 cooperative and I would return home once in a month. I have no
8 idea whether the prisoners were released from that centre
9 afterwards.

10 Q. When you were eating in the communal hall next to the pagoda,
11 did you see supplies coming in for the prisoners. For example
12 would they bring in meat and vegetables and rice, since they
13 brought in prisoners?

14 A. No, I have never seen it. No, I have never seen.

15 Q. When you were recruited, could you have refused to become a
16 Long Sword person, what happened if you had refused to join the
17 Long Sword unit?

18 MR. PRESIDENT:

19 Please hold on Mr. Witness. You have the floor now, Counsel Anta
20 Guissé.

21 MS. GUISSÉ:

22 Yes, Mr. President, I object to the second part of this question.
23 No problem regarding the first part but the second part, yes I do
24 have an issue.

25 [13.40.14]

1 MR. PRESIDENT:

2 The objection is right. Parties -- rather witness is not entitled
3 to respond to a hypothetical question. Counsel for civil parties,
4 please make your questions simple and short so that the witness
5 can understand and provide the right responses. There's no
6 benefit to contribute to the truth if the questions are too
7 complicated.

8 BY MS. JACQUIN:

9 Thank you, Mr. President, so I will rephrase my question. Thank
10 you, Mr. President, as I said I will rephrase my question in
11 simpler terms.

12 Q. Did you have the possibility of refusing to become a member of
13 the Long Sword unit when they came to look for you?

14 [13.41.25]

15 MR. TAY KOEMHUN:

16 A. I was reassigned to go and harvest rice. I was not part of the
17 Long Sword Group but I was staying close to that group and at the
18 time I was tasked with harvesting rice. I was not included in
19 that so-called Long Sword Group. I would have died if I refused
20 to go harvest rice. During that regime it was a dictatorship and
21 I would have been killed if I refused the assignment.

22 Q. Did you wear the black uniform?

23 A. I wore normal clothes. Sometime I wore black clothes and on
24 other some occasion I would wear blue or light blue clothes.

25 Q. When you were living in the same region, because you

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1 apparently lived always in the same region and there were many
2 Cham people in the villages there, were the Cham richer than the
3 other Cambodians?

4 A. What you're asking? You want to know whether Cham people at
5 the time were well-off.

6 Q. Yes, I want to know if the Cham were rather wealthier than the
7 other people in the villages.

8 [13.43.37]

9 A. I have no idea whether Cham people are better off in terms of
10 wealth. I did not know Cham people at the time; I did not whether
11 they had better living condition than Khmer people at the time.

12 Q. But when you were young, in the villages it was already
13 possible to identify the Cham people because the women had long
14 hair and they wore head scarves and they didn't speak the same
15 language. So in the village you obviously met Cham people.

16 MR. PRESIDENT:

17 Please hold on, Mr. Witness. You have the floor now, Counsel Anta
18 Guissé.

19 MS. GUISSÉ:

20 Yes, I have a problem regarding the way the questions are put.
21 Before explaining how he was able to recognise Cham people maybe
22 it would have been better to have the witness speak about how it
23 was possible to recognise Cham people so in order to allow the
24 witness to explain that to us and not the Counsel.

25 [13.45.17]

1 BY MS. JACQUIN:

2 Mr. President, it is not the same question. I did not ask the
3 witness how it was possible to identify the Cham, we already
4 spoke about that in the past, I was putting another question to
5 him which is, were there already Cham people in his village and
6 if he knew them because they obviously were clearly identifiable.

7 MR. PRESIDENT:

8 Mr. Witness, you are instructed to give the response to this
9 question.

10 MR. TAY KOEMHUN:

11 A. There were no Cham people in my village before the Khmer Rouge
12 period. I had not known any Cham people before that time because
13 Cham people were living in a village different from mine.

14 BY MS. JACQUIN:

15 Q, So, the Cham people who came into your village, did they
16 arrive as refugees from other regions or maybe even as refugees
17 coming from Phnom Penh?

18 [13.46.51]

19 MR. TAY KOEMHUN:

20 A. I do not know whether they from Phnom Penh or from elsewhere.

21 MR. KONG SAM ONN:

22 So, I would like to suggest Lawyer for civil parties to specify
23 the time period. It is not clear to the witness in the Khmer.

24 BY MS. JACQUIN:

25 I thank the defence lawyer for explaining to me how I should put

1 questions. But I consider that I have full freedom to put
2 questions the way I think about them and my references are very
3 specific. In certain cases before or after the DK regime and the
4 witness answered to us that there were no Chams in his village
5 before and that they were in another village. So I'm going to put
6 another question to him.

7 [13.47.54]

8 Q. After the capture of Kampong Cham, were you worried to see new
9 refugees arrive in your village?

10 MR. TAY KOEMHUN

11 A. No worry, no worry for me. At that time I did not know why
12 they were sent into my village so I had no worries.

13 Q. You said to us that during the DK regime, life was very
14 difficult for you and that you practically had nothing to eat. So
15 didn't you think that these Cham refugees who were arriving on top
16 of the others were also going to eat up the rice that was there,
17 the little food that you had, did this somehow concern you?

18 A. I had no worries at that time. I was under the regime's hands
19 and I was not the one who organised the food supply or anything
20 at all so it depended on them, the regime leadership.

21 Q. Why then, were you so afraid when the militiaman thought that
22 you were Cham?

23 [13.50.02]

24 A. I could not get your question about Cham people that I was
25 afraid of, so could you ask it again?

1 Q. No, I did not say you were afraid of the Cham, I said that you
2 were very afraid when the guards pointed their machine guns at
3 you thinking that you were Cham, so why were you so afraid then?

4 A. If they confuse to me with a Cham person I would have been
5 killed. I would be killed if they thought I was Cham.

6 Q. So now I would like to get back to your cousin who you saw was
7 taken away to the pagoda when you were at the communal hall. You
8 also saw Son (phonetic) Thol your adopted brother, Lim Srun your
9 cousin and their families and their children and another cousin
10 by the name of You Hao being taken away. So were they Cham?

11 A. They were Khmer people.

12 [13.51.42]

13 Q. So why were they then taken away to the pagoda, where you said
14 that they never returned.

15 A. I do not get your question Counsel.

16 Q. Why were they taken to the pagoda if they were not Cham?

17 A. I do not know Counsel. I do not know why they were arrested. I
18 was shocked and surprised to see my relatives were arrested. I do
19 not know why.

20 Q. You also saw other families with women and children coming
21 into the pagoda, so was it possible to know that they were Cham?

22 A. While I was having meal, I noticed there were Khmer people, my
23 correction, I was having watery gruel at the time. Khmer people,
24 I would see Khmer people being walked.

25 Q. You saw therefore Khmer people and Cham people come into the

1 pagoda and you knew that they had been executed in the pagoda.

2 MR. PRESIDENT:

3 Please wait, Witness. You may now proceed, Counsel Kong Sam Onn.

4 [13.54.12]

5 MR. KONG SAM ONN:

6 I have heard the statement of this witness earlier and my
7 objection is that the question is repetitive. Mr. President,
8 could you please look at the time it has been 20 minutes already
9 from the beginning of the first session this afternoon and I may
10 have additional time to put questions to this witness.

11 MR. PRESIDENT:

12 Yes, it is now time so you have no more time, Lawyer for civil
13 party because you spent 20 minutes already. You have no more
14 time, please be seated.

15 Judge Lavergne, do you have any questions to put to this witness,
16 you may now proceed if you have questions.

17 [13.55.13]

18 QUESTIONING BY JUDGE LAVERGNE:

19 Yes, thank you, Mr. President. Indeed I have a few questions to
20 put to this witness.

21 Q. I understood, Witness, from your testimony that during the DK
22 period you were threatened twice with weapons. The first time or
23 once, I don't know if it is in a chronological order, because you
24 were suspected of being Cham and you said there were other Cham
25 people who were working with you on that day. So can you tell us

1 when this happened and where this happened and who threatened
2 you?

3 MR. TAY KOEMHUN:

4 A. The worksite was located at Spean Ou Kandaol (phonetic). I was
5 ploughing the field at that worksite. I have told the Chamber
6 already I was assigned to harvest the grass and then brought the
7 grass for the cows to eat. At the particular time they pointed
8 their gun to me and asked whether I was Cham, I replied I was a
9 Khmer person and after hearing this, they went away. I could not
10 even see clearly those persons faces at the time.

11 Q. You did not see these people faces, but did you inform
12 yourself to know who these people were?

13 A. I do not know who they were. They were young children.

14 [13.57.31]

15 Q. I understood that, but when you are threatened with a gun I
16 think it is legitimate to try to understand who is threatening
17 you, did you ask any questions, did you try to understand or to
18 know who had threatened you with a gun?

19 A. I did not ask them at that time. They went away very quickly
20 after I told them.

21 Q. Okay. But you were not alone in this field, so did you ask the
22 people around you if they had recognised the young people who
23 were bearing those weapons? Did you ask any questions or did you
24 -- this didn't really matter at all for you?

25 MR. TAY KOEMHUN:

60

1 (No interpretation)

2 INTERPRETER:

3 The interpreter could not hear the full answer from the witness.

4 [13.58.28]

5 MR. TAY KOEMHUN:

6 A. I did not ask my co-workers at that time because my co-workers
7 were coming late behind me and I was tending cows under the
8 tamarind tree so I was there alone while I was threatened with
9 the guns.

10 BY JUDGE LAVERGNE:

11 Q. Witness, if I understood well what you said, you said there
12 were Chams on that day in the field, so what happened to the
13 Chams on that day who were with you in the field?

14 MR. TAY KOEMHUN:

15 A. Yes, in fact there were Cham people working with me but they
16 were harvesting grass at the time. They did not come at the same
17 time as me when I was there and threatened.

18 Q. What happened to them did these Chams, who were apparently
19 genuine Chams, endure anything? Did anything happen to them?

20 A. Later on I left the place where the cows were under the tree.
21 Cham people were arrested at the bridge; it was about over 100
22 metres away from where I was harvesting the grass. There were
23 Cham people, there were Khmer people working together.

24 [14.00.48]

25 Q. So the Chams were arrested, how many of them were arrested and

1 when were they arrested?

2 A. They were arrested after lunch perhaps after 12 p.m.

3 Q. I am not asking at what time of the day, I'm asking during
4 what period. Was it when the Au Trakuon pagoda was converted into
5 security centre, was it in 1975, 1976 or 1977? Was it shortly end
6 of the Democratic Kampuchea regime; when was that?

7 A. I cannot recall it. I do not know as to which year that
8 happened. I apologise, Your Honour, I cannot recall it.

9 [14.02.08]

10 Q. Very well, I will insist that you make an effort, Sir, because
11 we need specific information here. You said when you were
12 arrested, they took you for a Cham and you told them that you
13 were not a Cham, you also said that other persons who were
14 present did that you were Khmer. So when you say that you were
15 alone, it is inconsistent with your prior statements. Tell me yes
16 or no; were there other persons with you, close to you when you
17 were threatened with a weapon?

18 A. It was the group that came to arrest me and that's what is
19 said.

20 MR. PRESIDENT:

21 Counsel Kong Sam Onn, you have the floor.

22 MR. KONG SAM ONN:

23 I listened to the summary provided by Judge Lavergne, that the
24 witness was asked whether he was Cham and that he replied that he
25 was Cham -- he was not Cham. However through what I have heard so

1 far no other witness was said about them being a Khmer person and
2 to my understanding it was him who answered the question put to
3 him by those who made the arrest.

4 MR. PRESIDENT:

5 You can note down the response by the witness and you can ask for
6 clarification later when it is your turn. I think this is a
7 standard practice in this Court and Judge Lavergne, you may
8 continue.

9 [14.04.03]

10 MR. KONG SAM ONN:

11 Your Honour, this is a summary of the fact and if it is not
12 proper it may mislead the witness.

13 MR. PRESIDENT:

14 Even if that is case you should note it down and when it is your
15 turn you can seek clarification from the witness.

16 BY JUDGE LAVERGNE:

17 Very well, let me also point out that we have the record and it
18 would enable us to ascertain what is stated by the witness.

19 Q. Mr. Witness, at the time of the events, you had already been
20 enlisted as a soldier or rather as a militiaman, what was your
21 status at the time, were you an ordinary citizen?

22 [14.05.13]

23 MR. TAY KOEMHUN:

24 A. At that time I was an ordinary civilian.

25 Q. Very well. At the time, you said you were working in Spean Ou

1 Kandaol (phonetic) if I noted it correctly, how far was that from
2 the Wat Au Trakuon pagoda or Sambuor, what was the distance?

3 A. From Sambuor Meas village to Ou Kandaol (phonetic), the
4 distance was less than 20 kilometres, however it was over 10
5 kilometres.

6 Q. At the time, what was your domicile, where were you residing?

7 A. My house was located in Sambuor Meas.

8 Q. I haven't quite understood the different places of residences
9 you may had. You said that at a point in time you had to leave
10 your house at Sambuor Meas and you said that you went to Peam Chi
11 Kang. When did you go to Peam Chi Kang?

12 A. My apology, Your Honour. After 1979, due to the security
13 presence in Au Trakuon and after I crossed the river from the
14 other side, that is, after my visit to my family and my children
15 I heard a rumour that the Pol Pot group re-entered the area, for
16 that reason I relocated my family to Peam Chi Kang and that
17 happened in 1979. However, we only stayed for a few nights during
18 that period and in 1977 we were relocated once. However, the
19 relocation area was not far from my original residence, it was
20 about 700 metres only. At that time I was sick for few months.

21 [14.08.04]

22 Q. So, if I understood you correctly, throughout the entire
23 period of Democratic Kampuchea, your place of residence had
24 always been in Sambuor Meas commune. Today you are no longer
25 resident in that commune, since when have you stopped residing in

1 that commune?

2 A. At present I am living in Sambuor Meas. That is Sambuor Meas
3 village.

4 Q. Regarding the second episode in which you found yourself
5 threatened by people with a weapon as they try to enlist you
6 forcibly. You said in the record of your interview, that you were
7 a member of the Long Sword Group and today you're telling us that
8 you are not a member of that group. What is the truth?

9 [14.09.33]

10 A. I was not part of the Long Sword Group, however I stayed near
11 the Long Sword Group. I only stayed there for two months and then
12 I was dissolved due to my not so good biography since about 20 of
13 my family relatives had been smashed. So I stayed there for about
14 two months then I was re-sent to Kaoh Touch, that's when I just
15 said when I had to cross the river to live at the other side and
16 I remained there until the fall of the regime in 1979.

17 Q. Why would they withdraw you from a group, if you were not a
18 member of that group; you said that I wasn't a member of the Long
19 Sword Group, yet I lived with them for two months and
20 subsequently I was withdrawn from the group. If you were
21 withdrawn from the group it means that you were a member of the
22 group, or am I mistaken?

23 A. I was withdrawn from the group because of my tainted
24 background that some of my relatives had been smashed. For that
25 reason I was not allowed to stay at the rice barn anymore and I

1 was relocated to work in the rice fields.

2 [14.11.18]

3 Q. Sir, you were withdrawn from which group?

4 A. I was withdrawn from the task that I was assigned to guard the
5 rice barn and reassigned to cut the rice fields at the
6 cooperative at Kaoh Touch.

7 Q. And when you stood guard at the warehouse, you did so in what
8 capacity, you were not an ordinary citizen; in what capacity were
9 you standing guard there?

10 A. I was an ordinary civilian, I did not have any authority over
11 the rice barn if they came to get the rice supply, they did it
12 among themselves I did not have any control over it.

13 Q. So a simple citizen, tasked with standing guard, what was your
14 exact role, Sir?

15 [14.12.44]

16 A. I was an ordinary civilian.

17 Q. An ordinary civilian, member of an unknown group, who was
18 withdrawn subsequently because from what you're saying you are a
19 member of an ordinary group of civilians.

20 A. I was withdrawn from carrying out the task, the task of
21 guarding the rice barn not from being a member of the Long Sword
22 Group.

23 Q. Very well, let us return to the second incident in which you
24 were threatened with a weapon and you were told to join a group,
25 what were you asked to do exactly?

1 A. When the gun was pointed at me, it was by the time that I was
2 ordered to become a soldier, next morning they came to take my
3 biography, they asked me to detail all the numbers of my
4 relatives close and distant and after that they walked away, they
5 did not say anything much, after they took down my biography they
6 left.

7 Q. What were you asked to do, which group did they ask and to do
8 what? This morning I heard you say that you were requested to go
9 and work in the rice farm, is that what I should understand and
10 you found yourself being threatened with a weapon because they
11 wanted you to go and work in the rice farm?

12 [14.15.09]

13 A. Before I was walked by the people, I was actually working in a
14 pond nearby the village and then pointed the gun at me.

15 Q. Very well, let us go back to the point when they pointed a gun
16 at you. After pointing the gun at you, they wanted you to do
17 what, to become a soldier, to do what?

18 A. No, they did not say anything. They said that they wanted me
19 to be a soldier.

20 Q. And in order to ask whether you should become a soldier or
21 not, they pointed a gun at you, why? Sir, generally guns are
22 pointed at people who are to be arrested, did they also try to
23 arrest you on that day?

24 A. They walked me to the commune and left me there overnight and
25 next morning they questioned me about my biography.

1 [14.16.44]

2 Q. When you say "they" who are you referring to, who led you to
3 the commune, who put questions to you regarding your biography?
4 Were those persons members of the Long Sword Group?

5 A. No, they belonged to the Southwest group and the person who
6 questioned me was from the district.

7 Q. Do you know who were the officials of Peam Chi Kang commune?

8 A. I do not know the commune chief.

9 Q. Does the name Pheap mean anything to you, a woman called
10 Pheap, P-H-E-A-P and who was the wife of a person called Kan.

11 Does that ring a bell to you?

12 A. Yes, I heard of the name, but I never saw the person. I also
13 heard the name of that man but I never saw him.

14 Q. Very well. Let us go back to the meal you were having in the
15 canteen at Sambuor Meas. Would you say that you had your meals in
16 that canteen throughout the period of Democratic Kampuchea?

17 A. Yes, I actually had my meal there at the dining hall
18 throughout the regime.

19 [14.19.06]

20 Q. Now if I properly understood what you said this morning, you
21 said that you simply took note of the arrests of two or three
22 persons on two or three occasions, accompanied by some children.

23 Aside from the arrest of the members of your family, is that
24 indeed what you want us to understand from your testimony or
25 there were more arrests?

1 A. What you have just said is correct.

2 Q. Mr. Witness, while you were eating at Sambuor Meas canteen,
3 were you bothered by nauseating smells?

4 A. No, I was not because where I was, was rather far from the
5 pagoda compound.

6 Q. Can you tell us where the canteen was located in relation to
7 the pagoda?

8 A. The dining hall was located near the road within the vicinity
9 of the river bank and from my estimation it was about 400 to 500
10 metres from the pagoda.

11 [14.20. 55]

12 Q. Very well. Perhaps, Mr. Son Arun will cross check that in the
13 transcript but I believe I heard you say it was about 50 metres
14 from the pagoda this morning. Perhaps I was wrong. I would like
15 to put some questions to you regarding what you told the
16 Co-Investigating Judges when they interviewed you. You made
17 mention of persons who were transported by boat and who were
18 prisoners and who were tied up. This morning I believe I heard
19 you say that you no longer recalled having seen boats and
20 prisoners arrive at Sambuor Meas. What exactly do you recall
21 regarding prisoners and boats?

22 A. I do not know about people being transported by boats. What I
23 knew was that I saw people being walked on the road but I never
24 saw people transported by boats.

25 Q. Document E3/5257, ERN in French, 00342666 to 67; ERN in

1 English, 00251016; ERN in Khmer, 00243105.

2 Question: "Did you see people being arrested often?"

3 Answer: "Yes, sometimes, sometimes no."

4 Question: "How many times did you see prisoners being taken off
5 boats?"

6 Answer: "Once."

7 Question: "How did you know they were prisoners?"

8 Answer: "They talked about it in the dining hall."

9 Question "Did those people have their arms tied?"

10 Answer: "Yes they were tied."

11 [14.23.42]

12 Question: "How were they tied?"

13 Answer: "Their arms were tied behind them."

14 Question: "Were they men, women or children?"

15 Answer: "There were men, women and children."

16 Question: "Were there any small children?"

17 Answer: "Yes, there were small children as well. All the people
18 in that area saw this because it was meal time and there were
19 hundreds of people there."

20 Question: "When you saw those prisoners, were there any Cham?"

21 Answer: "I don't know."

22 I would like to know whether there were hundreds of people eating
23 at this Sambuor Meas dining hall or hundreds of prisoners?

24 [14.24.48]

25 A. At the dining hall where I had meal, there were about 100

1 people who had meal there.

2 Q. And were there any security guards among those people, I mean
3 security guards working at the Au Trakuon pagoda?

4 A. No, there was none.

5 Q. Did you know any security officers from the Wat Au Trakuon
6 pagoda?

7 A. No, I did not.

8 Q. Did you know a person by the name of Moeun who apparently
9 resided at Sambuor Meas?

10 A. The name Moeun does not ring a bell.

11 JUDGE LAVERGNE:

12 Very well, I don't think I have any further questions for you Mr.
13 Witness.

14 [14.26.12]

15 MR. PRESIDENT:

16 Thank you. The Chamber now hands the floor to Counsel Koppe, who
17 wishes to provide a submission in response to the submission by
18 the Co-Prosecutors requesting to hear new witnesses, that is, the
19 document presented by the Co-Prosecutors yesterday. I refer to
20 document E366. Counsel Koppe, you have the chance to do so.

21 MR. KOPPE:

22 Thank you, Mr. President, I would be very happy to do so. However
23 I myself only have five minutes of questions to the witness. I
24 believe if I am wrong, I'll be mistaken surely the Khieu
25 Samphan's team has also many questions. So it would make more

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1 sense if I finish my questions and then have the witness go and
2 then I will come with my submissions. It's also may be better for
3 the witness.

4 [14.27.27]

5 MR. PRESIDENT:

6 Thank you for the information and of course we grant you your
7 request. You may proceed now.

8 QUESTIONING BY MR. KOPPE:

9 Thank you, Mr. President. Good afternoon, Mr. Witness, as I said
10 I only have very few questions for you.

11 Q. Let me first start with the very last question that was put to
12 you by Judge Lavergne about a man called Moeun. You said you had
13 not heard of such a person with that name, can you think a little
14 bit more about Moeun, possibly a security guard at Wat Au
15 Trakuon, Moeun does that ring a bell?

16 MR. TAY KOEMHUN:

17 A. The name Moeun does not ring a bell at all because I did not
18 go there so I did not know him.

19 Q. No problem, Mr. Witness. Earlier you were also asked question
20 about something that Sen Srun had testified to. You called Sen
21 Srun in your answer a soldier. Do you know whether Sen Srun was
22 also a palm tree climber?

23 [14.29.24]

24 A. I do not know about that and actually at that time I had not
25 known him yet. He worked separately from where I worked. I only

1 got married at that time and Sen Srun never stayed at home
2 because he was a soldier.

3 Q. Just to be sure I'm asking you a question about early 1977, do
4 you know perhaps whether Sen Srun, at that time, was a member of
5 a palm tree climbers unit working close by Wat Au Trakuon?

6 A. I was not aware that he climbed palm trees and as you
7 understand climbing a palm tree was a different task from
8 ploughing the field which was what I did.

9 [14.30.36]

10 Q. My next question, Mr. Witness, is something that you said in
11 your statement, English page 4. English ERN, 00251015; French,
12 00342665; and Khmer, 00243101. You said in answer to a question
13 as follows. The question is, "Why was this area" where your house
14 was, "why was this area a forbidden area, used for security?" and
15 then you answered, "Because the Au Trakuon pagoda was used as a
16 security office." And just a bit before you said that they didn't
17 allow people to live in the village. Can you explain a little
18 bit, was there some kind of security parameter around Wat Au
19 Trakuon where people or villagers were not allowed to go into?

20 A. If you talk in term of the premises of the pagoda which
21 stretched to about 700 to 800 metres.

22 Q. So there was a parameter of 700 to 800 metres around the
23 pagoda where people were not allowed to come but was there an
24 extra parameter in such a way that they as you said did not allow
25 people to live in the village?

1 A. You meant outside the premises of pagoda? If you talk about
2 the external parameter of the pagoda it means actually the
3 parameter of the premises of the pagoda reached the river bank
4 and that area was also restricted. So allow me to clarify to the
5 north of the pagoda was the river front and to the south it was a
6 pond.

7 [14.33.32]

8 A. But what was the width and the length of the total parameter
9 around the pagoda, was that about 800 metres in length and in
10 width? Can you be a little bit more specific as to what distance
11 people were not allowed to approach the pagoda?

12 A. I cannot tell you about that matter. I am not able to tell
13 you. All I know was that from the river bank up to the compound
14 of the pagoda that area was not allowed to walk or trespass into.

15 Q. Thank you, Mr. Witness. Last question, you've been answering
16 some questions already in relation to the arrests of your adopted
17 brother Thol and Lim Srun, you also mentioned one of your cousins
18 You Hao and you said that those three family members were
19 arrested along with their entire families. Can you describe that
20 a little bit for me, how did you know they were arrested with
21 their entire families?

22 [14.35.27]

23 A. Well, Lim Srun was the 17th April Person. Hao was a Base
24 Person and as for Thol, Thol was also the 17th April Person
25 rather and my aunt and uncle were Base People.

1 Q. And just to be clear, they weren't Cham, they were Khmer, is
2 that correct?

3 A. While I was having meal, I saw them.

4 Q, But my question was, they weren't Cham; is that correct, they
5 were Khmer like you?

6 A. Yes, you are right.

7 Q. And how many children were arrested with -- together with
8 Thol, Lim Srun and You Hao?

9 A. You Hao was alone at the time. Lim Srun came with eight
10 children at the time and Thol had eight children with him at the
11 time, my aunt had six children at the time, my uncle had seven
12 children. As for Ieng (phonetic) they had four children at the
13 time coming with them. They were related to my parent's side and
14 I cannot recall relatives of my mother's side.

15 Q. And all those children that you referred to were also not Cham
16 children, is that correct?

17 A. Yes that is correct.

18 Q. You said that they were arrested, is it also possible that
19 they were part of evacuation from one place to another?

20 A. They were arrested from their base areas. They were living in
21 Angkor Ban village where they were arrested.

22 [14.38.46]

23 Q. Have you ever heard later, maybe after 1979, why these
24 families with their wives and children had been arrested, what
25 was the reason for their arrests?

1 A. I do not know about that.

2 Q Were there other occasions or other circumstances during which
3 you saw Khmer people being arrested including their family
4 members, including children?

5 A. I cannot give you the prediction; I was staying in my house so
6 I did not know what else happened at that time. After the regime
7 fell, I came back to my home village. During the regime I was
8 assigned to grow vegetables and plough the field. I had to be
9 responsible for cattle in -- tied to two yolks and I did not know
10 what happened beside my work.

11 [14.40.27]

12 Q. My last question, Mr. Witness, assuming for second that you
13 were right in what you said you saw. Is it correct that when
14 Khmer people were arrested, it could happen also that they were
15 arrested with the spouses and their children and it wasn't
16 something typically for the arrest of Cham?

17 MR. PRESIDENT:

18 Please hold on, Mr. Witness. You may now proceed International
19 Deputy Co-Prosecutor.

20 MR. SMITH:

21 Your Honour, I think it is slightly unfair question because the
22 witness said previously that he was unable to say whether or not
23 Khmer people and their families were arrested. So, it's really
24 based on a premise that the witness hasn't put forward.

25 MR. KOPPE:

1 If I may respond, Mr. President, I think the premise of the
2 questions of the Prosecution today was that he himself was a very
3 active member of the Long Sword Militia, that's true or not I
4 think based on his experience and his knowledge of the particular
5 period, I should be able to ask this question.

6 MR. SMITH:

7 Your Honour, the only problem is that he answered it in the
8 previous question saying that he was unaware of seeing other
9 Khmer families and children other than the ones that he knew.

10 (Judges deliberate)

11 [14.42.46]

12 MR. PRESIDENT:

13 The objection by the International Deputy Co-Prosecutor is
14 overruled. Mr. Witness, if you recall the last question put to
15 you by Counsel Koppe, you can now provide your answer and if not,
16 you can ask Counsel to repeat the last question for you. Do you
17 recall the last question, Mr. Witness?

18 MR. TAY KOEMHUN:

19 A. I cannot recall it, Mr. President.

20 [14.43.19]

21 BY MR. KOPPE:

22 Q. Let me repeat it for you, Mr. Witness. I just asked you some
23 questions about the arrests of close family members. You
24 confirmed that they were arrested in the company of their spouses
25 and children, have you ever seen other arrests of Khmer men

1 together with their spouses and children and do you know whether
2 this was something that in your period could also happen to Khmer
3 and not typically to Cham families?

4 MR. TAY KOEMHUN:

5 A. I have never seen Khmer family were arrested together with the
6 entire members. As I told the Court earlier I was assigned to
7 plough the field on another side of the river I never spent time
8 at my house in the village.

9 MR. PRESIDENT:

10 Well, it is now time for the short break. The Chamber will take a
11 short break from now until 3 p.m. Court officer, please find a
12 proper room for the witness during the break time and please
13 invite the witness together with the duty counsel back into the
14 courtroom at 3 o'clock.

15 The Court is now in recess.

16 (Court recess from 1445H to 1501H)

17 MR. PRESIDENT:

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

19 The floor is once again given to the defence team to continue
20 putting questions to the witness. You may proceed, Counsel.

21 MR. KOPPE:

22 Thank you, Mr. President, but we were finished.

23 MR. PRESIDENT:

24 Thank you. And the floor now is given to the defence team for
25 Khieu Samphan.

1 [15.02.30]

2 QUESTIONING BY MS. GUISSÉ:

3 Q. Thank you, Mr. President. Good afternoon, my name is Anta
4 Guissé. I'm the International Co-Counsel of Mr. Khieu Samphan,
5 and in that capacity I'm going to put a few complementary
6 questions to you. You have told us that you no longer remember
7 the name of the commune chief of Peam Chi Kang under the DK
8 regime. Do you remember, however, the name of the security chief
9 of that commune?

10 MR. TAY KOEMHUN:

11 A. I know a person named Kan and Horn. I only know their names,
12 but I never met them.

13 Q. And according to you, what was Horn's position?

14 A. He worked in the -- within the compound of the pagoda, and he
15 was the chief of that prison.

16 Q. And aside from him, do you remember who was working at the
17 pagoda?

18 [15.04.14]

19 A. I don't, since I never entered the pagoda during the regime.

20 Q. In your statement, E3/5257, French ERN, 00342669; Khmer ERN,
21 00243104; English, 00251018; and in your statement, you speak
22 about the group, the Long Swords Unit. So, I understood that
23 before the Chamber, you explained that you only belonged to that
24 unit for a very short period: two months. But in your statement,
25 you tell us that this group was divided into several sub-units,

1 and you said, when you answered the question "Who was arresting
2 people?", you answered: "The security unit." So, do you remember
3 saying that? And do you remember that there was indeed a security
4 unit within the Long Sword Unit?

5 A. The security force members stayed and worked within the
6 premises of the pagoda. And as for the Long Sword Group, I did
7 not know the details about them.

8 Q. So, when you refer to the security unit in your statement, you
9 are only referring to the one that was in the pagoda; is that
10 correct?

11 A. Yes, that is correct.

12 [15.06.33]

13 Q. According to your statement, during the two months when you
14 were a member of the Long Sword Group, do you remember the names
15 of the members of that group? The names of other members of that
16 group?

17 A. Members of the Long Sword Group were all very young, and I did
18 not have any contact with any of them.

19 Q. Does the name Lav Chay, and it is number one on the list I
20 circulated, does that name, Lav Chay mean anything to you?

21 A. No, the name Lav Chay does not ring a bell.

22 Q. There may well be a pronunciation problem. I sent the
23 interpreters a list of names, to avoid any problem with
24 pronunciation, and the person is the first name on the list, Lav
25 Chay.

1 MR. KONG SAM ONN:

2 Mr. President, the proper pronunciation is Lav Chay, and I think
3 there is a spelling mistake in the transcript. Thank you.

4 MR. PRESIDENT:

5 It's Lav Chay, not Khtchoy (phonetic). And Mr. Witness, does that
6 name ring a bell to you?

7 [15.08.37]

8 A. No, Lav Chay does not ring a bell to me.

9 BY MS. GUISSÉ:

10 Q. How about name number three on the list, that's Meng Ly, does
11 that ring a bell to you?

12 MR. TAY KOEMHUN:

13 A. I cannot recall that name.

14 Q. Does the name Heng Pa ring a bell?

15 A. I cannot recall this name. Maybe they used two names at the
16 same time, and I am not familiar with the names that you have
17 mentioned so far.

18 Q. Does the name Yoeun, that is number five on the list, ring a
19 bell?

20 A. And what was the position of Yoeun? And do you know his full
21 name?

22 [15.10.11]

23 Q. That is the only name I have in relation to the Long Sword
24 Group. I do not know the position he held in that group, but it
25 is in relation to the Long Sword Group.

1 A. I know a person named Yoeun, but that person was not a member
2 of the Long Sword Group.

3 Q. And what was the position held by that person during the
4 Democratic Kampuchea regime?

5 A. He was chief of a mobile unit, and his full name is Ou Yoeun
6 (phonetic). And during the regime, he was in charge of education
7 at the district. Currently he is retired.

8 Q. You were a member of the Long Sword Group for two months. Did
9 you hear members of the population say anything regarding the
10 Long Sword Group?

11 MR. PRESIDENT:

12 Mr. Witness, please wait. And the International Deputy
13 Co-Prosecutor, you have the floor.

14 MR. SMITH:

15 Thank you, Your Honour. I think the question is misstating the
16 evidence. In his statement, he says he was the member of the Long
17 Sword Group, but in his testimony, he is stating that he wasn't a
18 member. That's what Judge Lavergne cleared up with him. So it's
19 mixing two things together, but that was his testimony today. He
20 said he was near where the Long Sword Group was, but he wasn't in
21 the Long Sword Group.

22 [15.12.39]

23 BY MS. GUISSÉ:

24 Q. Mr. Witness, could you clarify this matter for us? Were you a
25 member of the Long Sword Group for two months, or not? Even

1 though you had to work in a rice field?

2 MR. TAY KOEMHUN:

3 A. I was never a member of the Long Sword Group. I was tasked to
4 guard the rice barn for two months, and then I was reassigned to
5 plough the rice fields in Kaoh Touch.

6 Q. Did you hear members of the population talk about the Long
7 Sword Group during the Democratic Kampuchea regime?

8 [15.13.44]

9 A. No, I did not, since I worked at a far distance from where
10 they were.

11 Q. And where were they?

12 A. We were in the same area, but we stayed separately, and we
13 slept separately.

14 Q. Now, when you say that they were "far away from where I was",
15 can you give us an idea of the distance when you say that they
16 were far away from you?

17 A. Their sleeping quarter was about 50 metres from where I was.
18 They stayed at their sleeping quarter, while I stayed at the rice
19 barn.

20 Q. Fifty metres away, that means that you were able to see
21 members of that group from where you were sleeping, from where
22 you were?

23 A. I did not dare look at them. And I did not know whether they
24 were tasked to go to this direction or that direction, as my main
25 focus was to guard the rice barn.

1 [15.15.58]

2 Q. And why didn't you dare look at them?

3 A. I was afraid. I was afraid that I would be accused of trying
4 to know about the nature of their work. In simple terms, I was
5 afraid.

6 Q. As the Prosecutor told you this morning, one witness came to
7 testify before this Chamber, and I want to confront you with his
8 statement before the Chamber, since so far all we've done has
9 been to read his prior statements before the Co-Investigating
10 Judges. And that witness stated that he accompanied a group of
11 Cham to the Au Trakuon pagoda alongside the Long Sword Group.
12 That witness is Sen Srun. And since you say you know him, my
13 question to you is whether you knew about the fact that he
14 accompanied a group of Cham people with the members of the Long
15 Sword Group to the Au Trakuon pagoda?

16 [15.17.47]

17 A. I was not aware of that. I did not know whether Sen Srun
18 escorted the Cham people. As I stated, I stayed at the Kaoh
19 Touch, and I only returned after 1979.

20 Q. As regards the distinction you made between the security unit,
21 which you said was within the premises of the pagoda, and the
22 persons in charge of arrests, this is what Sen Srun said at the
23 hearing of 14 September 2015, shortly after 14.13, this is what
24 he stated: "It was not the security forces that went to arrest
25 people. It was the Long Sword Group that had been set up in 1977,

1 and which took the initiative to go and arrest persons directly.
2 As for the security forces, they were at the base, at this
3 detention centre, to receive and arrest those persons. The
4 members of the Long Sword Group were those in charge of arrests."
5 End of quote. [Free translation].

6 My question to you at this stage, Mr. Tay Koemhun, is this: does
7 that refresh your memory? Did you not hear at any point in time
8 that the Long Sword Group was in charge of carrying out arrests?

9 A. I did not say any members of the Long Sword Group went to make
10 arrests. As I said, I did not stay in the village, so I wasn't
11 aware of whatever happened in the village. I worked on the
12 island, and I never took a boat to cross the river. And I only
13 made a boat trip like every two months, to come and get my rice
14 supply. For that reason, I was not aware at all of any activities
15 that the group involved.

16 [15.20.29]

17 Q. Still on 14 September 2015, shortly before 14.22.08, and it is
18 still Sen Srun testifying, he explains under what circumstances
19 he escorted the Cham to the Trakuon, the Au Trakuon pagoda. This
20 is what he states: "I understood that they were being arrested.
21 It was the members of the Long Sword Group who were arresting
22 them. I was there, standing guard and to prevent them from going
23 to the main road." End of quote. Does that event remind you of
24 anything? Or does it remind you of anything at all?

25 A. If Mr. Sen Srun said he stood guard there, it implies that he

1 was part of the team. I myself did not know Sen Srun at that
2 time, and I became to know him only after 1979.

3 [15.21.52]

4 Q. The problem that arises is that, on 15th September 2015, Sen
5 Srun gives more details regarding the Long Sword Group on that
6 day, and he says shortly before 09.11.20, at the hearing of the
7 14 (sic) September 2015: "I recognized Tay Koemhun clearly,
8 because he was one who had brought the Cham from where I was
9 located." End of quote.

10 Do you understand that Mr. Sen Srun is inculcating you
11 specifically on the day 200 to 300 Cham were arrested? And he did
12 so by saying he was present, and he recognized you clearly. What
13 are your remarks on this subject?

14 A. I categorically reject that statement, the statement that Sen
15 Srun alleged that I was chief of security. I completely reject
16 this statement. I cannot accept it.

17 Q. I do understand that you are denying his statement. On that
18 day, would you say that Sen Srun has any particular reasons to
19 make false accusations against you? Does he have a grudge with
20 you? And if yes, what is the basis for such a grudge?

21 [15.23.51]

22 A. I do not know anything about that. As I said, Sen Srun was a
23 soldier. As for the pagoda, I was a member of the pagoda
24 committee. I helped to cleanse the temple, and to my
25 recollection, Sen Srun did not go along well at all with the

1 monks residing in the pagoda. Sometimes he even scolded the
2 monks. And only lately that he changed, and then he came to
3 assist in doing work in the pagoda. And in the past, he even
4 actually grabbed a portion of the pagoda land, and built his own
5 home. Regarding his allegation, I categorically deny it. I was
6 never a security chief or his supervisor, or making arrests of
7 any Cham people. Not at all.

8 Actually one day he came to my house, and he said that he was
9 going to Phnom Penh. And I asked why. And he said he was called
10 by the Court. And I said, "Yes, then you should go, because you
11 don't have anything to hide." And then he asked me whether I was
12 a member of the Long Sword Group, and I told him, "You better be
13 careful. I am not a member of the Long Sword Group. You have to
14 be clear about that."

15 [15.25.44]

16 And that I was arrested from Takeo, when I was drafted to be a
17 soldier, and my wife and my children actually wept when I was
18 arrested. And you cannot say that I was a member of the Long
19 Sword Group at all. I was drafted to be a soldier after my
20 biography was taken. And I felt the pain that some of my
21 relatives had been killed.

22 Then he asked me whether that is true, and I said yes, of course,
23 that is the truth. And I clarified the matter with him. And I
24 will go and talk to him after I return home, after my testimony
25 before this Court. I have to confront him, to bring out the

1 truth. And of course, if I were his superior at that time, I will
2 be responsible before the law. And I stated already, and I'm
3 stating again, I became to know him after 1979, and before that I
4 did not know this Sen Srun at all.

5 [15.26.57]

6 Q. That was a lengthy answer. Sen Srun indeed talked to the
7 Chamber about the pagoda committee in answer to the question why
8 he had said that the members of the pagoda committee were all
9 Khmer Rouge people. And this is what he said, 15th September
10 2015, and he starts at shortly before 09.45.09. I will be brief
11 in my answer:

12 "As regards the members of the pagoda committee, Peun Phi
13 (phonetic) was the chief of the kitchen, and there was another
14 person who was head of the committee, and he's still alive
15 today." And the next question put to him was as follows: "Why did
16 you say all the members of the pagoda committee were Khmer Rouge?
17 The two people you have just mentioned, did they have any
18 positions under Democratic Kampuchea in your commune?"

19 [15.28.23]

20 And his answer was as follows: "The two individuals held
21 positions in the Democratic Kampuchea regime. Tay Koemhun was the
22 deputy of the Long Sword Group, and Peun Peah (phonetic) was the
23 chief of logistics in the commune. He was also the chief of the
24 kitchen in the upper Sambuor Meas Ka. So the two guys had a
25 position in the period." End of quote.

1 Here again, we hear Sen Srun saying that you were leading the
2 persons who arrested a group of Cham during the Democratic
3 Kampuchea regime, but he again confirms that you were the deputy
4 head of the Long Sword Group. Do you have any remarks to make in
5 this regard?

6 [15.29.34]

7 A. My response is that I categorically reject the statement made
8 by Sen Srun. It is an unfair accusation against me. Poun Peah
9 (phonetic) was a layman at the pagoda, and he actually accused
10 Sen Srun of grabbing a portion of the land of the pagoda. For
11 that reason, he had a grudge against this person, and I did not
12 know why he blamed me, and accused me of being a security chief.
13 Maybe that's the reason that one day, a representative from this
14 Court came to ask me whether I was the security chief, and I said
15 no, my name is Tay Koemhun. And from what I understood, the chief
16 of the security there was Horn. And then I asked, "How come you
17 came to know, to ask me whether I was the security chief?" And
18 the investigator said, "Somebody lived near the pagoda made that
19 allegation." And now I know who the person is, and I reject that
20 allegation before this Court.

21 [15.31.07]

22 Q. Part of your discussion with the people who interviewed you
23 was recorded, it's document D166/42.1. And I would like to read
24 out to you again what was recorded from what you said, and you
25 will confirm to me if you are indeed referring to this event and

1 to this statement. And it's ERN French, 001142460; Khmer,
2 01141831. There is no English translation, but I will read slowly
3 to make things easier for the interpreters.

4 So, this is what you said when you were interviewed by the
5 investigators of the OCIJ.

6 "It is possible that my statements were not properly recorded,
7 unless somebody wants to slander me. It's also possible that this
8 happened. For example, maybe someone wants to become a pagoda
9 chief. However, that person did not get that job, and the job was
10 given to me because most people prefer that I get that job. This
11 can happen, and we have to be careful about this." End of quote.

12 [Free translation].

13 So, do you mean here -- first of all, do you remember having said
14 that? And does that correspond to what you just told us regarding
15 Sen Srun's accusations against you?

16 [15.33.15]

17 A. At that time, he put such a question to me, whether I was
18 security chief at that time. I told him that I was simply an
19 ordinary citizen. He said that -- I told him that at that time,
20 Horn -- I heard Horn was the security chief. I asked him who told
21 him that I was the security chief in the regime. He, in reply, he
22 said that someone in the village told him about that. And it was
23 said that Sen Srun grabbed a portion of land to be himself. And
24 hundreds of villagers in the village said that that portion of
25 land belonged to the pagoda, not belongs to Sen Srun. So, Sen

1 Srun accused me on the matter, blindly.

2 MS. GUISSÉ:

3 I am done with my cross-examination, and my colleague Kong Sam
4 Onn has a few extra questions to put to the witness.

5 MR. PRESIDENT:

6 You may now proceed, Counsel Kong Sam Onn.

7 [15.34.50]

8 QUESTIONING BY MR. KONG SAM ONN:

9 Q. Thank you, Mr. President. Good afternoon, the Chamber. Good
10 afternoon, Mr. Witness. This morning you made mention that you
11 had just recovered from illness when you were interviewed. What
12 kind of disease did you have before the interview?

13 MR. TAY KOEMHUN:

14 A. I had five injection shots before I am here, because my -- I
15 had five IV bags before I'm here. And my head became hot before I
16 am here.

17 Q. Mr. Witness, I want to know about the time when you were
18 interviewed by the investigators of the OCIJ. You stated that you
19 had just recovered from the disease when you were interviewed.
20 So, what kind of disease did you contract before the interview?

21 [15.36.20]

22 A. I went to see a doctor in the hospital, and I was told that I
23 had a problem with the brain. So, I came to Angkor Thma
24 (phonetic) hospital in town, and after a period of time, I went
25 back home. Currently I was -- I have been prescribed with the --

1 the medicines for me to have a good sleep, and also to give me
2 energy.

3 Q. Thank you. Can you tell the Court whether the disease at that
4 time affected your memory?

5 A. I--

6 MR. PRESIDENT:

7 Mr. Witness, please hold on. You may now proceed, International
8 Deputy Co-Prosecutor.

9 MR. SMITH:

10 Your Honour, it may be a translation issue, but I didn't hear the
11 witness say that he had a disease, in the English. So, perhaps
12 that could be clarified?

13 [15.37.57]

14 MR. KONG SAM ONN:

15 I am not sure I understand the objection by the International
16 Deputy Co-Prosecutor. I am now asking the witness about the
17 illness or disease this witness had before the interview in the
18 past. So, can I ask Mr. Co-Prosecutor to state again the
19 objection?

20 MR. PRESIDENT:

21 You may continue your questioning, Counsel Kong Sam Onn.

22 BY MR. KONG SAM ONN:

23 Q. In 2009, you said that -- you stated that you had an illness.
24 So how did that illness affect your memory?

25 MR. TAY KOEMHUN:

1 A. I tend to forget where I placed my belongings or my things. So
2 I have been weak from Pol Pot's time, while I was forced to work
3 hard and I was beaten. And I was hospitalized in the past.

4 [15.39.13]

5 Q. How long had you recovered before you were interviewed?

6 A. You want to know about the interview in the past? I had
7 recovered one month before the interview took place.

8 Q. Did you still have medicines at the time you were interviewed?

9 A. Yes, I was still on medication.

10 Q. Thank you. Did you verify what was written down in the written
11 record of the interview by the investigators? Did someone read
12 for you -- read back for you the written record of the interview
13 at that time?

14 A. I did not read myself the written record of the interview at
15 that time. I asked my elder sibling to read the written record of
16 interview for me. So it was different from -- so the way we read
17 the written record of the interview by myself, and the way
18 somebody read for us was completely different.

19 Q. At that time, did you ask anyone to correct the written record
20 of the interview?

21 A. I do not really understand what you are asking, Mr. Counsel.

22 Q. For instance, there was wrong information noted down in the
23 written record of interview, and you requested to have it
24 corrected. Did you notice that there were mistakes made in the
25 written record of the interview?

1 [15.41.50]

2 A. I noticed that I may have stated the year wrongly. After 1979,
3 I had been evacuated to live in Peam Chi Kang.

4 Q. You made mention of that point already. Did you request to
5 have that year changed when you were interviewed in 2009, or you
6 requested to have it corrected now?

7 A. I have just realized that I may have answered wrong in some
8 particular points in the written record of the interview.

9 Q. You stated about the time when you were living close to the
10 pagoda, and you stated that your house was located about 70 -- 50
11 metres away from the pagoda, before 1975. When did you leave your
12 house which was close to Au Trakuon pagoda?

13 [15.43.45]

14 A. I was transferred out of my area in 1976. It was the time that
15 many people were smashed within the compound of the pagoda, and
16 the people were not allowed to walk close to the pagoda.

17 Q. How did you know that it was in 1976 that you were evacuated?

18 A. I noticed that in 1976 the pagoda was turned into a security
19 centre, to house people.

20 Q. Thank you. In relation to the time you went to live in Kaoh
21 Touch, when did you leave for that place?

22 A. I left to work in a farm at Kaoh Touch in late 1977, and I was
23 living there until 1979, when the regime fell.

24 Q. Thank you. What about the period between 1976 and 1977? Where
25 did you live?

1 A. In that period, between 1976 and 1977, I was assigned to
2 plough the field at Phdau. Sometimes I was assigned to work at Ou
3 Kandaol (phonetic), so as a person in charge of ploughing fields,
4 I was relocated and re-assigned to work in different areas.

5 Q. Thank you. When you were assigned to plough the field, were
6 you allowed to stay in a house, on a permanent basis? Or did you
7 change your house?

8 [15.46.36]

9 A. When I was assigned to plough the field, I was sleeping under
10 the tree where my cows were also tied to that tree.

11 Q. Is it correct to say that you did not stay in any house within
12 the village?

13 MR. TAY KOEMHUN:

14 A. (No interpretation)

15 BY MR. KONG SAM ONN:

16 Q. My question is that: when you were assigned to plough the
17 field, you did not stay in a house in the village where you were
18 evacuated from? I mean, you did not stay in a house close to Au
19 Trakuon pagoda; is that correct?

20 A. After my evacuation, I did not -- I no longer stayed in the
21 house within that village. I stayed in another house in a
22 different place.

23 [15.46.56]

24 Q. I want you to listen to my question carefully. You were
25 assigned to plough the field. Did you stay in a house within your

1 village? You stated that you were sleeping in the fields. My
2 question is: did you have a house within your village? And were
3 you required to stay in your house in the village?

4 A. I was assigned to plough in vegetable farms, and there were
5 small huts built for me to stay in. I was not allowed to come
6 back and stay in my house in the village.

7 Q. Thank you. You made mention that you came to have a meal in
8 the dining hall within the village. When was that period?

9 A. It was when I was re-assigned to plough the field within the
10 village. So, I was allowed to have meal in the dining hall within
11 the cooperative, or within the village. And whenever I was
12 assigned to plough the field at the lake, I would eat at that
13 place.

14 Q. So where was it exactly when you were assigned to plough the
15 field within the cooperative, close to the dining hall?

16 A. It was not 10 metres away from the dining hall. I was assigned
17 to plough the field about 100 or 200 metres away from the dining
18 hall.

19 Q. How often were you assigned to plough the field close to the
20 kitchen or the dining hall? I want to know about the time when
21 you were assigned to plough the field close to the dining hall.
22 You already told the Chamber that you were assigned to plough the
23 field in the forest, and also at the lake. So how often were you
24 assigned to plough the field close to the dining hall?

25 [15.50.50]

1 A. I would be assigned to plough the field in the forest more
2 often than the field close to the dining hall.

3 Q. Thank you. You told the Chamber that you were working in the
4 vegetable farm in Kaoh Touch in 1977, and you would visit your
5 village once in every two months. How long did you stay in your
6 village when you had the chance to visit your village? Or did you
7 have to return to your work-site on the same day?

8 A. For instance, if I went to visit my village at 1.00 or 2.00 in
9 the afternoon, I had to return to Kaoh Touch in the evening.

10 [15.52.00]

11 MR. KONG SAM ONN:

12 Thank you, Mr. Witness. Mr. President, I am done with my line of
13 questioning.

14 MR. PRESIDENT:

15 You may now proceed, International Deputy Co-Prosecutor.

16 MR. SMITH:

17 Thank you, Your Honour. Just a brief matter. The witness has said
18 that when he would leave this Court, that he would go and
19 confront the other witness. I would ask that you advise this
20 witness to not confront other witnesses that have appeared before
21 this Court. As a witness protection measure for both people, I
22 would ask that you would provide that advice to this witness.

23 Thank you.

24 MR. PRESIDENT:

25 I don't think it does not matter for him. He is fully mature, and

1 he is part of the pagoda committee. However, Mr. Witness, please
2 do not use any violence when you confront with another person --
3 that is, Mr. Sen Srun. It is your obligation to testify before
4 the Chamber, in order that the Chamber can find the truth.
5 Everyone is contributing to finding the truth. And I believe you
6 are part of the pagoda committee, and you are fully mature, and
7 you will not cause any incidents to happen while confronting with
8 any concerned individual. But please do not try to confront with
9 Mr. Sen Srun and other -- any other witnesses who have appeared
10 before the Chamber. Under the law, witnesses are not allowed to
11 confront with any other concerned witnesses, who have testified
12 before the Chamber. Do you understand it, Mr. Koemhun?

13 [15.54.36]

14 MR. TAY KOEMHUN:

15 Yes, I understand, Mr. President.

16 MR. PRESIDENT:

17 The Hearing today has come to a conclusion. Thank you, Mr.

18 Koemhun. Your testimony will contribute to the truth, and you may
19 now be excused. You may return to your residence, or to any other
20 place you wish. I wish you good luck and prosperity.

21 Court officer, please work with WESU to send Mr. Tay Koemhun back
22 to his residence, or to any destination he wishes. Thank you
23 also, Mr. Mam Rithea, the duty counsel for the witness, you may
24 also be excused.

25 Before we adjourn the hearing, we still have a few minutes. So

1 the Chamber would like to give the floor to Counsel Koppe, to
2 present the response to the submission request by Co-Prosecutor
3 yesterday. It relates to document E366. You may now proceed.
4 [15.56.07]

5 MR. KOPPE:

6 Thank you very much, Mr. President. I'm also mindful of the
7 clock, and the points that I'm going to make, some of them are
8 quite principled. So my question is whether it would not be
9 better, because it's very late in the day -- I think everybody's
10 tired -- that I make my submissions tomorrow morning early?

11 MR. PRESIDENT:

12 Thank you, Counsel. And I'd like to hand the floor now to Judge
13 Claudia Fenz.

14 JUDGE FENZ:

15 Just one question for clarification. Perhaps I misunderstood what
16 you said at the very beginning. Are you providing a response to
17 this request orally? Or are you making a different submission?

18 MR. KOPPE:

19 I will be making a different submission. We will file written
20 submissions, as provided by the Internal Rules, but this is a
21 different request. It's two requests for clarifications,
22 actually, and one request which has a broader impact on possible
23 delay of the proceedings. So, I think it would make more sense to
24 do it tomorrow, when everybody's fresh.

25 [15.57.33]

1 MR. PRESIDENT:

2 Thank you, Counsel. And if you need more time to do with your
3 submission, let -- we do it tomorrow. Tomorrow, we will hear the
4 testimony of the civil party, and we try to complete with the
5 scheduling, as the testimony of the civil party has been put off
6 for three or four days now. And we will try to overcome the
7 logistical issue, and proceed with our scheduling.

8 The proceedings today come to an adjournment. The Chamber will
9 adjourn now, and resume tomorrow -- that is, Thursday, 17
10 September 2015, commencing from 9 o'clock in the morning.

11 Tomorrow, the Chamber will hear testimony of a civil party --
12 that is, 2-TCCP-252. The information is for the Parties and the
13 general public.

14 Security personnel, you are instructed to take the two Accused
15 back to the detention facility, and have them returned to attend
16 the proceedings tomorrow before 9 o'clock in the morning.

17 The Court is now adjourned.

18 (Court adjourns at 1559H)

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