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

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

អង្គជំនុំជម្រះសាលាដំបូង

Trial Chamber
Chambre de première instance

TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

6 January 2016

Trial Day 352

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

The Accused: NUON Chea
KHIEU Samphan

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

Trial Chamber Greffiers/Legal Officers:
CHEA Sivhoang
Robynne CROFT

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

For the Office of the Co-Prosecutors:
Joseph Andrew BOYLE
Vincent DE WILDE D'ESTMAEL
Nicholas KOUMJIAN
SENG Leang
SREA Rattanak

For Court Management Section:
UCH Arun

I N D E X

Mr. THANG Phal (2-TCW-848)

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Mr. SOS Romly (2-TCW-904)

Questioning by Mr. SREA Rattanak..... page 88

List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
Mr. BOYLE	English
Mr. DE WILDE D'ESTMAEL	French
Judge FENZ	English
The GREFFIER	Khmer
Ms. GUIRAUD	French
Mr. KONG Sam Onn	Khmer
Mr. KOPPE	English
Judge LAVERGNE	French
The President (NIL Nonn)	Khmer
Mr. PICH Ang	Khmer
Mr. SENG Leang	Khmer
Mr. SOS Romly (2-TCW-904)	Khmer
Mr. SREA Rattanak	Khmer
Mr. THANG Phal (2-TCW-848)	Khmer

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1 P R O C E E D I N G S

2 (Court opens at 0904H)

3 MR. PRESIDENT:

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

5 Today, the Chamber will hear the remaining testimony of witness

6 Thang Phal, and we also have a reserve witness, 2-TCW-904.

7 However, before we continue to hear testimony of Thang Phal, we

8 will hear oral submissions to the request by the defence team for

9 Nuon Chea and the Co-Prosecutors for the Trial Chambers to hear

10 additional witnesses and to accept WRIs, pursuant to Rule 87.3

11 and 87.3 of the ECCC Internal Rules on the treatment of

12 Vietnamese. That is document E380, E381 and E382.

13 In addition, the Chamber also wishes to hear reports from the

14 Lead Co-Lawyers for civil parties concerning the circumstance of

15 two civil parties, that is, 2-TCCP-844 and 2-TCCP-869 as the Lead

16 Co-Lawyers request to provide an update to the Chamber.

17 Ms. Chea Sivhoang, please report the attendance of the parties

18 and other individuals to today's proceedings.

19 [09.06.19]

20 THE GREFFIER:

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

22 are present except Ms. Anta Guisse, the International Counsel for

23 Khieu Samphan, and Mr. Calvin Saunders, the duty counsel --

24 stand-by counsel for Khieu Samphan, for personal reasons.

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

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1 waived his right to be present in the courtroom. The waiver has
2 been delivered to the greffier.

3 The witness who is to conclude his testimony today -- that is,
4 Mr. Thang Phal, is ready to be called by the Chamber. We also
5 have a reserve witness today -- that is, 2-TCW-904.

6 Thank you.

7 MR. PRESIDENT:

8 Thank you, Ms. Chea Sivhoang.

9 The Chamber now decides on the request by Nuon Chea.

10 The Chamber has received a waiver from Nuon Chea dated 6 January
11 2016, which states that, due to his health, headache, back pain,
12 he cannot sit or concentration for long. And in order to
13 effectively participate in future hearings, he requests to waive
14 his right to participate in and be present at the 6 January 2016
15 hearing.

16 [09.07.48]

17 Having seen the medical report of Nuon Chea by the duty doctor
18 for the accused at ECCC, dated 6 January 2016, which notes that
19 Nuon Chea has back pain when he sits for long and recommends that
20 the Chamber grant him his request so that he can follow the
21 proceedings remotely from the holding cell downstairs, based on
22 the above information and pursuant to Rule 81.5 of ECCC Internal
23 Rules, the Chamber grants Nuon Chea his request to follow today's
24 proceedings remotely from the holding cell downstairs via
25 audio-visual means.

3

1 The Chamber instructs the AV Unit personnel to link the
2 proceedings to the room downstairs so that Nuon Chea can follow.
3 This applies to the whole day.

4 [09.08.54]

5 Now the Chamber wishes to hear oral submissions from Parties
6 concerning the three requests from the defence team for Nuon Chea
7 and the Co-Prosecutors to hear additional witnesses and to admit
8 WRIs. And after that, we will hear the -- an update concerning
9 the circumstance of the two civil parties by the Lead Co-Lawyers
10 for civil parties.

11 We would like now to hear the oral submissions from the Parties
12 concerning the request by Nuon Chea's Defence pursuant to Rule
13 87.3 and 87.4, as well as to admit additional WRIs as well as the
14 request by the Co-Prosecutors. The three documents are E380, E381
15 and E382. And the submissions were filed separately. The
16 Co-Prosecutor's filings concerning the request to hear additional
17 witnesses and new witnesses concerning the proceedings in hearing
18 of 002/02 on the treatment of the Vietnamese.

19 For the three requests, the senior legal officers actually
20 emailed the Parties on the 23rd December 2015, that the Chamber
21 will hear submissions from the Parties and, in fact, we scheduled
22 to hear the oral submissions yesterday. However, it was deferred
23 to today due to the request by the International Counsel for
24 Khieu Samphan on the 4th January 2016, and we granted that
25 request.

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1 [09.11.08]

2 So now let me visit the request by the defence team for Nuon
3 Chea, that is, document E380. And the Chamber wishes to give the
4 floor first to the Co-Prosecutors to make their oral submissions
5 regarding this request.

6 You may proceed.

7 MR. D'ESTMAEL:

8 As regards the motion filed by the Nuon Chea Defence, we will be
9 very brief.

10 We do not have any objections to the admission of the records of
11 the three witnesses that the Defence would like to have admitted
12 into evidence regarding witnesses who are now proposed by the
13 Defence.

14 We have no objections as regards the first two, TCW-428 and
15 TCW-823. And as for the last, as a matter of fact, we support the
16 application by the Nuon Chea defence. We, ourselves, have raised
17 certain arguments regarding the third witness, 2-TCW-1010, in
18 order that that witness may be heard in relation to crimes
19 concerning Vietnamese which were committed in Kampong Som.

20 [09.12.49]

21 For us, that person is very important because that person
22 establishes the link with the crimes committed at Kampong Som and
23 S-21. It is important, both with regard to the crimes of genocide
24 and the proof of genocide of intent vis à vis the Vietnamese, but
25 also as regards war crimes that are attributed to the Accused at

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1 S-21, regarding Vietnamese who were arrested at the border.
2 That is all I have to say for now. We have no objections to that
3 application. Quite on the contrary; we endorse that application,
4 particularly with regard to the third witness who is being
5 proposed.

6 Thank you.

7 [09.13.45]

8 MR. PRESIDENT:

9 And the floor is now given to the Lead Co-Lawyers for civil
10 parties if you wish to respond to the request by the defence team
11 for Nuon Chea.

12 MS. GUIRAUD:

13 Thank you, Mr. President. Good morning, everyone. We will rely on
14 the Chamber's discretion regarding the Nuon Chea Defence
15 application.

16 MR. PRESIDENT:

17 Thank you.

18 And lastly on this request, the floor is given to the defence
19 team for Khieu Samphan if you wish to make a response or
20 observation on the request by the defence team for Nuon Chea.

21 [09.14.32]

22 MR. KONG SAM ONN:

23 Thank you, Mr. President.

24 I would like to make a combined response to the request by the
25 defence team for Nuon Chea and those requests by the

6

1 Co-Prosecutors. Thank you.

2 MR. PRESIDENT:

3 The Chamber has noted your request, and yes, the floor will be
4 given to you later on.

5 Now we would like to put the two requests by the Co-Prosecutors
6 for the Parties observation or response if you wish to do so in
7 regards to document E381 and E382.

8 And first the floor is given to the Lead Co-Lawyers for civil
9 parties if you wish to respond or to make observations regarding
10 the two requests.

11 MS. GUIRAUD:

12 Thank you, Mr. President. As usual, we will rely on the Chamber's
13 discretion.

14 As for the Co-Prosecutor's motion, we would like to inform the
15 Chamber that we personally met 2-TCP-245, that is, a civil party
16 included in the motion E381, and that person is in good health
17 and is ready to appear before this Chamber to testify if this
18 Chamber is of the view that that person's testimony is relevant
19 to the manifestation of the truth. That is, 2-TCP-245.

20 [09.16.27]

21 MR. PRESIDENT:

22 Thank you.

23 And the Chamber would like now to give the floor to the defence
24 team for Nuon Chea to respond to the request -- the two requests
25 by the Co-Prosecutors if you wish to do so.

1 MR. KOPPE:

2 Thank you, Mr. President. We have no observations or submissions
3 to make.

4 MR. PRESIDENT:

5 Thank you.

6 And now the floor is given to the National Counsel for Khieu
7 Samphan.

8 [09.17.08]

9 MR. KONG SAM ONN:

10 Thank you, Mr. President. Again, good morning, Your Honours, and
11 good morning, everyone in and around the courtroom. I'd like now
12 to respond to the three requests, that is, one request by the
13 defence team for Nuon Chea and two other requests by the
14 Co-Prosecutors.

15 For us, the defence team for Khieu Samphan, we would like to make
16 the following response.

17 On the last hearing day of 2015, that is, the 16 of December, we
18 almost concluded the proceedings on the hearing of the treatment
19 against the Vietnamese, and we actually needed to hear only one
20 additional witness, that is, 2-TCW-848. And we had problems with
21 two other witnesses concerning their health conditions, that is,
22 2-TCW-844 and another witness who declined to appear, that is,
23 civil party 2-TCCP-869.

24 [09.18.31]

25 And today, the day that we actually continued the last hearing

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1 day from 2015 and for that reason we would like to respond to the
2 request by the defence team for Nuon Chea and those of the
3 Co-Prosecutors to hear about 10 additional witnesses on the
4 segment of the treatment of the Vietnamese. The Co-Prosecutors'
5 request additional eight witnesses and, amongst those, one was
6 the same witness that was requested by the defence team for Nuon
7 Chea.

8 They actually requested to hear twice the number of witnesses
9 concerning the treatment of the Vietnamese segment. And that was
10 for September 2015 as, at that time, the Chamber intended to hear
11 only 11 witnesses on this segment and, so far, we have heard 10
12 witnesses and there is plans to hear additional five witnesses.
13 This is based on the email communicated from the Trial Chamber on
14 the 24th December 2015.

15 We object the request for the following reasons.

16 In our general objection is that these requests intend to fill in
17 the lacunae by the Co-Prosecutors and to delay the proceedings.

18 If the Chamber grants the request, that would be the case.

19 [09.20.43]

20 It is noted that there are two kinds of requests. One is the
21 request for witnesses who have already heard, and the second
22 request is to -- for new witnesses from Case 003, and also their
23 request for additional witnesses for 2-TCW-1000.

24 Allow me to touch upon the request to hear the existing witnesses
25 pursuant to the request E381.

1 In their submission E381, the Co-Prosecutor's request the Trial
2 Chamber to hear witnesses which have already been requested by
3 them. However, they were rejected by the Trial Chamber.

4 And the Co-Prosecutors again request to request three additional
5 witnesses from Prey Veng, two from Svay Rieng, and one concerning
6 the national policy of the regime.

7 This is a repetitive request for the witnesses for that reason it
8 is not that necessary and the hearing of testimonies of those
9 witnesses actually delayed the proceedings in this case. And for
10 that reason, we object to this request, and that is in pursuant
11 to Rule 87.3.

12 [09.22.25]

13 Now I'd like to give some details on the request to hear
14 witnesses from Prey Veng. We actually heard a witness from Prey
15 Veng province, that is, 2-TCW-886, Sao Sak, and another witness
16 who has also testified in this Chamber, that is, 2-TCW-848, and
17 two additional witnesses on this segment awaits an update from
18 WESU. Here I refer to 2-TCW-848, and another civil party,
19 2-TCCP-869.

20 The witnesses to be called to testify on this segment and who
21 passed away have been replaced by other witnesses per decision by
22 the Trial Chamber ruling on 20 October 2015.

23 And for those witnesses from Prey Veng province, in September
24 2015, the Trial Chamber decided not to hear witnesses from this
25 province. And at that juncture, the Trial Chamber failed to raise

1 this issue.

2 And on the 6 November 2015, that is, the day the Trial Chamber
3 announced that they intended to hear three witnesses, two of whom
4 were from Prey Veng. However, they were under the health
5 assessment and, for that reason, the Trial Chamber decided to
6 hear two witnesses from Svay Rieng province. And those witnesses
7 were heard in December, that is, 2-TCW-805 and 2-TCW-820. And
8 because these two witnesses did not give testimonies to the
9 expectation of the Co-Prosecutors, they submitted another
10 request. And this is highlighted in paragraph 11 of their
11 submission.

12 [09.25.20]

13 And the hearing of the two -- of the testimonies of witnesses
14 should not be delayed. We cannot keep hearing testimonies of
15 witnesses without having a stop to it until such time that the
16 Co-Prosecutors want what they want. We cannot do that.

17 And in relation to the national policy, so far, testimonies from
18 witnesses have been questioned on the national policy of the
19 regime, and that is also mentioned in the submission by the
20 Co-Prosecutor's request, that is, document E381, concerning the
21 testimonies of witnesses from Prey Veng and Svay Rieng, and three
22 witnesses from Siem Reap, two from Kampong Chhnang, one from
23 Kampong Som and another one from Kampong Som.

24 Two other witnesses also testified, and they came from Prey Veng
25 and Svay Rieng, namely, 2 -- rather, they are civil parties,

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1 2-TCCP-234 and Witness 2-TCW-1007. This is pursuant to an email
2 from the Trial Chamber dated 24th.

3 [09.27.09]

4 The Trial Chamber actually granted the request by the
5 International Co-Prosecutors, pursuant to Rule 81.4, on the
6 national policy in relation to hearing witness 2-TCW-1000, whose
7 testimony has just concluded. For that reason, after the decision
8 made by the Trial Chamber, the International Co-Prosecutor and
9 Mr. Nuon Chea made their request. And that led to the floor being
10 given to the parties today to make the response.

11 Concerning the two new witnesses from Case 003 and which have
12 been requests concerning witness 2-TCW-1000, that is, I refer to
13 document E382 and E380, it shall be reminded that on the 11
14 November 2015, the International Co-Prosecutor request the
15 admissions of 95 documents and to hear four witnesses from Case
16 003 and 004, that is, document E319/36.

17 [09.28.41]

18 Amongst the four witnesses, one spoke about the treatment of the
19 Vietnamese from Case 003 and another witness, that is,
20 2-TCW-1000, who was a former soldier from Division 164.

21 The request by the International Co-Prosecutor based on the
22 following grounds. Here I refer to paragraph 11 of document
23 E319/36. The testimonies of these witnesses -- rather, "the
24 testimony of this witness, who is a former cadre of Division 164
25 from a Navy Division 140, is of utmost importance, in particular

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1 as it is related to the orders to arrest and to execute the
2 Vietnamese who were captured at sea and the general policies of
3 the Democratic Kampuchea against the Vietnamese." End of quote.
4 On the 7 December 2015, despite our strong objection, the Trial
5 Chamber decided to hear this witness, and the grounds for that
6 decision was provided very brief. And here, I refer to an extract
7 from document -- from the trial transcript, that is, E3/363.1, at
8 13.38.

9 "The Trial Chamber is of the view that the evidence concerning
10 the treatment of the Vietnamese did not exist before the
11 proceedings in this segment of the trial."

12 [09.30.52]

13 And the witness was then summoned by the Trial Chamber to
14 testify. And from that on flows the request from other parties
15 coming from Case 003 and relies their request based on Rule 87.4
16 of the ECCC Internal Rules.

17 And their request concerns witnesses from former Division 164 and
18 the arrest of the Vietnamese at sea.

19 We had to force ourselves to request for the WRI's inclusion from
20 Case 003 to hear Witness 1000, and Nuon Chea request additional
21 three witnesses and additional WRIs from Case 003 in order to
22 attempt to maintain the quality of arms against the decision by
23 the Trial Chamber in hearing testimony of 2-TCW-1000. And here, I
24 refer to paragraph 4 of document E380.

25 [09.32.11]

1 The International Co-Prosecutor also requested to hear two
2 witnesses, one of whom was jointly requested by the Nuon Chea's
3 Defence. And also to -- they requested to admit two WRIs from
4 Case 003, that is, document E382, in order to reinforce the
5 testimony of 2-TCW-1000.

6 Upon deciding to hear testimony of 2-TCW-1000, the Trial Chamber
7 seemed to open a can of worms because those -- this evidence was
8 -- did not exist before the proceedings in this segment. However,
9 it's because of the acceptance of this new evidence which has
10 been gathered within the scope of the investigation of Case 003,
11 whereas in Case 002, the Co-Investigating Judges failed to
12 investigate those facts, that is, those facts concerning Division
13 164 and the arrest of the Vietnamese at sea.

14 These facts were not included in the introductory submission by
15 the Co-Prosecutors or in their supplementary submission. This is
16 a major issue pursuant to the spirit of Internal Rule 87.3,
17 paragraph (a), as well as the right of the accused, that is, the
18 right to receive information concerning the charges as well as
19 the adequate time and facilities to prepare their defence.

20 The Trial Chamber cannot grant every request and proceed with all
21 those requests in the trial under the pretext of the policy
22 against the Vietnamese.

23 [09.34.53]

24 The question is that, was there sufficient element of crimes
25 constituted this fact in Case 002. Why should the defence team

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1 respond to these facts concerning Division 164 and the arrest of
2 the Vietnamese at sea in 2016, when the Co-Prosecutors did not
3 investigate these facts in Case 002. And why the defence team has
4 to do that during the trial proceedings in this segment when the
5 -- while this investigation in the other cases is still ongoing?
6 Today, we, ourself, is in a situation where we concerns the
7 request to admit additional documents from the International
8 Co-Prosecutors from Case 003 where the investigation is ongoing.
9 And of course, the investigation of 003 or 004 is not part of the
10 scope of this case proceedings. And if the Trial Chamber grants
11 the request by Nuon Chea and the International Co-Prosecutor, it
12 means that we actually commence the hearing of the trial of Meas
13 Muth, who is alleged to be secretary of Division 164, and who is
14 still under investigation by the International Co-Investigating
15 Judge in Case 003.

16 [09.36.48]

17 We, the defence team for Nuon Chea and Khieu Samphan, are not
18 part of Case 003, although the Co-Prosecutors are, and so far,
19 the Trial Chamber is not seized of any case orders from the
20 latter cases. For that reason, we need to focus on the
21 allegations against Nuon Chea and Khieu Samphan in Case 002 where
22 the Trial Chamber needs to make an appropriate assessment.
23 The Trial Chamber needs to close this can of worms to hear
24 additional witnesses, in particular in relation to additional
25 witnesses concerning 2-TCW-1000. In addition, the Trial Chamber

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1 needs to acknowledge the lack or the carelessness on the
2 International Co-Prosecutor's side which has been shown clearly
3 and that they now -- he now attempts to fill in the lacunae due
4 to their carelessness.

5 [09.38.07]

6 The International Co-Prosecutor actually is aware of the two
7 witnesses who have been requested by this so-called International
8 Co-Prosecutor and they should have done that a long time ago, or
9 at least at the same time that the request for 2-TCW-1000 was
10 made on the 11 November 2015.

11 However, the International Co-Prosecutor failed to do so. For
12 that reason, the submissions by the International Co-Prosecutor
13 fails to meet the criteria stipulated in 87.4 of the ECCC
14 Internal Rules.

15 The testimonies of the two witnesses have been included in Case
16 002 on the 3rd of June 2015, that is, document E319/23.

17 The International Co-Prosecutor also made a request to the
18 Investigating Judges on the 4th of May 2014, on the 15h December
19 2014 -- 2014, and on the 16 March 2015 or 22nd April 2015. That
20 is in reference to paragraph 2 of document E319/23.

21 [09.40.01]

22 And the Co-Investigating Judges granted a request through the
23 notification sent on 14 May 2015. That is in reference to
24 paragraph 2 of document E319/23.

25 The International Co-Prosecutor actually requested to call these

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1 two witnesses on 24 December 2015, after they learned of the
2 records of these witnesses. It means that they had one and a half
3 month after the November 11 -- 11 November 2015, when they
4 requested to admit 94 documents and four witnesses, including
5 2-TCW-1000. And this is in reference to document E319/36.
6 For Witness, 2-TCW-1009, the International Co-Prosecutor included
7 his WRI in its request, that is, document E319/36. And of course,
8 we made our objection to that request. That is in document
9 E319/356/1. And that is number 37 in the table of authority.
10 And at that time, the International Co-Prosecutor did not request
11 to include his WRI in their request. For that reason, there is no
12 ground for the Co-Prosecutors to make that request now unless
13 they wish to strengthen the testimonies of 2-TCW-1000. And the
14 Co-Prosecutors failed to prove that these witnesses have
15 substantial -- substantial testimonies for the consideration and
16 assessment by the Trial Chamber.
17 [09.42.54]
18 Concerning the bias by the Trial Chamber, it seems that the Trial
19 Chamber tends to lend their hands to the Co-Prosecutors. If we
20 look back in the previous practice, Judge Lavergne seems to rule
21 always encourage the request by the Co-Prosecutors. And it was
22 done only by the International Co-Prosecutors in the case that
23 the civil parties failed to appear. And for that reason, two
24 additional witnesses were requested.
25 And the Co-Prosecutors failed to requests for additional

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1 witnesses, and that request was made only a week after the
2 encouragement by Judge Lavergne. It seems that Judge Lavergne
3 does not satisfied with the testimonies so far and, for that
4 reason, it seems that he needs other elements of crimes to press
5 further charges on the Accused. And it seems that the Judge lends
6 his hand to the Co-Prosecutors.

7 [09.44.28]

8 Now I'd like to touch upon the issue of presenting inculpatory
9 evidence only. And that is the main reasons to call for
10 additional witnesses concerning the treatment of the Vietnamese,
11 and that actually reminded us of the previous request, to hear
12 additional witnesses concerning the treatment of the Cham.

13 The belated request by the International Co-Prosecutor again and
14 again and which have been granted by the Co-Prosecutor -- by the
15 Trial Chamber whilst the request to hear additional witnesses by
16 Nuon Chea defence were rejected. This, it seems, to fill in the
17 lacunae of the investigation in this case, and it seems to show
18 the weakness of testimonies who appear before this Chamber
19 concerning the allegation of acts of genocide.

20 [09.45.44]

21 The Trial Chamber repeatedly grants the request to hear
22 additional witnesses by the Co-Prosecutors, but fails to consider
23 additional witnesses by our Defence submitted in May 2014. Lately
24 -- or recently, the Trial Chamber said that they are considering
25 our other request, that is, document E366/3, dated 24 December

1 2015, paragraph 12. And allow me to quote that paragraph:

2 "The Trial Chamber is considering the request by the defence team
3 for Khieu Samphan to hear seven witnesses, and the Trial Chamber
4 will notify the Parties of its decision whether those witnesses
5 shall be called. And if they are to be called, when they will be
6 called and which facts they are called upon."

7 Thus far, a number of facts in Case 002/02 have been put to test
8 before this court, and the majority of the seven witnesses that
9 we requested could actually testify on several topics in Case
10 002/02. However, the trial proceedings are ongoing, and it is
11 about to conclude and there is no witness requested has so far
12 been selected, while other witnesses who could provide potential
13 testimonies concerning the treatment of targeted groups.

14 [09.47.45]

15 On the contrary, the Trial Chamber notified us on 24 December
16 2015, the list of experts on the facts of the targeted groups.
17 One expert to testify on the treatment against Cham and two on
18 the treatment against the Vietnamese. These are the experts
19 proposed by the Co-Prosecutors.

20 These experts had been selected for the treatment against the
21 target groups were for the purpose only of the inculpatory
22 evidence. However, the experts that we requested in order to shed
23 light on these matters have not yet been selected.

24 The Trial Chamber shall hear witnesses or testimony of those who
25 could shed light or for the interest of justice rather than to

19

1 grant request for other witnesses from the Co-Prosecutors which
2 are to delay the proceedings and which affects the right of the
3 Accused.

4 I conclude my response, Mr. President.

5 [09.49.07]

6 MR. PRESIDENT:

7 Thank you. And Counsel Koppe, you have the floor.

8 MR. KOPPE:

9 Yes, Mr. President. A very brief remark.

10 I think it's important to note that we concur, literally, with
11 every word the Khieu Samphan defence team has just said. We've
12 actually given up making arguments like this, but it is important
13 to know that we fully concur with their position.

14 We like especially the term "can of worms". I wish I would have
15 found it myself because the decision of the Chamber to call
16 2-TCW-1000 was the reason for our request E380.

17 So just for the record, we concur with everything the Khieu
18 Samphan team -- defence team has said.

19 MR. PRESIDENT:

20 Thank you. And now the floor is given to the Co-Prosecutor. You
21 may now proceed.

22 [09.50.15]

23 MR. D'ESTMAEL:

24 Thank you, Mr. President. The objections were very lengthy, so
25 I'm going to try to be brief, so -- however, I'm going to address

1 a certain number of points.

2 First I'm going to start with the last remark from the Nuon Chea
3 defence counsel, who says he completely agrees with what he
4 heard. I'd like to remind him that, among the experts on the list
5 -- on the potential list of the Chamber and which the Khieu
6 Samphan National Counsel spoke about, there are one or several
7 experts that were requested by the Nuon Chea Defence. And
8 furthermore, Nuon Chea requested the appearance of three extra
9 witnesses regarding Kampong Som.

10 Now, regarding these two applications, why, first of all, are
11 they justified? Why do they come into play now? This, of course,
12 is a question that comes up often. In fact, we waited for the
13 most -- the best moment, that is to say, a break during the
14 schedule to make this request. And we took into account the fact
15 that the list of witnesses that was programmed by the Chamber
16 constantly changed since September. This is what we explained in
17 our request, E381.

18 [09.51.44]

19 At the beginning, there were a certain number of witnesses and
20 civil parties that had been selected, and then the Chamber
21 understood that, among these people who had been initially
22 selected, a certain number of them had died and many others were
23 not available or were being medically assessed. And this at least
24 prevented them, on a temporary basis, to come testify, so we had
25 this uncertainty regarding these people who could come, but we

21

1 were not absolutely sure that they would come. So I, of course,
2 understand the National Khieu Samphan Counsel saying that the
3 Trial Chamber has apparently rejected the six witnesses that we
4 are proposing again because these six witnesses were already on a
5 previous witness list.

6 It's not that the Chamber would have rejected them. The Chamber
7 did simply not select them at a point in time. Now, this is a
8 list that changes depending on the health condition and depending
9 on the fact of whether or not these people are still alive.

10 [09.52.57]

11 So, I would like to remind, however, the different Parties that
12 it is -- the burden of the proof is on the Co-Prosecution, and
13 the charges are numerous and complex regarding this segment on
14 the Vietnamese. It's not only genocide.

15 Of course, genocide has its requirements, and it's hard, of
16 course, to prove this. And -- but here, we're speaking about the
17 application of a national policy in Svay Rieng and Prey Veng, and
18 this is why we heard a certain number of witnesses regarding
19 other regions as Svay Rieng and Prey Veng. Aside from genocide,
20 there are crimes against humanity, murder, extermination, racial
21 persecution and deportation. And that's not all because we also
22 must take into consideration the great violation of the Geneva
23 Conventions and, in particular, wilful homicide at S-21, torture
24 at S-21, inhumane treatment, the fact of inflicting, on the
25 wilful basis, serious harm or of depriving war prisoners or

1 civilian prisoners of their right to a fair trial at S-21 as well
2 as, in certain cases, at Au Kanseng.

3 So I will get back to this link with S-21, and this link is made
4 through the Kampong Som witnesses. But I would also like to
5 respond to a point that I heard in which the Khieu Samphan
6 Counsel accuses us of delaying the proceedings.

7 [09.54.45]

8 That's not the truth. We have a burden. We have the burden of the
9 proof. Of course there are -- there's documentary evidence on the
10 case file, but the onus of the testimonies is very important for
11 the Chamber as well as for the public. And one of the
12 difficulties of this segment is that there are no Vietnamese
13 survivors among the people who are going to come testify here.
14 It appears that there are very, very few of them in fact. If --
15 it appears that very, very few Vietnamese survived this period
16 from '75 to '79 in Cambodia, so this is one of the difficulties
17 that we're facing.

18 Another point that we must remind is that we have no contact with
19 the witnesses, and this should be made clear to certain
20 observers. We have no contact with the witnesses, so of course
21 there might be surprises at times. And certain witnesses who are
22 called to testify, certain witnesses who we thought could confirm
23 a certain number of facts are not able to do so, and we notice
24 this now during the proceedings.

25 [09.55.58]

1 So, telling us that we're trying to delay the proceedings, that
2 seems to be really unfair coming from a team which quite often
3 has stepped out of this courtroom and has, in fact, delayed the
4 proceedings.

5 So in the first application, of course, there are six civil
6 parties and witnesses that we would like the Chamber to hear,
7 mainly regarding Prey Veng and Svay Rieng. And I would like to
8 insist upon the fact that it is necessary to refocus the trial on
9 these two provinces. And until now, we only heard four witnesses
10 or civil parties regarding both of these provinces.

11 Now, regarding Svay Rieng, it is true that, at the start, the
12 first list of witnesses and civil parties proposed by the Chamber
13 included no civil party or witness relative to these provinces
14 and, since then, two people have been heard. One of them was not
15 able, however, to confirm the fate of the Vietnamese who had been
16 taken out, deported from their village. This is a witness who was
17 heard in December.

18 [09.57.12]

19 So, we have proposed, again, three people who are included on our
20 main list of witnesses regarding Prey Veng. They come from the
21 same village. They come from the same region. These are people
22 whose testimony confirm each other, but we do not know, however,
23 what the civil parties are going to tell us regarding the health
24 condition and of the desire to appear of two of these civil
25 parties, or at least -- and one of them, at least, comes from the

24

1 same region. So with this question mark, we are requesting the
2 Chamber to consider calling these civil parties regarding Prey
3 Veng so that the facts may be clearly established.

4 Regarding Svay Rieng, we simply requested that two other
5 witnesses who were part of our initial list be also heard.

6 [09.58.19]

7 And finally, a last witness was requested. This is a witness
8 concerning Pursat who was on our initial list of witnesses, and
9 there were three witnesses on the initial list who came from
10 Pursat. And only one of them was proposed again in our request
11 E381. It seems important to us that there be, indeed, witnesses
12 coming from other regions so that we can establish a national
13 aspect of the policy vis à vis the Vietnamese enemies.

14 And we spoke about a "can of worms". I'd like to get back to this
15 term. I think that this term is not -- it's not very honest to
16 mention this because during 10 to 15 minutes, the lawyer spoke
17 about the fact that we were speaking about testimonies coming
18 from Case 003. And I don't know if it was useful to mention this,
19 but we have to admit that, right now, these documents are no
20 longer documents coming from Case 003. These are documents that
21 were forwarded to the Parties in due course. And most of these
22 documents now were presented before the Chamber. The documents
23 that were referred to were disclosed to the Parties on the 18th
24 of May 2015, and the Parties had the time to review these parties
25 (sic). So now, in fact, these documents become documents of Case

25

1 002 since -- and so we should stop bringing up this argument that
2 these documents come from Case 003.

3 [10.00.02]

4 So are we trying to try Meas Muth here? Not at all. What I said
5 earlier on is that what interests us with regard to the Kampong
6 Som witnesses is to prove the national policy against the
7 Vietnamese because there are many, many witnesses coming from
8 this -- from this region who speak about this and because this is
9 a border area and because the Vietnamese would travel there
10 either to fish or because they were refugees or if they were --
11 or, again, if they were patrolling their territorial waters.
12 So there are, of course, quite a few testimonies regarding
13 Kampong Som that may interest us regarding the national policy
14 regarding the Vietnamese and the way that the central authority
15 considered them.

16 As I said earlier as well, there is a very clear link between the
17 arrest of Vietnamese at the borders and, in particular, in
18 Kampong Som and S-21.

19 [10.01.03]

20 Of course, we will hear testimonies from S-21 regarding the
21 presence of Vietnamese there on site and also the broadcast of
22 confessions on the radio following the arrests of these people
23 and their possible torture, but it seems important to us to make
24 this link also on the basis of the Vietnamese segment and on the
25 basis of the arrest of certain people at Kampong Som who say that

1 they were later on transferred to Phnom Penh and to S-21.

2 And this is the case for witness -- the third witness who is in
3 the Nuon Chea Defence's application and whose pseudonym is
4 2-TCW-1010.

5 Was it really a question of diligence? We waited for the right
6 time to make a global motion, and we received the testimony of
7 2-TCW-1000. At the time, we thought that it was urgent to include
8 that name in the motion of November, but we are waiting to see
9 whether that witness will be available and appear before the
10 Chamber.

11 [10.02.35]

12 So, there were many names in that global motion. We have 873 and
13 now we have 874, we hope are the two motions -- the two witnesses
14 will be relevant.

15 Now I would like to talk about the fact that we would wish that
16 other witnesses are called, particularly when we have to talk
17 about the health status of the civil parties.

18 At the time, we thought that those civil parties would not appear
19 because of their health status, so it is out of place to accuse a
20 Judge of assisting the Co-Prosecutors. We have always wanted to
21 make that motion for some time, and we had announced that earlier
22 during one of the hearings.

23 I think this is approximately all I have to say for now. I
24 believe my submissions have been sufficiently comprehensive.

25 Thank you, Your Honours.

1 [10.03.52]

2 MR. PRESIDENT:

3 Thank you. And the Lead Co-Lawyers for civil parties, do you wish
4 to make your response or objections -- or observations, rather,
5 to the objections raised by the defence team for Khieu Samphan?

6 MS. GUIRAUD:

7 We have no remarks, Mr. President.

8 MR. PRESIDENT:

9 Thank you. Now the Chamber would like to get an update on the
10 situation of two civil parties, that is, 2-TCCP-844 and
11 2-TCCP-869. On the 9 and 11 December 2015, the Trial Chamber
12 notified Parties in Case 002/02 by an email from the senior legal
13 officers on the situation of civil parties 2-TCCP-844 and 869,
14 and whether they can appear to testify before the Trial Chamber.
15 The Trial Chamber received a report from WESU concerning the
16 psychological and physical health of the civil parties, and now
17 the Trial Chamber would like to get an update from the Lead
18 Co-Lawyers for civil parties if necessary measures have been
19 coordinated to assist the civil parties to testify.

20 [10.05.41]

21 Yesterday, the Lead Co-Lawyers for civil parties notifies the
22 Trial Chamber that they wish to respond to this matter today. For
23 that reason, the Chamber would like to give the floor to the Lead
24 Co-Lawyers to provide an update on this issue as well as measures
25 deemed appropriate to assist the two civil parties to testify.

1 You may proceed, Lead Co-Lawyers.

2 [10.06.13]

3 MR. PICH ANG:

4 Good morning, Mr. President, Your Honours, everyone in and around
5 the courtroom. My name is Pich Ang, the National Lead Co-Lawyer
6 for civil parties.

7 After receiving instructions from the Trial Chamber, and as
8 highlighted by the President, we, the Lead Co-Lawyers for civil
9 parties, actually met with the two civil parties, that is,
10 2-TCCP-869 and 2-TCCP-844. We met them over a two-day period to
11 discuss the matter and to inquire about their physical and mental
12 health. We actually met them on the 28 December and then on the
13 4th January 2016.

14 I'd like now to provide an update on the condition of 2-TCCP-869.
15 As Your Honours have received the report, the civil party is
16 scared to testify amongst the crowd of people in this courtroom,
17 and she objects to appear before the Trial Chamber based on this
18 ground. She says that she was not educated and that is in
19 addition to her poor health condition, and that she is also quite
20 old. She is currently 74 years old.

21 After the two meetings, in particular the last meeting that we
22 met her on Monday, 4 January 2016, we were with her with Dr. Muny
23 Sothara, an expert from TPO, to discuss with the civil party as
24 well. And after the session ended, we were confirmed by the civil
25 party that she is not in a position to testify.

1 [10.09.02]

2 However, as reported in the medical report by WESU concerning her
3 health condition, the report dated 26 November 2015, that due to
4 her senior age and of her limited education and also due to her
5 poor health condition, we, the Co-Lawyers for civil parties, are
6 of the view that if she is to testify that she should testify for
7 a morning session only and maybe the next -- subsequent day would
8 be for the morning session as well. And that would give her time
9 to concentrate and to respond to the questions. And that would
10 not put much pressure on her health condition.

11 Also concerning questions that would be put to her by the
12 Parties, I would urge that the questions shall be simplified. And
13 as for her statement of suffering, we would like to have it
14 instead in a question form so that she can respond to those
15 simplified questions. She's not in a position to make a lengthy
16 description of the situation concerning her harm.

17 [10.10.52]

18 Now I'd like to move on to the second civil party, that is,
19 2-TCCP-844.

20 We met with this civil party, who confirmed that his condition is
21 much better than previously examined by the doctor from WESU.
22 Previously, he had problem with high blood pressure and he had
23 weakness on the -- on one side of his body. He is now engaged in
24 physiotherapy and that he has to jog for a kilometre distance
25 every day to revitalize his health. And he is actually having

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1 some breathing problems every day, but it's getting better and
2 better now.

3 He is not being treated with modern medicine however, he opts for
4 herbal treatment and he confirms that he is willing to testify
5 before the Chamber.

6 In conclusion, in order to clarify these matters clearly, we
7 request that the Trial Chamber appoint a doctor to examine the
8 two civil parties. And again, I'd like to confirm that the civil
9 parties are willing to testify. And per our observation, as a
10 general condition, we are of the view that their testimonies are
11 relevant to the proceedings and it is not a waste of time, as
12 alleged by the National Counsel for Khieu Samphan as they are the
13 actual victims of the crimes and their facts or experience are
14 directly to the facts being debated before this court.

15 And of course, we are in a position to provide any further
16 response if you wish us to do so.

17 [10.13.38]

18 MR. PRESIDENT:

19 Judge Lavergne, you have the floor.

20 JUDGE LAVERGNE:

21 Thank you, Mr. President.

22 I'm not sure I understood all the explanations that were provided
23 this morning. There might be problems of translation.

24 I understand that Pich Ang said that both civil parties would
25 like to testify, but I, however, believe I heard before that

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1 Civil Party TCCP-869 refuses to come, so here I'm a bit lost.

2 [10.14.23]

3 And furthermore, he -- this -- it was also said about the civil
4 party that this civil party might come testify only in the

5 morning, and if we put simple questions to him, so is this a

6 proposal that was discussed with the civil party or is this --

7 has this proposal been accepted by the civil party?

8 And finally, a doctor was requested, so what is the objective of

9 this request? Is it to have extra expertise, or is it for these
10 doctors to provide recommendations to the civil parties?

11 So I would like to be clarified about all of this.

12 MR. PICH ANG:

13 Concerning Civil Party 2-TCCP-869, initially, she refused to

14 testify. However, after we met with her in the presence of an

15 expert from TPO, the civil party is willing to testify. I hope

16 you are clear on this now.

17 Likewise, for 2-TCCP-844, he confirms that he is willing to

18 testify.

19 As for Civil Party 2-TCCP-869, she is able to testify considering

20 her health condition. However, based on our observation and, of

21 course, Your Honours have seen it in the report, she is old. She

22 has high blood pressure, although it is controlled by medicine.

23 [10.17.15]

24 If it is possible for her to testify for the morning sessions

25 only, that would be better for her. For example, if she is

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1 scheduled to testify for one day, it means that she should be
2 testifying for the morning session for one day and then another
3 morning session for the following day. And that would assist her
4 due to her health condition.

5 And if we can do it this way, it means that we give her time to
6 rest and that we give her time to concentrate in responding to
7 the questions to be put to her.

8 And in response to the question by Judge Lavergne, we believe
9 that in order to have further clarification, a doctor should be
10 appointed to examine her. And that should also apply before her
11 appearance to testify, that she should be examined by a doctor.

12 And we also urge to have a TPO expert or a supporter to be with
13 this civil party during testimony, in particular for civil party
14 2-TCCP-869.

15 [10.19.08]

16 JUDGE LAVERGNE:

17 So, if I understood well, the request regarding the appearance of
18 a doctor only concerns 2-TCCP-869, and not 2-TCCP-844. Is that
19 correct? Did I understand correctly?

20 MR. PICH ANG:

21 It applies to both parties -- civil parties, rather.

22 JUDGE LAVERGNE:

23 So the point here is to make sure that the civil party is able to
24 do so. Is that why you -- the presence of the doctor is
25 necessary? Is that the case, or is it something else?

1 MR. PICH ANG:

2 Yes, that a doctor should examine them both before their
3 appearance.

4 [10.20.13]

5 JUDGE FENZ:

6 Sorry. May I just clarify? We have medical expertise for at least
7 one, I think actually both of those, so what's the basis of the
8 request for a new expertise?

9 We already have expertise, so why a new expertise? What's the
10 reason for that?

11 MR. PICH ANG:

12 I do not have any expertise in this area. However, as the
13 representative counsel, I am of the view that their health
14 condition is not that great. For that reason, we recommend that
15 they should be examined by a physician before their appearance in
16 order to avoid any unforeseeable problems during their testimony.

17 [10.21.32]

18 JUDGE FENZ:

19 Are you challenging the report that is already on the case file,
20 or is the idea to have this new expert or report to clarify the
21 circumstances or the conditions of the appearance?

22 What's the basis for the request for another expert... expert
23 report?

24 MR. PICH ANG:

25 I have read all those medical reports and, as I said, I do not

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1 have any medical expertise. I merely suggest that before their
2 appearance that they should be examined by a physician. And this
3 does not mean that I object to the medical reports that have been
4 made thus far.

5 MS. GUIRAUD:

6 If you would allow me, Mr. President, Your Honours, to sum up, in
7 a synthesis as regards 2-TCCP-869, we went to see that civil
8 party with a TPO expert. That CP is ready to testify under
9 recommendations of TPO as follows.

10 It is preference -- preferable that that person testify in the
11 morning in the presence of a representative of TPO. We also
12 requested that a member of that person's family accompany her to
13 Phnom Penh. With those recommendations, the testimony of
14 2-TCCP-869 is possible. That is what the TPO expert confirmed to
15 us.

16 [10.23.43]

17 I think that what my colleague is trying to say is that he would
18 wish that a witness (sic) here present just before the testimony
19 of 2-TCCP-869, be able to examine the civil party before the
20 testimony. That is what I understand from my colleague's
21 statement.

22 As for 2-TCCP-864, we saw that person in January, on the 4th. Her
23 health status has improved and he's available -- she's available
24 and ready to come and testify. That person takes traditional
25 medicines because she is not able to have access to western

1 medicines.

2 We are not doctors, and will rely on the discretion on the
3 Chamber. What we can tell the Chamber is that that person is
4 feeling better, is ready to appear before the Chamber. She's
5 taking medicines and is ready to come and testify for one day in
6 Phnom Penh.

7 Of course, we are not doctors and we therefore rely on the
8 discretion of the Chamber.

9 I hope I've clarified the translation problems that arose as for
10 2-TCCP-844 and 2-TCCP-869 would like to appear and testify before
11 your Chamber.

12 [10.25.05]

13 JUDGE FENZ:

14 May I sum up? You are not asking for an additional report. You
15 are asking for the presence of a doctor here while these people
16 testify in order to deal with possible emergencies.

17 Thank you.

18 MR. PICH ANG:

19 Yes. That is the point, Your Honour.

20 And I'd like to respond to another question by Judge Lavergne. We
21 discussed with the civil parties and as the Judge asked; is it
22 the intention of the civil party to testify only for the morning
23 sessions? And indeed, yes, we discussed with her, the civil
24 party, and that is the wishes of the civil party, that is, to
25 testify only for the morning sessions.

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1 Thank you.

2 [10.26.03]

3 MR. PRESIDENT:

4 Thank you.

5 And I'd like now to hand the floor to the Co-Prosecutors to
6 respond or to make observations regarding this matter, if you
7 have.

8 MR. D'ESTMAEL:

9 Thank you, Mr. President. We have no particular submissions to
10 make regarding the civil -- the health status of that civil
11 party.

12 [10.26.33]

13 MR. PRESIDENT:

14 And what about the defence teams for -- on this matter? Do you
15 wish to make any observation regarding the update given by the
16 Lead Co-Lawyers concerning the two civil parties?

17 It seems there is no observation from the Defence.

18 Regarding the three requests by the defence team for Nuon Chea
19 and the Co-Prosecutors as well as our discussion on the update of
20 the civil parties, 2-TCCP-844 and 869, are now concluded. And the
21 Chamber would like to thank the parties for your oral
22 observations or submissions. We will use them as the base for our
23 decision, which shall be issued in due course.

24 It is now appropriate for our short break. We'll take a break now
25 and resume at a 10.45.

1 (Court recesses from 1028H to 1047H)

2 MR. PRESIDENT:

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

4 And once again, the floor is given to Co-Prosecutors to resume
5 questioning.

6 You may now have the floor.

7 QUESTIONING BY MR. BOYLE RESUMES:

8 Thank you, Mr. President. Good morning, Your Honours. Good
9 morning, Counsel.

10 Q. Good morning again, Mr. Witness. When we left off the
11 questioning yesterday, we were discussing some of the Vietnamese
12 that were in your village, Pou Chentam village.

13 I'd like to ask you first, after the time when the Khmer Rouge
14 came to your village, were you ever aware of them taking any
15 steps to identify who in the village was of Vietnamese ethnicity?

16 MR. THANG PHAL:

17 A. I did not pay attention to the issue, so I did not know at the
18 time.

19 Q. Were you ever aware of any Khmer Rouge going around to
20 families in the villages or houses in the village and asking
21 questions to determine if anyone in the family might be
22 Vietnamese?

23 [10.49.40]

24 A. I did not know about the matter. They perhaps went to talk
25 with the villagers. They did not discuss the matter with -- or

1 rather, they went to talk to village chief, and they never
2 discuss with the villagers.

3 Q. I'd like to read you an excerpt from a DC-Cam statement of
4 another villager from your village to see if that refreshes your
5 memory. This is document E3/7562. It's the DC-Cam statement of
6 2-TCCP-869. It's at English ERN, 01170650 to page 51; and Khmer,
7 00034056. There is no French version. And this is what this
8 individual was asked:

9 Question: "How did they" -- and she's discussing, I should say
10 her husband, Tep Chuy, who you identified as another Vietnamese
11 individual in Pou Chentam village.

12 Question: "How did they know that he was Yuon? Were they told
13 about that?"

14 Answer: "They just knew it. They traced him and knew."

15 Question: "Did they investigate to find out how many Vietnamese
16 families there were in the village?"

17 Answer: "That is correct. That is what they did."

18 Question: "Did they ever come to collect statistics in villages
19 and communes? Did they ever come to make any lists?"

20 Answer: "Yes, they did. That happened during the Pol Pot era."

21 Question: "Did they go house to house to collect the data?"

22 Answer: "Yes, they did."

23 Question: "Did you tell them that your husband was Vietnamese?"

24 Answer: "Yes."

25 [10.51.50]

1 Mr. Witness, after hearing that statement, does that refresh your
2 memory that during the Pol Pot era that members of the Khmer
3 Rouge would go house to house to ask questions about the
4 ethnicity of the members of those households?

5 A. Concerning the search by Khmer Rouge, I was not aware of that.
6 Perhaps the Khmer Rouge went to work with the authorities in the
7 village on the matter. I was simply an ordinary citizen at the
8 time. I was not aware of it.

9 [10.52.46]

10 Q. Thank you. I'd like to now ask you about some of the
11 individuals that -- the three individuals that you mentioned that
12 were of Vietnamese ethnicity in your village and what -- what
13 occurred to them during the period of Democratic Kampuchea. And I
14 would like to begin with Mr. Ngoy, who you mentioned yesterday,
15 who you said was of Vietnamese ethnicity.

16 And I'd like to ask, when did you last see Ngoy?

17 A. Ngoy went to cut rumpeak plants with me, and he got married in
18 the village.

19 Q. Do you recall what year it was that he was sent to cut rumpeak
20 vine?

21 A. Ngoy was sent to cut rumpeak vine with me in late 1976 or
22 1977. Angkar assigned us to cut rumpeak vine for a period of one
23 month. However, we did not -- we did not go there for one month.
24 We was there -- we were there for only six days and, after that
25 time, Angkar went to take us back.

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1 Q. When you say that Angkar came to take you back, can you name
2 an individual who came to take you back?

3 [10.55.22]

4 A. Seng, the deputy chief, went to take us back.

5 Q. And did he give a reason why he was coming to take you back to
6 the village?

7 A. Upon our arrival, as a member of the group who cut rumpeak
8 vine -- and at the time, we saw Seng and he told us that he
9 needed to take us back to the village.

10 Q. And can you tell us what happened as you went back to the
11 village with Seng, perhaps beginning by telling us who -- how
12 many people were sent back with Seng to the village in addition
13 to yourself and Ngoy?

14 MR. PRESIDENT:

15 Please observe microphone, Mr. Witness.

16 [10.56.44]

17 MR. THANG PHAL:

18 A. Ten of us, including me, were sent back. We were walking back
19 to the village, 10 of us. I cannot recall all the names. Among
20 them, there was El and Ngang.

21 BY MR. BOYLE:

22 Q. And did all 10 of you reach back to Pou Chentam village?

23 A. When we returned from Tnaot (phonetic) village, we -- at the
24 time, we were walking, but Seng was on a bicycle. And in midway,
25 the chain of his bicycle was broken.

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1 And at the time, since the chain of the bicycle was broken, I, as
2 a member of the group, offered to help to repair, but I was told
3 move on. Ngang, at the time, was requested to repair the chain.
4 And while we were moving, we were thinking of Ngang and other
5 members of the group. And during the trip, Ngang stepped on a
6 spike and he got injury.

7 Q. Was Ngoy the only one of the group who was requested to stay
8 when Seng's bicycle chain broke?

9 A. Ngang was stopped, and the rest were told to move on. And we
10 were told that they needed Ngang to repair the chain.

11 [10.59.08]

12 Q. Do you -- are you able to name the location that the -- where
13 Seng stopped at? Was there any structure near there that you are
14 able to name or give us any other geographically identifying name
15 of that location?

16 A. It was Ou Kandaol village. It was a bit away from Wat Chas.
17 And there was a -- an old temple there.

18 Q. And do you know what Wat Chas was being used as at the time?

19 A. That Wat Chas -- concerning that Wat Chas, during the Pol Pot
20 time, it was used as a security centre. It was in an open field,
21 and Wat Chas was located far away from the village.

22 [11.00.33]

23 Q. And could you see Wat Chas from where you were stopped with
24 Seng?

25 A. No. Since Wat Chas was blocked by forest and the village.

1 Q. Did you see any armed Khmer Rouge in the vicinity of where you
2 stopped with Seng?

3 A. They were armed. Everyone was armed in that location.

4 Q. Just to clarify, when you say that "everyone was armed at that
5 location", am I to understand that you did see armed Khmer Rouge
6 in the vicinity of that location where you stopped?

7 A. Yes, I witnessed that.

8 Q. And after you -- as you continued on to Pou Chentam village,
9 did you stop at any other villages on the way back to Pou Chentam
10 village?

11 A. During the journey, we stopped a few times on the way to wait
12 for Ngang, but we did not see Ngang coming together with us. And
13 because of this, we moved on to Pou Chentam village.

14 Q. And did you see Ngang return at any time after that?

15 A. When I returned to the village, he had not arrived and it was
16 about almost 6 o'clock in the late afternoon. And I heard
17 villagers say that the wife of Ta Ny, that is, Yeay Chuy
18 (phonetic), was put on horse cart to the east direction to be
19 killed. Then I was afraid that Ngang would have been killed
20 there.

21 [11.04.04]

22 Q. The wife that you just mentioned, can you tell us again who
23 that was and whether that person was of Vietnamese ethnicity?

24 MR. PRESIDENT:

25 Witness, please observe the microphone.

1 THANG PHAL:

2 A. The husband was Vietnamese, and Ny had a Vietnamese wife.

3 However, she looked like Khmer. She got married with her while he
4 was in Phnom Penh.

5 MR. BOYLE:

6 Q. Have you seen Ngoy ever again since that time?

7 A. From the day that we went to cut the rumpeak vine, he
8 disappeared since.

9 [11.05.26]

10 Q. Did you see Seng return to the village later?

11 A. I arrived in the village that day, and next morning, I saw
12 Seng.

13 Q. When you, either on your way returning to Pou Chentam or when
14 you arrived in Pou Chentam, did you hear anyone say anything
15 about what had happened to the Vietnamese in the village?

16 A. When I arrived in Pou Chentam village, people whispered to one
17 another that Vietnamese were gathered up to be taken away and
18 executed.

19 Q. Was Ngoy's wife also taken away?

20 A. The wife of Ngoy remained in the village of Pou Chentam. She
21 was not taken anywhere.

22 MR. PRESIDENT:

23 You may have the floor, National Lead Co-Lawyer Pich Ang.

24 [11.07.10]

25 MR. PICH ANG:

1 Mr. President, my apology to interrupt the questioning by the
2 Co-Prosecutor.

3 It seems that the witness, at one point, speaks of Ngoy and, at
4 another instance, he speaks about Ngang, so I would like to get a
5 clear understanding from the Co-Prosecutor which person he refers
6 to.

7 MR. PRESIDENT:

8 Deputy Co-Prosecutor, you may proceed.

9 [11.07.36]

10 BY MR. BOYLE:

11 Thank you, Mr. President. I was under the understanding both from
12 interpretation yesterday and from discussing with others that
13 what the individual's name which is spelled, at least in English
14 translations, as N-g-a-n-g, can be pronounced in two different
15 ways. One is "Ngang" -- I apologize for my pronunciation
16 difficulties -- and one is "Ngoy". I realize I may have been
17 using both pronunciations, and I apologize for any confusion.
18 I do think that, due to the questions that -- and the answers
19 I've been receiving, the witness, at least, has been able to
20 understand who I've been discussing, but I can ask a simple
21 question of the witness, which is just to clarify.

22 Q. The individual who you were discussing yesterday as Ngoy and
23 has been at least interpreted in my headphones as Ngang, is that
24 the same individual who is of Vietnamese ethnicity in Pou Chentam
25 village?

1 MR. THANG PHAL:

2 A. I also get confused between Ngoy and Ngang. In fact, Ngoy was
3 the son and Ngang was the father, so actually, I refer to Ngang,
4 the father.

5 My apology if my confusion leads to the misunderstanding.

6 Q. No problem. That was confusion of my own creation.

7 And so just to follow up on that, let me clarify that the
8 individual that you were discussing that was sent to cut rumpeak
9 vine as Ngang, the father. Is that correct?

10 [11.08.53]

11 A. Yes, that is correct.

12 Q. Thank you very much, Mr. Witness, and thank you, Counsel, for
13 helping me to clarify that.

14 Ngang's wife, who you said was not taken away, was she of Khmer
15 ethnicity or Vietnamese ethnicity?

16 A. The wife of Ngang was Khmer, and she actually lived in Pou
17 Chentam village from a very long time ago.

18 Q. And did Ngang and his wife have any children at that time
19 during the Democratic Kampuchea?

20 [11.10.53]

21 A. During the Democratic Kampuchea regime, they had two children,
22 and one was Ngoy and the other one was a daughter called Kaun
23 Toch (phonetic). Kaun Toch (phonetic) literally means "short".
24 Maybe she was short that's why she was called Kaun Toch
25 (phonetic).

1 Q. And do you know if they were taken away during the period of
2 Democratic Kampuchea, or not?

3 A. At the time when their father was taken away and killed, they
4 remained living in the same house.

5 Q. Thank you. I'd now like to move on to ask you some questions
6 about the Vietnamese wife of Lach Ny, who you just mentioned you
7 heard had been taken away on a horse cart when you returned to
8 Pou Chentam village. First, can you clarify, how did you learn
9 that his wife had been taken away?

10 A. At that time, I didn't know for sure because that was the plan
11 of Angkar. We were not allowed to know. They said that she was
12 taken away for re-education.

13 Q. Do you know if they took anyone else away at the same time
14 that they took her away?

15 [11.13.00]

16 A. When I returned from cutting rumpeak vine, I didn't know about
17 that, however, I only heard the villagers talking about the wife
18 of Lach Ny and another one was taken away by Angkar for
19 re-education.

20 Q. Do you know if the wife of Lach Ny and Lach Ny had any
21 children and if so, if they were taken away at the same time?

22 A. I cannot recall whether they had two or three children,
23 however, all the children were taken at the same time.

24 Q. Do you know the name of any of the individuals that came to
25 arrest them when they were taken away?

47

1 A. No, I did not because by the time I arrived, they had left.

2 [11.14.31]

3 Q. I'd like to read you a section of a statement to see if it

4 refreshes your memory and this is document E3/5630. It's the

5 supplementary statement of 2-TCCP-844; English ERN, 00678289;

6 French, 00891890 to 91; and Khmer, 00895420. And this is what

7 this individual said discussing Lach Ny. It says:

8 "Lach Ny were aware that the Khmer Rouge took his wife and

9 children away to be re-educated by horse cart. They were arrested

10 by Ngoy and Chhem. Chhem was the co-operative chief -- commune

11 chief; Ngoy was his subordinate, a security chief."

12 Mr. Witness, does that refresh your memory that Ngoy and Chhem

13 were amongst the individuals that arrested Lach Ny's wife and her

14 children?

15 A. At the time of the arrest, I was not present in the village; I

16 was still in the field cutting rumpeak vine.

17 Q. I understand. I -- I was wondering if you had heard at the

18 same -- in the same fashion that you heard that his wife had been

19 taken away, if you had also heard of any of the names of the

20 individuals who had come to arrest her at that time; do you

21 remember that information or if not, please say you don't?

22 [11.16.59]

23 A. At that time, they did not say anything else except that they

24 said the -- those people had been taken away. That was all.

25 Q. Thank you. Do you know why Lach Ny's wife was taken away to be

1 re-educated?

2 A. They whispered that those people had been taken away for
3 re-education but, in fact, we knew that they were taken away to
4 be executed.

5 Q. And do you know why they were taken away to be executed?

6 A. I couldn't know the reason for that.

7 [11.18.15]

8 Q. I'd like to read you a passage of a DC-Cam statement to see if
9 it refreshes your memory. This is document E3/7571; it's the
10 DC-Cam statement of Horn Han, a nephew of Lach Ny. The English
11 ERN is, 00598001; French, 00657195; and Khmer, 00034474.

12 Question: "Why was his wife taken for execution?"

13 Answer: "I was likely aware that she was a Yuon."

14 Question: "Oh, they would kill those who were Yuon?"

15 Answer: "Yes."

16 Question: "Why did they kill only the Yuon?"

17 Answer: "I do not know the reason behind that. At that time,
18 Cambodia and Vietnam were at war."

19 Question: "You mean during that regime?"

20 Answer: "Yes, they seemed to get rid of that race. They were
21 fearful that its existence may lead to a breaking of the regime's
22 internal secrets."

23 Mr. Witness, does that refresh your memory as to why the wife of
24 Lach Ny was taken away to be executed?

25 MR. KOPPE:

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1 I object to this question, Mr. President. I'm not sure how the
2 speculation of someone could possibly refresh the memory of this
3 witness when the witness just said that he doesn't know anything
4 about reasons for arrest. He doesn't know anything about where
5 people were taken. As a matter of fact, he doesn't know anything.
6 So, I'm not quite sure how the speculation of this particular
7 witness could, in any manner, refresh this witness' memory.

8 [11.20.13]

9 MR. BOYLE:

10 If I can respond, Mr. President, I don't believe that Counsel has
11 any basis for saying that this is speculation. In the first
12 place, he hasn't questioned Mr. Horn Hun. Second of all that the
13 very nature of refreshing an individual's memory is that if the
14 individual does not recall information, you read them something
15 and that might spark them to recall something and he might have
16 learned it in the same way that he learned that Som's (phonetic)
17 -- that Lach Ny's wife was taken away for education or execution
18 even though he wasn't there. So I'd like that the witness be
19 allowed to answer the question.

20 (Judges deliberate)

21 [11.21.17]

22 MR. PRESIDENT:

23 The objection by the International Counsel for Nuon Chea is
24 overruled. This kind of question is permissible in this
25 proceeding and Parties can follow this procedure.

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1 Witness, please respond to the last question put to you by the
2 International Co-Prosecutor if you remember it.

3 MR. THANG PHAL:

4 I cannot recall the name of the individual who came to testify
5 here.

6 MR. PRESIDENT:

7 I refer to the question not the individual.

8 Anyway, Deputy Co-Prosecutor, please put the last questioned to
9 the witness again. It seems that the question is rather long. It
10 is difficult for the witness to remember. Please try to make it
11 as short as possible so that he's able to respond to your
12 question meaningfully.

13 [11.22.23]

14 BY MR. BOYLE:

15 Thank you, Mr. President. I will endeavour to do that.

16 Q. Mr. Witness, I read you a passage from another individual who
17 was of the opinion that the wife of Lach Ny was taken away for
18 execution because she was Vietnamese. Does that refresh your
19 memory that you also heard that she was taken away because she
20 was Vietnamese?

21 MR. THANG PHAL:

22 A. I did not know the real reason or their actual plan because I
23 only knew that they had been taken away when I arrived in the
24 village and while they were being taken away, I was still in the
25 field.

1 [11.23.27]

2 Q. Thank you. Did you ever hear, when you returned to the
3 village, that the Khmer Rouge had inquired with Lach Ny, himself,
4 about whether his wife was Vietnamese?

5 A. I did not know whether the Khmer Rouge inquired about that.
6 His house was far from where I lived; it was about half a
7 kilometre away.

8 Q. Was Lach Ny, himself, also taken away?

9 A. At that time, Lach Ny was not arrested, however, he became
10 psychotic or crazy as we said because he went around in the
11 village crying and shouting because his wife and children had
12 been taken away.

13 Q. Do you know why they took the children away in addition to the
14 wife?

15 A. I did not know the reason why the wife and the children were
16 taken away, however, I heard people saying that if the mother was
17 Vietnamese then the children would be taken away, as well,
18 however, if the father was Vietnamese or the mother was Khmer
19 then the children would not be taken away.

20 [11.25.37]

21 Q. And do you know what the reason behind that method of
22 operation was?

23 A. No, I could not know that.

24 Q. I'd like to read you a statement to see if this reflect --
25 refreshes your memory. This document is E3/5640; it's the DC-Cam

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1 statement of 2-TCCP-844. The English ERN is, 00645403 to 04;

2 French is, 00657819; and Khmer is, 00034405.

3 The question is: "Why did they also kill the children?"

4 Answer: "They said that they, the children, were from the Yuon
5 breed -- related to the Yuon breed."

6 Question: "Why did they kill the children since only the mother
7 was a Yuon?"

8 Answer: "The children were born from the mother who was a Yuon
9 breed."

10 Mr. Witness, does that refresh your memory as to why they would
11 have a different policy for children of Khmer mothers versus
12 Vietnamese mothers?

13 [11.27.13]

14 MR. KOPPE:

15 Mr. President, I object again. This is not only putting
16 speculation from some civil party to this witness, it's even
17 double hearsay. It's somebody saying that he heard something of
18 someone else. It is a clear invitation to this witness to do some
19 further speculation. As long as the Prosecution is at least
20 giving some evidence of someone who was actually involved in the
21 arrest then maybe it would be permissible, but under this --
22 these circumstances; it's not permissible.

23 MR. BOYLE:

24 If I may respond -- respond, Mr. President, first of all, as with
25 the former objection, Counsel has no basis for saying that this

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1 individual is speculating. Second of all, hearsay -- the
2 institution of hearsay is a common-law precept. This is a
3 civil-law Court. Hearsay has some role to play but it goes to
4 weight, not to admissibility and so I believe that the individual
5 should be allowed to respond to this question. I will note,
6 although I'm not allowed to use the individual's name because the
7 individual is a potential testifying civil party in this case,
8 that this person is related to Lach Ny so there is a connection
9 to the individuals that I'm questioning him about. So I ask that
10 I be allowed to ask the question.

11 [11.28.47]

12 MR. PRESIDENT:

13 The objection by the defence team for Nuon Chea is overruled.
14 Witness, you had started to respond to the last question by the
15 Deputy Co-Prosecutor. And Deputy Co-Prosecutor, you may rephrase
16 or repeat your question.

17 BY MR. BOYLE:

18 Thank you, Mr. President.

19 Q. Mr. Witness, the passage from the statement that I just read
20 to you, the individual was of the opinion that the children of a
21 Vietnamese mother was taken because that made the children also
22 Vietnamese. Does that refresh your memory that you heard this
23 justification for the difference in policy about Vietnamese
24 mothers and Khmer mothers?

25 [11.29.43]

1 MR. THANG PHAL:

2 A. I do not know how to respond to that question because my
3 knowledge is limited. It was the work of Angkar. To my
4 understanding, if the mother was Vietnamese then the -- the child
5 was also Vietnamese.

6 Q. Thank you, Mr. Witness. Since Lach Ny's wife and his children
7 were taken away, have you seen them again since then?

8 A. Since they disappeared after people said they were taken away
9 for re-education, they disappear since.

10 Q. Did you ever hear of a meeting that took place that was called
11 by the Khmer Rouge in Pou Chentam village before Lach Ny's wife
12 and children were taken away?

13 [11.31.10]

14 A. At that time, I was not in the village. That is when there was
15 this so-called meeting and later Lach Ny's wife had been taken
16 away because at that time, I was busy cutting the rumpeak vine.

17 Q. I understand, but did you ever hear anyone tell you that there
18 was a meeting that was called before Lach Ny and the children
19 were taken away? I'm sorry; Lach Ny's wife and the children were
20 taken away.

21 A. I did not know if there was a meeting or not and as I
22 repeatedly said, I was an ordinary villager and I would not know
23 the details of their plan.

24 Q. I understand. I'd like to, nonetheless, read you a statement
25 and -- and, Mr. President, this is my last question in this -- in

55

1 this line of questioning because I see that it's 11.30 already
2 and so it might be a natural place for a break after that.

3 [11.32.32]

4 This statement is E3/5630. It's a supplementary statement of
5 2-TCCP-844; English ERN, 00678289; French, 00891890; and Khmer,
6 00895419 to 20.

7 "Nroy (phonetic)," -- excuse me, "Ngoy was the security chief of
8 the commune. In 1977, before Lach Ny's wife and children were
9 arrested, there was a village meeting where Chhem ordered Ngoy to
10 take Lach Ny's wife and children to be re-educated. All
11 villagers, including myself, were present at this meeting. I
12 can't remember the date of the meeting. At the same meeting,
13 around three families were ordered to be taken for re-education
14 as well."

15 Mr. Witness, does that refresh your memory that there was a
16 meeting held of the villagers where Chhem ordered Ngoy to take
17 Lach Ny's wife and children for re-education?

18 A. I did not know about that. And to my understanding, if a
19 meeting was held maybe a meeting was held closed doors. It means
20 it was held only amongst themselves and not for the -- all the
21 villagers.

22 [11.34.18]

23 MR. BOYLE:

24 Thank you, Mr. Witness. Mr. President, this might be an opportune
25 time for a break.

1 MR. PRESIDENT:

2 I'd like to inquire whether the Lead Co-Lawyers for civil party
3 would like to put some questions to the -- this witness. If so,
4 how much time do you anticipate?

5 MR. PICH ANG:

6 I need to use about 20 minutes to put questions to this witness.

7 MR. PRESIDENT:

8 And Deputy Co-Prosecutor, you have the floor.

9 [11.34.57]

10 MR. BOYLE:

11 I just wanted to make sure that there wasn't any confusion. I
12 have additional questions as well. That was just a natural point
13 for a break, I was suggesting, and I believe that given that we
14 didn't get a full session yesterday or -- or in the session that
15 is just about to complete, we still have some additional time.

16 MR. PRESIDENT:

17 And how much time do you anticipate then? We actually have lost
18 some time due to other matters this morning. It means we -- we
19 took about 25 minutes of your combined time and the Lead
20 Co-Lawyers just said that they need about 20 minutes.

21 So how much time do you anticipate? And if -- we would like to
22 remind you that the combined allotted time for you and the Lead
23 Co-Lawyers is two sessions and you spent sometimes already
24 yesterday and this morning you lost about 25 minutes due to other
25 procedural matters and the Lead Co-Lawyers needs about 20 minutes

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1 so your time is almost gone. Please let us know.

2 [11.36.26]

3 MR. BOYLE:

4 Mr. President, by my calculation we began -- in the final
5 afternoon session yesterday, we had about half an hour yesterday
6 when we began questioning the witness and then we've had about 40
7 minutes this morning and so we should have approximately another
8 hour, perhaps a bit less combined between the... the civil
9 parties and -- and the Co-Prosecutors to -- to question this
10 witness.

11 MR. PRESIDENT:

12 The Chamber decides to give you a combined remaining time of 40
13 minutes and you can do that after we return from the lunch break
14 this afternoon.

15 It is now appropriate for a lunch break -- to take a break now
16 and resume at 1.30 this afternoon.

17 Court Officer, please assist the witness at the lunch break and
18 invite him back into the courtroom at 1.30 this afternoon.

19 Security personnel, you're instructed to take Khieu Samphan to
20 the waiting room downstairs and have him returned to attend the
21 proceedings this afternoon before 1.30.

22 The Court is now in recess.

23 (Court recesses from 1137H to 1335H)

24 (Court recesses from 1137H to 1335H)

25 THE PRESIDENT:

1 Please be seated. The Court is in session.

2 The Chambers gives the floor to the Deputy Co-Prosecutor to
3 resume the questioning. You may now have the floor.

4 [13.36.08]

5 BY MR. BOYLE:

6 Thank you, Mr. President.

7 Q. Mr. Witness, I would like to now move on to discussing the
8 third individual from Pou Chentam village who was Vietnamese
9 ethnicity, Mr. Tep Chuy; and can you tell us what happened to Mr.
10 Tep Chuy?

11 MR. THANG PHAL:

12 A. Regarding Chuy, I did not know at the time when he was sent
13 out. The village was quiet at the time when he was sent out.

14 Q. So are you saying that you heard afterwards that he had been
15 sent out?

16 A. Yes, that is true. I heard that he had been sent out.

17 Q. And did you hear any other of the details of how he was sent
18 out?

19 A. I did not know what was the reason he had been sent out and I
20 did not know either where he had been sent away. When I got home
21 I heard about the matter.

22 [13.38.00]

23 Q. So am I to understand that he was sent out before you returned
24 from your trip where you were cutting rumpeak vine?

25 A. He had been sent away before I was sent back home from cutting

1 and collecting rumpeak vine.

2 Q. Did you ever hear who came to take him away, either names or
3 what their positions were?

4 A. Allow me to tell the Court, I did not know the names of those
5 who sent him away. When I got home the village was so quiet.

6 Q. I would like to read you a section of a statement and this is
7 a DC-Cam statement E3/7562. It's a DC-Cam statement of 2-TCCP-869
8 at English ERN 01170694 to 95 and Khmer ERN 00034092.

9 The question that's asked is to the individual: "Was the person
10 who took Chuy away the village chairperson or from the militia?"

11 Answer: "He was from the militia. The village chairperson had
12 ordered him to come to take my husband away. That militia man did
13 as ordered."

14 Mr. Witness, does that refresh your memory that it was members of
15 the commune militia that came to take Chuy away?

16 [13.40.46]

17 A. Concerning the arrest of Chuy, again and again as I said, I
18 did not know how and when he had been arrested. After I got back
19 home I noticed that the village was so quiet. I heard that the
20 Vietnamese were taken away to a study session and Chuy was among
21 the Vietnamese. This is all I know.

22 Q. Have you seen Chuy since he was taken away?

23 A. Since he has been taken away, I never saw him again. I have
24 never seen him since that time.

25 Q. Was his wife also taken away?

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1 A. His wife and his child -- or children were at home. They were
2 not taken away.

3 [13.42.12]

4 Q. Thank you. So I want to just clarify that three individuals
5 that we discussed: Din Oeun; the wife of Lach Ny, whose name you
6 don't remember; and Tep Chuy; once they were taken away, is it
7 correct that there were no longer any people of Vietnamese
8 ethnicity in Pou Chentam village?

9 A. During the time only -- there were only the three Vietnamese I
10 made mention. No other Vietnamese were living in that village.

11 Q. Thank you. At any time after the Khmer Rouge arrived in your
12 village, did you ever hear them make any announcements or any
13 statements regarding people of Vietnamese ethnicity?

14 A. There was no -- there was no -- any announcement at the time.
15 I have never heard of any announcements.

16 [13.43.42]

17 Q. I would like to read to you a statement and this is from a
18 first cousin of the wife of one of the individuals you mentioned.
19 The document is E3/7559 and it's a DC-Cam statement of 2-TCW-843.
20 The English ERN is 00321978, Khmer is 00034290, and French is
21 000854140; and this is what this individual said in regards to
22 their arrival in Pou Chentam:

23 "At first, they rounded up 'Yuons'. A Pot, when they arrived,
24 they hated the East Zone group. They said all the ethnic 'Yuons'
25 must be taken to be killed because they are all 'Yuons', all our

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1 Viet Cong who attack them. Regardless they were 'Yuon' traders or
2 'Yuon' soldiers. All 'Yuons' must be rounded up, including men
3 and women."

4 Mr. Witness, did you ever hear any of the Khmer Rouge in your
5 village say that all of the Vietnamese in your village had to be
6 rounded up?

7 A. Concerning the gathering of "Yuon", I never heard of it. I
8 have never heard of it before. It was when Ngang had been
9 arrested that I heard people say about the gathering of the
10 Vietnamese. Before that, perhaps it was a secret matter.

11 [13.45.55]

12 Q. Did you ever attend any meetings in your village after the
13 Vietnamese were taken away?

14 A. I never attended any meetings. As I said, I was simply an
15 ordinary citizen. I was asked -- I was assigned to build the
16 embankment, dig the canal and work the field.

17 Q. Were you ever aware of more senior Khmer Rouge officials
18 visiting your village and inquiring about the enemies' residence
19 who might be there?

20 A. I never saw them, their faces, the senior people during the
21 Khmer Rouge time; they never let us see their faces. I have never
22 saw them -- seen them.

23 Q. Thank you very much. I have just a couple of more questions
24 that I would like to ask you and this goes back to the Wat Ou
25 Kandaol that you stated before was being used as a district

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1 security office at the time. Have you ever heard in relation to
2 Wat Ou Kandaol of a place called Veal Touch or Veal Touk
3 (phonetic)?

4 A. Veal Touch, I have never heard of the place before.

5 MR. SENG LEANG:

6 Veal Touch?

7 MR. THANG PHAL:

8 A. Yes, there was a place called Veal Touch and the place where I
9 was assigned to cut rumpeak vines.

10 [13.48.32]

11 BY MR. BOYLE:

12 Q. In relation to the district security office, did you ever hear
13 anything about whether this place, Veal Touch, had a connection
14 to the district security office?

15 A. In Veal Touch village or Koun Tnaot village, it had nothing to
16 do with that security office. It was located far away from that
17 Wat Ou Kandaol. It was close to Lumpho (phonetic), the place
18 where I was assigned to cut rumpeak vine as well.

19 (Short pause)

20 [13.49.55]

21 Q. I will ask one more question before asking to see if I can
22 refresh your memory. Did you -- did you ever hear that Veal Touch
23 was used as a killing site?

24 A. Veal Touch, Koun Tnaot village, concerning this village it was
25 located in the vicinity of Wat Chas. It was about one kilometre

1 apart from each other and perhaps it was a rumour that it was a
2 killing place.

3 Q. So, am I to understand that the place that you just described
4 that it was about a kilometre from the wat, is it difference from
5 the place that you went to cut rumpeak vine?

6 A. The two places were far away from one another: Ou Kandaol was
7 located in an open field and behind the village there was a
8 forest named Prey Lapeu (phonetic).

9 Q. Did you ever hear whether the Veal Touch that is near Wat Ou
10 Kandaol was used as a killing site? That is one kilometre from
11 Wat Ou Kandaol. Did you ever hear that that site was used as a
12 killing site?

13 A. People made mention about that point. It was said that people
14 had been taken away to Veal Touch (phonetic). It was a rumour at
15 the time.

16 [13.52.20]

17 Q. And did you ever hear that any Vietnamese from Svay Antor were
18 brought to that site?

19 A. On the matter, Vietnamese were taken to Veal Touch, I did not
20 hear of it. I heard that people had been taken away into a study
21 session. I did not know at the time where they had been taken to
22 exactly.

23 Q. Thank you, Mr. Witness.

24 Mr. President, I have no further questions.

25 MR. PRESIDENT:

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1 Thank you. The floor is now given to Lead Co-Lawyers for civil
2 parties to put questions to this witness. You have the floor now.

3 [13.53.29]

4 QUESTIONING BY MR. PICH ANG:

5 Good afternoon, Mr. President, Your Honours, parties, everyone in
6 and around the courtroom.

7 Good afternoon, Mr. Witness. My name is Pich Ang. I am a Co-Lead
8 Lawyer for civil parties. I have several questions to put to you
9 and I need your clarification on those questions.

10 Q. First, concerning the name, Ngoy, the child of Ngang, could
11 you clarify it for the Court? Was this person the same as an
12 individual who was chief of militia man in the village?

13 Mr. THANG PHAL:

14 A. Ngoy was from Thlav village. He was a militiaman within Svay
15 Antor commune.

16 Q. Does this mean that there were two Ngoys: one Ngoy was the
17 child of Ngang and another Ngoy was the security guard in Svay
18 Antor commune; is that correct?

19 A. Yes, that is correct.

20 [13.54.56]

21 Q. I have another question for your clarification regarding the
22 person who was working with you during the time you returned from
23 the place you cut rumpeak vines. So can you clarify that person's
24 name once again, since I did not hear it clearly last time?

25 A. The person who was also with Ngang -- who took Ngang, his name

1 was Seng, the deputy chief.

2 Q. What was -- which village was he in charge?

3 A. He was in charge of Pou Chentam village.

4 Q. I have another question for you, Mr. Witness. You made mention
5 about the disappearances of three Vietnamese people. Did you know
6 the person by the name Y Po (phonetic)?

7 A. No, I did not know that person.

8 [13.56.19]

9 Q. Very well. I will not ask questions concerning that person.

10 Regarding the treatment of Vietnamese before the disappearances
11 of those who were Vietnamese ethnicity, meaning that after 1975
12 until the time that the three individuals disappeared, did they
13 have -- were they treated in the same way as those who were
14 living in that Pou Chentam village or did they have different
15 working conditions?

16 A. The three individuals were assigned to do normal tasks,
17 transplanting rice and working the fields. So they had no strange
18 tasks to be performed.

19 Q. Did you observe that they were treated differently from other
20 Base People? Were they discriminated?

21 A. Frankly speaking, they had normal relationship within the
22 village; no one discriminated them within the village.

23 Q. I would like to ask about the time when they disappeared. Do
24 you recall when they disappeared? Did they disappear before the
25 arrival of the south westerners?

1 A. They had disappeared before the Southwest cadres arrived.

2 [13.58.51]

3 Q. How long before the arrival of the Southwest cadres that they
4 disappeared?

5 A. They disappeared between 1976, late 1976 and early 1977.

6 Q. I want to ask you another question about the arrival of the
7 Southwest cadres. When did they arrive exactly? Did they arrive
8 in late 1976 or late 1977?

9 A. The Southwest cadre arrived in 1978, late 1978.

10 Q. So how long before the arrival of Southwest cadres that they
11 disappeared?

12 A. I did not recall it, counsel. I did not focus on that
13 disappearance during the time.

14 Q. I am moving to another topic concerning the Buddhism. In
15 between 17 April 1975 and 1979, were there still monks in robes
16 and was religion allowed to be practised within your village?

17 A. There were no more monks after 1973 during -- before that
18 time, I was also a monk and I left monkhood in 1972. And as I
19 said, from 1973, no more monks were in robes.

20 [14.01.07]

21 Q. Did you leave monkhood voluntarily on your own initiative or
22 were you forced to leave monkhood?

23 A. There was pressure at the time from time to time. That is why
24 I decided to leave the monkhood. Why I said that, because during
25 the time when I was a monk I went around and collected arms and I

1 heard people say that monks were those who exploited people.

2 Q. Who said this to you?

3 A. Pou Chentam villager said that and I did not recall his or her
4 name exactly. He died already.

5 Q. How many pagodas there were in your commune and, if you know,
6 give us the names?

7 A. In the commune where I lived, there were two pagodas, Thlav
8 and Svay Antor.

9 Q. Between 1975 and 1979, were the pagodas still used or were
10 they abandoned? And if they were still being used, what were they
11 used for?

12 A. From '75 to '79, there were no longer any monks living in the
13 pagoda and the Khmer Rouge assigned their own people to live in
14 those pagodas.

15 [14.03.03]

16 Q. Were they used as sleeping quarters or were they used as
17 warehouses?

18 MR. PRESIDENT:

19 Witness, please observe the microphone.

20 MR. THANG PHAL:

21 A. I did not know for sure. When there were no longer any monks,
22 the Khmer Rouge went to reside there.

23 BY MR. PICH ANG:

24 Q. This is my last question in relation to Buddhism. Between 1975
25 and 1979, were Buddhists' religious ceremonies allowed to be

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1 celebrated in your village and commune?

2 A. Between 1975 and '79, we were not allowed to celebrate any
3 Buddhist religious ceremony.

4 [14.04.05]

5 Q. Thank you. I will now move on to another subject, and this is
6 in relation to Mr. Lach Ny. You stated that his wife was taken
7 away and that he had some mental problems after that. Am I
8 correct in stating so?

9 A. When Lach Ny's wife was taken away he became mentally
10 unstable. He went around the village crying and shouting and that
11 lasted for about a fortnight. And after that, with the assistance
12 of the villagers, he became better.

13 Q. What did they do to him in order to make him better?

14 A. He became better with the support of the villagers and his
15 relatives. That's what happened.

16 Q. Did he remarry before the end, before 1979?

17 A. Yes, later on he remarried.

18 Q. Was it before or after 6 January 1979?

19 A. He remarried another woman under the Khmer Rouge regime.

20 [14.06.04]

21 Q. Did you know whether the marriage ceremony was organized only
22 for him or were there many couples?

23 A. I only knew that he remarried another woman and from what I
24 heard, he was the only man or he was the only groom.

25 MR. PICH ANG:

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1 Thank you, Mr. Witness, for answering my questions and, Mr.
2 President, I don't have any further questions for this witness.

3 MR. PRESIDENT:

4 Thank you. We would like now to hand the floor to the defence
5 teams for -- to the defence team; first to Nuon Chea defence to
6 put questions to this witness. You may proceed, counsel.

7 [14.06.58]

8 QUESTIONING BY MR. KOPPE:

9 Thank you, Mr. President.

10 Q. Good afternoon, Mr. Witness. I have a few questions that I
11 would like to put to you this afternoon.

12 The events that you have been describing this morning, the
13 disappearance of those three people, you situated that in time,
14 late '76 and early 1977. My question is: are you sure about this
15 time period?

16 MR. THANG PHAL:

17 A. I recall it clearly and there is also a statement that I
18 provided during the interview.

19 Q. You've just placed arrival of Southwest Zone cadres in time,
20 end of '78. So the events that you described would be about one
21 year, one year and a half before the Southwest Zone cadres
22 arrived; is that correct?

23 A. I cannot recall the exact period. However, the event took
24 place may be a year earlier or maybe half a year earlier.

25 [14.09.05]

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1 Q. In your statement to the investigators of the Investigating
2 Judge, you also indicate that these events not only took place
3 about late '76 and early '77, but also what you call "before the
4 So Phim event". What did you mean when you talked about the So
5 Phim event?

6 A. Concerning the So Phim event, I stated that the killing took
7 place before the arrival of the Southwest in the East Zone.

8 Q. But what is the So Phim event? What exactly is that? Or maybe
9 I should ask first, who is So Phim?

10 A. I do not know which position he held. I only heard that So
11 Phim was a leader in the East Zone.

12 Q. Correct, but what is the So Phim event? What is the event that
13 refers to his name? What do you mean with So Phim event?

14 A. I referred to the So Phim event. That was the time that I also
15 referred to the group of the Vietnamese who were taken over and
16 executed.

17 [14.11.30]

18 Q. I will repeat my question. You used the words in your
19 statement, "the So Phim event". What exactly is the So Phim
20 event? What did you mean when you said that?

21 A. I refer to the time that villagers in my village were gathered
22 out, taken away and killed.

23 Q. I understand that we've been discussing the alleged
24 disappearance of those three people this morning, but why do you
25 refer to the disappearance in terms of the So Phim event? Can you

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1 explain that? What does So Phim have to do with those three
2 people?

3 A. I refer to So Phim event because at that time So Phim was
4 still in charge.

5 [14.13.10]

6 Q. But see, if I would be able to assist you a bit, there is a
7 witness at E3/9339 who also speaks about So Phim and is a person
8 from your village, and English, ERN 00234115; and Khmer, 00232824
9 and 5; and French, 00283171/172. This person speaks about people
10 associated with So Phim's network and sub-district secretary Chin
11 Kran, who held an office for only one week, was also taken and
12 killed by the Khmer Rouge because he was in So Phim's network --
13 that is, the person who also the villagers speak about So Phim's
14 network. Does that mean anything to you?

15 A. I was not aware of that event or person. I did not have any
16 relationship or contact with this individual, and as I said, I
17 was an ordinary villager. I did not have anything to do with
18 that.

19 Q. So you never heard villagers speak about these three people
20 having anything to do with So Phim's network; is that correct?

21 A. Are you referring to these three Vietnamese or another set of
22 three individuals?

23 [14.15.42]

24 Q. No, those three Vietnamese people that we discussed this
25 morning: Ngang, Lach Ny, and the husband of Din Oeun, Chuy. Did

1 villagers ever speak about those three people having something to
2 do with So Phim's network?

3 A. In the village I did not hear anything about that nor anything
4 to do with So Phim network.

5 Q. You said that So Phim was a leader in the East Zone. Do you
6 know in which sector in the East Zone your commune was?

7 A. I was not that familiar with the administrative sector of the
8 village commune or district.

9 Q. Have you ever heard of Sector 20?

10 A. I heard about Sector 20 but I did not know where it was. I
11 heard people referring to Sector 20.

12 Q. So you don't know that your village or your district was
13 actually in Sector 20? You just heard people speak about Sector
14 20; correct?

15 A. Yes, that's what I heard but I did not know which villages or
16 communes were under that sector.

17 [14.18.18]

18 Q. Have you ever heard of someone called Chea Sin, S-I-N, also
19 known as Sun?

20 A. No. In my village, I never heard of this name. That name does
21 not ring a bell to me.

22 Q. And have you ever heard of the chief of your district, someone
23 with the name Leang, also known as Kror Ling Kror Long?

24 A. The district chief in my area was known as Ta Changkaum
25 Prambei. I only heard of his name and I never saw him. However,

1 later on he was replaced by someone else.

2 Q. Do you mean Ta Changkaum, also known as Sarun?

3 A. I did not know how many aliases he had; I only heard that Ta
4 Changkaum Prambei was the district chief.

5 [14.20.05]

6 Q. Have you ever, in the period between 1975 and '79, heard the
7 sounds of warfare, of armed conflict of artillery being fired
8 from Vietnamese territory into Kampuchea?

9 A. I heard of gunfire in 1979. I heard that the Vietnamese side
10 shelled the Kampuchean territory.

11 Q. Have you also heard of shelling from Vietnamese territory into
12 Kampuchea in the last months of 1977?

13 A. At that time I heard the Vietnamese had shelled into
14 Kampuchean territory. However, I was far from the border. I was
15 in Svay Antor and I did not hear the sounds. I only heard people
16 talking about the sounds of shelling.

17 Q. And what did they tell you when they spoke about the
18 Vietnamese shelling in '77?

19 A. I was told that Vietnamese were shelling into Kampuchean
20 territory. That's all I heard and I did not pay much attention to
21 that.

22 [14.22.19]

23 Q. Have you heard anything of Vietnamese troops and Vietnamese
24 tanks entering Kampuchean territory in those months in 1977?

25 A. I cannot recall such an event in 1977, and I did not know more

1 than what I have told you.

2 Q. I understand. Let me move on to another question. You spoke
3 about Chuy, the husband of Din Oeun. Have you ever heard that
4 Chuy was a former Vietnamese soldier?

5 A. Chuy, to my knowledge, was not a soldier. He was a merchant.

6 Q. So you never heard that he had been fighting in the Vietnamese
7 army before '75?

8 A. No, I never heard about that, and that is the truth. I never
9 heard that he was a soldier at all. And when I saw him, he
10 already got married. Rather, he already had his wife and they did
11 not actually have any proper marriage ceremony.

12 Q. Have you ever heard whether he was someone who was smuggling
13 goods from the border, from one country to another country over
14 the border; in other words, smuggling goods from Vietnam into
15 Kampuchea?

16 A. No, I have no knowledge of that at all.

17 [14.25.29]

18 Q. Have you ever heard an announcement in 1975 that everyone who
19 was of Vietnamese origin in your village or your commune or your
20 district had to leave Kampuchea and had to go back to Vietnam?

21 A. Regarding the so-called meeting, I never attended such a
22 meeting and here I repeat my statement again. At the time I
23 focussed on working in the field, digging canals or building
24 them, and I did not have anything to do with those meetings.

25 Q. Earlier this afternoon you answered a question from the

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1 prosecution whether you ever heard the village chief or any cadre
2 from Democratic Kampuchea government speak about Vietnamese,
3 whether Vietnamese people were targeted because they were
4 Vietnamese. You answered no, that you never heard such things.
5 Have you ever heard anything on the radio saying such things or
6 have you ever heard villagers who had listened to the radio
7 speaking about these things or is it something that you never
8 heard?

9 A. Regarding the Vietnamese people, at that time I never heard of
10 any radio announcement about that. The broadcast was of the
11 revolutionary songs all day long.

12 [14.27.44]

13 Q. But when the songs were finished, did they ever speak about
14 Vietnamese people? Did you ever hear anyone say something on this
15 topic on the radio, or nothing at all?

16 A. No, I did not hear anyone say anything regarding this matter.
17 And I also did not pay attention to such a matter. My attention
18 was on the work that I was assigned.

19 Q. Would you be able to explain as to what the reason might have
20 been that villagers were, as you say yourself, whispering that
21 the Vietnamese were arrested because they were Vietnamese?

22 Where did those villagers, when they were whispering to each
23 other, get this information from?

24 Is that clear to you or is it just something that villagers were
25 whispering and you don't know what the source of this whispering

1 is?

2 A. Regarding the whispering about the Vietnamese, I heard about
3 it when the three people were taken away. I heard the people
4 saying about that, that they were taken away for re-education.
5 That's all I heard.

6 [14.29.50]

7 Q. I understand your answer, but is it possible for you to
8 explain where this whispering came from, who started this
9 whispering and who started, for instance, saying that if a
10 Vietnamese woman would have children then also the children would
11 not be spared? Who came up with this whispering? Who was the
12 origin?

13 A. Regarding this whispering, in fact the whispering only took
14 place after that event. It was not before that. So after the
15 events that the Vietnamese were gathered up and sent away for
16 re-education, then people whispered about that. And after that,
17 nobody said anything about it.

18 [14.31.19]

19 Q. So is it then fair for me to say that the only possible
20 evidence that we have that these people were sent for
21 re-education, these people from your village, was because
22 villagers whispered it? That is the only source of your
23 information or the source of the villagers' information; is that
24 correct?

25 A. I heard that people whispered only after those people had been

1 sent away, including Lach Ny's wife. And of course it's not that
2 people would go and whisper to another one and that person would
3 subsequently whisper to another one. The whispering took place
4 only after the unfolding of that event.

5 Q. One very last question unrelated to this topic that is a
6 follow-up question in relation to the monks not being allowed or
7 people not being allowed to be monks anymore. In your statement
8 you say that this was since 1973. Literally, you say there was no
9 monk anymore since 1973. How do you know or how do you remember
10 it was 1973?

11 A. The reasons that I knew there were no longer any monks after
12 1973, because by that time monks who stayed in the pagoda were
13 instructed to leave the monkhood, including the chief monk.

14 [14.33.35]

15 Q. And do you know that the chief monk left the monkhood in 1973
16 because he was told to leave the monkhood? Was that 1973, one
17 year after you left the monkhood?

18 A. To my observation, the chief monk in my pagoda left the monks'
19 cells together with other monks. And at the time, I did a massage
20 for the chief monk in Chrey (phonetic) village. I was part of a
21 mobile unit at the time and since the chief monk felt pain on his
22 body, I was there to do him a massage.

23 MR. KOPPE:

24 Thank you very much, Mr. Witness.

25 Thank you, Mr. President.

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1 THE PRESIDENT:

2 The floor is now given to the defence team for Mr. Khieu Samphan
3 to put questions to this witness. You have the floor now,
4 counsel.

5 [14.35.10]

6 QUESTIONING BY MR. KONG SAM ONN:

7 Thank you, Mr. President.

8 Good afternoon, Mr. Witness. My name is Kong Sam Onn. I am the
9 National Co-Counsel for Mr. Khieu Samphan. I have a few questions
10 to ask you.

11 Q. A while ago you stated that you were not aware the three
12 Vietnamese were former Vietnamese soldiers. I want to ask for a
13 clarification concerning the three individuals. When did you know
14 the three individuals -- I mean the Vietnamese people? Did you
15 know them at the same time or you knew one of them after another?

16 A. I first knew Ngang and later on I knew Ny's wife, and for Oeun
17 and Chuy, I knew them later on. It was when -- it was during the
18 war. It was after the war, Oeun got married.

19 [14.36.58]

20 Q. Could you clarify the exact year, when exactly or which year
21 exactly did you know each individual?

22 A. Let me tell the Court, I cannot recall the exact year when I
23 started to know each of them.

24 Q. Thank you. In document E3/7809, ERN in Khmer, 02 -- sorry --
25 00271368; English, 00282563; French, 00486104; let me quote an

1 extract from a WRI of a witness. And I believe you know that
2 person. He said he was a former Vietnamese soldier "who came to
3 make a living and to live in Pou Chentam village." [Free
4 translation]

5 I have a question for you, Mr. Witness. Does this refresh your
6 memory and what is your reaction to the extract that I have just
7 read to you?

8 A. My apology, counsel. Regarding Chuy and Oeun, the two
9 individuals were living close to one another and for me I was
10 living about 500 metres away from Oeun, so I did not know for
11 sure about the background of Chuy.

12 [14.39.55]

13 Q. Thank you. How close were you in terms of friendship? How
14 close were you with Chuy before Chuy had been arrested?

15 A. We were living far away from each other and we would sometimes
16 meet each other. And the person who gave the statement may have
17 been living close to Chuy's house. And as I said, I was living
18 away from him. I did not know for sure his background. Sometimes
19 we encountered along the way and we may ask each other how we
20 were. And I did not have time to sit and chit-chat with him.

21 Q. Thank you. What about the other two Vietnamese individuals?
22 Could you describe your relationship with two other Vietnamese
23 individuals that you knew?

24 A. I lived away from - in fact in a far place from Ny but we
25 worked in the same cooperative and Ngang was also the same member

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1 within my unit which we -- and we used to work together in the
2 field. And Chuy, as I said, I lived in a far place from Chuy.

3 [14.41.55]

4 Q. Thank you. I want to quote another document, E3/7559, Khmer,
5 ERN 00034292; English, 00890542; French, 00854142. Let me quote:

6 "The 'Yuon' came from their country. Before they were former
7 soldiers, and after they stopped being soldiers, they married to
8 Cambodian women." [Free translation]

9 I would like to make a summary of the statement which I have just
10 quoted; perhaps you may not have understood what I quoted. The
11 witness -- the witness made mention that the three Vietnamese
12 individuals were former Vietnamese soldiers and they came to
13 reside in Kampuchea. And as you stated before that you had seen
14 many Vietnamese soldiers, more than Khmer soldiers before 1970,
15 and you also stated that the Vietnamese people married Cambodian
16 people. So did this refresh your memory and what is your reaction
17 to it?

18 A. The statement that the three Vietnamese were former Vietnamese
19 soldiers, this statement is not true. Chuy was a newcomer and I
20 did not know when Lach Ny's wife became a soldier. She was a
21 female and how could she was recruited to be a soldier? I am
22 telling the truth. I can swear before the Iron Club Statue. I do
23 not give any untrue statement here.

24 [14.44.52]

25 Q. Perhaps the witness refers to the male Vietnamese people. The

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1 witness may have thought that those people were men.

2 Now, I want to refer to your testimony you gave this morning. You
3 made mention that when you were assigned to collect rumpeak
4 vines, Angkar went to call you back. And you stated that Seng was
5 the deputy chief who went to call you back home. My question is:
6 how did -- how were you instructed to use the term "Angkar"? Did
7 anyone tell you to use that specific term, "Angkar"?

8 A. The term "Angkar" means that everyone who was in charge of any
9 functions were considered Angkar. It was widely known that the
10 term was used.

11 MR. PRESIDENT:

12 Counsel, do you still have many more questions?

13 MR. KONG SAM ONN:

14 Mr. President, I still have a question, but I think it is time we
15 should take the break.

16 MR. PRESIDENT:

17 Thank you. So it is now the break time. We may take the break now
18 and resume at 3.00.

19 Court officer, please assist the witness in the waiting room
20 during the break time and please invite him back into the
21 courtroom at 3.00.

22 The Court is now in recess.

23 (Court recesses from 1446H to 1503H)

24 MR. PRESIDENT:

25 Please be seated.

1 The Chamber is now back in session and the Chamber give the floor
2 to the defence counsel for Khieu Samphan to put more questions to
3 the witness. You may now proceed.

4 BY MR. KONG SAM ONN:

5 Thank you, President.

6 Q. And good afternoon, witness. I have questions and the question
7 was already asked by the International Co-Prosecutors. The
8 question was that: "Was there someone coming to the village and
9 asking for the Vietnamese?" And you answered that: "They did not
10 ask me. If they came to ask for the Vietnamese they would ask the
11 village chief." Do you still remember this?

12 [15.05.13]

13 MR. THANG PHAL:

14 A. Regarding this question, I remember that they did not come to
15 ask me. If they came to ask, they asked the village chief.

16 Q. Thank you. I would like to ask you, why did you know that
17 they came to ask the village chief? Was it your estimate or was
18 it come from someone who told you about this information?

19 A. First, they came to ask the village chief and the village
20 chief knew about what's going on in the village about who just
21 arrived and who went out of the village. So I would like to
22 clarify that they came to ask the village chief, not the ordinary
23 villagers.

24 Q. I have another question. So was it your estimation that they
25 came to ask the village chief? Was it just your estimation or was

1 it the real information that you received?

2 A. It's based on what I thought, that I thought that they would
3 contact the village authority first.

4 [15.07.28]

5 Q. So that means that you did not receive the information by
6 yourself and that also means that no one really informed you
7 about the arrival of people who came to the village asking for
8 the Vietnamese; is that true?

9 A. Based on my assumption, I thought that they would approach the
10 village authority first.

11 Q. Thank you. Now, I would like to ask you about the person named
12 Ngang that you told the Chamber that you went to cut rumpeak vine
13 together with him.

14 A. Yes, that's correct.

15 [15.08.35]

16 Q. Thank you. You also said that when you came back from cutting
17 the rumpeak vine, the village chief told you and your group to
18 come back, and you walked in front of the group. And Ngang, you
19 said that Ngang had his leg injured. I would like to ask you,
20 could you tell how far was it where you met Seng where his
21 bicycle had problems? Could you tell us how far is it from the
22 place where you walked with Ngang and the place where Seng had
23 problems with his bicycle?

24 A. When the village chief told us to come back from cutting
25 rumpeak vine, we all walked together. The village chief,

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1 sometimes he walked in the middle. Sometimes he walked in the
2 front and we were all together. And when we approached the
3 security centre, he told us to go and just keep Ngang to stay and
4 help with fixing the bicycle. So I left.

5 Q. So could you tell us how far was it from each other?

6 A. I left him, and it was about 200 or 300 metres away and I
7 waited there.

8 Q. Thank you. The path that you walked, was it the forest road or
9 was it the village road?

10 MR. PRESIDENT:

11 Please observe your microphone.

12 [15.11.08]

13 MR. THANG PHAL:

14 A. There was only one road. It's the dirt road and there was only
15 one road. And besides that they were all paddy fields.

16 BY MR. KONG SAM ONN:

17 Q. Thank you. When you walked away, did you meet anyone on the
18 way?

19 A. At the time it was quiet; there were no one on the road. So
20 only seven or eight of us walked on the road and we met no one.

21 Q. Thank you. You also said that you walked away and you waited
22 for Ngang. I want to ask you that you did not witness what
23 happened to Ngang; is that true?

24 A. That's correct. I did not know. I did not witness anything
25 because I was far away.

1 Q. Thank you. I would like to get your clarification. You also
2 said that Ngang's wife came to ask you and you told her that
3 Ngang would follow, so is that correct?

4 A. That's correct. She came to ask me and then I told her that
5 Ngang would come later on.

6 [15.14.10]

7 Q. I would like to quote from a document, from document E3/7810.
8 It is the testimony of TCW-957. I would like to quote now, ERN
9 Khmer, 002772 -- sorry, 71388, on page 2; in French, 00486112; in
10 English, 00282333. I would like to quote now: "Later on the
11 villager named Huy told me that Ngang was instructed to go back
12 to cut 'rum peak' vines. And as for him, he came back." [Free
13 translation]

14 I would like to ask you that, did you tell anyone that Ngang was
15 instructed to go back to cut rumpeak vines?

16 A. I would like to tell you that that's not true. No one told me
17 that.

18 Q. Thank you. Now, I would like you to clarify a point related to
19 the date.

20 You mentioned in your statement and also in the Chamber that the
21 event of the arrest of the three Vietnamese was in late 1976 and
22 early 1977. And you mentioned that this is the correct statement.
23 So do you stick to your previous statement or you would like to
24 change it?

25 A. I kept my -- I keep my previous statement that in late 1976

1 and early 1977.

2 [15.17.37]

3 Q. Thank you. I would like to quote from testimony and I would
4 like you to give your response to this document, E/3 -- document
5 E3/89 and in English it's -- I would like to quote: "During the
6 Khmer Rouge, I lived in Pou Chentam until 1978. About a month
7 after my husband was arrested I was evacuated to the west
8 somewhere in Pursat or Battambang. I could not remember the
9 village, the commune there. I stayed there for two or three
10 months and then I returned back to my home village on 7 January
11 1979." [Free translation]

12 After you listened to this testimony, do you have any reactions
13 regarding this date?

14 A. I have no reaction toward this.

15 MR. KONG SAM ONN:

16 Thank you. Mr. President, I have no more questions to put to the
17 witness.

18 [15.19.32]

19 MR. PRESIDENT:

20 The Chamber would like to express our thanks to the witness and
21 your testimony to the Court now comes to an end. Your presence at
22 the ECCC is useful to the Court and now you may return back to
23 where you came from.

24 Court officer, please facilitate Mr. Thang Phal to help him go
25 back to his home.

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1 Now, the Chamber will listen to the testimony of Mr. Sos Romly
2 regarding the treatment of the targeted group of ethnic Cham and
3 he has his counsel, Sovann.

4 So we would like to instruct the Court officer to assist the
5 witness and his counsel to come into the courtroom.

6 (Short pause)

7 (Witness enters courtroom)

8 [15.21.58]

9 MR. PRESIDENT:

10 The floor is given to the Co-Prosecutor to put questions to the
11 witness. The Chamber would like to let the witness know about the
12 -- that the Chamber so far already -- the Chamber asked already
13 about the background questions and also the Chamber has advised
14 the witness concerning his rights and obligations. And in
15 addition to this, the Chamber has also asked whether or not the
16 witness has already taken an oath and there was sufficient reason
17 -- there was sufficient reason before that the hearing to hear
18 your testimony was adjourned because of objection of the Defence.
19 So parties can refer to the transcript of 6 of October 2015
20 regarding the background information of the witness.

21 Mr. Witness, in the proceeding, you are required to declare an
22 oath before the Chamber. However, you took an oath already on 6
23 October 2015. And I would like to inform you of your rights as a
24 witness in the proceeding before the Chamber.

25 [15.23.44]

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1 You may refuse to respond to any question or to make any comment
2 which may incriminate your rights against self-incrimination. You
3 have a duty counsel with you and you can consult with your duty
4 counsel during the time that you are asked.

5 Your obligations: You are required to tell the truth that you
6 have known, heard, seen, remembered, experienced or observed
7 directly about an event or occurrence relevant to the questions
8 that the Bench or parties pose to you.

9 Now, the floor is given to the Co-Prosecutors to put questions
10 before other parties. The combined time for Co-Prosecutors and
11 Lead Co-Lawyers for civil party is two sessions to put questions
12 to this witness. You have the floor now.

13 [15.24.45]

14 QUESTIONING BY MR. SREA RATTANAK:

15 Good afternoon, Mr. President, Your Honours, parties, everyone in
16 and around the courtroom.

17 Q. Good afternoon, Mr. Witness. My name is Srea Rattanak. I am
18 the Deputy -- National Deputy Co-Prosecutor of the OCP in the
19 ECCC.

20 First of all, I would like to ask you some background. Where did
21 you live between 1970 and 1975?

22 MR. SOS ROMLY:

23 A. Between that period, I was living in Trea 2 village at Trea
24 Commune, Krouch Chhmar district, Kampong Cham province.

25 Q. Were you supported by your parents at the time?

1 A. From 1970 and 1975, I was living under the support of my
2 parents.

3 Q. Did you have siblings living together with you at the time?

4 A. Yes. We were living together.

5 Q. How many siblings did you have?

6 A. I have five siblings.

7 [15.26.55]

8 Q. Among them did any one of your siblings get married by then?

9 A. My elder sibling got married in 1973.

10 Q. How many Cham families were living in your village?

11 A. There were perhaps below 1,000 Cham families living in my
12 village back then.

13 Q. Among the 1,000 Cham families, were they living in Trea 2
14 village or Trea Pi village? Were these 1,000 Cham families
15 living in that village or they were living in different villages
16 in the same commune?

17 A. Actually, they were living in the five villages. All together
18 there were below 1,000 Cham families and we resided in the same
19 commune, Trea commune.

20 [15.29.15]

21 Q. I do not really understand your testimony. You stated that
22 Cham families were living in five villages, totalling 1,000 of
23 them perhaps. So please specify again, were they living in five
24 communes or in five villages? So please listen carefully to my
25 question. Regarding Trea Pi village where you lived, how many

1 Cham families were living in that Trea Pi village?

2 A. There were around 200 Cham families living in Trea Pi village.

3 Q. Does this mean that in the whole Trea families consisted of
4 around 1,000 Cham families?

5 A. There were five villages in Trea commune. All together there
6 were around 1,000 Cham families or below 1,000 Cham families and,
7 as I said, there were around only 200 Cham families in Trea Pi
8 village -- that is, my village.

9 Q. You made mention that Cham -- there were Cham people living in
10 the commune and in villages. So beside Cham people, were there
11 other ethnicities living in the villages in that commune?

12 A. Actually, Trea commune consisted of eight villages. And Cham,
13 there were five Cham villages within that commune and there were
14 three Khmer villages in the commune.

15 [15.31.40]

16 Q. Can you tell the Court how many Cambodian families altogether
17 living -- were living in the three villages?

18 A. To my estimate, there were around 400 Khmer families in the
19 three villages.

20 Q. A while ago, you stated that there were both Cham villages and
21 Khmer villages. Does this mean that they did not living -- mingle
22 together in the same villages?

23 A. Yes, that is true.

24 Q. What about before 1970 before Khmer Rouge arrived at your
25 village? Were there any mosques before 1970?

1 A. There was one mosque.

2 Q. What about hakim? Were there any hakims?

3 A. Yes.

4 [15.33.50]

5 Q. What was his or her name?

6 A. Ahmad (phonetic). His name was Asman (phonetic).

7 Q. How many hakims were there in your commune or village?

8 A. PuchhuoyTi Muoy, Puchhuoy Ti Pi; there were three hakims.

9 Q. After the arrival of Khmer Rouge in your village and commune
10 in 1970, were there changes in your commune and village;
11 particularly, were there any changes in relation to Cham
12 communities?

13 A. In 1974, hakims had been called to commune office. They were
14 arrested and detained at Krouch Chhmar security office and then
15 other religious leaders were also called and taken away. They
16 were educated.

17 Q. Actually, my question is about the changes in Cham community
18 from 1970. I want to know that, were you allowed to practice your
19 religion or to do the worship after 1970?

20 A. Between 1970 and '74, we were allowed to go and do the
21 worship. The situation was not so tense during that period.

22 [15.36.44]

23 Q. What about the language? Were you allowed to speak your own
24 language as normal?

25 A. Yes, it was normal. We could speak our language between 1970

1 and 1975.

2 Q. Were you able to recite the scripts in the Holy Book of Koran
3 and could you keep a Koran?

4 A. In 1975, Korans were collected and placed in hakims' houses.
5 Later on the Korans were taken away to the commune office where
6 they were destroyed.

7 Q. You made mention that the Korans were collected in 1975. Does
8 this mean that you were allowed to keep Koran between 1970 and
9 1975?

10 A. Yes, that is correct.

11 Q. Regarding mosques, did you have access to mosques?

12 A. Yes, we did between 1970 and 1975.

13 [15.39.20]

14 Q. A while ago you stated that the situation changed between 1970
15 and 1974 and the situation actually changed after 1975. So I
16 would like you to tell the Court about the changes in situation
17 regarding the language you spoke, the mosque you used, the
18 religion and traditions you followed. So what were the changes
19 after 1975 and what happened to the mosque?

20 A. Starting from 1975, mosques were closed down. Korans were not
21 allowed to -- not used, and we were banned from reciting the
22 scripts from the Holy Book Koran.

23 Q. Were you invited into a meeting to be informed of the ban? How
24 was the ban -- how was the ban made known to you regarding the
25 practising of your religion?

1 A. The meetings were held among the village chief and commune
2 chiefs and religion or Koran was considered reactionary.

3 [15.41.15]

4 Q. Did the meetings happen frequently?

5 A. No, it did not happen frequently but villagers were so afraid
6 since religious leaders and hakims had been arrested. And some
7 people were reprimanded and warned a few times, so they no longer
8 practised or recited the script from the Holy Book.

9 Q. About the mosque which was banned from using it, what was the
10 mosque used for?

11 A. The mosque was closed down for a period of one year and later
12 on it was transferred into a -- it was -- it became a hospital.

13 Q. Coming back to the period between 1970 and 1975, did you hold
14 any position in the village administration and commune
15 administration?

16 A. In 1973, I was appointed to be a youth chief of Trea Pi in the
17 village.

18 Q. Why were you appointed to be the youth chief of Trea Pi
19 village?

20 A. From what I asked -- from the information I learned, I was
21 considered a good farmer and I had a good biography.

22 [15.43.41]

23 Q. Who appointed you to be in that position?

24 A. The village chief appointed me.

25 Q. A little bit before this, you stated that since you were a

1 good farmer, a poor peasant, and had a good tendency of
2 biography, you were appointed to be youth chief so what did you
3 mean by this?

4 A. They said that my parents and relatives had no connection with
5 the former administration.

6 Q. As the youth chief of the village, what were your
7 responsibilities and what was your function?

8 A. I was in charge of about 30 youth and I was instructed by the
9 superior to go to clear the forest at the back or back -- at the
10 back of our houses.

11 Q. So how long were you in that position as the youth chief?

12 A. I was in that position in -- until 1975.

13 Q. After 1975, were you appointed in any other positions?

14 A. I was transferred into a mobile unit after then.

15 [15.46.55]

16 Q. What was your specific position and function in that mobile
17 unit?

18 A. I was the chief of the corps (phonetic) group.

19 Q. Later on, after 1975, were you assigned to be in any other
20 position beside the two positions that you had between 1975 and
21 1979?

22 A. I was attached to the mobile unit for about three months after
23 which I was assigned to be the commune clerk.

24 Q. When did you become the clerk of the commune chief?

25 A. It was in late 1975 that I was appointed to be commune chief's

1 clerk.

2 Q. What was the commune that you were appointed to be the clerk?

3 A. I was the clerk in the Trea commune.

4 [15.49.00]

5 Q. Could you name the commune committee?

6 A. Chhean was part of commune committee; his alias name was Sy.

7 Q. So who appointed you to be the clerk?

8 A. I, at the time, did not know who appointed me, but there was a
9 letter from the commune chief invited -- inviting me to the
10 commune office.

11 Q. After you were invited to the commune chief, how did you know
12 that you were appointed to be a commune chief's clerk?

13 A. When I arrived at the commune chief, the old clerk came to
14 give instructions to me about how to process the documents and
15 also he had transferred all documents to me to be in charge of.

16 Q. Did you know the reason that you were appointed to be the
17 clerk?

18 A. From what I was told by other people, I -- it was said that I
19 had a good and beautiful writing.

20 [15.51.20]

21 Q. Who told you that?

22 A. He was a cadre in charge of the district agriculture and, at
23 that time, he came to take responsibility in the district and he
24 told me that I had such a beautiful writing.

25 Q. What were your responsibilities as a clerk?

1 A. The main function was to make the report on the agricultural
2 production and to put in the paper in order to invite other
3 people into the meeting and also to set in the report about how
4 to work to achieve agricultural production.

5 Q. You stated that you named in the report the letter to invite
6 co-operatives' chiefs to meetings. What did you mean by that and
7 how did you formulate the letter?

8 A. Actually, it was the invitation letter to invite the commune
9 chiefs and other concerned people into a meeting.

10 [15.53.08]

11 Q. You were only the one who prepared the letter, and as for the
12 signature, it was put down by another person; is that correct?

13 A. Yes, that is correct. I was not authorized to place my
14 signature in that invitation letter.

15 Q. Who placed the signature in the invitation letter?

16 A. It was the commune chief.

17 Q. Regarding the function you performed, where was your office or
18 was your office within the commune office itself?

19 A. Yes, I had an office within the commune office.

20 Q. What office were you referring to now; could you name it
21 specifically?

22 A. It was the commune office.

23 Q. Where was the location of the commune office; in which
24 commune, which village, or district was the commune office
25 located?

1 A. The office was located in Trea Pi village.

2 [15.55.29]

3 Q. What about your place of work; you stated that your -- you had
4 an office within the commune's office and did you remain working
5 in that same office until the end or were you -- did you have
6 another new office?

7 A. I was in the same office until the end.

8 Q. However, from what I heard, you stated that you was work --
9 you were working in an office. I am not sure whether that office,
10 later on, was transformed into any other specific-purpose office.

11 A. I do not really get your question. Please make it simple and
12 clarify it for me.

13 Q. Regarding the commune office that you worked in, was this
14 commune office later on transformed into another specific-purpose
15 office? I mean did -- was this office used for different purposes
16 later on?

17 A. I understand it now. I was working in that commune office
18 until 1978. Later on, it was transformed to be the district
19 office.

20 [15.57.40]

21 Q. What about the tasks that you had to perform; so where exactly
22 did you had -- have to perform your task?

23 A. Later on, the location of the -- we had to move and work in
24 the commune's -- the commune chiefs' house. Then we had a commune
25 chief later on.

1 Q. Compare the location of the old commune office; so how far was
2 it from the old commune office?

3 A. The commune chief's house was located about 300 metres away
4 from the old commune office. It was two -- rather north of the
5 commune's office.

6 Q. You stated that you moved to work on the house of the
7 commune's office chief, so where was the location of the house of
8 the commune's office -- commune chief?

9 A. In 1978, the former or old commune chief had been arrested and
10 killed and he was taken to Stueng Trang.

11 [15.59.40]

12 Q. After the old commune chief had been taken away and killed,
13 were you still in the -- that same position as a clerk?

14 A. At that time, I, together with others, decided to flee, so we
15 parted each other after the arrest and execution.

16 Q. Could you clarify for the Chamber why you decided to flee
17 together with other and why did the whole commune office was
18 dismantled?

19 A. I heard people say that the East Zone betray the regime and
20 the Southwest came to taking charge of the situation and after
21 the rumour, there were around 30 black-clad force came to my
22 location and we decided to flee. Actually, we did not flee
23 anywhere far away from our commune. We were going to a place or a
24 location which was far away from the commune office.

25 [16.01.25]

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1 Q. When you were the clerk in the old commune office, were there
2 any Cham ethnicity allowed to be in other position in that same
3 commune chief?

4 A. No, there was -- there were no other Cham people allowed to
5 work in that commune office. There was only me.

6 MR. PRESIDENT:

7 Thank you, the Deputy Co-Prosecutor. It is now time for the
8 adjournment and the hearing will resume tomorrow -- rather, my
9 apology, the day after tomorrow, 8 January 19 -- 2016 and the
10 Chamber will continue hearing this witness, Sos Romly. Please be
11 informed and be on time.

12 Thank you, Mr. Sos Romly. The hearing of your testimony as a
13 witness has not come to an end yet; you are, therefore, invited
14 to testify before the Chamber once again on 8 January 2016 at 9
15 a.m.

16 Court officer, please work with WESU to send Mr. Sos Romly to the
17 place where he is staying at the moment and please invite him
18 back into the courtroom on Friday, 8 January 2016, at 9 a.m.

19 Thank you, as well, Mr. Moeurn Sovann, the duty counsel. The
20 Chamber invites you to be here again to accompany the witness,
21 Sos Romly, the day after tomorrow as well.

22 Court security personnel are instructed to bring Mr. Khieu
23 Samphan back to the detention facility of the ECCC and have him
24 returned on Friday, 8 January 2016, before 9 a.m.

25 The Court is now adjourned.

1 (Court adjourns at 1603H)

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