



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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TRANSCRIPT OF TRIAL PROCEEDINGS

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Case File N° 002/19-09-2007-ECCC/TC

7 December 2015

Trial Day 344

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

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SENG Leang

For Court Management Section:
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I N D E X

Ms. SAO Sak (2-TCW-886)

Questioning by Mr. KOUMJIAN resumes.....	page 3
Questioning by Ms. GUIRAUD.....	page 10
Questioning by Mr. KOPPE	page 18
Questioning by Ms. GUISSE.....	page 26
Questioning by Mr. KONG Sam Onn	page 29

Mr. CHOEUNG Yaing Chaet (2-TCCP-241)

Questioning by The President (NIL Nonn)	page 31
Questioning by Ms. Nguyen.....	page 33
Questioning by Mr. BOYLE.....	page 71
Questioning by Judge FENZ.....	page 82
Questioning by Mr. KOPPE	page 83

List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
Mr. BOYLE	English
Mr. CHOEUING Yaing Chaet (2-TCCP-241)	Khmer
Judge FENZ	English
The GREFFIER	Khmer
Ms. GUIRAUD	French
Ms. GUISSE	French
Mr. KOPPE	English
Mr. KOUMJIAN	English
Mr. KONG Sam Onn	Khmer
Ms. NGUYEN	English
The President (NIL Nonn)	Khmer
Ms. SAO Sak (2-TCW-886)	Khmer
Mr. SENG Leang	Khmer

1

1 PROCEEDINGS

2 (Court opens at 0908H)

3 MR. PRESIDENT:

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

5 Today the Chamber continues to hear testimony of witness Sao Sak

6 and begins to hear testimony of a civil party -- that is,

7 2-TCCP-241.

8 Ms. Chea Sivhoang, please report the attendance of the Parties

9 and other individuals to today's proceedings.

10 GREFFIER:

11 Mr. President, for today's proceedings all Parties to this case

12 are present.

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

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

15 been delivered to the greffier.

16 The witness who is to conclude her testimony today -- that is,

17 Madam Sao Sak, is present in the courtroom.

18 We also have a reserve civil party today -- that is, 2-TCCP-241.

19 Thank you.

20 [09.10.56]

21 MR. PRESIDENT:

22 Thank you. And before I hand the floor to the Parties to put

23 questions to this witness, I'll provide the oral ruling per

24 request by Nuon Chea.

25 The Chamber has received a waiver from Nuon Chea, dated 7

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1 December 2015, which states that due to his health, headache and
2 back pain, he cannot sit or concentrate for long and in order to
3 effectively participate in future hearings, he requests to waive
4 his rights to participate in and be present at the 7 December
5 2015 hearing. He affirms that his counsel has advised him about
6 the consequences of the waiver that it cannot in any account be
7 construed as a waiver of his rights to be tried fairly or to
8 challenge evidence presented to or admitted by this Court at any
9 time during this Trial. Having seen the medical report of Nuon
10 Chea by the duty doctor for the Accused at ECCC dated 7 December
11 2015, which notes that Nuon Chea has back pain when he sits for
12 long and recommends that the Chamber grant him his request so
13 that he can follow the proceedings remotely from the holding cell
14 downstairs. Based on the above information and pursuant to Rule
15 81.5 of the ECCC Internal Rules, the Chamber grants Nuon Chea his
16 request to follow today's proceedings remotely from the holding
17 cell downstairs via audio-visual means.

18 The Chamber instructs the AV Unit personnel to link the
19 proceedings to the room downstairs so that Nuon Chea can follow.

20 This applies to the whole day.

21 And now the Chamber now hands the floor to the Co-Prosecutor to
22 put questions to the witness and the combined time for both the
23 Co-Prosecutors and the Lead Co-Lawyers for civil parties is one
24 session. You may proceed.

25 [09.13.05]

3

1 QUESTIONING BY MR. KOUMJIAN RESUMES:

2 Thank you. Good morning, Your Honours, counsel, civil parties,
3 and Madam Witness.

4 Q. Madam Witness, I want to continue to ask you about some other
5 people from your village and area that you may or may not know
6 and whether you have information, either saw or heard information
7 about their fate and continue to tell us if you do have
8 information or if you don't.

9 You mentioned -- I asked you late on Thursday about Khun Mon and
10 his wife, you said you knew them but you didn't know her fate. Do
11 you know what happened Khun Mon's wife's mother Le Thi Hai and
12 her siblings?

13 MS. SAO SAK:

14 A. Which Mon are you referring to, or are you referring to Mon
15 Huor, it's not clear to me?

16 [09.14.22]

17 Q. Thank you. I refer to Khun Mon who had a wife who had a
18 Chinese father Seng and a Vietnamese mother Le Thi Hai. The name
19 of the wife was Seng Huor do you recall that gentleman?

20 A. Yes, I recall that. Seng Huor lived near where I lived and she
21 married Mon and went to live in Svay Antor commune. However I did
22 not about the situation involving their family since they moved
23 to live with her husband in another commune.

24 Q. Have you ever seen the wife or her mother, that's Khun Mon's
25 mother-in-law, or the wife's siblings since the Democratic

4

1 Kampuchea regime?

2 A. We separated after that, that is, after she got married and
3 left the village.

4 Q. Yes, but my question is; all these years later have you ever
5 seen her since 1979?

6 A. No, since we separated I never saw her returning to visit the
7 village.

8 [09.16.24]

9 Q. Khun Mon said this in an article, that's, E3/2589, based on
10 his interview with DC-Cam, he said at page in Khmer, 00224670; in
11 French, 00623348; and in English, 00224673; that it was only
12 later that he came to understand the reasons for his wife's
13 arrest.

14 "If a person was related by blood to a Vietnamese, they would be
15 killed. He mentioned his brother-in-law Sen Vann as an example.
16 All his family members were killed except his son named Mao, who
17 hid in a corn field and survived. Khun Mon's relatives and
18 neighbours report that they knew of no mistakes anyone had made,
19 but that Vietnamese wives and children were killed. Mon's
20 mother-in-law Le Thi Hai, sister-in-law Seng Tieng, and
21 brother-in-law Seng Ke were also killed."

22 Do you have any information about that, after hearing that? Is
23 that -- do you recall anything else that you could add?

24 [09.18.09]

25 A. Regarding Le Hai family, I only know of one who was the father

5

1 and he had his wife, Vietnamese wife and the children were taken
2 away and killed. I do not know about anything about the mother,
3 that is, Mon Huor since we separated and I only know about the
4 one Mao as I just told you earlier.

5 Q. Okay, thank you. So let me move on then and ask you about a
6 few other persons who were named by Khun Mon. And this is at
7 E3/5325, 00824184, in English; in Khmer, 004551643; and in
8 French, 00869284. Did you know someone, a New Person, called Ta
9 Prunh who had a dark complexion and a Vietnamese wife, does that
10 ring a bell to you?

11 A. No I do not know Ta Prung. I do not know which village he
12 lives in.

13 Q. Okay. One more name going to the next page in all three
14 languages. I might need my colleague to pronounce it.

15 MR. SENG LEANG:

16 Lach Ni.

17 BY MR. KOUMJIAN:

18 Q. Do you know that person?

19 [09.20.37]

20 MS. SAO SAK:

21 A. I do not know Lach Ni; I do not know which village this person
22 lives in.

23 Q. Now, then I'm going to move on and ask you about some other
24 names mentioned by a woman named Yim Muoy.

25 MR. SENG LEANG:

6

1 Yim Muoy.

2 BY MR. KOUMJIAN:

3 And that document E3/7783. Before I ask you these questions, just
4 to see if you know this person, apparently the family had lived
5 Anlong Trea in the 1960s. Her mother's name was Hai and was mixed
6 race Vietnamese. Do you know this woman at all?

7 [09.21.41]

8 MS. SAO SAK:

9 A. I am really not sure, it's Muoy the daughter of Grandma Hai?

10 Q. Yes.

11 A. I know that Muoy, she got married and moved to live in
12 Krohuem. However, she later on passed away and she had her
13 children still living in Phnom Penh.

14 Q. Do you know what happened to her younger brother, Ke; young
15 sister, Tieng; her mother, Hai; and her younger sister, Huon?

16 A. We separated after 1979, so I do not know about her family
17 situation and we have never met since. I only knew that Huon was
18 killed and after that I have not received any news from this
19 family.

20 [09.23.20]

21 Q. Okay. Let me read then from the statement that she gave, and
22 in Khmer this is at page 00238898; in French, 00281807; and in
23 English, 0024216 (sic). She stated that in approximately 1977,
24 she went to transplant rice seedlings. All seven of her children
25 lived in the house as normal. Her husband was a tailor in Chrey

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1 Krohuem village. She says once a day, during that same year, a
2 man named An, Choek An, a villager at Po Reang (phonetic)
3 village, who went back and forth between there and Svay Antor
4 village, told her husband "All of your wife's family had been
5 taken and killed." Those killed were as follows: Yim Muoy's
6 younger brother Ke, younger sister Tieng, who were working in a
7 mobile unit were killed first. Her mother Hai, her younger sister
8 Houn, the wife of Khun Mon, and three nieces and nephews were
9 killed two or three days later.

10 Do you have any information about that other than, I believe, you
11 told us you heard about one brother?

12 [09.25.23]

13 A. I did not with them so I cannot tell you anything else. I
14 lived in a different village, they lived in Peareang while I
15 lived in Anlong Trea which was far. Even Mon, in Svay Antor,
16 although it was closer, but I could not go there and during the
17 Khmer Rouge regime we were prohibited from going to another
18 village. Every morning when we woke up we had to go to the
19 worksite.

20 Q. Thank you very much, and thank you for explaining to us what
21 you do know and do not know. So I want to ask you then, I
22 believe, just about one more statement and this is from a person
23 who now would be in his seventies named Mom Chheuy his wife's
24 name Neang Phan.

25 MR. SENG LEANG:

1 The name is Mom Chheuy and Neang Phan.

2 BY MR. KOUMJIAN:

3 Q. Those people. Do you know Mom Cheuy (phonetic)?

4 MS. SAO SAK:

5 A. No, that name does not ring a bell; I don't know which village
6 that person lives in.

7 Q. Did you know a midwife in Anlong Trea village named Yeay Doek?

8 MR. SENG LEANG:

9 Yeay Doek.

10 [09.27.17]

11 MS. SAO SAK:

12 A. There were two, Yeay Ba (phonetic) and Yeay Doek. Doek was the
13 mother of Ba (phonetic) who was a midwife and she actually saved
14 the lives of many people there. She mostly saved villagers in
15 Anlong Trea and in other villages through her midwifery practice
16 and the knowledge passed on from the mother to the daughter.
17 However she was taken away and killed and nobody knew that she
18 was taken away and killed. Only later we learnt that her house
19 was empty and nobody was there.

20 BY MR. KOUMJIAN:

21 Q. What was her ethnicity, this woman that was taken away and
22 killed?

23 MS. SAO SAK:

24 A. She was Vietnamese originally and when -- since I grew up I
25 saw her living in the village although I did not know where she

1 originally came from. However as I said she saved many lives in
2 my village.

3 [09.28.43]

4 Q. And the lives that she saved were those people all Vietnamese,
5 what was the ethnicity of those whose lives she saved?

6 A. Regardless of Vietnamese or Khmer ethnicity, whoever came to
7 her for help, she would save them all.

8 Q. Do you recall any period of time when the local cadres from
9 your area Prey Veng were replaced by cadres from another part of
10 Cambodian?

11 A. No, I don't. I saw them coming but I didn't know from where
12 they came. I was an ordinary villager. I only saw them and I did
13 not dare even look at their face, let alone asking them where
14 they came from.

15 Q. Can you explain a bit about what happened when you said you
16 saw them coming, what happened when these other people came?

17 A. We the ordinary villagers, we were not allowed to actually
18 meet them and I spent most of my time in the rice field and I
19 only returned to the village for lunch at 11.30, so I did not
20 know about their activities.

21 [09.30.39]

22 Q. Did these people speak with the same accent as those from your
23 village or with a different accent?

24 A. I did not meet them and did not hear what they said. I met
25 only those from Anlong Trea commune. So, only people from those

10

1 commune that I knew that they were Khmer.

2 Q. The disappearance of those who were Vietnamese or part
3 Vietnamese that we've talked about over since Thursday, did this
4 occur, if you know, continue to occur after these people arrived
5 or not, do you know?

6 A. Yes. They disappeared one after another and when the
7 Vietnamese were about to liberate and then there were no more
8 disappearances.

9 [09.32.03]

10 MR. KOUMJIAN:

11 Thank you. Mr. President, I turn over the witness to the civil
12 parties. Thank you very much. Thank you, Madam Witness.

13 MS. SAO SAK:

14 Thank you.

15 MR. PRESIDENT:

16 Thank you. The Lead Lawyer for the civil party, you may now
17 proceed.

18 QUESTIONING BY MS. GUIRAUD:

19 Thank you, Mr. President. And good morning to all of you. Good
20 morning, Ms. Witness. My name is Marie Guiraud and I represent
21 the collective of civil parties. And I have a few very short
22 questions to put to you; questions of clarification in relation
23 to what you explained to us last Thursday.

24 Q. You told us on Thursday that there were mixed blood children
25 and children from mixed blood marriages within your village in

11

1 Anlong Trea and I wanted to know if it was possible to physically
2 recognise the mixed blood children and if that was the case what
3 were the physical features that allowed people to make that
4 distinction?

5 [09.33.30]

6 MS. SAO SAK:

7 A. In the village -- I knew only about those in Anlong Trea
8 village. Some had wives and some had children and I knew about
9 them. I did not know about those living in other village, I knew
10 only about those living in my village like Van Mao (phonetic). He
11 had a Khmer wife and I knew that he was mixed blood and his
12 child, he brought from Vietnam so I knew that she was ethnic
13 Vietnamese. So I knew only those in my village I did not know
14 about those in other village.

15 Q. Thank you. I'm putting questions to you only on what happened
16 in your village. I would like to know whether it is possible to
17 physical recognise persons who were of mixed origin or Vietnamese
18 and those who were Khmer, in your village. Did they resemble one
19 another physically, did they have the same physical features or
20 they were different?

21 [09.34.44]

22 A. Yes, they looked similar. They had dark complexions and I knew
23 that they had either ethnic father who is Vietnamese or mother
24 who is Khmer.

25 Q. When you say that they were dark, are you talking of Metis

12

1 children or children whose parents were Khmer?

2 A. I refer to their parents. If their parents are ethnic
3 Vietnamese, we say that "Oh they are children of Vietnamese." So
4 it's what we heard from one another, people from my village said
5 about that. It's what people in the village said.

6 Q. Still as regards the skin colour, which you referred to, in
7 order to properly understand your testimony, regarding children
8 who were half-caste or Metis and who had Vietnamese parents, were
9 they darker, were they more dark skinned than the others or they
10 had the same skin colour.

11 A. If we talk about their skin, for example, I myself, I look
12 like my mother so I have white skin but like Van Mao, he had dark
13 complexion, he looked like his father. So it doesn't mean that
14 only those who had white skin were ethnic Vietnamese children, it
15 did not mean like that.

16 [09.36.48]

17 Q. That is very clear. Thank you. How then, could you know in the
18 same village who had one or two Vietnamese parents from those who
19 had Khmer parents. In Anlong Trea, how would you know who was of
20 Vietnamese origin and who wasn't?

21 A. In my opinion, I thought that the village chief also did some
22 report about the ethnicity of the villagers but for me in my
23 village, I knew those who had Vietnamese wives or Vietnamese
24 husbands but in Angkar in the village chief I think they may have
25 done some report about the ethnicity of the villagers, that's why

13

1 people in the higher ranking, in the Angkar, they knew something
2 about the ethnicity of the people in the village. So, I knew
3 about when they got married to ethnic Khmer and then their
4 history was known to the villagers and people talked about that
5 and that's what all I knew about.

6 Q. When you say that you think the village chief issued a report,
7 is that something you heard of during that period, that there
8 were reports written by the chief?

9 MR. PRESIDENT:

10 (No interpretation)

11 [09.38.48]

12 MR. KOPPE:

13 Thank you, Mr. President. Good morning, Your Honours. I wanted to
14 make the observation already a little bit earlier, because I
15 heard the witness say when she was answering the previous
16 question, in my opinion the village chief may have done certain
17 things. I understand the follow up question but I think may be it
18 would be in the benefit for all Parties that the witness be
19 instructed only to say the things that she actually knows rather
20 than giving her opinion on what might have been the case.

21 BY MS. GUIRAUD:

22 That was precisely the thrust of my question, Mr. President. I
23 would like the witness to react by telling us what she knew at
24 the time and what she thought she knew. That is what I'm driving
25 at.

14

1 Q. Madam Witness, during that period, did you know that the
2 village chief had established reports, is that information that
3 you had in your possession?

4 [09.40.10]

5 MS. SAO SAK:

6 A. When they did the report, they did about the ethnic Khmer, I
7 did not know about the ethnic Vietnamese.

8 Q. You have talked to us about your mother and said your mother
9 was half-caste, half Vietnamese. Tell us did your mother speak
10 the Vietnamese language?

11 A. She did not speak Vietnamese but when Vietnamese people talked
12 to her, she understood.

13 Q. On Thursday you talked about other half-caste people who lived
14 in Anlong Trea, do you know whether those persons, spoke
15 Vietnamese during that period?

16 A. All half-blooded children they did not speak Vietnamese, since
17 they were born until now, no one of them could speak Vietnamese.

18 [09.41.28]

19 Q. Thank you. On Thursday in answer to a question put to you by
20 the National Co-Prosecutor, you explained that the Vietnamese and
21 half-caste people in your village were led away at a point in
22 time to the lower part of Cambodia. And you say that you were
23 indeed sent to Vietnam. I would like to read out to you what you
24 stated on Thursday and put some questions to you regarding that.
25 You stated at 15.20.15 as follows:

15

1 "I saw that they were assembled and they were evacuated to the
2 lower region of Cambodia. Those who were from mixed marriages or
3 families were continually assembled and sent away by boat. As for
4 single families, they sent those single families one at a time
5 and they kept disappearing." Do you remember making that
6 statement on Thursday?

7 A. Yes I did.

8 Q. Can you explain to the Chamber to the best of your
9 recollection, how those persons were assembled and evacuated?
10 What do you remember as regards those events?

11 [09.43.02]

12 A. They assembled people and were sent to somewhere. So each
13 family was collected and sent away and they disappeared and
14 sometimes they were sent at night time, some at day time, I did
15 not know much about this because I worked during the day only
16 when people told me that they were sent away. So this is what I
17 heard from people.

18 Q. Did you know during that period who assembled the people, were
19 they cadres or militiamen in your village in Anlong Trea or those
20 persons came from outside of the village to organise such
21 evacuations? Do you remember anything about that?

22 A. I did not know about that. I did not know who came to assemble
23 people I just only knew that people disappeared.

24 [09.44.10]

25 Q. Did you at any point in time hear anyone in your village or

16

1 outside of your village talk of language tests that were
2 conducted to find out whether those persons spoke Vietnamese or
3 not, is that something you knew during that period?

4 A. There were none language tests.

5 Q. On Thursday you stated that the persons who were assembled and
6 evacuated, were evacuated to Vietnam. How did you come by such
7 information and how can you say today that they were evacuated to
8 Vietnam. On what basis can you say that they were evacuated to
9 Vietnam?

10 A. It's only what I heard from other people say that those people
11 were sent to Vietnam.

12 Q. And those persons who told you that were they living in Anlong
13 Trea village at the time, did people talk about that in the
14 village that people were evacuated to Vietnam or that is
15 something you learnt about subsequently after the end of the
16 Democratic Kampuchea regime?

17 A. It's what I heard from the villagers, that those people were
18 evacuated to Vietnam and they were sent back to their home
19 country in Vietnam. So it's what people said.

20 [09.46.08]

21 Q. And this is my last question to you, Madam Witness. You talked
22 of villagers who said that those persons had returned to Vietnam;
23 did you hear that from a cadre or a militiaman in your village,
24 that is, as regards the assertion that those persons were sent to
25 Vietnam?

17

1 A. I heard from my fellow villagers that those people were
2 evacuated to Vietnam because the Vietnamese were not allowed to
3 live in Cambodia that's what I heard from fellow villagers.

4 Q. Thank you, Madam Witness. I have no further questions for the
5 witness, Mr. President. I believe there was an error in the
6 French and perhaps I should put the question to the Witness
7 again.

8 Madam, you heard from the elderly persons in the village that the
9 Vietnamese did not have the right to stay in Cambodia, is that
10 what you stated or it was an error in the interpretation?

11 A. Those who were evacuated were sent to live in Vietnam. That's
12 only what I said I did not say anything else. I said those who
13 were evacuated because they were Vietnamese so they needed to
14 live in their country.

15 MS. GUIRAUD:

16 Perfect. Thank you. Thank you, Witness. Thank you, Mr. President.

17 [09.48.00]

18 MR. PRESIDENT:

19 (No translation)

20 [09.48.19]

21 MR. PRESIDENT:

22 Co-defence Counsel for Nuon Chea, you may now proceed.

23 (Short pause)

24 [09.48.50]

25 Now I give the floor to the defence counsel for the Accused, Nuon

18

1 Chea. You may now proceed with the questions.

2 QUESTIONING BY MR. KOPPE:

3 Thank you, Mr. President. And good morning, Madam Witness. I have
4 no many questions that I would like to put to you, only a few. I
5 would like to start with the following question.

6 Q. You were born in 1953, that means that you were 17 years old
7 in 1970; is that correct?

8 MS. SAO SAK:

9 A. Yes that's correct.

10 Q. In the period between 1970 and '75, did you ever travel
11 outside of your village, did you, for instance, ever go to Phnom
12 Penh between '70 and '75?

13 A. I did not leave my village during that time; I only live in my
14 village, Anlong Trea.

15 [09.50.20]

16 Q. Did you have family in Phnom Penh or Takeo for instance?

17 A. No, I did not have.

18 Q. Did you know what happened outside of your village between
19 1970 and '75, for instance, with people from Vietnamese
20 ethnicity?

21 A. I did not know about that. I knew only about the evacuation of
22 those people but I did not know about what happened outside the
23 village.

24 Q. Have ever heard your mother speak about mass executions of
25 Vietnamese in 1970 or detention, arrest of many Vietnamese in

1 1970, a campaign with words against Vietnamese; did you hear
2 anything about that?

3 A. I did not know about that.

4 Q. Let me go back to what you said on Thursday at 14 hours 33
5 minutes. The question is -- I think it was a question from the
6 National Co-Prosecutor.

7 "Can you tell the Court how the Base People regarded Vietnamese
8 people, were there any differences in treatment on the Vietnamese
9 people before 1975 and after 1975?"

10 And your answer is I quote: "Before '75, we had normal
11 relationship, later on people were sorted out and Vietnamese
12 people were sorted during that time." End of quote.

13 Now when you gave that answer on Thursday, did you mean or did
14 you limit your answer specifically only to people of Vietnamese
15 origin in your village?

16 [09.53.38]

17 A. Ethnic Vietnamese and ethnic Khmer had no problems in their
18 relationship. When the ethnic Vietnamese were taken out the
19 ethnic Khmer also did not know much about what happened to them.

20 Q. But when you gave your answer last Thursday to the question
21 relating to the treatment of Vietnamese before '75, you were only
22 limiting your answer to what you know that happened in your
23 village, is that correct?

24 A. In my village there was also no strange event taking place.

25 Q. Just to be sure you have never heard of mass executions of

20

1 Vietnamese during the Lon Nol regime, is that correct?

2 [09.55.06]

3 A. Yes I did not hear about it because it was not something to do
4 with ordinary people, because ordinary people were busy with
5 their living.

6 Q. Let me give you one example. The mass execution of 800
7 Vietnamese, labourers, whose bodies were thrown in the Bassac
8 river in 1970, have ever heard of such an event?

9 A. No. I did not hear about it. As I told you that I am -- I was
10 an ordinary people so I thought only about how to earn a living
11 for my family and I was also fearful about the bombing at that
12 time.

13 Q. Have you ever heard on the radio that the Lon Nol government
14 admitted to arresting some 30,000 Vietnamese and jailing 7,000 of
15 them under the suspicion of treason?

16 A. No I did not hear about that because my family was poor we did
17 not have a radio.

18 Q. So I presume you also never heard of anything of a mass
19 execution of Vietnamese in Takeo before 1975?

20 [09.56.59]

21 A. I did not hear about it.

22 MS. GUIRAUD:

23 I would like to make an application, Mr. President. Can we have
24 the references of the documents that my colleague is relying on
25 to put these questions to the witness?

21

1 BY MR. KOPPE:

2 But of course, Mr. President. But in accordance with the practice
3 I was first asking open questions and then later on I would refer
4 to my source, allow me one last question and then I will refer to
5 where I have my knowledge from.

6 Q. Have you ever heard of anti-Chinese campaigns in Phnom Penh
7 before 1975. Chinese -- people of Chinese descent being
8 threatened with mass executions, have ever heard of that?

9 MS. SAO SAK:

10 A. No I did not. I did not know at all.

11 [09.58.25]

12 Q. Mr. President, I was referring to a book from someone whom the
13 Court considers that she is an expert. The book of Elizabeth
14 Becker, more specifically, that is, E3/20, ERN English, 00237829
15 and 30; Khmer, 00232165 and 66; and French, 00638396 and 97; in
16 which the author discusses the anti-Vietnamese pogroms. The
17 anti-Vietnamese campaigns of Lon Nol, mass executions, mass
18 detention and a threat to the Chinese of having the same fate as
19 Chinese in Indonesia in '65, where they were massively executed
20 by a western -- pro-western government in Indonesia. That's where
21 I have my questions from. But I understand, Madam Witness, that
22 you do not know anything about the treatment of the Vietnamese
23 before 1975, correct?

24 MS. SAO SAK:

25 A. No, I did not know about this.

1 Q. Have you ever heard of something called -- or a magazine or a
2 paper called "Revolutionary Flag"?

3 A. No, I never saw it. I lived in the countryside and I never saw
4 it.

5 Q. Have you ever, between '75 and '79, listened to Radio Phnom
6 Penh?

7 A. Of course not. During the regime people were not allowed to
8 know anything about the news.

9 [10.01.10]

10 Q. But Radio Phnom Penh, I think, was the official broadcast
11 organ of the Democratic Kampuchea government so I think it was
12 allowed for people to listen to Radio Phnom Penh. Did you ever
13 listen to the radio or did you know someone who listened to the
14 radio or the Radio Phnom Penh more specifically?

15 A. No, I did not as I said. In each family we were only thinking
16 of feeding our family members we did not think of politics. We
17 were striving to earn living for my children, there were seven
18 children that I had, two passed away. So my main focus is to
19 provide food to the children. After the end of the regime, I
20 strived my best to feed my family members mainly my children.

21 [10.02.21]

22 Q. I understand, Madam Witness. Is it then fair for me to say
23 that the only encounter you ever had with functionaries of the
24 Democratic Kampuchea government is or are your interactions with
25 the local cadres from your village? Are they the only

1 representatives of the Democratic Kampuchea government that you
2 spoke to or that you had contact with?

3 A. I only interacted with the cadres in my village.

4 Q. So, would it then be fair for me to say that you, at the time,
5 had no idea what the policy was of either the Democratic
6 Kampuchea government or the Communist Party of Kampuchea versus
7 the Vietnamese?

8 A. Yes, that is correct. I did not know anything about that.

9 Q. Madam Witness, in your written record of interview, you refer
10 to something that you call, "the events of So Phim". Literally
11 you say on English page, 00235511; Khmer, 00233295 -- sorry 96;
12 and French, 00250600:

13 "As for me I had to pull and transplant rice seedlings, make
14 fermented fish, smoked fish, mill rice and pound rice, according
15 to the season. About one or two years later, there were the
16 events of So Phim and the defeated soldiers and the wives of the
17 former Lon Nol soldiers along with those with tendencies were
18 rounded up and sent to the Centre and disappeared."

19 And my question is specifically about the events of So Phim. What
20 did you mean when you said that to the investigators "the events
21 of So Phim"?

22 [10.05.39]

23 A. After the events of So Phim, that's what it was known, people
24 or the soldiers who ran back to the village were called to return
25 and those with tendencies as well as the New People were called

24

1 to attend the re-education, that's all I know.

2 Q. Who was So Phim, Madam Witness?

3 A. I did not know who he was. I only heard of his name.

4 Q. Do you remember what you heard of his name?

5 A. People in the village talked about him about the confusing
6 situation at the time and I did not know anything else besides
7 that.

8 [10.06.54]

9 Q. And do you know what the villagers were speaking about, what
10 did they say, do you recall?

11 A. They did not say anything else. The event took place and died
12 down and nobody knew anything else.

13 Q. Do you recall which sector and in which zone your village was
14 situated before '75 and '79?

15 A. It was Sector 24.

16 Q. And which zone, do you remember?

17 A. No I don't. I only know that it was in Sector 24.

18 Q. Have you ever heard of someone called Heng Samrin?

19 A. I only heard of his name. I did not know his face.

20 Q. And do you remember what he heard about him between '75 and
21 '79 or thereafter?

22 [10.08.58]

23 A. No, I do not know anything else about him, as I said I only
24 heard of his name.

25 Q. Do you know whether there was ever any fighting going on

25

1 between military troops of the Democratic Kampuchea regime,
2 government and the Vietnamese troops, in other words did you ever
3 hear the sounds of war, guns shooting, cannons shooting, tanks
4 shooting each other, have you ever heard of anything like that?

5 A. No, I did not.

6 Q. My last question Madam Witness, is my understanding correct
7 that you yourself have never witnessed in front of your eyes
8 anyone being killed, you never saw any actual killing of anybody
9 is that correct?

10 [10.10.26]

11 A. Yes, that is correct, since I never saw it.

12 MR. KOPPE:

13 Thank you, Mr. President.

14 MR. PRESIDENT:

15 Thank you, Counsel. It is now convenient to have a short break.

16 We take a break now and resume at 10.30.

17 Court officer, please assist the witness at the waiting room
18 reserved for witnesses and civil parties during break time and
19 invite her back into the courtroom at 10.30.

20 The Court is now in recess.

21 (Court recesses from 1011H to 1031H)

22 MR. PRESIDENT:

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

24 And once again the floor is given to the defence team for Mr.

25 Khieu Samphan to put questions to this witness. You may now

1 proceed.

2 QUESTIONING BY MS. GUISSÉ:

3 Thank you, Mr. President, good morning. Good morning, Ms. Sao
4 Sak, my name is Anta Guissé and I am International Co-Counsel for
5 Mr. Khieu Samphan and in this capacity I will be putting a few
6 brief questions to you.

7 Q. My first question has to do with an event you mentioned in
8 answer to a question put to you by the National Co-Prosecutor.

9 You stated that you were arrested for about ten days and when you
10 were interviewed by Co-Investigating Judges, you made mention of
11 a number of persons who were also arrested at the same as
12 yourself and you said you had a grandmother called Che. Can you
13 tell us who arrested that person and how you knew about her? In
14 the interest of interpretation, to avoid dictation problems, it
15 is written as C-h-è, the document is E3/7780.

16 [10.33.06]

17 MR. KONG SAM ONN:

18 The name is Che.

19 MS. SAO SAK:

20 In fact, Yeay Che was called together with me to an area -- to a
21 pagoda, Anlong Trea pagoda.

22 Q. And my question to you was, who was that person and how did
23 you know about her?

24 A. Yeay Che was simply an ordinary person in Anlong Trea village;
25 we were living in the same village.

1 Q. In your statement, E3/7780, and the ERN French is, 00250601;
2 ERN in English, 00235512; and the ERN in Khmer is, 00233296; you
3 refer to the ethnic origins of that person. Do you remember those
4 origins?

5 A. I do not know the background of that person. That person said
6 she was Cham. We had been living together in the same village. I,
7 at the beginning, did not know whether or not that person was
8 Cham however I knew that the father of that person was ethnically
9 Cham.

10 [10.35.06]

11 Q. And do you confirm that, as in your case, that person was
12 freed at a point in time?

13 A. Yes, later on that person was freed.

14 Q. Still on the same page in French and the same page in English
15 and Khmer the ERN being, 00233296; you refer to a number of
16 cadres at the village, at the village level -- I crave your
17 indulgence for my pronunciation, I have given the ERN numbers so
18 that you know exactly what we're talking of. Mention is made of
19 Man, Kok, Chhoeuy and Ny and they are all referred to as base area
20 cadres. My first question has to do with Man, what was his
21 position exactly?

22 A. Man was the village chief in Anlong Trea.

23 Q. And was it to that person that you spoke when you were
24 arrested or you spoke to someone else?

25 A. Man invited me to a pagoda. It was only Man who invited me.

1 [10.37.59]

2 Q. So he is the person that you spoke to, is that correct?

3 A. Yes that is correct. It was Man.

4 Q. Do you know who Man's chief was?

5 A. I do not know the immediate supervisor of Man, I knew only
6 Chhoey another chief.

7 Q. And can you tell us what Chhoey's exact position was?

8 A. He was the commune chief of Prek Chrey.

9 Q. You also made mention of Kok, what was Kok's position?

10 A. Village chief, he was the village chief together with Man in
11 Anlong Trea.

12 Q. And lastly Ny, what was his position?

13 A. He was the chief of militia.

14 Q. A while ago and even last week you said on several occasions
15 that you were an ordinary member of the village and you went
16 around doing your work and is it correct to say that you never
17 attended any meeting with Mon, Kok, Chhoey and Ny?

18 [10.39.13]

19 A. I never attended the meetings but I used to be in the meetings
20 in relation to the discussion of harvest and the agriculture. In
21 the meeting I was told to increase the production from three
22 tonnes per hectare to six tonnes per hectare.

23 Q. So, a while ago when you answered a question put to you but
24 the civil party Lead Co-Lawyer, you said that you assumed that
25 Man established reports on the ethnic origins of the members of

1 your village population, was that only a supposition on your
2 part, that you were not quite aware of the fact that Man wrote
3 reports on people to a chief that you were aware of, is that
4 correct?

5 A. Yes, that is correct.

6 MS. GUISSÉ:

7 Thank you. I have no further questions for the witness, Mr.
8 President.

9 [10.40.36]

10 QUESTIONING BY MR. KONG SAM ONN:

11 Thank you, Mr. President. Good morning, Witness. This morning you
12 made mention about arrests of Vietnamese and the transfer of them
13 to their home country, that is, Vietnam. Could you tell the Court
14 who told you that Vietnamese were arrested and sent back home?

15 MS. SAO SAK:

16 A. It was not the village chiefs who told us about that, it was
17 our thought that the Vietnamese were arrested and sent back to
18 Vietnam, no one told us about that?

19 Q. Who told you about the arrest and transfer of Vietnamese,
20 could you tell the names of those people?

21 A. It was a rumour from one another. When we were in the dining
22 hall, all of us were whispering to one another that Vietnamese
23 had been arrested and sent back to Vietnam. We were afraid after
24 hearing that information. I, together with Yeay Yeay (phonetic),
25 discussed about that matter. Yeay Chet (phonetic) who was in my

30

1 group discussed the matter with us about the Vietnamese people
2 arrested and sent back to Vietnam. We learnt from the grandmother
3 or Yeay Yeay in Khmer.

4 [10.42.42]

5 Q. When did that happen?

6 A. It was between 1975 to 1978, when we were working together in
7 the cooperatives and when we were having meals together
8 collectively.

9 Q. Thank you. A while ago you said Ny was militiaman chief. Could
10 you specify about Ny's position whether or not he was the militia
11 chief in the commune or in the village?

12 A. Ny was the chief of militia within my village.

13 MR. KONG SAM ONN:

14 Thank you, Madam Witness. Mr. President, I am done with my
15 questioning.

16 MR. PRESIDENT:

17 Thank you, Madam Sao Sak. The hearing of your testimony as a
18 witness has come to an end. Your testimony will contribute to
19 truth in this case. You may be excused, you may return to your
20 residence or to any destination you wish to go. I wish you good
21 health, good luck and prosperity.

22 Court officer, please work with WESU to send Madam Sao Sak to her
23 residence or to any destination she wishes to go.

24 And next the Chamber will start to hear 2-TCW-241 (sic). Court
25 officer, please invite the witness into the courtroom.

1 (Civil party enters courtroom)

2 [10.46.22]

3 QUESTIONING BY THE PRESIDENT:

4 Good morning, Mr. Civil Party, what is your name?

5 MR. CHOEUING YAING CHAET:

6 A. My name is Choeung Yaing Chaet.

7 Q. Mr. Choeung Yaing Chaet, when were you born?

8 A. I cannot recall it.

9 Q. How old are you this year?

10 A. I am 13 or 14 years old, Mr. President.

11 Q. How old are you this year?

12 A. I am 52 years old, Mr. President.

13 [10.47.15]

14 Q. Thank you, Mr. Choeung Yaing Cheat, where were you born?

15 A. Srae Ta Kouch (phonetic) village, Prey Kri commune, Kampong
16 Leaeng district.

17 Q. And what is your current address, where are you living now?

18 A. I am living in Kandal village, Kampong Chhnang district,
19 Kampong Chhnang province.

20 Q. What is your current occupation?

21 A. I am a worker, Mr. President.

22 Q. Thank you. Mr. Yaing Chaet, please listen carefully to the
23 question before you give your answer, by doing so you may allow
24 time for interpreters to interpret into three working languages,
25 Khmer, English and French. So you need to pause a little while so

1 that interpreters can fully interpret what you say. What are your
2 parent's names?

3 [10.48.43]

4 A. My father's name is Choeung Yang Sruo and Mother's name is
5 Mieng Thy Korng.

6 Q. What about your wife, what is her name and how many children
7 do you have?

8 A. My current wife's name is Ming Yen Loy (phonetic) and I have
9 11 children, Mr. President.

10 Q. Mr. Choeung Yaing Chaet, at the end of your testimony as a
11 civil party you are entitled to make a victim impact statement
12 during the Democratic Kampuchea between 17 April 1975 to 6th
13 January 1979 if you wish to do so. Mr. Choeung Yaing Chaet, have
14 you ever been interviewed by the investigators of the ECCC's
15 OCIJ?

16 A. Yes. I can recall some information which are provided to the
17 investigator, not all of them.

18 Q. I want to know whether you have been interviewed by the
19 investigators of the OCIJ of the ECCC.

20 [10.50.35]

21 A. Yes. Lawyer Sokong is the lawyer who interviewed me and later
22 on, Lawyer Lyma interviewed me.

23 Q. So you did not provide information to the investigators of the
24 OCIJ of the ECCC. In fact you were interviewed by your Lawyers.
25 Mr. Choeung Yaing Chaet, on the basis of Internal Rule 91bis of

33

1 the Internal Rules, the Chamber gives the floor to the Lead
2 Co-Lawyers to put questions before other Parties. Lead Co-Lawyers
3 and Co-Prosecutors will have two sessions to put questions to
4 this civil party. You may proceed, Lead Co-Lawyer.

5 MS. GUIRAUD:

6 Thank you, Mr. President. It is my colleague, Lyma Nguyen, who
7 will put questions to this civil party today.

8 MR. PRESIDENT:

9 Yes, you can now proceed, Lawyer.

10 [10.52.07]

11 QUESTIONING BY MS. NGUYEN:

12 Q. Mr. Choeung Yaing Chaet, are you of Vietnamese ethnicity?

13 MR. CHOEUNG YAING CHAET:

14 A. I was ethnically Vietnamese.

15 Q. Are both your parents ethnically Vietnamese?

16 A. Yes, you are right.

17 Q. Now, you mentioned that you were born in Srae Ta Kouy

18 (phonetic) village in Kampong Leaeng district, Kampong Chhnang

19 province; can you tell us where you parents were born?

20 A. Yes, I can tell you. My parents were also born in Srae Ta Kouy

21 (phonetic), Kampong Leaeng district, and I was born in the same

22 village, commune and district.

23 Q. What language did you speak at home growing up?

24 A. When I lived in that village, I spoke both Khmer and

25 Vietnamese.

34

1 Q. What language did you speak with your parents?

2 [10.53.58]

3 A. I spoke Vietnamese.

4 Q. Did your parents also speak the Khmer language?

5 A. Yes, they could speak Khmer. They lived in a village adjacent
6 to Khmer villages so they also spoke Khmer.

7 MR. PRESIDENT:

8 Madam Lawyer, please turn off your microphone after you put the
9 question and please also pause a little while before you put
10 another question so interpreters can fully interpret what all of
11 you say.

12 BY MS. NGUYEN:

13 Q. Certainly, Your Honour, thank you. What level of Khmer
14 language skills did your parents have?

15 [10.55.12]

16 MR. CHOEUNG YAING CHAET:

17 A. They could speak 60 per cent of Khmer.

18 Q. Did your family follow any Vietnamese traditions?

19 A. They practiced Vietnamese religion.

20 Q. And what is the Vietnamese religion?

21 A. They celebrated Vietnamese New Year and the All Souls Day --
22 that is, San Kbal Teuk (phonetic).

23 Q. Now the Vietnamese use a calendar which is a little bit
24 different from the Western calendar and from the Khmer calendar,
25 could you tell us how the Vietnamese calendar is different?

35

1 A. The calendar of French people is different from the calendar
2 of the Vietnamese people.

3 Q. How are the calendars different?

4 A. Usually the celebration of any ritual of French calendar is
5 one month before the Chinese calendar.

6 Q. So the Vietnamese calendar is the same as the Chinese
7 calendar?

8 A. Yes, that is right.

9 [10.57.35]

10 Q. Now you said that the calendars were one month different, for
11 example, if today is the 7th of December in the Western calendar,
12 what day is it in the Vietnamese calendar?

13 A. It falls on the 26th of October in Vietnamese calendar.

14 Q. So the Vietnamese calendar has dates that are earlier than the
15 Western calendar; is that correct?

16 A. In fact, it was -- it usually is one month after the
17 celebration according to the Western calendar.

18 Q. Now, Mr. Choeung Yaing Chaet, have you got brothers and
19 sisters, or did you have brothers and sisters?

20 A. Yes, I have siblings. Male and female siblings.

21 Q. Is it correct that in 1975, you had two older brothers and two
22 older sisters and that you were the youngest child in your
23 family?

24 [10.59.30]

25 A. Yes. I have two elder brothers and two elder sisters and I am

1 the youngest in the family.

2 Q. In 1975, you were 13 or 14 years old, is that right?

3 A. Yes, that is right.

4 Q. Do you know when each of your brothers and sisters were born?

5 A. I do not recall the dates of their birth.

6 Q. You told the Court the names of your mother and your father

7 earlier, I'd like you to go through the names of your siblings

8 starting with the oldest brother, what was your oldest brother's

9 name?

10 A. My first eldest brother was Choeung Yang Khauy, my second

11 brother was Choeung Yang Leuy and next other brother was Choeung

12 Yang Dy and fourth one was Choeung Ty Let, then it was me.

13 Q. Your family was ethnic Vietnamese, did any member of your

14 family have Vietnamese nationality?

15 A. My ancestors were Vietnamese and for me I had five siblings.

16 Q. Did any of your family members have Vietnamese nationality or

17 Vietnamese citizenship?

18 [11.02.09]

19 A. At that time I did not reach the age, however my elder two

20 brothers got the age and they received this letter Cheung Yang

21 Tai (phonetic) -- that is, during the Sangkum Reastr Niyum

22 regime.

23 Q I would just like to move to the issue of your places of

24 residence. You said you were born in Srae Ta Kouy (phonetic)

25 village, how long did you and your family live in this village?

1 A. I lived there and I only moved to Kandal village in 1975. I
2 was in the Srae Ta Kouy (phonetic) for a long while. However we
3 were mistreated by the Khmer Rouge, then we fled to live near the
4 Kampong Chhnang town.

5 Q. Could you explain how your family was mistreated by the Khmer
6 Rouge in Srae Ta Kouy (phonetic) village?

7 [11.03.40]

8 A. They mistreated us and they said that if we remained living
9 there, every one of us would be killed. For that we were afraid
10 then everyone from the village fled to Kampong Chhnang, including
11 my family and myself.

12 Q. Do you recall the composition of Srae Ta Kouy (phonetic)
13 village, for example, how many Vietnamese families lived there
14 and how many Khmer families?

15 A. There were more than 30 Vietnamese families, however there
16 were more Khmer families living in the village and the commune
17 though I do not know the total number of Khmer families.

18 Q. When your family moved from Srae Ta Kouy (phonetic) village to
19 Kandal village, were there also other families that moved there
20 at the same time?

21 A. Everybody came to Kampong Chhnang, that is, to live in Kandal
22 village. There were Vietnamese families, Khmer families and Cham
23 families coming to live in that village.

24 Q. Now, you said earlier that you were told that if you remained
25 in the village, you would all be killed, could you explain who

1 told you that and who they said it to?

2 A. It was the -- Ta Peang's group who said that. Ta Peang was in
3 charge of Kampong Leaeng district.

4 [11.05.57]

5 Q. Now during the Khmer Rouge times, Kampong Leaeng district was
6 also known as District 18; is that correct?

7 A. Yes.

8 Q. Do you remember the dates or the month that your family moved
9 from Srae Ta Kouy (phonetic) to Kandal village?

10 A. I do not recall the month, however in 1975, I moved to Kampong
11 Chhnang and we stayed there a little bit over a month then we
12 were evacuated to Dar.

13 Q. What did you do during that month at Kandal village?

14 A. I went to catch fish.

15 [11.07.21]

16 Q. You said that you were evacuated to Dar village, could you
17 explain whether your parents actually chose to relocate from
18 Kandal village to Dar village or whether they were forced to?

19 A. By that time we were forced and actually they said that "long
20 live Samdech Euv" and we all had to leave, for those who lived in
21 the river had to go following the river while those on land had
22 to move by land and for us we went to Dar village.

23 Q. Could you describe what happened during the forced relocation
24 to Dar village?

25 A. We were taken to Dar and we were divided into groups there,

1 some had to go fishing while others had to work on land. So they
2 divided and they selected certain families to go and catch fish
3 while others work on land.

4 Q. How many families were forcibly relocated to Dar village from
5 Kandal village?

6 A. I cannot recall that. There were many families, there were
7 about 1000 families.

8 Q. Do you recall what the ethnic compositions of those 1000
9 families were who were relocated? Do you know how many of them
10 were Khmer and how many of them were Vietnamese families?

11 A. Since there were many, many families, I cannot recall the
12 ethnic composition.

13 [11.09.56]

14 Q. Do you recall whether there were more Vietnamese families than
15 Khmer families in that area?

16 A. It was likely that there were more Vietnamese families.

17 Q. Now how far away was Dar village from Kandal village?

18 A. It was 15 kilometres away or it could be roughly a little bit
19 less than 20 kilometres.

20 Q. And the people, when they were transferred to Dar village, did
21 the Vietnamese people live together with the Khmer people or did
22 they live separately?

23 A. For my group, we were all Vietnamese families, that is, from
24 Ta Peam while another group composed of mixed Khmer and
25 Vietnamese families.

40

1 Q. Who were the people in charge of Dar village?

2 [11.11.33]

3 A. I don't recall the name of Dar village chief and I only know
4 about the Peam village chief in Kampong Leaeng district.

5 Q. You mentioned before that there was a Ta Peang, was he the
6 village chief of Dar commune?

7 A. He was the chief of the Pol Pot group.

8 Q. Now this Dar village, was it still within District 18?

9 A. Yes, Dar was located in District 18.

10 Q. And could you describe where it was geographically, was it on
11 a mountain?

12 A. Yes, Phum Dar was located at a mountain and to the east it was
13 Kangkaeb mountain and to Samnouk (phonetic) -- Chranouk and to
14 the lower part of Dar village laid Kampong Leaeng district.

15 Q. What were the living and working conditions on Dar village at
16 Kangkaeb mountain?

17 A. I lived in Kangkaeb village together with my siblings and my
18 parents and I stayed watch the house and we were a ladle of
19 gruel for the morning, for lunch and for meal time and the gruel
20 was mixed with morning glory.

21 Q. What sort of work did you do at the mountain?

22 A. I was asked to clear the land to grow potatoes.

23 [11.14.05]

24 Q. Now how long did your family live at Dar village on Kangkaeb
25 mountain before they were killed?

41

1 A. It was a bit more than a month.

2 Q. During your family's time on the mountain did they ever
3 suspect that the whole family would be killed?

4 A. No. They never thought about that. If we knew that we were to
5 be killed we would run off into the forest either to be eaten by
6 a tiger but we did not know anything about that, we did not
7 anticipate it.

8 Q. Mr. Choeung Yaing Chaet, I would like you to describe in
9 detail the events leading to the death of your family starting
10 from the beginning, could you please tell the Court, when it was
11 the approximate date or month that you family were gathered
12 together and killed? Please take your time.

13 [11.15.58]

14 A. My parents were clearing the land and in fact my father had a
15 fever, I also had fever and next morning there were eight men
16 coming with eight guns and an axe. They demanded my father to go
17 first and after he left the house, and was tied, my mother became
18 unconscious, then each of the family members were tied up by a
19 rope that they used on cows. Then they lined them up into a line
20 and walked them off.

21 Q. So that morning, were all your family members in the house
22 when your father was called to come out by the eight men?

23 A. Yes we were all there and that happened at 8 o'clock in the
24 morning.

25 Q. Could you describe these eight men, where were they from, what

1 were they wearing?

2 A. It was Paeng's group, they all had black uniforms and they had
3 a scarf around their neck.

4 Q. Were they armed with any weapons?

5 A. The eight of them had eight guns an axe and grenades.

6 Q. Could you describe what they did after they called your father
7 out of the house and after he came out of the house?

8 [11.18.22]

9 A. They took him to near the pit where they would execute him and
10 it was about 100 metres away near the foothill. However I did not
11 see them kill my parents. When I arrived at the pit, I saw their
12 dead bodies in the pit, that is, the dead bodies of my father, my
13 mother and my siblings.

14 Q. You said -- you said earlier that these men tied your father
15 up and then did the same with the rest of your family. Could you
16 describe the manner in which they tied up your family?

17 A. They tied all the hands behind the back with a rope that they
18 used on cows and all my sisters and brothers were tied up and
19 then we were lined up in a queue and then they walked us into the
20 forest.

21 Q. So did they tie up each member of your family individually or
22 did they also tie them up together in one line?

23 [11.20.03]

24 A. We were tied up individually; however, when we were walked
25 there, we were walked into a single file in order to any of us

1 escaping.

2 Q. On this particular day did they do anything similarly with
3 other families?

4 A. As for other families, I could not say. If they had to force
5 to work probably they would be spared and others might have been
6 killed. I had been hit three times by an axe at the nape of my
7 neck and from that day onward I -- my memory does not serve me
8 that well.

9 Q. Just going back to what happened outside your family house;
10 did you see the Khmer Rouge take any other families that day?

11 MR. KOPPE:

12 Mr. President, I object to the word "Khmer Rouge". We either
13 describe very specific people or at least Counsel should do that
14 and refrain from the word "Khmer Rouge", especially when we are
15 dealing in this period '75. So the "Khmer Rouge" as such cannot
16 do anything, it's a physical acts that Counsel is asking for so
17 the witness should describe persons rather than an entity called
18 the "Khmer Rouge".

19 BY MS. NGUYEN:

20 Q. Mr. Choeung Yaing Chaet, you said there were eight cadres with
21 your family that morning, did you see these eight men deal with
22 any other families in a similar way.

23 [11.22.22]

24 MR. CHOEUNG YAING CHAET:

25 A. That day, at 8 o'clock in the morning, a family next door was

44

1 tied up as well. That family composed of father, mother and two
2 children.

3 Q. Was that family ethnically Vietnamese?

4 A. Yes. They were also Vietnamese.

5 Q. Was that family tied up at the same time that your family was
6 tied up?

7 A. Yes.

8 Q. You said earlier that these eight cadres then walked you about
9 one kilometre away to another place, could you describe the place
10 where they stopped you?

11 [11.23.39]

12 A. They walked us from the house to the forest and the distance
13 was about -- a bit over one kilometre and we were stopped about
14 100 metres from the pit and each of us would be taken one by one
15 to be killed at the pit.

16 Q. During that one hundred metre walk, did any of the cadres say
17 anything to yourself or your family or to the other family?

18 A. No, there were four cadres who were guarding our group and the
19 other four cadres would lead us one at a time and killed.

20 Q. Could you describe what this pit looked like, how big was it?

21 A. The pit was three metres wide and three by 2.5 and the depth
22 was 1.5 metres.

23 Q. What did the cadre do when you reached this pit?

24 A. As I stated earlier, each of us would be taken there and
25 killed. They would be killed, untied and pushed the person into

45

1 the pit and when it's my turn I was ordered to kneel down and
2 then they felt my neck and then they used an axe to hit the nape
3 of my neck three times.

4 [11.26.04]

5 Q. Were you the last in your family to be told to kneel by this
6 pit, what order did they take the members of your family?

7 A. I was the last person in my family and by that time all of the
8 eight cadres were there and they presumed that I was dead, then
9 they untied me, they took away the rope and then left.

10 Q. By the time it was turn and as you were kneeling, what could
11 you see inside the pit?

12 A. I only saw four of my family members and not the rest because
13 they stacked on top of another, I saw the dead bodies of my
14 father, my mother and my siblings and I was the last person to be
15 killed and to be dropped into the pit.

16 [11.27.31]

17 Q. Did you see the bodies of any of the other family who were
18 taken with your family that day?

19 A. No, I did not. It was possible that they were stacked up below
20 the dead bodies of my parents. And by the time I was kneeling at
21 the pit I felt dizzy.

22 Q. Now you described before, that when it was your turn, you were
23 forced to kneel down on your knees by the pit and one of the
24 cadres pulled your legs from behind you, can you describe what
25 then happened?

1 A. I said that I was ordered to kneel down and after I knelt down
2 they pulled my legs, by that time I lost my balance and my head
3 moved forward then they felt the nape of neck, they hit it three
4 times, they dropped me off into the pit and then they untied me.

5 Q. You said before that when you dropped into the pit you had
6 lost consciousness, when did you regain consciousness?

7 A. It was around 4 o'clock in the afternoon when I regained my
8 consciousness. I could not walk I had a very severe pain at my
9 neck. It was swollen then after that I walked day and night to
10 Krous (phonetic) village and then I entered the house of Ta Ly.

11 [11.29.56]

12 Q. Now, at the time all of this happened, you were only 13 or 14
13 years old, could you let the Court know what it was that you were
14 thinking and feeling at the time that you regained consciousness
15 in this mass grave?

16 A. Frankly speaking, I did not think of anything. I was just
17 reborn. So I walked that night and I reached the floating
18 Vietnamese village, I saw Ta Ly, then they helped me, they gave
19 some modern medicine and also traditional medicines in order to
20 treat me.

21 Q Who was this Mr. Ta Ly, who helped you?

22 A. Ta Peang's group assigned Ta Ly to live in the floating
23 village in order to make -- to catch fish and to make fermented
24 fish. When I reached that location I told them that all of my
25 family members had been killed and that I was hit but I survived,

47

1 then he used some tree leaves to treat my swollen neck.

2 [11.31.52]

3 MR. PRESIDENT:

4 Thank you, the time is appropriate now for our lunch break; we
5 will take a break now and resume at 1.30 this afternoon.

6 Court officer, please assist the civil party at the waiting room
7 reserved for civil parties and witnesses and invite him back into
8 the courtroom at 1.30 this afternoon.

9 Security personnel, you are instructed to take Khieu Samphan to
10 the waiting room downstairs and have him to returned to attend
11 the proceedings in this courtroom before 1.30.

12 The Court is now in recess.

13 (Court recesses from 1132H to 1333H)

14 MR. PRESIDENT:

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

16 Before I hand over the floor to Lead Co-Lawyer for civil parties
17 to put questions to this civil party, the Chamber would like to
18 issue an oral ruling on a new witness for treatment of the
19 Vietnamese.

20 In order to provide timely notice to the Parties, the Trial
21 Chamber now issues a partial decision on E319/36, the
22 International Co-Prosecutor's request to call for additional
23 witnesses, and to admit several written records of interview
24 listed in Annex J to the motion E319/36.2. The Parties responded
25 to this motion orally during proceedings on 1 December 2015. This

1 oral decision is limited to the International Co-Prosecutor's
2 request to call the proposed witness on the treatment of the
3 Vietnamese whom the OCIJ interviewed in Case 003; and the
4 International Co-Prosecutor's request to admit three of the
5 proposed witness newly-disclosed written records of interview
6 from Case 003: E319/23.3.44, E319/23.3.46, and document
7 E319/23.3.47 discussed in paragraphs 11 and 12 of the
8 International Co-Prosecutor's motion.

9 The civil party Lead Co-Lawyers support the International
10 Co-Prosecutor's requests.

11 The Nuon Chea defence submits that, should the Chamber grant the
12 International Co-Prosecutor's requests, the proposed witness be
13 called to testify only after the Case 003 investigation is
14 complete, and that all of the proposed witness recently-disclosed
15 written records of interviews be admitted, including document
16 E319/23.3.45 and document E319/23.3.48.

17 No Party objected to the admission of these additional two
18 written records of interview.

19 [13.37.10]

20 The Khieu Samphan defence objects to the calling the proposed
21 witness, arguing that because the Co-Prosecutors were aware of
22 this witness during the Case 002 investigation, the International
23 Co-Prosecutor's request is tardy. The Khieu Samphan defence also
24 submits that none of the written records of interview proposed by
25 the International Co-Prosecutor should be tendered into evidence

1 before the Case 003 investigation has been completed.
2 The Trial Chamber notes that, although DC-Cam interviewed the
3 proposed witness in 2007, this interview contains minimal
4 information relevant to the treatment of the Vietnamese: see
5 document E3/9092. The written records of interview recently
6 disclosed by the ICIJ contain such information in detail. The
7 Chamber is satisfied that this evidence on the treatment of the
8 Vietnamese was not available before the opening of the trial.
9 Consequently, all requests fulfil the requirements of Internal
10 Rule 87.3 and 87.4. The Chamber therefore grants the
11 International Co-Prosecutor's request to call the proposed
12 witness, and assigns him the pseudonym 2-TCW-1000. The Trial
13 Chamber also admits into evidence 2-TCW-1000's written records of
14 interview as requested by both the International Co-Prosecutor
15 and the Defence, namely document E319/23.3.44, E319/23.3.45,
16 E319/23.3.46, E319/23.3.47, and E319/23.3.48.
17 Now, the Chamber gives the floor to Lead Co-Lawyers for civil
18 parties, and you can proceed with your questioning. Please wait,
19 Lawyer. You have the floor first, Mr. Koppe.
20 [13.40.05]
21 MR. KOPPE:
22 Thank you, Mr. President. I have a request for clarification
23 directed to the civil party lawyer, and I'm referring to document
24 E3/5631 on the first page. That's the interview of the civil
25 party with the present lawyer who is interviewing the civil

50

1 party. And in the English -- and it's also in relation to earlier
2 questions from the civil party lawyer in relation to the
3 Vietnamese calendar versus the Western calendar. On English, page
4 00678292; and Khmer, 0089753; and French, 00898372; I read in
5 English: "At 9.00 -- at 9 o'clock on 17 April 1975, 17 March
6 according to the Western calendar," and then the story about the
7 killing of his family.

8 [13.41.24]

9 So it seems to suggest here that the Western calendar is one
10 month earlier. On the other page it seems to suggest it's
11 something else. But the question is relevant because if it's on
12 the 17th of March '75, technically we are outside the
13 jurisdiction of this Tribunal. And also in relation to the
14 questions that the civil party lawyer asked, I think it would be
15 beneficial to all Parties to know if that is a mistake in the
16 English language in E3/5631.

17 [13.42.12]

18 MS. NGUYEN:

19 Your Honours, when this civil party was questioned earlier about
20 the differences between the Vietnamese calendar and the Western
21 calendar, which is the same as the Khmer calendar, what he did
22 say, which ultimately clarifies the point raised by my learned
23 friend, is that today's date being the 7th of December means that
24 in the Vietnamese calendar, it's the 26th of October. This means
25 that the Vietnamese calendar is always earlier than the Western

51

1 calendar, and it's my submission that that response ultimately
2 clarifies the inconsistencies that do appear on the supplementary
3 statement, at two parts of the statement, or rather the confusion
4 that arises from the explanation given on the first part, the
5 first page of the supplementary statement, and then the second
6 page, which refers to a different date. It's my submission, Your
7 Honours, that that question has already been clarified in this
8 civil party's earlier answers.

9 MR. KOPPE:

10 I'm sure it's me, but I'm not sure if I understand. My concern
11 is: Is he describing events before the jurisdiction of this
12 Court, being 17 April '75, or is he describing events on 17 April
13 '75? So, I think the Court should know whether the alleged
14 killing of his family took place before the time period that the
15 Court has jurisdiction. That is the only question, I think, which
16 is relevant.

17 [13.44.07]

18 MR. PRESIDENT:

19 Before I give the floor to Lead Co-Lawyer for civil parties, I
20 would like to ask the particular representative of civil parties:
21 I heard that the example referring to December of that year, so I
22 think it is confusing concerning the calendar, and if that is the
23 case, I think the Vietnamese calendar perhaps two months after
24 the Western calendar, not one month after.

25 MS. NGUYEN:

1 Your Honours, it's my understanding that the Vietnamese calendar
2 is -- revolves around the lunar calendar, so it depends on the
3 moon and the phases of the moon, and when the moon is full, or
4 the different phases of the lunar processes. When Mr. Choeung
5 Yaing Chaet says that it's -- that today is the 26th of October,
6 according to the Vietnamese calendar, it does make it just over
7 one month before the date of the Western calendar.

8 [13.45.47]

9 BY JUDGE FENZ:

10 Sorry, I just wanted to ask an additional question to the civil
11 party.

12 Q. Sir, if you answer questions that involve a date or time
13 today, questions that refer to the period '75 to '79, are you
14 answering using the Vietnamese calendar or the Western calendar?
15 Do you understand my question?

16 MR. CHOEUNG YAING CHAET:

17 A. Actually, if we are talking of the Vietnamese calendar, I
18 think it was after the seventh day -- I think it was seven days
19 after the Khmer New Year that I was transferred to another area.
20 So if I refer to the Vietnamese calendar, it was the fourth month
21 of the calendar, one month after the Khmer New Year that my
22 parents had been killed.

23 Q. But more generally, you will be asked dates again, I guess.
24 Will you, if somebody asks you about the period between '75 and
25 '79, and asks you a date, will you answer according to the

53

1 Vietnamese calendar or to the Western calendar, so we know how to
2 put your answer in perspective, or to understand your answer?

3 A. I am referring to the Vietnamese calendar when I'm talking
4 about that.

5 [13.48.10]

6 JUDGE FENZ:

7 Are we clear now about the relationship between Vietnamese and
8 Khmer calendars? I've heard one month, two months.

9 MR. KOPPE:

10 But the -- the -- sorry to interrupt, Judge Fenz, but the
11 question is: this is a statement from this civil party, which was
12 written down by the civil party lawyer. And here it says that 17
13 April '75 is 17 March '75 here. So then this must be a mistake in
14 that document. And if Ms. Nguyen would be so kind to admit that
15 there's a mistake in that typewritten version of that document,
16 then we're all fine.

17 [13.48.58]

18 MS. NGUYEN:

19 Your Honours, to be perfectly clear, in that document, E3/5631,
20 there are two different references to two different dates. And
21 then, following those references, there is an associated
22 reference to a Vietnamese calendar date. I have to make very
23 clear, Your Honours, that I'm not the witness in this case. I'm
24 not giving the evidence. The evidence is to come from the civil
25 party. Now, in the first reference -- that is, on ERN in English,

54

1 00678292; and this is French, 00898372; Khmer, 00897513; it does
2 say, "At 9 o'clock on 17 April 1975" -- in brackets "17 March
3 according to the Western calendar", which would suggest that the
4 Western calendar is earlier than the Vietnamese calendar.

5 However, on the next page, which is English, 00678293; Khmer,
6 00897515; French, 00--

7 MR. PRESIDENT:

8 Lawyer, please slow down. Do not speak very fast, otherwise there
9 is an issue with interpretation. We want to have a full
10 interpretation for all Parties. You are here not speaking to
11 yourself, and please leave time for interpreters to interpret in
12 full message.

13 [13.50.43]

14 MS. NGUYEN:

15 On the second page of the English document, and I was just
16 reading the French ERN numbers, 00898373, it says: "In June 1978"
17 and then in brackets it says "that is, July 1975 according to the
18 Western calendar." So, Your Honour, there is on the face of the
19 record an inconsistency in the way that the Vietnamese dates are
20 reflected in relation to the Western dates. There is no
21 contention about the fact that the first page puts it that the
22 Western calendar dates are earlier than the Vietnamese dates, and
23 that the second page puts it that the Western calendar dates are
24 later than the Vietnamese calendar dates. That does create some
25 confusion, but Your Honour, it's my submission that this civil

55

1 party has already answered the question and particularly so when
2 it was put to him: "What is today's date? And what date is it in
3 the Vietnamese calendar?" And his answer suggested that the
4 Vietnamese dates are earlier than the Western dates.

5 (Judges deliberate)

6 [13.54.00]

7 MR. PRESIDENT:

8 I don't think there is an issue here, so we need to listen
9 carefully and then we can understand it. So you may now proceed,
10 lawyer for the civil party.

11 BY MS. NGUYEN:

12 Q. Thank you, Your Honours. Now, Mr. Choeung Yaing Chaet, just
13 before the lunch break, you were telling the Court about the
14 horrific mass killings of your entire family, of which you were
15 the sole survivor. You said that you managed to get out of the
16 mass grave, and that you found yourself at the house of Mr. Ta
17 Ly, who assisted you. How long were you at Mr. Ta Ly's house? How
18 long did you spend there?

19 MR. CHOEUNG YAING CHAET:

20 A. I stayed at Ta Ly's house for one month before I -- before
21 there was someone to tell that the Vietnamese had to leave by
22 river to Vietnam. At that time, Ta Ly told me to stay -- to
23 remain in my house. I was there for two weeks, and later on --
24 one month later, Ta Ly left for Vietnam.

25 [13.55.54]

1 Q. When Mr. Ta Ly left for Vietnam, did you come with him?

2 A. He told me after I had come out of the forest. Eight members
3 within his family could board the boat and leave for Vietnam, and
4 I was able to be on board at that time.

5 Q. Was this pursuant to some policy by the Khmer Rouge, or the
6 CPK, or the Democratic Kampuchea, to send people back to Vietnam,
7 or to get Vietnamese people out of Cambodia?

8 A. I do not know about that matter. Ta Ly was able to send us to
9 Vietnam when there was an exchange of rice with Vietnam. At that
10 time, I was able to hide in the boat.

11 Q. Was this Mr. Ta Ly's boat?

12 A. It was Ta Ly's boat. And when we -- when I walked and reached
13 the intersection of the river, or Tonle Buon Mukh, I was able to
14 board a motorboat.

15 [13.57.57]

16 Q. Just getting back to the details about Mr. Ta Ly's boat: you
17 said that he had about eight people in his family, and that you
18 went with him in his boat to another place. You said that you had
19 to hide underneath the boat. What was the reason that you had to
20 hide?

21 A. Ta Ly's group of people were allowed to go back to Vietnam.
22 There were only eight members within Ta Ly's family group, but I
23 was able to hide in the boat, and was able to go with his group.
24 And when we reached Tonle Buon Mukh, I was able to get out from
25 hiding and help paddle the boat.

1 Q. Could you describe the pathway that the boat took, from where
2 Mr. Ly resided to Tonle Buon Mukh?

3 A. We were travelling on a boat, and after we reached the
4 tributary of Tonle Buon Mukh, we were able to board the
5 motorboat, and we left for Neak Loeang. At that time, I helped to
6 row the boat. And when we reached the tributary, we boarded a
7 motorboat with about 60 more people. And I do not know about the
8 exchange of rice with the Vietnam.

9 [14.00.14]

10 Q. Just to clarify: Is Tonle Buon Mukh the same as the place
11 which is called "The Lake of Four Faces"? This being the place in
12 front of the Royal Palace in Phnom Penh; is that the place that
13 you're talking about?

14 A. Yes, I talked about the tributary in front of the Royal
15 Palace.

16 Q. How many days did it take you on the journey on Mr. Ta Ly's
17 boat to get to this tributary at the Tonle Buon Mukh?

18 A. We travelled day and night. We rowed the boat through the
19 night, and we spent three nights before we arrived at the
20 tributary.

21 Q. Now, what happened when you arrived at Tonle Buon Mukh? Were
22 you separated from Mr. Ta Ly at that point?

23 A. When we reached the tributary, there was a ferry so that we
24 could go to Neak Loeang. So he told me that it's better for me to
25 get on the ferry, otherwise his family would be in danger. So he

58

1 placed me in the ferry with other people.

2 [14.01.49]

3 Q. Now you said earlier that there were about 60 people on this
4 ferry. Who were the people on the ferry? Were they Vietnamese or
5 were there also Khmer people?

6 A. They were all Vietnamese on the ferry. There was no Khmer.
7 Even Khmer got on the ferry, they would not be allowed to cross.

8 Q. Who did the ferry belong to?

9 A. Of course, we were in the Khmer Rouge regime, but I did not
10 know whether the ferry belongs to the Vietnam -- the Vietnamese,
11 or to the Khmer Rouge. However, it was the Khmer Rouge who
12 instructed us to get on the ferry for the barter programme with
13 Vietnam.

14 Q. How did the Khmer Rouge identify who they would let onto the
15 ferry?

16 If it might save some time, I'll rephrase that question to: How
17 did the cadres of the CPK or the Democratic Kampuchea identify
18 who they would allow to go on the ferry?

19 [14.03.22]

20 MR. KOPPE:

21 Well, to be historically correct, Mr. President, DK didn't exist.
22 That didn't happen till early '76. CPK didn't announce itself
23 until September '77. The Khmer Rouge was something -- a title
24 that was never used by the CPK. We're actually still in the
25 period of the National Front, so if Counsel wants to be

1 historically accurate, what did the members of the National Front
2 say to the witness?

3 MS. NGUYEN:

4 Your Honour, the evidence from this civil party was that the
5 Khmer Rouge instructed people to get onto the ferry, to engage in
6 this barter process. So he said that it was the Khmer Rouge who
7 instructed them to get onto the ferry. It's my submission that we
8 should go with the identification of who had that role that was
9 given by the civil party.

10 (Judges deliberate)

11 [14.05.02]

12 MR. PRESIDENT:

13 Civil Party Lawyer, you can use that word. In fact, the word
14 "Khmer Rouge" has been commonly used in these proceedings, and is
15 familiar with the public opinion as well. It is up to the Bench
16 to deliberate on the issues, or the definition, or the
17 circumstances of the Khmer Rouge. For example, in this Tribunal,
18 it is commonly known as the Khmer Rouge Tribunal, rather than the
19 ECCC. For that reason, Civil Party Lawyer, you may proceed with
20 the term "Khmer Rouge".

21 BY MS. NGUYEN:

22 Q. Thank you, Your Honours. Mr. Choeung Yaing Chaet, I was just
23 asking you how did the Khmer Rouge identify the people who they
24 would allow to go onto the big ferry?

25 MR. CHOEUNG YAING CHAET:

60

1 A. People got on the ferry because there were no boats available.
2 Boats had been burnt. And some -- only people who could come
3 could get on the ferry. Others, who actually still had boats,
4 could row the boat. And of course, they were part of this barter
5 process or programme for salt.

6 [14.06.39]

7 Q. You gave evidence just before that only Vietnamese people were
8 on the boat, and that Khmer people were not allowed to go on the
9 boat. You said that the Khmer Rouge instructed who was to go on
10 the boat. So the question is: How did the Khmer Rouge identify
11 who was Vietnamese to allow them to go on the boat, and who was
12 Khmer, to not allow them to go on the boat?

13 MR. PRESIDENT

14 Civil Party, please hold on. And Counsel Kong Sam Onn, you have
15 the floor.

16 MR. KONG SAM ONN:

17 Thank you, Mr. President. I believe this is a repetitive question
18 as the civil party already testified how people could get onto
19 the ferry, as those who had a boat could row their boat, to get
20 on the ferry, or to row the boats to Neak Loeang for the barter
21 process. So there is no distinct procedure beyond that, and it
22 has already been testified by the civil party.

23 [14.07.55]

24 MS. NGUYEN:

25 Your Honours, I'm afraid that counsel for Khieu Samphan has

61

1 misconstrued the question, and misconstrued the evidence that has
2 been given so far. Mr. Choeung Yaing Chaet was asked -- Mr.
3 Choeung Yaing Chaet said to the Court that only Vietnamese people
4 were allowed to go on the ferry, and the question is: How did the
5 Khmer Rouge identify who was Vietnamese to allow to go onto the
6 ferry? That question has not yet been answered.

7 MR. PRESIDENT:

8 The objection by Counsel Kong Sam Onn is overruled as this is not
9 a repetitive question, and the Chamber needs to hear the response
10 from the civil party to the good question put to him by the
11 lawyer for civil parties.

12 And Mr. Civil Party, please respond to the last question put to
13 you by the civil party lawyer.

14 [14.09.01]

15 MR. CHOEUNG YAING CHAET:

16 A. They selected people to get on the ferry. They asked who were
17 Vietnamese, who were Chinese, or who were Khmer. So, because
18 Vietnamese people spoke Khmer with accent, then they could
19 identify. As for the Khmer people, they could identify them
20 immediately through their facial figures and features.

21 BY MS. NGUYEN:

22 Q. What happened to the Khmer people who wanted to go onto the
23 boat? What happened to them?

24 MR. CHOEUNG YAING CHAET:

25 A. Of course, they faced the same difficulty as I did. So for

62

1 that reason, they wanted to go away, but when they arrived at the
2 ferry, they were not allowed to go. Even some Vietnamese would
3 not be allowed to get on the ferry. They could use their own
4 boats to go. So everybody had to find his or her own means of
5 going.

6 [14.10.19]

7 Q. Now, at the time, you were a 13 or 14-year-old child,
8 travelling alone. Did you know anybody on the boat?

9 A. No, I did not know anyone. I just mingled with the rest.

10 Q. Were there any Khmer Rouge cadres on this boat?

11 A. I cannot recall who were supervisors or who were not, because
12 they were all wearing black uniforms with a scarf around their
13 neck. However, they did not carry any weapon.

14 Q. Now, you said earlier that this large boat, the Khmer Rouge
15 boat, went to Neak Loeang in Prey Veng; is that right?

16 A. Yes.

17 Q. How long did it take to travel to Neak Loeang in Prey Veng?

18 A. It was one night and one day before we arrived at Neak Loeang.
19 We left in early morning.

20 [14.11.57]

21 Q. When you arrived at Neak Loeang, what happened to the
22 Vietnamese people on the boat?

23 A. So that they could negotiate with the Vietnamese side, when we
24 got off the ferry they counted heads. And then in exchange, the
25 Vietnamese returned rice and salt. And after that, we were

1 allowed to board the Vietnamese ferry.

2 Q. So, you're saying there was a Vietnamese ferry when you
3 arrived at Neak Loeang. Can you describe what was on the ferry?
4 And who was on that ferry when you first arrived?

5 A. I saw only rice and salt, and nothing else.

6 Q. Were there Vietnamese authorities on that boat? The Vietnamese
7 boat?

8 A. No, there wasn't.

9 Q. You mentioned that on arrival, there was a head count of the
10 people on the Khmer Rouge boat. Who administered the head count?

11 A. The Vietnamese, together with the Cambodian authorities,
12 counted heads. And after they bartered the salt and rice, then we
13 got on the Vietnamese ferry.

14 [14.14.10]

15 Q. Did you see the actual transaction take place -- that is, the
16 trading of salt and rice for Vietnamese persons?

17 A. Yes, I was there, so I witnessed it. I witnessed them
18 transporting rice and salt from the Vietnamese ferry to the
19 Cambodian ferry.

20 Q. In fact, you were one of those who were traded for salt and
21 rice--

22 MR. PRESIDENT:

23 Civil Party, please hold on. And Counsel Koppe, you have the
24 floor.

25 MR. KOPPE:

64

1 I object to the words "trade" - "traded". What the witness
2 describes is Vietnamese people on the boat, and rice and other
3 materials going back. It doesn't mean that ones are traded for
4 the others. It happens all the time that a van with mail goes to
5 direction A, loads off, and takes something else with them. It
6 doesn't mean that there is trading. That's the conclusion of
7 Counsel. So I think the word "trade" or "trading" is also in the
8 light of the bigger political context, not an accurate
9 description.

10 [14.15.56]

11 MS. NGUYEN:

12 Your Honours, in this civil party's evidence, he has used the
13 term "bartering process" many times. He has said it at least
14 three times, that when he was on the boat, it was for the
15 bartering processes that then took place. The evidence, Your
16 Honour -- and I'm not meaning to go into any submissions, because
17 at the moment we're just listening to the evidence of this civil
18 party -- but the evidence is that Vietnamese people were put on a
19 boat, and that their lives were spared so that there could be a
20 bartering process take place, where they were essentially
21 swapped. You could call it trading, you could call it swapping,
22 you could call it bartering, but they were essentially bartered
23 and swapped for bags of rice and salt. That's the evidence that
24 has come out today.

25 [14.17.01]

65

1 MR. KOPPE:

2 May I respond, Mr. President? During one of the document
3 presentation hearings -- I think it was in relation to Kraing Ta
4 Chan -- we showed footage of the highest possible ranking
5 delegation of Vietnam coming to Phnom Penh, meeting Pol Pot, Nuon
6 Chea, and other high-ranking members of the CPK. It was in fact
7 Party leader Chairman Le Duan who came to Phnom Penh. You saw the
8 footage. You might remember them being shown around in the Silver
9 Pagoda. The relations between Vietnam and the temporary
10 government which was in place at the time was very cordial. So to
11 suggest that these Vietnamese people's lives were saved because
12 rice was needed is a very far-fetched conclusion by this
13 particular counsel, and has no basis whatsoever in the political
14 context in August '75. I think we should limit ourselves to what
15 this witness actually saw. He might have perceived it as a barter
16 or as a trade, but of course it wasn't.

17 MS. NGUYEN:

18 Your Honour, my learned friend--

19 MR. PRESIDENT:

20 Counsel Kong Som Onn, you have the floor.

21 [14.18.35]

22 MR. KONG SAM ONN:

23 Thank you, Mr. President. Based on the facts and the testimonies
24 of the civil party, it seems that this event took place
25 immediately after the victory of 17 April 1975. And at that time,

66

1 there was no proper administration in the country. What the civil
2 party saw was the transferring from one ferry to the other, and
3 it could be -- it could mean one ferry belongs to the Cambodian
4 authorities while the other ferry belonged to the Vietnamese. And
5 he also saw the transportation of rice and salt from the
6 Vietnamese ferry to the Cambodian ferry. This cannot be defined
7 as a bartering or an exchange programme. We have heard other
8 witnesses who testified in this Court about the barter process,
9 either individually or at the base: for example, the bartering of
10 medicines at the Vietnamese border. Thank you.

11 [14.19.54]

12 MR. PRESIDENT:

13 Thank you. I believe you should end your debate on this issue at
14 this point. And Counsel for Civil Parties, please ask your client
15 for his grounds that lead him to conclude that it was a bartering
16 process, firstly. And secondly, if the defence counsel wishes to
17 clarify this matter, of course your term -- your turn will come,
18 and then you can use that opportunity to clarify all the concerns
19 that you have, or to clarify all the issues that might not be
20 clear when the other Party asked. And that is the standing
21 proceeding in this Court.

22 BY MS. NGUYEN:

23 Yes, Your Honour. This is not the time for closing submissions or
24 closing statements. I will move on with getting the civil party
25 to clarify why he characterized it as a barter.

67

1 Q. Mr. Choeung Yaing Chaet, in your evidence before, you said
2 that there was a bartering process between the Khmer Rouge and
3 the Vietnamese authorities. What made you conclude, or what made
4 you consider that this was a bartering process -- that is, a
5 trading process, or a transaction?

6 MR. CHOEUNG YAING CHAET:

7 A. I heard other Vietnamese people say that: that my life was
8 spared because of the exchange for rice and salt, so that I could
9 go to Vietnam.

10 [14.21.57]

11 Q. Now, when you were on the boat yourself, did you see how many
12 bags of rice and how many bags of salt traded hands?

13 A. I saw rice and salt, but I cannot tell you how many bags there
14 were, because by that time I was instructed to get off the ferry
15 first.

16 Q. What happened when you got off the ferry? What happened after
17 that?

18 A. I got off the ferry, then they did the head counts. And after
19 they did the head counts, then they exchanged the head count
20 number with the bags of rice and salt.

21 Q. So you are saying that after they did a head count of the
22 Vietnamese people off the Khmer Rouge boat, they checked it
23 against the numbers of bags and salt on the Vietnamese boat; is
24 that what you're saying?

25 A. I did not know whether they counted us against the bags of

68

1 rice or salt, but I did see them carrying the bags and salt from
2 the Vietnamese ferry to the Cambodian ferry. And after that, then
3 we were allowed to board the Vietnamese ferry.

4 [14.24.05]

5 Q. When you had boarded the Vietnamese ferry, did everybody who
6 was on the Khmer Rouge ferry go onto that Vietnamese ferry with
7 you?

8 A. No, there was no Khmer getting on that ferry. They were all
9 Vietnamese.

10 Q. Where did that ferry then head off to?

11 A. It headed off toward Vietnam -- that is, toward Chau Doc.

12 Q. And what happened to you and the other Vietnamese people when
13 this ferry arrived in Vietnam?

14 A. When we arrived there, the Vietnamese Angkar allowed us to
15 rest in a Vietnamese school. They distributed rice and cookery
16 for us. They also gave us a mat, sitting mat, and mosquito net.

17 Q. When you say "Vietnamese Angkar", do you mean the Vietnamese
18 government, or the Vietnamese authorities?

19 A. It was the Angkar, or the representative, of Vietnam. I refer
20 to the people who were on the ferry. And as I said, when we
21 arrived there, they let us rest and gave us the cooking utensils.

22 [14.26.15]

23 Q. How long did you stay in Vietnam?

24 A. I stayed in Vietnam until 1982, then I returned to Cambodia.

25 Q. Why did you decide to return to Cambodia?

1 A. Because I had no land to farm, and no place where I could
2 catch fish. In Vietnam, I meant. So I decided to return to
3 Cambodia, whether it means if there was a risk for me.

4 Q. Did you return to Cambodia by yourself, or did you go with
5 others?

6 A. I came along with other people, because at that time I had
7 nothing. I had no rice, I had no money. So I got on a boat with
8 other people, and I helped them row the boat.

9 [14.27.45]

10 Q. When you came to Cambodia, were you able to present yourself
11 with Cambodian documentation from the previous time that you were
12 in Cambodia?

13 A. I had documents with me when I returned in 1982, but I left it
14 at home. I don't bring it along with me.

15 Q. When you say you left it at home, do you mean you left it back
16 in Cambodia before you left Cambodia?

17 A. When I left Cambodia, I had nothing at all, because everything
18 was burnt -- that is, my house was burnt. I only had a pair of
19 clothes that I was wearing at the time.

20 Q. Now Mr. Choeung Yaing Chaet, you said earlier in your evidence
21 that, as a result of the injuries that you sustained to the back
22 of your head from being beaten with a hammer by Khmer Rouge
23 cadres, you suffer sometimes from memory loss. What sort of
24 things do you forget sometimes?

25 A. My memory doesn't serve me well now. Whenever I feel anxious,

70

1 I cannot recall anything. When I think of the pain, it is very
2 difficult for me to bear. I have to speak it out.

3 [14.30.00]

4 Q. Have you ever forgotten what happened to your family? And
5 indeed, have you ever forgotten how you survived the mass killing
6 in 1975?

7 A. In Cambodia, I was given food to eat, I was given morning
8 glory to eat. And then while I was in Vietnam, they gave me rice
9 and they provided me with some necessities only for a few months.
10 Then I had to earn a living by myself. And even when I arrived in
11 Cambodia, I still go around earning my own living, working as a
12 worker for somebody.

13 Q. Mr. Choeung Yaing Chaet, is everything that you have told the
14 Court today in accordance with your memory about what happened to
15 your family, and how you survived that mass killing?

16 A. I witnessed the execution of my parents and my siblings. It
17 happened right in front of my eyes. But fortunately, despite the
18 three hits with an axe, I survived. However, the pain resurfaces
19 when the weather is cold.

20 [14.32.08]

21 Q. Is what happened to your parents something that you could ever
22 forget?

23 A. I cannot forget what happened to me. I really want to ask the
24 perpetrators how they'd be suffering if they had their family
25 members killed.

71

1 MS. NGUYEN:

2 Mr. Choeung Yaing Chaet, I believe you will have the time to do
3 that with leave of Mr. President. Thank you for your time today,
4 and that concludes the questions that I have for this civil
5 party.

6 MR. PRESIDENT:

7 The floor is now given to the Co-Prosecutors to put questions to
8 this civil party. You have the floor now.

9 [14.33.28]

10 QUESTIONING BY MR. BOYLE:

11 Thank you, Mr. President. Good afternoon, Your Honours. Good
12 afternoon, Counsel. Good afternoon, Mr. Civil Party. My name is
13 Andrew Boyle. I'm from the Office of the Co-Prosecutors, and I
14 only have a very few questions to follow up on my learned
15 friend's questions.

16 Q. I'd first like to ask you when did the Khmer Rouge arrive in
17 your hometown village?

18 MR. CHOEUNG YAING CHAET:

19 A. I was transferred to Dar village. I can tell you, the
20 Vietnamese calendar, it was in the fifth month of Vietnamese
21 calendar when I noticed their presence.

22 Q. If I heard you correctly, you said it was in the fifth month
23 of the Vietnamese calendar when you noticed the presence of the
24 Khmer Rouge in your home village. And can you tell us what year
25 that was in?

1 A. It was in 1975.

2 [14.34.50]

3 Q. Thank you very much. My next question is: you mentioned
4 earlier that -- and correct me if I'm incorrect about this -- but
5 I believe you mentioned earlier that there were approximately 30
6 Vietnamese families in your home village, and a greater number of
7 Khmer families. Is that correct?

8 A. Yes. At that time, it was so quiet that we decided to flee to
9 Kandal. There were around 30 families of us. We stayed there for
10 one month when the Khmer New Year fell on -- arrived. At that
11 time, they were saying that "Long live the King" and if no one
12 lives in the houses, then the houses would be burnt down.

13 Q. Are you saying that only the Vietnamese families, the 30
14 Vietnamese families, went to Kandal village at that time? That
15 the Khmer families did not leave your home village at that time?

16 A. I was living in Prey Kduoch (phonetic) together with 30
17 families of Vietnamese, and when I arrived at Dar village, there
18 were also Cham families who were living there.

19 [14.36.58]

20 Q. I was asking about the Khmer families. In addition to the 30
21 Vietnamese families that lived in your home village, were they
22 also -- did they also leave when the Vietnamese families left? Or
23 did they remain in your home village?

24 A. There were 30 families of Vietnamese. As for Khmer people,
25 they remained living in that area.

1 Q. And I heard you just mention that empty houses were burnt. Are
2 you saying that the houses of the Vietnamese who departed were
3 burnt?

4 A. The fact is that there were houses on land, and there were
5 houses on the river. Those who were living on the island, they
6 were dispersed to live in other areas on land. And for those who
7 were living in houses on the river, they were allowed to live on
8 rivers. And at that time, there was sayings that "Long live the
9 King." If no one lived in houses, those houses would be burnt
10 down.

11 [14.38.53]

12 Q. Did the members of your village, your home town village, know
13 who in the village was ethnically Vietnamese? And if so, how did
14 they know who was ethnically Vietnamese?

15 A. During that time, everyone, including Vietnamese, Khmer, and
16 Cham people, were dispersed out of the villages. Those who were
17 living on land, they had to go and find other areas on land to
18 live on. And for those who were living in floating villages, they
19 had to find other areas to live.

20 Q. I apologize. My question was not clear. I was trying to find
21 out if you knew if the members of your village -- whether it was
22 before the arrival of the Khmer Rouge or after -- whether they
23 knew who in the village was ethnically Vietnamese, and who in the
24 village was ethnically Khmer?

25 A. For instance, we had siblings, other siblings, or parents. And

74

1 the word "lan tay" was used, and that word "lan tay" meant the
2 resident book.

3 MR. PRESIDENT:

4 Thank you. It is now break time, and the Chamber will take a
5 short break from now until 3 p.m.

6 Court officer, please assist civil party during the break time,
7 and please invite him back into the courtroom at 3 p.m.

8 The Court is now in recess.

9 (Court recesses from 1441H to 1501H)

10 MR. PRESIDENT:

11 Please be seated.

12 The Court now is back in session and the floor is given to the
13 Deputy Co-Prosecutor to resume your questioning. You may now
14 proceed.

15 BY MR. BOYLE:

16 Q. Thank you, Mr. President. Mr. Civil Party, just before the
17 break, I was asking you about your hometown of Ruessei Dangkuoch,
18 and I was asking you -- and I apologize, I didn't quite
19 understand your last response. I was asking you if it was known
20 amongst the members of your home village, who was ethnically
21 Khmer and who was ethnically Vietnamese.

22 MR. CHOEUNG YAING CHAET:

23 A. I told the Court already. At that time, there were "lan tay"
24 paper. "Lan tay" was the family record book at that time. So they
25 knew who were Khmer and who were Vietnamese.

75

1 [15.03.04]

2 Q. I just want to make sure I understand correctly. There were
3 family record books in your village that were kept that indicated
4 whether certain individuals were ethnically Vietnamese or
5 ethnically Khmer; is that correct?

6 A. Houses had been burned down, so I had no more family record
7 books. And at that time when I fled, I had only a pair of clothes
8 with me that I was wearing.

9 Q. You mentioned -- what I heard was the word "lan kay"
10 (phonetic) or "lan tay", which I heard you describe as record
11 books or family record books, which would indicate whether an
12 individual was ethnically Vietnamese or ethnically Khmer; is that
13 correct?

14 A. Once again, one would know that the person was ethnically
15 Vietnamese or Khmer since the "lan tay" or family's record books
16 states about that.

17 Q. And when the Khmer Rouge entered your village, did they have
18 access to these family record books?

19 A. I told the Court already, at the outset, I was living in
20 Ruessei Dangkuoch in the floating village. And later on, I had
21 been relocated to live on land by Khmer Rouge.

22 [15.05.32]

23 Q. Did the Khmer Rouge indicate to you in your home village that
24 they knew who was Vietnamese and who was Khmer?

25 A. Yes. Yes, people said that -- it was said that Khmer and

76

1 Vietnamese had to perform manual labour. As I said, the
2 Vietnamese family had the possession of "lan tay", and Khmer
3 people also had the family record books.

4 Q. And did the Khmer Rouge look at the "lan tay" or ask to look
5 at the "lan tay" of the families?

6 A. They looked at "lan tay" paper or documents, all of those "lan
7 tays".

8 Q. When you and the other Vietnamese families were being told to
9 leave, were you aware of the Khmer Rouge using any lists of
10 names?

11 [15.07.03]

12 MR. KOPPE:

13 Mr. President, I again object to the-

14 MR. PRESIDENT:

15 Please hold on, Mr. Civil Party. You have the floor now, Koppe.

16 MR. KOPPE:

17 Thank you, Mr. President. I again must object to the words "Khmer
18 Rouge" certainly coming from the Prosecution. This is maybe one
19 thing if the civil party lawyer does it, but "the Khmer Rouge" as
20 such cannot commit or cannot have or do the factual jobs or tasks
21 that have been described. We have to be very specific. I just
22 referred earlier to the meeting the very high-ranking or the
23 possibility the highest-ranking meeting in July or August '75
24 between Vietnam and Pol Pot and Nuon Chea. Obviously there was a
25 completely different thing going on at the highest level. So now

77

1 to just be very general and speak about the Khmer Rouge
2 specifically when we're talking about March, April, May, June
3 '75, is really not appropriate. So, the Prosecution, at least,
4 should try to be very specific and ask not did the Khmer Rouge do
5 this or do that, but who was it. Was it even a cadre or was it
6 some local person.

7 [15.08.29]

8 MR. BOYLE:

9 Mr. President, if I may respond. Counsel for Nuon Chea has raised
10 this objection multiple times. It has continuously been
11 overruled. It is a term that the witness seems to -- the civil
12 party, I apologize -- seems to understand. If Counsel wants to
13 ask clarification questions later on, he may. But I am satisfied
14 that the civil party is able to understand the terminology that
15 I'm using. And I would ask that I be able to proceed on that
16 basis.

17 MR. PRESIDENT:

18 The objection put by Mr. Koppe is overruled in relation to the
19 term used by Co-Prosecutor. It is a generic term and we have been
20 using this generic term since the outset to refer to the
21 Democratic Kampuchea and also to CPK. And actually as it is known
22 that the term "Khmer Rouge" is referring to the particular group,
23 and the Chamber made mention already that it will consider this
24 term on case by case basis, particularly when it relates to some
25 particular circumstances.

78

1 You can proceed with your questioning, Co-Prosecutor.

2 [15.09.58]

3 BY MR. BOYLE:

4 Thank you, Mr. President.

5 Q. Mr. Civil Party, I was asking you when yourself and the other
6 Vietnamese families were forced to move villages, were you ever
7 aware of the Khmer Rouge using lists to identify who had to leave
8 the village?

9 MR. CHOEUNG YAING CHAET:

10 A. We -- there were around 30 families coming from Ruessei
11 Dangkuoch. Seven days after the Khmer New Year, there was a
12 saying that "Long Live the King". If houses had no one living,
13 those houses would be burned down. And at the time, people were
14 evacuated. The "lan tay" were looked at. Those who wanted to live
15 on the mountain, they would be allowed to live on mountains. And
16 those who wanted to live in floating villages, they were allowed
17 to do so.

18 [15.11.43]

19 Q. Mr. Civil Party, before the day that you have described of the
20 arrest of your family and the arrest of a neighbouring family,
21 and they were taken to be killed, were you aware of any other
22 arrests of Vietnamese families in the village you were living at
23 on the mountain?

24 MR. PRESIDENT:

25 Please hold on, Civil Party. You have the floor now, Koppe.

1 MR. KOPPE:

2 I object to this line of questioning. It seems to suggest or it
3 seems to imply that if the events described by the civil party
4 actually occurred, that his family was arrested because his
5 family was Vietnamese, and that the other families referred to,
6 that these people were arrested because they were Vietnamese.
7 Might have very well be the case that they were arrested and they
8 happened to be Vietnamese. But the question also - questions, by
9 the way, from the civil party lawyer seems to imply that if the
10 events did in fact happen, these killings took place because the
11 people involved were Vietnamese, whereas in fact, Civil Party
12 himself has indicated in his civil party application that he has
13 no idea why his family was arrested in the first place.

14 [15.13.17]

15 MR. BOYLE:

16 If I may respond, Mr. President. My question was neutral as to
17 whether the individuals were being arrested because they were
18 Vietnamese. The counsel for Nuon Chea is the one who is imposing
19 on them the interpretation that that is the substance of my
20 question. I simply asked whether he -- the civil party -- was
21 aware of any other individuals or families that were arrested who
22 were Vietnamese. And that is a neutral question that I believe
23 the civil party can answer. If there are -- if the counsel for
24 Nuon Chea would like to ask questions about other arrests, he's
25 of course free to do so.

80

1 MR. PRESIDENT:

2 The objection by Mr. Koppe is overruled. And I would like to
3 inform the Parties that you should not instruct other Parties how
4 to put questions to civil party or witnesses. I understand that
5 they are aware and know how to put questions to the witnesses and
6 civil party before they came on board.

7 [15.14.44]

8 BY MR. BOYLE:

9 Thank you, Mr. President.

10 Q. Mr. Civil Party, my question was, before the day that yourself
11 and the other Vietnamese families were arrested and taken to be
12 killed, were you aware of any other arrests while you were on the
13 mountains of Vietnamese families?

14 MR. CHOEUNG YAING CHAET:

15 A. What I know is that -- is what happened to my family and other
16 families. I do not know about other families. At that time, I
17 knew that I was going to die since my family had been killed.

18 [15.15.45]

19 Q. In the pit that you saw your family in after they had been
20 killed, were there other pits that you could see nearby?

21 A. I saw only two pits. One pit was full with the bodies of my
22 family members and the other pit was empty.

23 Q. Thank you, Mr. Civil Party. I only have couple of more
24 questions that I'd like to ask you. And these concern when you
25 were travelling to Vietnam by boat. When you were initially

81

1 travelling on Mr. Ta Ly's boat and you were headed towards Phnom
2 Penh, did you see many other boats travelling alongside your
3 boat? And if so, can you give an approximate number of how many
4 boats you saw?

5 A. Some people had already been on the ferry. And along the river
6 -- along my boat, I noticed there were around 50 or 60 other
7 boats.

8 [15.17.40]

9 Q. And did you have an opportunity to observe or to see the
10 people that were on these other boats, or any of these other
11 boats?

12 A. We were rowing boats in groups. We were rowing boats along
13 each other.

14 Q. Were you able to identify the ethnicity of any of the other
15 individuals on any of these other boats?

16 A. All of them were Vietnamese. No other ethnicity was on other
17 boats. There were only Vietnamese on boats.

18 Q. When you boarded the ferry that you described in front of the
19 Royal Palace in Phnom Penh, was there only one ferry that you
20 could board at that time, or was there more than one ferry that
21 people were boarding in order to travel towards Vietnam?

22 A. I saw only one ferry at that time. And as I said, there were
23 around 50 or 60 people already on that ferry. And I was told by
24 Ta Ly to board the ferry silently without saying any word,
25 otherwise Ta Ly would be killed.

1 [15.20.00]

2 Q. And how long were you on -- when you boarded the ferry in
3 front of the Royal Palace, how long were you on the ferry before
4 it started sailing towards Vietnam?

5 A. I was -- I boarded the ferry and I knew that it was around 8
6 a.m. in the morning that I was on that ferry. And we arrived at
7 Neak Loeang at around 4 a.m. in the morning.

8 MR. BOYLE:

9 Thank you very much, Mr. Civil Party. Thank you, Mr. President. I
10 have no further questions.

11 MR. PRESIDENT:

12 It appears that Judges of the Bench may have questions. Judge
13 Fenz, you may proceed if you have questions.

14 [15.21.20]

15 QUESTIONING BY JUDGE FENZ:

16 Q. Just two short questions for clarification. You mentioned a
17 family record book and you said the ethnicity was recorded in
18 this family record book. Now was this -- who kept this family
19 record book? Was this kept by the village chief or by somebody
20 else?

21 MR. CHOEUNG YAING CHAET:

22 A. "Lan tay" was kept by my mother. Whenever we left for other
23 villages and stay in those villages, we had to show the family
24 record book.

25 Q. So the family record books were kept within the families. Who

83

1 gave you this record book? Who wrote this record book?

2 A. I did not recall who issues the family record book. I knew
3 that my parents had the possession of "lan tay" or family record
4 book. I did not know at that time who issued it to my family.

5 Q. But just to be clear, this was not written by the family but
6 given to the family by some authority; is that true?

7 A. Yes.

8 [15.23.19]

9 Q. Just in case you know, do you happen to know if there were an
10 additional central register of names, ethnicity, etc., on village
11 level, additional to the papers that were handed out to the
12 families and were called family record book?

13 A. I do not know about that.

14 JUDGE FENZ:

15 Thank you.

16 MR. PRESIDENT:

17 Thank you, Judge. Now the floor is given to the defence teams for
18 the Accused to put question to this civil party, starting first
19 from the defence team for Mr. Nuon Chea. You have the floor.

20 [15.24.28]

21 QUESTIONING BY MR. KOPPE:

22 Thank you, Mr. President.

23 Q. Mr. Civil Party, do you read or write English?

24 MR. CHOEUNG YAING CHAET:

25 A. I was quite young at that time. I did not go to school. I did

84

1 not go to learn Khmer or Vietnamese. You know, I was so poor at
2 that time I had no house to live in. So how could I was entitled
3 to go to school. I did not even have rice to eat at that time.

4 Q. Maybe my question wasn't very clear, Mr. Civil Party. Did you
5 speak, read, or understand English in December 2010?

6 A. I do not know how to read and write English.

7 [15.25.55]

8 MR. KOPPE:

9 Mr. President, I would like to show to the civil party English
10 document E3/5631, which is titled, "The Supplementary Statement
11 of Choeung Yaing Chaet, 21 December 2010; interview by Lyma
12 Nguyen, Lachlan Scully and Kong Leang Chou, so not a Khmer
13 version but the English version of this document.

14 MR. PRESIDENT:

15 You can do so.

16 BY MR. KOPPE:

17 Q. I understand of course, Mr. Civil Party, that you cannot read
18 what I just gave to you. But on the bottom of that document, you
19 can see a thumbprint and underneath it your name Choeung Yaing
20 Chaet, 21 December 2010. Do you recall having put your thumbprint
21 on the English supplementary statement of December 21 in 2010?

22 MR. CHOEUNG YAING CHAET:

23 A. I have told the Court already. I know the Vietnamese language.
24 And I do not know Khmer and French.

25 [15.27.51]

1 MR. PRESIDENT:

2 Mr. Civil Party, please listen carefully to the question. You
3 have the document before you. And the question is: do you recall
4 having put your thumbprint on that document? Do you recall that?

5 MR. CHOEUING YAING CHAET:

6 A. Yes, I recall it.

7 BY MR. KOPPE:

8 Do you remember that you put that thumbprint on that document
9 because you agreed with the content of the document? In other
10 words, was the content of the document read to you out loud
11 either in Vietnamese or in Khmer?

12 MR. CHOEUING YAING CHAET:

13 A. They read in Khmer.

14 Q. And when you -- when they were finished reading the Khmer
15 translation of this English document to you, did you then tell
16 them "Yes, I agree", and did you then subsequently, because you
17 agreed, put your thumbprint on that document?

18 A. Yes, I did at that time.

19 [15.29.30]

20 Q. Now what you cannot know because you don't read or understand
21 English is that on the English page, first page, twice it's been
22 written down that events happened to you on the 17th of April
23 '75, according to the Vietnamese calendar, but that this was 17
24 March '75, according to the Western calendar. So it says that you
25 were forced to be transferred from your village to Dar on 17

86

1 March '75 Western calendar, and that the events related to your
2 family also happened on the 17th March '75, 9 o'clock according
3 to the Western calendar. Do you remember that that was what you
4 were being read out at the time?

5 A. I recall it having read to me concerning the calendar. At that
6 time, my parents and family had been evacuated to Dar village. It
7 happened seven days after the Khmer New Year. I told what
8 happened according to what I know. And one month later after that
9 period, my parents and family members had been killed.

10 Q. So is it then your testimony that what has been written in
11 E3/5631 on two occasions is incorrect, that you were not
12 transferred on the 17 March '75, and that your family was not
13 killed on the 17 March '75? So that therefore this document is
14 incorrect?

15 A. I remember only the date. I could tell only what I remember; I
16 could not remember the specific date. If you talk about months, I
17 could still recall, but if you talk about specific date, I could
18 not recall.

19 [15.32.59]

20 Q. Let me rephrase, Mr. Civil Party. In a document presumably
21 prepared by your lawyer, thumb printed by you, you gave testimony
22 indicating that your family allegedly was killed on the 17th of
23 March '75; is that correct or is that false?

24 A. I don't know whether this information is true or not. When I
25 was asked when my parent were -- what month and year my parents

87

1 were killed, so I told them about the months and the years. So I
2 could not remember well.

3 Q. I understand, Mr. Civil Party, very well because it's a long
4 time ago. However, under normal circumstances, it won't really
5 make a difference whether it was one month before or one month
6 later. But now, for technical reasons that I won't bother you
7 with, it is important to find out exactly when these alleged
8 events took place. Are you now saying that you don't really know
9 the date that your family was allegedly killed?

10 MR. PRESIDENT:

11 Please Co-Prosecutors, you may now have the floor.

12 [15.35.05]

13 MR. BOYLE:

14 Thank you, Mr. President. I object to the form of the last
15 question. I think it's accurate to say that the civil party has
16 expressed some confusion about dates in regards to naming months.
17 But he's been consistent in regards to the dates of both the
18 transfer and the killings in regards to the Khmer New Year. So if
19 Counsel wants to ask him in relation to a date that he has been
20 able to identify whether that he confirms that or not, I have no
21 objection. But my -- I do disagree with the formulation or the
22 suggestion of the question that Counsel -- in the way that
23 Counsel just phrased it.

24 [15.35.52]

25 MR. KOPPE:

88

1 I was trying to find a way, Mr. President, in order to make the
2 civil party understand what exactly my question was. I do
3 recognize what the civil party has just said in Court before us
4 all. But I also -- I'm still confronted with a document that he
5 put his thumbprint under that was prepared by his lawyer, in
6 which it says two times that the events described happened on the
7 17th of March '75. So -- then civil party basically answered that
8 he was confused about the dates. Having indicated that it was
9 Khmer New Year or the fifth month doesn't change the fact that
10 this is still -- this date of 17 March is still in this document,
11 which is also evidence, and as we all know very well can be used
12 either in exculpatory or inculpatory way.

13 MS. GUIRAUD:

14 I want to make a comment, Mr. President. I believe that question
15 has already been addressed. It appears that before the break, my
16 colleague said that the documents were both inaccurate. And it's
17 E3/5831. I believe everyone would agree with him. Furthermore,
18 the civil party explains his own points of reference on which
19 basis he explained that his family was killed after the Khmer New
20 Year. So we are returning to questions that have already been
21 addressed before the break. And my colleague should not continue
22 with this line of questioning because it is repetitive.

23 [15.37.59]

24 MR. KOPPE:

25 It's not repetitive, Mr. President. I'm just trying to find out

89

1 whether this document is accurate document prepared by his lawyer
2 or whether the things that he said in Court are -- is accurate.
3 It cannot be both.

4 MR. PRESIDENT:

5 The Chamber do not allow the -- the Chamber does not allow a few
6 rounds of objections. So you should not be on your feet again and
7 again to raise your objection. It should be only one time
8 objection or comment. This is not allowed by the Chamber so far.

9 (Judges deliberate)

10 [15.40.07]

11 MR. PRESIDENT:

12 The Chamber hands over the floor to Judge Fenz to address the
13 matter. You may now proceed, Judge Fenz.

14 JUDGE FENZ:

15 The Chamber notes that the civil party has consistently, I think
16 twice, referred to the relevant incident happening after Khmer
17 New Year. The Chamber also notes that there are inconsistencies
18 in the statements that have been raised multiple times now, first
19 by the civil party lawyers, afterwards by the Defence. The
20 Chamber will, in the end, have to make its decision on what it
21 believes and doesn't believe that any further questions would be
22 conducive to further -- lead to further results that helps the
23 Chamber with this. So please move on, Counsel.

24 BY MR. KOPPE:

25 Q. Mr. Civil Party, can you describe for me Ta Pieng (phonetic)

1 or Ta Peang -- who was he exactly?

2 MR. CHOEUING YAING CHAET:

3 A. Ta Peang was a Khmer Rouge cadre. He's at Dar Mountain in
4 Kampong Leaeng district.

5 [15.41.59]

6 Q. You say Khmer Rouge cadre, what do you mean with that?

7 A. He was the Khmer Rouge supervisor of Kampong Leaeng district.

8 Q. How do you know that that was his function?

9 A. Because people over there call him the supervisor of the Khmer
10 Rouge. That's what I know.

11 Q. And who were these people who told you this?

12 A. Everyone at Dar mountain, including Khmer and ethnic
13 Vietnamese said about that.

14 Q. Do you know whether he was a member of the CPK?

15 A. I did not know at that time. I only call him the chief of the
16 Khmer Rouge.

17 Q. Is it correct that you would have only known Ta Peang every
18 one or two months maximum? Or let me rephrase. How long -- what
19 period of time have you encountered Ta Peang? How long have you
20 seen him walking around, was it a few weeks, one month, two
21 months? And if yes, when exactly was that?

22 A. He evacuated me to Lang Dar (phonetic), and then he told me
23 that we were instructed to build the (inaudible). And when he
24 ordered the Vietnamese in the boat to leave to find fish for him
25 to make dry fish.

1 [15.44.52]

2 Q. So he was involved in your evacuation, he was involved in the
3 killing of your family, and he was involved in putting you on the
4 boat to Vietnam? Is that what you're saying?

5 A. He told the Vietnamese people who live in floating village to
6 go to find fish for him. And those who live onshore were
7 instructed to (inaudible).

8 Q. Let me return to my previous question. Is my understanding
9 correct that he was involved in the decision to have your family
10 evacuated, that he was subsequently involved in the alleged
11 killing of your family, and then also he was involved in putting
12 you and others on the boat to Vietnam? Was that what you were
13 saying?

14 A. So the boat -- the Vietnamese people who went by boat were not
15 listed. So when I was so painful after I lost my parents, and
16 then I did not remember what happened next.

17 [15.46.52]

18 Q. Let me start again, Mr. Civil Party. I understand it's a long
19 time ago. But when was the first time that you saw Ta Peang? Do
20 you remember?

21 A. When he walked me to the shore, he instructed me to build an
22 accommodation. And that's only what I remember.

23 Q. And do you remember when that was? Was that after 17 April '75
24 or after Khmer New Year '75, or before?

25 A. He asked me about the months, I emphasized that it was after

1 Khmer New Year, seven days after Khmer New Year that we were
2 evacuated to Dar.

3 Q. So he was involved in you and your family being transferred to
4 Dar; is that correct?

5 A. Yes.

6 [15.48.32]

7 Q. And when your family arrived in Dar, was Ta Peang there again
8 as well?

9 A. He told me to build the accommodation and he told the
10 Vietnamese people in the floating village. And then I did not
11 know what happened next.

12 Q. You said he told me. But at the time, you were 13, 14 years
13 old. Wasn't he in fact addressing your father or your mother as
14 being the adults? Do you remember him seeing, speaking to your
15 father or mother?

16 A. At that time, I told him that my parents went to grow yam for
17 him. And he also ordered the villagers to go there. And then I
18 knew that my parents were walked away to be killed. And that's
19 what I remembered. I could not remember any other things.

20 [15.50.10]

21 Q. We'll take it very slowly, Mr. Civil Party. So Ta Peang was
22 involved in the instruction that your family together with other
23 families would go to Dar. And once in Dar, he was there again
24 giving instructions to your family and other families; is that
25 correct?

1 A. Now I explain this: he told me to build the accommodation to
2 stay, but I did not know where he went to after that. So everyone
3 were fearful of him when they heard of his name.

4 Q. Going back to his function, what was his position? You called
5 him a Khmer Rouge cadre, a supervisor, but that's very general.
6 What was his real position? What did he do? What was his
7 function?

8 A. I did not know.

9 Q. Was he maybe the village chief of Phnum Kangkaeb, do you know?

10 A. I did not know about that.

11 [15.52.16]

12 Q. So once he instructed to your family to start building things,
13 what happened next? How much time was there between these
14 instructions and him being involved in the transfer and the day
15 that you said your family was killed?

16 A. It was about one month. But on the day of building the
17 accommodation, that's when I met him. But I never meet him later
18 on. One month later, my parents were taken away to be killed.

19 Q. So what you said earlier that he was also involved somehow
20 with your transfer on the boat to Vietnam, that's incorrect. He
21 had nothing to do with that.

22 A. I did not know whether he involved in that or not.

23 Q. Do you know why he went with your family and others from the
24 village from which you were transferred to Dar? Do you know why
25 he accompanied you maybe or why he also went there? Is that

1 knowledge that you have?

2 A. He's the chief and his subordinate, there were about 15
3 subordinates. So he told us to build accommodation along the
4 riverside. And after we finished building the accommodation, I
5 did not know where he went to after that.

6 [15.54.40]

7 Q. Now do you know what happened between the moment that he
8 instructed your family and others to build accommodation and
9 subsequently his involvement in the killing of your family? What
10 happened in between? Apparently before, there was no problem
11 between him and your family, also not before the evacuation. Also
12 later in Dar, there wasn't a problem. But a month later, all of a
13 sudden, there seemed to be a problem. Do you know why, what
14 happened?

15 A. As I told you, during the one month, we ate porridge and in
16 the morning one bowl of porridge; and at lunchtime another bowl
17 of porridge; and for dinner, another bowl of porridge. So we did
18 not have enough energy to build the accommodations. And it was
19 also hot and cold. And then one day later, his force came and
20 arrested people. And then we know that they disappear.

21 [15.56.19]

22 Q. So my question before, Mr. Civil Party, was: do you know what
23 happened between the moment that he instructed your family to
24 build accommodation, and a month later, that he was apparently
25 involved in the killing of your family? What had happened in that

1 month before, if you know?

2 A. No, I did not know about the interval time between that. But I
3 knew only that my parent had a fever. And in the morning, they
4 were taken away. That's what I knew.

5 Q. What was the occupation of your father before he was arrested?
6 What did he do?

7 A. As I told you, he was responsible for levelling the land to
8 grow yam. And when he became sick and could not work, he was
9 taken away to be killed.

10 Q. Maybe my question wasn't clear. What I meant was, what did he
11 do before the Khmer Rouge took power? What was his function? Was
12 he a soldier for the Lon Nol army maybe or was he a soldier for
13 the South Vietnamese army maybe or not at all? What was his work
14 before he was evacuated?

15 A. My parent was born in Ruessei Dangkuoch, but they did not do
16 anything. They were fishermen.

17 [15.58.55]

18 Q. So your father and your mother and other members of other
19 family had nothing to do with any fight against the Khmer Rouge
20 before they took power; is that correct? They were just -- your
21 father was a fisherman, nothing more?

22 A. Yes, that's true.

23 Q. And while Ta Peang knew who your family was -- your family
24 members were, at one point apparently a month after your
25 evacuation, he decided to arrest your family. You may not know

96

1 yourself, but have you ever heard any reason for the arrest of
2 your family from someone else, maybe from other villagers or--
3 A. I told again and again the (inaudible) when we arrived at Dar
4 village, my siblings and parents were asked to grow cassava. They
5 were sick -- my parents were sick at that time and could not
6 work, the day after they were sent away.

7 [16.00.27]

8 Q. Going back to Ta Peang and the knowledge of him and your --
9 his knowledge of your family, would you be able to estimate how
10 long Ta Peang knew your family already? How many weeks or months
11 or even years did he know your family before the evacuation to
12 Dar?

13 A. I am not aware of that. I, at the time, did not know whether
14 Ta Peang had known my family in advance.

15 MR. PRESIDENT:

16 Thank you, Counsel. The hearing today comes to an adjournment.
17 The hearing will resume tomorrow -- on Tuesday, 8 December 2015
18 at 9 a.m. Tomorrow the Chamber will continue hearing the witness
19 Choeung Yaing Chaet -- that is, the civil party, and perhaps we
20 may start to hear 2-TCW-945. Please be informed and be on time.
21 Thank you, Mr. Choeung Yaing Chaet. The hearing of your testimony
22 as a civil party has not come to an end yet. You are therefore
23 invited to be here once again tomorrow at 9 a.m.
24 Court officers, please work with WESU to send Mr. Yaing Chaet
25 back to the place where he is staying at the moment. And please

97

1 invite him back into the courtroom at 9 a.m.
2 Security personnel are instructed to bring Mr. Nuon Chea and
3 Khieu Samphan back to the ECCC detention facility, and have them
4 returned into the courtroom tomorrow at 9 a.m.

5 The Court is now adjourned.

6 (Court adjourns at 1602H)

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