



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia

Chambres Extraordinaires au sein des Tribunaux Cambodgiens

**ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ**

Kingdom of Cambodia

Nation Religion King

Royaume du Cambodge

Nation Religion Roi

អង្គជំនុំជម្រះសាលាដំបូង

Trial Chamber

Chambre de première instance

TRANSCRIPT OF TRIAL PROCEEDINGS - KAING GUEK EAV "DUCH"

PUBLIC

Case File N° 001/18-07-2007-ECCC/TC

2 July 2009, 0905H

Trial Day 38

Before the Judges:

NIL Nonn, Presiding
Silvia CARTWRIGHT
YA Sokhan
Jean-Marc LAVERGNE
THOU Mony
YOU Ottara (Reserve)
Claudia FENZ (Reserve)

Lawyers for the Civil Parties:

KONG Pisey
KIM Mengkhy
TY Srinna
HONG Kimsuon
YUNG Phanit
Martine JACQUIN
Silke STUDZINSKY
Alain WERNER

Trial Chamber Greffiers/Legal Officers:

DUCH Phary
SE Kolvuthy
LIM Suy-Hong
Natacha WEXELS-RISER
Matteo CRIPPA
Alina BRIOT

For Court Management Section:

KAUV Keoratanak

For the Office of the Co-Prosecutors:

TAN Senarong
William SMITH
PICH Sambath
Zachery LAMPEL
CHEA Palla

The Accused:

KAING Guek Eav

Lawyers for the Accused:

KAR Savuth
Marie-Paule CANIZARES
Heleyn UÑAC

I N D E X

WITNESSES

MR. NORNG CHANPHAL

Questioning by Mr. President commences	page 22
Questioning by Judge Cartwright commences	page 42
Questioning by Judge Lavergne commences	page 45
Questioning by Judge Thou Mony commences	page 54
Questioning by Judge Ya Sokhan commences	page 56
Questioning by Mr. Tan Senarong commences	page 57
Questioning by Mr. William Smith commences	page 63
Questioning by Mr. Alain Werner commences	page 66
Questioning by Ms. Jacquin commences	page 74
Questioning by Mr. Kim Mengkhy commences	page 77
Questioning by Mr. Hong Kimsuon commences	page 78
Questioning by Mr. President resumes	page 81
Questioning by Judge Cartwright resumes	page 92
Questioning by Judge Lavergne resumes	page 93
Questioning by Ms. Canizares commences	page 94

List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MS. CANIZARES	French
JUDGE CARTWRIGHT	English
MR. HONG KIMSUON	Khmer
MS. JACQUIN	French
MR. KAR SAVUTH	Khmer
MR. KIM MENGKHY	Khmer
JUDGE LAVERGNE	French
MR. NORNG CHANPHAL	Khmer
MR. SMITH	English
MR. TAN SENARONG	Khmer
MS. STUDZINSKY	English
THE ACCUSED	Khmer
THE PRESIDENT (NIL NONN, Presiding)	Khmer
JUDGE THOU MONY	Khmer
MS. TY SRINNA	Khmer
MR. WERNER	English
JUDGE YA SOKHAN	Khmer

1

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

2 (Judges enter courtroom)

3 [09.02.53]

4 MR. PRESIDENT:

5 Please be seated. The Chamber is now in session. Today we will
6 hear testimony of a survivor of S-21 Security Office.

7 The Greffier, can you report the attendance of the parties?

8 THE GREFFIER:

9 Mr. President, all parties are present and the witness who has to
10 provide the testimony is also here today. His identification and
11 relationship to the people involved in the proceedings has been
12 verified and the witness has also taken an oath.

13 MR. PRESIDENT:

14 Court officer, can you bring the witness, Norng Chanphal, into
15 the courtroom.

16 (Witness enters courtroom)

17 MR. SMITH:

18 Good morning, Mr. President, Your Honours, counsel.

19 If I could just raise two brief matters before the witness comes
20 into the courtroom, as it relates to his testimony this morning.

21 MR. PRESIDENT:

22 Court officer, can you accompany the witness to the waiting room
23 for now?

24 (Witness exits courtroom)

25 MR. SMITH:

2

1 Good morning, Mr. President. I apologize; I should have been a
2 little quicker off the mark there.

3 There are two brief matters I'd like to raise. One is in
4 relation to the statement of this witness and before I begin,
5 Your Honours, I do believe that this witness is not protected.
6 Is that correct?

7 [09.06.25]

8 I just received a nod from one of the Judges, so I assume that I
9 can use his name in full.

10 One is in relation to a statement that this witness gave to the
11 Documentation Centre of Cambodia on the 13th of February this
12 year, and the other is in relation to the authentication of two
13 Vietnamese videos. But perhaps if I deal with the first matter
14 regarding his statement.

15 As Your Honours are aware, yesterday afternoon of this witness's
16 statement taken by DC-Cam on the 13th of February was provided to
17 all parties in the Chamber via E-mail about midday yesterday;
18 that was in Khmer. At that stage, the statement was not
19 translated and throughout the afternoon, with the help of CMS,
20 they rapidly translated that statement and it's now available in
21 English and was sent about 4.30 that afternoon.

22 Your Honours, the prosecution received that statement in February
23 of this year. This was at the time where the witness was, in
24 fact, not a witness but applying to be a civil party. At that
25 stage, it was thought not appropriate to provide the statement

3

1 because the statement, we felt, would come up through the normal
2 course of the civil party application.

3 However, as Your Honours are aware, that civil party application
4 was refused and in March, sometime later in March, he was placed
5 on the witness list.

6 [09.08.01]

7 At that time, Your Honours, it's the prosecution's submission
8 that the statement should have been provided by the prosecution,
9 but because of the disconnect between his civil party application
10 and him granting status of witness, that connection was not made
11 and the provision of the statement was overlooked.

12 However, yesterday, once it was discovered in preparation of this
13 witness that that statement was not provided, it was immediately
14 provided to the parties the fastest way possible via the e-mail.
15 Having said that, Your Honour, it was not the intention yesterday
16 to place it on the case file but for clarity. This morning, we
17 have filed a motion to place that statement and the translation
18 on the case file.

19 Your Honour, in relation to whether or not the statement is
20 placed on the case file, we're in Your Honour's hands. The most
21 important thing for the prosecution is that the prosecution is
22 not in possession of a statement that the Trial Chamber does not
23 have nor the parties. And so it's thought appropriate that the
24 statement be provided to the Chamber and the parties.

25 As to the legal weight of the statement, the prosecution is

4

1 making no application at the moment to put it forward under 87(3)
2 simply to place it on the case file and, in any event, if it is
3 not placed on the case file, it's deemed important and proper
4 that that statement be provided to all parties to assist them in
5 their questioning today.

6 [09.09.39]

7 Your Honour, the second matter is in relation to the
8 authentication of the two Vietnamese videos and they are E5/10
9 Annex A; ERN number V00271181 and it's a clip of seven minutes
10 and 35 seconds; and E5/10 Annex A, V00271182 and it's a clip of
11 four minutes and one second, the most relevant part being from
12 the beginning to one minute and 36.

13 Firstly, Your Honours, most importantly we would like to make it
14 clear that we stress we are not asking for a decision on whether
15 or not these video clips would be considered evidence under Rule
16 87(3) and Your Honours can rely on those clips in the judgement.
17 That's not the purpose of the application this morning.

18 We've heard Your Honours on this matter, and you have made it
19 very clear to us that you will decide on whether or not it will
20 be viewed as evidence under 87(3) in due course, you know,
21 throughout the proceedings.

22 But what we are asking this morning, Your Honours, is that the
23 video clips be shown to the witness to assist the Chamber in
24 determining whether or not it's authentic. As Your Honours are
25 well aware, the defence have made claims that somehow or another

5

1 it's a video that has been orchestrated and is a false video; it
2 doesn't purport to be what the prosecution says it does.

3 As Your Honours know, this witness is a child prisoner. He left
4 S-21 on the day that the Vietnamese came into S-21. He was there
5 for the last couple of months, and he is believed, this
6 particular witness, is believed to be on the video.

7 [09.11.48]

8 From his expected testimony provided by the civil parties in
9 Group 1, he will be able to assist the Chamber in determining the
10 authenticity of this video, particularly when you look at the
11 summary of the statement made by the civil parties in their
12 application early in February or March, where it states that on
13 the day that the Vietnamese came into S-21 he made concerted
14 efforts to look for his mother and he went throughout the S-21
15 premises, and in that process he saw sights in relation to dead
16 bodies that were in rooms there.

17 That's exactly what the video purports to show.

18 So this witness is in a very unique position, Your Honours, to
19 provide authentication (sic) of it. He is the best witness,
20 Your Honours, to be able to identify whether he appears in the
21 video or not.

22 Your Honours, we submit that it's a very unique opportunity today
23 to be able to authenticate the video to help Your Honours in the
24 decision-making process, and we ask that this opportunity not be
25 lost as this, possibly and most probably, is the best witness to

6

1 provide at this Trial, to provide the evidence as whether or not
2 it's an authentic and accurate video that has been put forward by
3 the prosecution.

4 So they are my brief submissions, Your Honours. If you have any
5 questions other than that, I'm complete.

6 JUDGE LAVERGNE:

7 Thank you, Mr. President. I would like to add a few
8 clarifications to the submission presented by the Co-Prosecutors.
9 Concerning, first of all, the document that -- I don't know if
10 he's asking for this document to be included in the case file or
11 to be presented during the hearings, which is not exactly the
12 same thing, but I believe I understand that the objective is that
13 this document be used in any case.

14 [09.14.23]

15 So I understand that he is asking for this document to be
16 produced in the proceedings and not only included in the case
17 file. Is that indeed the intention of the Co-Prosecutors, to
18 include this document in the proceedings and not only in the case
19 file? Is that the case?

20 MR. SMITH:

21 Your Honour, we would be happy that the statement be included in
22 the proceedings, however, the most important aspect is that it be
23 provided to all the parties. But, yes, our application is that
24 it be included in the proceedings.

25 JUDGE LAVERGNE:

7

1 And if I have also understood correctly what was said this
2 morning, this application is based on Rule 87(4) of the Internal
3 Rules. Is that the case?

4 MR. SMITH:

5 Your Honour, the application that's in writing is just to place
6 the statement on the case file. We would be happy if it's taken
7 into account as evidence under Rule 87(3), but the most important
8 thing for the prosecution that it's made available to the parties
9 to assist them in questioning.

10 [09.16.05]

11 JUDGE LAVERGNE:

12 So if I understand, there is a double request.
13 First, a request to include the document in the case file and a
14 second request asking to produce this document in the proceedings
15 and to present it before the Chamber. Is that the case?

16 MR. SMITH:

17 Yes, Your Honour, that is the case.

18 JUDGE LAVERGNE:

19 If I have understood correctly as well, we are speaking here
20 about an interview that was carried out by the NGO DC-Cam. Is
21 that so? And can you tell us the exact date when this interview
22 was conducted?

23 MR. SMITH:

24 That's correct, Your Honours. The interview was conducted on the
25 13th of February this year.

8

1 JUDGE LAVERGNE:

2 So then, since February 13th 2009, and I believe that this
3 interview is -- this interview should be available. It is
4 available since the 13th of February 2009, I believe, and I also
5 believe that it was conducted in Khmer.

6 And my next question is, was a Khmer version included in the case
7 file or is there no version of this document at all, neither in
8 English neither in Khmer?

9 MR. SMITH:

10 Your Honour, the English and the Khmer was filed with the case
11 file this morning before we came into Court but, prior to that,
12 the Khmer was not placed on the case file. And the reason being
13 that at that stage it was a civil party application, and it was
14 thought at that stage not appropriate to place it on the case
15 file, as it was felt that that statement would end up on the case
16 file through that civil party application.

17 [09.18.21]

18 However, that did not happen. Once it was decided by the Trial
19 Chamber to reject the civil party application and the applicant
20 became a witness, the connection between the statement and his
21 testimony in Court was not made at that point. And it was
22 discovered yesterday that the statement wasn't disclosed to the
23 case file. And the most important thing for the prosecution was
24 that it was being provided to the Chamber and the parties, so
25 that they have all available information to them.

9

1 JUDGE LAVERGNE:

2 The only thing that I would like to clarify as of now is why was
3 this document not included in the case file up until now? Why
4 was there no request for this? But I believe that you've
5 explained this to us.

6 Knowing that indeed, that there was a request for civil party
7 application and a request that seems that was not accepted
8 because the request was late. Then there was a request on the
9 part of a group of civil parties that this person be questioned
10 as a witness --but at none of these stages it wasn't -- the Khmer
11 version of this interview was included in the case file. Do we
12 agree upon this?

13 MR. SMITH:

14 That's correct, Your Honour.

15 [09.20.10]

16 JUDGE LAVERGNE:

17 I think your microphone was not on, so we were not able to hear.

18 MR. SMITH:

19 That's correct, Your Honour.

20 JUDGE LAVERGNE:

21 So it is sure that there is a problem concerning the relative
22 lateness of this. So I think the defence will have to make some
23 observations about this.

24 But concerning the video excerpts, I do not understand your
25 request exactly. You're asking us to decide -- well, the

10

1 question is to know if we should accept this document so that it
2 is presented in the proceedings because it was already accepted
3 as a new document.

4 But the problem is to know if it should be included in the
5 proceedings, and you're asking that this document be projected so
6 that the witness can tell us if it is authentic or not? But you
7 also wish that this projection take place during the proceeding
8 or that it take place outside? I don't really understand. I'm
9 not quite clear about this.

10 MR. SMITH:

11 Your Honour, I'm asking that the video be played during the
12 proceedings so that this witness, who is the best witness to be
13 able to authenticate the video, can provide his opinion to this
14 Chamber as to whether or not it has a certain level of
15 reliability as contested by the defence.

16 [09.22.05]

17 With that knowledge, with that opinion that Your Honours may
18 accept or reject in relation to this witness's opinion and
19 others, then I would submit that Your Honours would be in a far
20 better position to determine whether or not the video is
21 authentic.

22 It's our respectful submission that the only issue here is, is
23 whether or not the video can be relied upon by Your Honours in
24 the judgement under 87(3), and to come to that determination, we
25 would submit that it's important that Your Honours have the best

11

1 opinions, the best evidence, on the authenticity of the video to
2 come to that determination. Without that, we would submit that,
3 it would be difficult to come to that decision.

4 The public showing of the video, in many respects, I would submit
5 is not so much the issue; it's the legal issues as to whether or
6 not it can be relied on under 87(3). And to get to that point,
7 we would submit, it would be very useful to ask this witness's
8 opinion, who is in the video, whether or not it's accurate
9 depiction of what he saw when he was there when the Vietnamese
10 came to S-21.

11 JUDGE LAVERGNE:

12 Thank you, Mr. Smith, for these clarifications.

13 MR. PRESIDENT:

14 (No interpretation)

15 [09.23.50]

16 JUDGE CARTWRIGHT:

17 Thank you, Mr. President. Just one matter, Mr. Smith, in
18 relation to the video.

19 You are suggesting that this witness may well be in a position to
20 authenticate it and you are suggesting that it be shown in
21 public. Would there not be a difficulty in showing it in public
22 if it transpires that there are some doubts about its
23 authenticity after the witness has viewed it?

24 MR. SMITH:

25 Thank you, Your Honour. We're in Your Honours' hands as to

12

1 whether or not it should be shown in public or in closed session.
2 In terms of -- as a legal issue, it's respectfully submitted that
3 this is part of the normal Court process of decision-making and
4 transparency, that it's appropriate that as much of this Trial be
5 public. However, we're in Your Honours' hands whether it be in
6 closed session or public session.

7 MR. PRESIDENT:

8 I notice the presence of Alain Werner. The floor is yours.

9 MR. WERNER:

10 Good morning, Mr. President. Good morning, Your Honours. Good
11 morning, parties.

12 I just wanted -- because we are implicated, as you know, because
13 we are the one who initially requested for this now witness to be
14 at the time a civil party. I just wanted to say that everything
15 Mr. Smith say is absolutely correct.

16 [09.25.29]

17 And I just want to bring one position because maybe there are
18 some doubts now about this -- this statement just for the record
19 to be clear. Indeed, on 4th February 2009, that's the time when
20 this witness went to Victims' Unit and tried -- attempted to file
21 an application and he was told at the time it was too late. And
22 then on the 16 of February -- it was over the weekend -- you will
23 remember it was before the initial hearing or maybe on the Monday
24 -- he signed a Power of Attorney instructing my lead counsel,
25 Karim Khan, and ourselves, and that is the time where, indeed, we

13

1 filed a request to your Mr. President to extend the deadline two
2 days and for this now witness to be a civil parties. And as you,
3 Mr. Smith, absolutely rightly stated, it was rejected.

4 Now, I just want to make clear that because this initial --
5 wasn't 17 and it was a very, very busy time, I think there was
6 some lack of communication between our group and DC-Cam, and I
7 was not aware that the statement had been taken on the 13 of
8 February 2009.

9 I did not know and, as everybody else, I discovered yesterday
10 that there had been a statement, so I just want to make that
11 clear on the record that we are in the same position as everybody
12 else and I had, myself, the statement last night.

13 I would like to say just something else for the record to be
14 clear. Instructed by my lead counsel, Karim Khan, we decided
15 once you rendered your decision on the 10th of April 2009 and you
16 decided -- you admitted this Norng Chanphal as a witness, from
17 that time we decided that it would not be proper for us to talk
18 to Norng Chanphal because he was not a civil party but he was a
19 witness.

20 So since that time we have not been talking to Norng Chanphal. I
21 did not see him in the last days or nothing, so we have decided
22 that because he's the Court's witness now and not a civil party,
23 then we should refrain from talking to him.

24 I just wanted to make that clear on the record. Thank you.

25 [09.28.04]

14

1 MR. PRESIDENT:

2 I notice the presence of the defence counsel. You take the
3 floor.

4 MR. KAR SAVUTH:

5 Thank you, Mr. President. Regarding the interview of Norng
6 Chanphal, which now the Co-Prosecutor would like to have its
7 submission before the Chamber, the defence counsel think it is
8 not appropriate for us to put the document before this Chamber
9 for questioning now.

10 The Co-Prosecutors actually received the statement from the
11 DC-Cam for almost six months and the defence counsel only
12 received the statement yesterday afternoon after four, after I
13 left. And only this morning that I had the statement in my hand,
14 so we do not have time to read the document

15 So in order to question in the Chamber, based on that document,
16 it has to rely on our understanding and reading and examination
17 of that statement. And if the defence counsel does not have the
18 time to read the document yet, then we are in a worse position if
19 we compare the position to the Co-Prosecutor, who has the
20 document in their hands for half-a-year already.

21 And on the second matter, regarding the two video clips, we
22 notice that the Co-Prosecutors request every day, every morning,
23 to include those video clips, and the President always reminds
24 the Co-Prosecutor that on an appropriate date they will discuss
25 the films, the videos, and that date would be informed to all

15

1 concerned parties. Another request is made again this morning,
2 so the defence counsel cannot support this request. Thank you,
3 Mr. President.

4 [09.30.51]

5 MR. PRESIDENT:

6 We note the presence of the international co-lawyer.

7 MS. CANIZARES:

8 Thank you, Your Honour. I would like to simply add one small
9 point in addition to what my colleague has just said.

10 We do not know under what the conditions the document referred to
11 in the Co-Prosecutor's first application -- under what conditions
12 it was drafted because it seems that the statement of the witness
13 was taken by people from an NGO and not by people under an oath
14 with ECCC.

15 MS. JACQUIN:

16 Good morning, Your Honours. Good morning, ladies and gentlemen.

17 I have a brief comment on this point.

18 It seems to me that the video document has been very freely and
19 publicly in circulation, so I think it would be very important
20 for this document to be shown to the witness so that he can truly
21 see this video and so that he produces his opinion, which may be
22 or not received and accepted by you, but this would make it
23 possible to do away with a certain amount of haziness that may be
24 perceived in the mind of the public. I think it is very
25 important for the witness, who is an actor in this video, to be

16

1 able to express his own opinion about this. This is very
2 important, I believe, to enlighten all of the participants in
3 this jurisdiction.

4 [09.32.48]

5 As regards the text of the interview, we too have become apprised
6 of it very late. Oral questions can be put to compensate for
7 this, but I do believe that this document is an important
8 document. It is, however, regrettable that it was handed over to
9 all of us -- or made known to all of us very late and, of course,
10 only in English. Thank you.

11 JUDGE CARTWRIGHT:

12 Ms. Jacquin, I thought you said "Only in English". It's also in
13 Khmer, as far as I'm aware. Is that not the position?

14 MS. JACQUIN:

15 Yes, Your Honour. We were not informed about Khmer, of course,
16 but there's some difficulty for us to have fluency in Khmer, so
17 we had access only to English and only belatedly. Thank you.

18 JUDGE CARTWRIGHT:

19 Well, as you know, the filing rules require two languages, one of
20 which should be Khmer. So it has been complied with, although it
21 is unfortunate that the third language is not available.

22 (Deliberation between Judges)

23 [09.35.42]

24 MR. PRESIDENT:

25 The Chamber has heard the requests made by the Co-Prosecutor

17

1 concerning the statement of the interview of the -- to give
2 testimony today -- witness; the statement dated on the 13th of
3 February 2009.

4 And the second request is concerning the videos, the two footages
5 of videos; whether they can be shown in public or in-camera
6 session so that the witness can authenticate it.

7 The civil party lawyers show their support, while the defence
8 counsel has expressed their objection regarding the legal aspects
9 of the presentation of such a video.

10 The Chamber would like to make an adjournment for 15 minutes to
11 retire to deliberate regarding the matter.

12 And we would like to apologize to Norng Chanphal for this
13 inconvenience, that he cannot be called to testify according to
14 the schedule due to the legal matters, and this matter has
15 nothing to do with his personality of the witness so I hope he
16 understands it.

17 So we would like to take a 40 minute adjournment -- 45, excuse
18 me.

19 MR. KAR SAVUTH:

20 Thank you, Mr. President.

21 I would like your permission to give you some comments that the
22 civil party said that they would like the video footage to be
23 shown since Norng Chanphal is here and that it is easy for him to
24 authenticate the video.

25 [9.38.17]

18

1 But previously when the Co-Prosecutor made such a request to show
2 such video footage was Norng Chanphal present, he was not there.
3 So I believe that maybe it would be better that the video footage
4 could be shown at a later date so Norng Chanphal can be here. He
5 can be called into the Court at any time the Chamber would wish
6 to do so.

7 Thank you.

8 MR. SMITH:

9 Mr. President, if I can just make one brief remark.

10 I didn't quite understand what the defence counsel stated, but
11 just to be clear, it's alleged and it's believed to be that Norng
12 Chanphal is in this video. It's quite clear, there's an eight
13 year-old, nine year-old boy that appears in the video, and it's
14 believed to be him.

15 MR. PRESIDENT:

16 We have already announced that we would take an adjournment so
17 that we can retire to deliberate on the pending request and also
18 to respond to the objections by the defence counsel, and we will
19 take 45 minutes starting from now, and after that duration then
20 the decision on the matter would be rendered.

21 (Judges exit courtroom)

22 (Court recesses from 0940H to 1027H)

23 (Judges enter courtroom)

24 MR. PRESIDENT:

25 The Chamber would like now to announce a decision regarding the

19

1 request of the Co-Prosecutors concerning the statement of Norng
2 Chanphal made by the DC-Cam, dated 13 February 2009.

3 The Chamber takes note of the filing of the statement of Norng
4 Chanphal to DC-Cam, dated 13 February 2009. The Chamber rejects
5 the request by the Co-Prosecutors to put this document before the
6 Chamber, according to Rule 87(4).

7 The reasoning: The statement was taken on 13 February 2009. The
8 Co-Prosecutors have been in possession of this document in the
9 Khmer language for several months and only filed it today. This
10 did not allow the parties, especially the defence, sufficient
11 time for preparation.

12 Regarding another request, that is, re: the two video clips, I
13 would like to give the floor to Judge Cartwright to provide the
14 clarification to the parties.

15 The floor is yours.

16 JUDGE CARTWRIGHT:

17 Thank you, Mr. President.

18 The Co-Prosecutors have requested the Chamber to allow them to
19 introduce two segments of video footage provided by the
20 Government of Vietnam to DC-Cam. This morning the Co-Prosecutors
21 renewed this application with the indication that this witness,
22 Norng Chanphal, would be in a position to authenticate the
23 segments of video footage.

24 The Trial Chamber notes that these segments of video footage are
25 on the case file and further notes that it is yet to decide

20

1 whether the video footage should be put before the Trial Chamber.
2 I want to clarify with the Prosecutors as to whether their
3 reasons for wishing the film footage to be put before the Chamber
4 remain the same. The original contention was -- and this was
5 repeated this morning -- that this is the only film footage known
6 to have been taken of Tuol Sleng so close in time to the period
7 when it was being used as a Democratic Kampuchean prison, and
8 this makes this evidence particularly important and probative.

9 [10.30.53]

10 The prosecutors also argued originally that the footage is
11 relevant because, first, it corroborates the testimony of
12 witnesses that children of arrested cadre were also brought to
13 S-21; and secondly, that the children seen in the film appear to
14 be in very poor health, supporting the charge that conditions
15 inside S-21 were inhumane.

16 So I would like to hear from the Co-Prosecutors first as to
17 whether those reasons remain the same, and secondly whether they
18 consider that there is already adequate testimony concerning the
19 two points made in support of the relevance of this video
20 footage.

21 MR. SMITH:

22 Thank you, Your Honour.

23 Your Honours, there is evidence of course in this case in
24 relation to the inhumane conditions under which children were
25 kept at S-21, and this evidence would be particularly supportive

21

1 or corroborative of that fact. And for that reason we would like
2 the footage to be included in the evidence.
3 However, the prosecution has additional reasons why this
4 particular footage is relevant and probative in this case, and
5 those particular reasons are that it's the best video material
6 that depicts S-21 at the time. As Your Honours are aware,
7 there's much photographs and video of S-21 at a later date when
8 the place was being manicured in terms of the front and the back,
9 but it provides the best evidence of the conditions under which
10 people were living under at the time. It provides evidence of
11 killings at S-21. As Your Honours would have seen from the
12 video, it provides evidence of more than four bodies being killed
13 at S-21 at the time the Vietnamese left, which is the defence
14 position.
15 [10.33.25]
16 It provides evidence of the detention conditions, the fact of
17 detention, the torture equipment, and the photography equipment.
18 It's the prosecution's submission -- more than what Your Honours
19 have put forward -- that the relevance of this video goes to
20 every aspect of this case and because it is video and is taken at
21 the time, it's the best evidence and the prosecution believes
22 that Your Honours should take that into account to determine the
23 truth of all of the different aspects of this indictment.
24 JUDGE CARTWRIGHT:
25 Thank you, Mr. Smith.

22

1 Well, the Trial Chamber repeats that it has yet to decide whether
2 to place this video footage before the Trial Chamber but at a
3 later stage, after this witness has given evidence, it may decide
4 to show certain short clips from it. But that is not determined
5 at this point. Thank you.

6 MR. PRESIDENT:

7 It is now time to hear the testimony of witness Norng Chanphal.

8 QUESTIONING BY THE BENCH

9 BY MR. PRESIDENT:

10 Q.Is your name Norng Chanphal?

11 A.Yes, it is.

12 [10.35.20]

13 Q.Have you got another name; for example, an alias?

14 A.No, Your Honour.

15 Q.Do you remember your date of birth? When were you actually
16 born?

17 A.I don't remember when I was born because I was too young, but
18 I know I was born in 1970.

19 Q.So how old are you now?

20 A.I am 39 years old.

21 Q.What is your father's name?

22 A.His name is Norng Chin.

23 Q.What was his occupation after the 17th of April 1975, and
24 where did he work?

25 A.Could you please repeat your question, Your Honour?

23

1 Q.After the 17th of April 1975 where did your father work and
2 what was his occupation?

3 A.I was so young and I did not know what did he do back then.

4 Q.Do you know where your father and mother were born?

5 A.I don't remember where my father was born, but I remember
6 where my mother was born.

7 [10.38.06]

8 Q.What is your mother's name?

9 A.Her name is Mum Yaul.

10 Q.Did she have other names other than Yaul?

11 A.People would call her Grandmother Ak.

12 Q.After the 17th of April 1975 what was your mother's occupation
13 and where did she live?

14 A.After 1975 I was so young back then but I knew we lived in a
15 cooperative in Treng Trayeang, Phnom Sruoch, Kampong Speu. My
16 father worked as the railway worker.

17 Q.How many siblings do you have; how many boys and how many
18 girls?

19 A.I have seven siblings, three girls, four boys. I went with my
20 mother to Tuol Sleng with my brother, younger brother.

21 Q.Before 1978 where did you live?

22 A.I lived in the same village as I just mentioned earlier, in
23 Treng Treyeong village, Phnom Sruoch district, Kampong Speu
24 province in a cooperative in which there was a workshop where
25 timber would be made to use for the railway purposes.

24

1 [10.40.57]

2 Q.In 1977 and '78 did your parents have different jobs or did
3 they have the same occupation?

4 A.My father was a Khmer Rouge cadre at that timber workshop
5 while my mother was a normal farmer.

6 Q.Do you know that your father was separated from your family
7 and when did he depart from you?

8 A.The President, could you please repeat your question?

9 Q.Could you please recall -- I know you were young back then,
10 but in 1977 you were about seven years old and you were eight
11 years old of course in 1978 and you were too young back then.
12 Could you please recollect the memory of the time when your
13 father was separated from you and in which year did he depart
14 from the family?

15 A.I was too young back then and I don't know when he was
16 separated. I knew that he was sent a letter in which the letter
17 read that he would be needed to work in Phnom Penh, and my uncle
18 came to tell my mother that my father was needed in Phnom Penh.
19 I don't remember when exactly it was.

20 And later on my mother would be taken also.

21 Q.Do you remember when your mother and you and your younger
22 brother were taken to Phnom Penh? In which year were you invited
23 by them? And between the time when your father was sent to Phnom
24 Penh and when you and your mother and your younger brother was
25 sent, so how long was it between this interval?

25

1 A.I'm not sure I remember it. I was too young. When my father
2 was taken to Phnom Penh my mother would be waiting for him to
3 come back, but my mother kept telling me that it would be at
4 least three months before he could be returned. But then after
5 those months then they came to take us too.

6 [10.45.19]

7 Q.Can you tell us the name of your younger brother?

8 A.The brother name Norng Chanly, alias A Let. He's my brother,
9 my younger brother, of course, who went with me to Phnom Penh.

10 Q.Norng Chanly, alias A Let, how old is he? Is he your
11 second-youngest brother or what?

12 A.He is four years younger than me. He comes seven -- I count
13 -- six in the family.

14 Q.Can you also recall when you went to Phnom Penh how did you
15 get to Phnom Penh, and in which locations did you stop to break
16 or to stay before you were sent to S-21 Office?

17 A.I can remember it. At that time, there were two Jeeps that
18 came to take my mother, and there were two females with -- two
19 female persons with two babies. I could see the babies were
20 being carried in their arms. So all together there were five
21 children, including me and my brother and my mother and the other
22 two women on the jeep.

23 Q.You were being transported from Phnom Sruoch to Phnom Penh.
24 When was it?

25 A.We were transported during the daytime.

26

1 Q.Were you taken into S-21 Office in the first place or were you
2 put to stay somewhere else for a while before you were being
3 transferred to S-21?

4 [10.48.33]

5 A.I arrived at Phnom Penh and we stayed at the train station so
6 far as I remember for three days. My mother had developed some
7 kind of disease which resulted in her legs swollen, and she had a
8 kettle to boil some traditional medicine to cure herself, but she
9 was warned not to cook such things inside that location.

10 Q.When you and your mother were transported to S-21, how were
11 you transported and when?

12 A.So far as I remember, in the evening of the 3rd day, I and my
13 mother would be taken on the same Jeep into the Tuol Sleng Prison
14 at about dusk.

15 Q.Can you recall the episode when you were being transferred and
16 when you arrived first at S-21, known as Tuol Sleng Prison?

17 A.When my Jeep that took us to that location, I and my brother
18 were happy because we could ride on the Jeep, but then we were
19 threatened and my mother was forced to get off the Jeep and she
20 was not very well, and they shouted and threatened her and I was
21 also terrified.

22 Q.What happened next?

23 [10.50.59]

24 A.Then we were sent into the office and there was a room with
25 the white wall and there was a camera and my mother was put to

27

1 sit down and his (sic) photo would be taken, and she would be
2 given a number for such photography.

3 Q.What happened next to her and how was she treated?

4 A.And I noticed that they pushed her and threatened her because
5 she'd never been taken any photograph before and it was very
6 uneasy for her, and then they pushed her back-and-forth and I was
7 terrified.

8 Q.Mr. Chanphal, could you please console yourself. It is the
9 best opportunity for you to reveal what had happened to you and
10 to your family.

11 And you can, of course, tell the Court about the events you and
12 your family had come across so that the Chamber have the basis to
13 explain, to discuss, and to make decision based on your testimony
14 in our decision. So, please, make sure that you control your
15 feeling and be strong.

16 The lawyer, we note your presence.

17 MR. WERNER:

18 Your Honour, sorry for interrupting, I would just request the
19 Chambers to ask the witness if he would need just a few minutes,
20 maybe, to compose himself outside. And I understand your concern
21 about not wasting time and we share this concern, but if it's a
22 matter of five minutes for this witness to compose himself and
23 just have a short break, we believe that would be appropriate.

24 Thank you.

25 [10.54.09]

28

1 MR. PRESIDENT:

2 Mr. Norng Chanphal, would you like to have some moments so that
3 you can relief from the emotion or could we proceed further?
4 Would you like to take five minutes break so that you can
5 re-compose yourself or do you think that after five minutes then
6 you would be -- end up with the same emotion again?

7 MR. NORNG CHANPHAL:

8 We can proceed further, Your Honours.

9 BY MR. PRESIDENT:

10 Q.After she was being photographed, how would she be treated,
11 and how would you and your brother be treated?

12 A.When my parents lived in the co-operative, they respected
13 them. They called them Uncle or Auntie, but then when we reached
14 the prison, we did not know that it would be the prison. And I
15 was terrified when I experienced the episodes. And we were taken
16 to the second floor -- the second room of the second floor.

17 Q.Were you all taken in group to that room or what happened?

18 A.We would be taken all together, including the other two women
19 and the children, into that common room. The door was unlocked
20 and then we would be put in and then the door was locked.

21 [10.56.25]

22 Q.In that detention room, how long were you put with your mother
23 before you would be let out into downstairs?

24 A.We spent overnight in that room and in the next morning the
25 young children, including I and my brother, were sent to the back

29

1 the rear of the building into the workshop and we could see some
2 of those working at the workshop, the carpenter and the other
3 artists.

4 Q.After you were separated from your mother, have you ever seen
5 her again?

6 A.During the last day while I was playing outside -- of course
7 we were looked after by a woman. I could see her on the second
8 floor holding her hand on the bars of the window, looking at me.
9 And she did not even say a single word to us.

10 Q.Mr. Norng Chanphal, could you please be reminded that you
11 should recompose yourself. Please be strong because this is the
12 best opportunity you can share the sufferings of yours and what
13 happened to your parents during the regime of the DK.

14 [10.58.52]

15 If you can not control your emotion and not able to express your
16 suffering and the episodes you witnessed, especially the inhuman
17 acts, which had been inflicted on you and your family, then you
18 would not be able to tell the Court. Although the trial should
19 be adjourned for you to recompose yourself, we still can not hear
20 your testimony because after all you will not be able to tell us
21 and then the inhuman acts and the crimes committed toward your
22 family would not be revealed.

23 So please recompose yourself and control your emotion and be
24 strong, and try your best to recollect all the events happened to
25 you.

30

1 We hope after you can share your feelings or you get something
2 out of your chest, then you would be relieved.

3 After you saw your mother looking through the window bars -- you,
4 your younger brother and the three children who were with you --
5 where did you sleep and how was the food?

6 A.We slept behind the workshop, all the children with one elder
7 woman who looked after us. We ate gruel. They cooked a pan of
8 gruel for us to eat, so the food was normal.

9 Q.How many times per day did you and the other four children
10 were fed?

11 A.We had two meals per day.

12 Q.And at night time, where did you sleep?

13 A.It was still at the back. It was behind the prison. It was
14 in the workshop.

15 [11.01.27]

16 Q.What about the woman who looked after you? Did she stay there
17 with you?

18 A.I could not recall.

19 Q.When you needed to have a shower or bath, where did you take
20 it?

21 A.I cannot recall. I don't think I ever had any bath at the
22 time.

23 Q.You lived in the condition as you described after you were
24 separated from your mother. You were in the workshop behind the
25 building where they detained your mother. How long did you stay

31

1 there? Can you try to recall, was it a long time or not?

2 Because you just said at that time you can not recall. It was
3 probably in '78 and at that time you were eight years old and
4 your younger brother Let, he was four years younger than you so
5 he was either three or four years old at the time.

6 So the condition of a young child like that demanded the proper
7 care from an elder person like a mother, but the situation you
8 described, the five of you including very young children, as you
9 said, and the Chamber really wants to know what really happened.
10 So for the younger children, how did they live? What were their
11 conditions? And what about the night time; how did they sleep?

12 A.I can not recall how long I was there. From what I
13 understand, it was not that long because we stayed there behind
14 the building and there were a lot of mosquitoes. If I were there
15 long, probably I would be sick and died. I stayed in the
16 workshop probably not that long.

17 [11.04.06]

18 Q.And the food that you were given, including the other four
19 children, that was also including your younger brother -- were
20 you given food every day?

21 A.We were given food almost every day. Only on the days of the
22 attack -- at that time there was gruel but the gruel had a very
23 bad smell, but I had to force myself to eat that gruel.

24 Q.And after that, what happened to you? I meant on Liberation
25 Day, what happened to you?

32

1 A. Could you please ask me again, Your Honour? I don't
2 understand your question.

3 Q. What happened to you on the day the Khmer Rouge forces left
4 the location and only you and the other four children left behind
5 and that you had to eat the very bad smell gruel. What happened
6 to you on that day at that time?

7 A. I observed it was as usual but on that day in the Tuol Sleng
8 prison there seemed to be a rush and the back entrance of the
9 prison was wide open. And I was behind. I was looking and
10 waiting to see my mother. For that rotten gruel, we just had to
11 eat and sometimes I had a stomach ache.

12 Q. When did you meet other people after the people at the S-21
13 office fled away?

14 A. Within the prison compound it was quiet. Then I heard the
15 shelling. I heard a loud noise of shelling. And then I saw
16 soldiers in Vietnamese uniform, and one person spoke Khmer and
17 the other soldier did not speak Khmer he spoke Vietnamese, and
18 the guy who spoke Khmer asked me whose my father and I was
19 hesitant at the time, I wanted to run away, and I told them that
20 I was not the son of Pol Pot, I had my own mother and father.

21 Q. After you met those people what happened next? What time was
22 it when you met those people?

23 A. Because of the loud noise of shelling I was horrified so I
24 cannot recall the hours, but it was during the daytime.

25 So after I told them that I was not a son of Pol Pot and that I

33

1 had a father named Ta Chin and that my mother's name Yaul.

2 [11.08.30]

3 Q.What did those people do to you next?

4 A.After they noticed that we did not eat for quite some time and
5 we only forced ourselves to eat the muddy gruel, then they cooked
6 rice for us and I didn't know where they had the rice. They
7 actually killed the duck in the kitchen and cooks the duck for us
8 to eat.

9 Q.So after that meal what happened?

10 A.After we ate meal my younger brother also ate but the other
11 two children who slept on the bed they could not eat so even if
12 when I tried to give them water they could not take the water,
13 and then there were ants running into their mouths and their ears
14 and I tried to put some water through their mouth.

15 Q.What about those people who came to meet you and cook rice for
16 you and kill a duck for you to eat, did they stay with you that
17 night after they prepared and cooked food for you?

18 A.After they cooked the food they left hastily. And the boy who
19 was very sick he almost died.

20 And after that night then troops, Vietnamese and Cambodian troops
21 entered the building and they took us away.

22 [11.10.47]

23 Q.So during that whole night after you ate rice you were living
24 in a situation only among the five of you, and those who cooked
25 the food for you after that they left, and only next morning that

34

1 you saw the soldiers and they came to meet you. Is this correct?

2 A.Yes. They took us from Tuol Sleng, and the child who was very
3 sick he already died because the ants came through the ears and
4 the mouth and the nose, and the other two children they became
5 very weak too. So we were all taken away from the Tuol Sleng
6 Prison and we were taken to a hospital.

7 Q.So there were five of you and one was sick and died that
8 night. So when the Vietnamese soldiers came that one child died
9 and another child was very weak. Is this correct?

10 A.Yes. After that child died then we were taken to a hospital,
11 to a municipality maternity hospital, if I could recall. So then
12 they got the IV injections, even my brother, only I had the
13 strength to walk.

14 Q.So there were five of you, first you yourself and then there
15 was your younger brother Norng Chanly, alias Let, and the third
16 child, boy or girl, and how old?

17 A.From what I can recall, so after one died there were four of
18 us, I was the elder and then my younger brother, then there was a
19 girl, she was younger to me too, she was like three years old and
20 she could walk and she could understand what I said.

21 Q.So there were three already. What about the other one, the
22 first one?

23 A.Let me clarify it. I myself, then my younger brother, then
24 there was a young girl who could walk, and another one was the
25 younger sibling of that girl and he was a boy. I did not know

35

1 the names of that girl and that boy.

2 [11.13.52]

3 Q.What about the child who died, how old was the child, roughly?

4 A.The child was very young, because at that time he was still
5 breastfed. I could not say how old the child was.

6 Q.The people who came to take you, you said in the morning, how
7 many of them? Were they all male or female or a mixture of both
8 male and female, if so, how many?

9 A.The soldiers who came to take us there were several of them, I
10 could not recall. I was not happy to see so many people. I was
11 horrified. I could recall that if I stayed there then my mum
12 could find me, and if I left with them my mum would not be able
13 to find me.

14 Q.The two people who first came to meet you and cook the food
15 for you -- so there were two of them, and were they in uniform;
16 were they all male or female?

17 A.From what I can recall, they were all male. One could speak
18 Khmer and the other one did not speak even a word of the Khmer
19 language, and they dressed in military khaki uniform. And now I
20 know there was just the khaki uniform.

21 [11.15.54]

22 Q.I want to make it clear on this point. On the chaotic day,
23 that is the day before the 7th of January 1979, or before you met
24 the two men who cooked the food for you, what was the living
25 condition -- your living condition and why you did not leave that

36

1 location? Where did you stay or hide so that the prison guards
2 did not kill you?

3 A.I didn't know where I escaped because I stayed behind the
4 building during the confusing situation. One person ran outside
5 but because I thought my mum was on the second floor of that
6 building and she knew where I was and if my mum could come out,
7 then she would come to look for me behind a building. And I did
8 not think of trying to flee or to run to anywhere else. I went
9 behind those piles of clothes and the broken furniture which was
10 piled to a corner.

11 Q.How many of you were there near that building, or all of you
12 were there, the four of five of you, or only you?

13 A.I ran to hide behind the broken furniture and the pile of
14 clothes. There were only three of us; those who could walk, and
15 the one who was really sick and the other child who was also
16 sick. I could not carry them and I only used a piece of cloth to
17 cover them. So I, my brother and another child went to hide
18 behind that pile of clothes.

19 [11.18.11]

20 (Deliberation between Judges)

21 MR. PRESIDENT:

22 Mr. Norng Chanphal, can you continue or you want to take a break?

23 MR. NORNG CHANPHAL:

24 I would like to take a break because I find it's very hard to
25 recall and to answer to your questions. I can only recall some

37

1 parts and only tell you what I can recall.

2 MR. PRESIDENT:

3 That is appropriate because what you do not know and what you
4 cannot recall, you don't have to say it. You can only say what
5 you can recall and what really happened. And because it has
6 happened for -- about 30 years ago, also at that time you were
7 very young, only eight years old or probably seven, so the
8 Chamber doesn't really force you to answer all the questions. We
9 only ask you based on the events and the facts that happened to
10 you, based on your complaint and some information in the case
11 file.

12 So based on that information, we formulate our questions and put
13 to you. That's why the Chamber is careful in asking you
14 questions, and it is up to you and your ability to provide the
15 information that you encountered at the time.

16 Now you need a break, right?

17 MR. NORNG CHANPHAL:

18 Yes, Your Honour.

19 MR. PRESIDENT:

20 We will take a 10-minute break so that the witness can console
21 himself and re-collect himself before he can continue to provide
22 his testimony.

23 (Judges exit courtroom)

24 (Court recesses from 1121H to 1134H)

25 (Judges enter courtroom)

38

1 [11.34.50]

2 MR. PRESIDENT:

3 Please be seated.

4 BY MR. PRESIDENT:

5 Q.Mr. Norng Chanphal, can you recall when there was the chaotic
6 situation and then an auntie asked you to go to the rear of the
7 prison but you insisted that you would wait to search for your
8 mother, and that you told us that there were two people, one
9 could speak Khmer and the other could not speak Khmer and that
10 they cooked the meal for you? Could you tell us how long was it
11 between the day when you were cooked a meal and then when you met
12 these people?

13 A.When the woman asked me to leave the prison the gates were
14 open but I did not want to go and she insisted that I leave.
15 Then I tried to hide near the pile of clothes. But later on she
16 left and I did not know the date; maybe the next day or the day
17 after tomorrow. Then there were two soldiers and we were sitting
18 back there and we were so scared of the bombardments, and then
19 the two people asked me about the story that I already mentioned
20 earlier.

21 Q.Please tell us about the duration between the time when you
22 were asked by the woman to leave the premises and that you would
23 like to search for your mother, and the time when the two
24 soldiers came to ask you the question. During that period of
25 time, were you given any food or how did you eat? What kind of

39

1 food did you eat?

2 A. Could you please make your question shorter, Your Honour,
3 because I find it rather difficult to start to respond to which
4 question first, because there are too many questions.

5 Q. During the time the chaotic moment when everyone left Tuol
6 Sleng and then two people you said were soldiers who came to cook
7 food for you, during that interval, what food did you eat?

8 A. During that time there was gruel left in the big bowl.
9 Although it went mouldy, I could make use of that gruel but the
10 other young children could not eat it because it was spoiled.

11 [11.38.53]

12 Q. When the soldiers came to take you and other survivors, the
13 other three children, including your brother -- where did you
14 leave from that location, into which direction?

15 A. When the soldiers came and take us out, we went through the
16 gates but I don't know whether we went to the left or to the
17 right side of the front gate.

18 Q. So that front gate was to the east of the building, or to the
19 west?

20 A. I think it was the east gate.

21 Q. When you were taken by the soldiers along with the other
22 children, were you taken to visit other rooms or other buildings
23 or you were just taken away, right away from the place where you
24 would have stayed to the east gate directly?

25 A. We were not made to visit any other locations, because we were

40

1 in a very critical condition because the other kid was breathing
2 heavily, breathing heavily and that the health condition was
3 severe that we needed to be taken to the hospital immediately.

4 Q.At that time, did you inspect or observe other episodes at
5 that location?

6 A.I noticed that it was very quiet in the compound, in the
7 vicinity, but there were severe bombardments and I did not really
8 seek refuge in the buildings because I was afraid that the bomb
9 would be dropped on those buildings.

10 [11.41.33]

11 Q.Did you see people die while you were leaving -- I mean, the
12 dead body?

13 A.When the woman asked me to leave and then I did not go with
14 her, then she left, then I saw the open gate, then I went to
15 climb upstairs to the second floor to see the open door, but I
16 could not find my mother.

17 Then I ran to the next building and I saw people lying inside the
18 room and maybe they died, although they were not swollen. I
19 could see them lying on the beds and there were blood and I was
20 scared and then I kept running and crying for mother, searching
21 for mother. I was scared when I saw a person who was chained to
22 the bed lying there.

23 Q.Have you got any evidence to tell us that your father was
24 arrested and killed at Tuol Sleng?

25 A.I don't know for sure, but my father was sent and my mother

41

1 was told that he would be sent to Phnom Penh when he worked in
2 the cooperative. And later on my mother would be taken with me
3 and my brother along to Phnom Penh, as I already mentioned.

4 Q.We are asking these questions because we would like to know
5 further information; for example, the photographs should have
6 survived and some other documents should survive that can be used
7 as the evidence.

8 [11.44.10]

9 For example, you said that when your mother entered the location
10 then her photo was taken from the front and from the side, for
11 example. And that when your father got lost, and whether he had
12 left any trace of information so that you can use as a proof that
13 he would have been killed at the S-21.

14 Have you obtained any piece of information as I mentioned?

15 A.After the Liberation Day, I was looking for the photo of my
16 father but I could not find it. And recently I searched for the
17 history of my father and people told me they found his biography
18 -- Norng Chin who was sent from the location when he worked as
19 the carpenter. And there is nothing more.

20 Q.We should move back a little bit.

21 When you said in the morning, after your meal, that the soldiers
22 came to see you and took the children out, and among the five
23 children, one was hurt by the ants. So how were you treated by
24 the soldiers, or was the dead body of that young kid buried there
25 or left alone in that location?

42

1 A.The soldiers came to take us and they used a piece of ragged
2 cloth to cover the dead body of the young kid to be buried near
3 the workshop.

4 [11.46.50]

5 MR. PRESIDENT:

6 Do other Judges of the Bench have any questions to be put to the
7 survivor?

8 The floor is yours, Judge Silvia Cartwright.

9 JUDGE CARTWRIGHT:

10 Thank you, Mr. President.

11 BY JUDGE CARTWRIGHT:

12 Q.I know this is a very long time ago and you were very young
13 and it's very hard to talk about it today, but I just want to ask
14 you one or two questions to clarify some things for me. You were
15 taken to a hospital by the soldiers and you think it was a
16 maternity hospital. Is that right?

17 A.It is right. Actually at that time I was taken to that
18 hospital. I did not know the name of that hospital earlier but
19 then when I was sent to live in the orphanage and when I worked
20 -- I went to the Olympic Stadium. I saw that hospital once I was
21 hospitalized. It was the maternity hospital.

22 [11.48.28]

23 Q.So after you were at the hospital you were sent to live in an
24 orphanage near the Olympic Stadium. Is that correct?

25 A.Grandfather Chenda asked that the Vietnamese give me to him so

43

1 that he could take care of me, and next to his house there was a
2 widow with two children. Then I wouldn't be kept with her so
3 that she could look after me also.

4 Q.And what about your little brother? Did he go with you too?

5 A.My young siblings were not taken with me to Grandfather Chenda
6 because they were -- I went alone.

7 Q.Now I just want to go back to when your mother and you, your
8 little brother, the two women and the other children were taken
9 from the train station. Were you all together in the Jeep as you
10 went away from the train station?

11 A.It is true that during the late afternoon we were put on the
12 Jeep along with the women and the children. However, I don't
13 remember whether the same person would be the same driver who
14 took us to Tuol Sleng Prison.

15 Q.And you said that you got to the prison at about dusk. Is
16 that correct?

17 A.That's correct, Your Honour.

18 [11.51.10]

19 Q.And are you able to tell me how you knew it was Tuol Sleng
20 Prison?

21 A.At the beginning I did not know it was Tuol Sleng Prison, but
22 when the Vietnamese troops took us out I did not yet know that it
23 was Tuol Sleng Prison but when Grandfather Ta Keo Chenda took me
24 to Samdech Hun Sen's house and then I could not even be polite to
25 Samdech Hun Sen. That's why Samdech asked that I would be put

44

1 into the orphanage, so that I could be well raised.

2 So far as I know, I attended the orphanage near Ang Eng school
3 and then I walked from that location and I could recognize the
4 fence of the place where I would stay with my brothers, and later
5 on people told us that it was Tuol Sleng Prison.

6 Q.When the Vietnamese came to the prison, do you remember any
7 photographs being taken or any films being taken?

8 A.I was not sure I could remember it because I saw a lot of
9 people armed and we -- I noticed soldiers who were not the same
10 as the Khmer soldiers and I did not know whether photos or film
11 were being taken. I only remember that we were taken from Tuol
12 Sleng prison at that time.

13 Q.So just to clarify finally: the Vietnamese soldiers took you
14 and the other children to a hospital. How far away from the
15 prison was that hospital? Did it take you just a few minutes?
16 Did it take you hours to get there? How long did it take to get
17 to the hospital?

18 A.Actually I don't know how long did it take to travel to that
19 hospital.

20 [11.54.08]

21 Q.Did you have to stop somewhere overnight before you reached
22 the hospital? Did you have a meal before you reached the
23 hospital?

24 A.We did not have any meal; only when we reached the hospital
25 that food was given to us, and my little brothers could not eat.

45

1 They could only get some water and they also were put on the
2 intravenous. The other brother who was seriously sick could be
3 seen on the drip and receiving some water.

4 Q.And when you were taken to the orphanage, was that very far
5 from the hospital?

6 A.After the Liberation Day I could understand the location of
7 Phnom Penh, and from the hospital to the orphanage is not very
8 far. It takes us about 30 minutes going there by a motorcycle.

9 Q.Thank you very much, and thank you for coming today to tell us
10 what happened to you.

11 JUDGE CARTWRIGHT:

12 President, I have no further questions.

13 MR. PRESIDENT:

14 Judge Lavergne, you take the floor.

15 [11.56.15]

16 BY JUDGE LAVERGNE:

17 Q.Good morning, Mr. Norng Chanphal, and I too wish to thank you
18 for being here with us today. I have a few questions seeking to
19 clarify certain points in what you have stated.

20 If I understood correctly what you have already said, you have
21 explained that when your father left for Phnom Penh he had
22 written a letter to your mother. Is this what you said this
23 morning?

24 A.My father did not write a letter to my mother, but someone
25 sent him a letter in which -- in the letter it was suggested that

46

1 he would be invited to go to Phnom Penh. My uncle actually saw
2 this irregularity in the situation. He came to my mother and
3 told her about my father being invited into Phnom Penh.

4 Q. So if I understand correctly -- and at the time you were only
5 five years old -- if I understand correctly, your recollection is
6 that your mother received a letter from an unknown person
7 informing her that later on she would have to come to Phnom Penh.
8 Is this correct?

9 A. There was no letter sent to my mum. Later I asked my mum -- I
10 asked my mother about my father, when he would return, and my
11 mother told me that she did not know and they were waiting for my
12 father.

13 [11.58.51]

14 Q. When you were brought away in the Jeep with your mother and
15 the other people and you indicated that they were brought to a
16 station, a train station, do you remember the place where this
17 train station was located? Was it near the place you were
18 arrested or was it somewhere else?

19 A. I can recall that in the railway station when I was sent from
20 Kampong Speu. I and my mother and the two women and the five
21 children were placed in that railway station. There was a train
22 facing to the east, from what I can recall. And later on when I
23 rode a bicycle passing by, I could recognize the place where I
24 stayed in that railway station.

25 I remember at that time my mother asked the guard there to cook

47

1 some herbal medication for her swollen legs, but she was told
2 that she could not make any fire there because it was the railway
3 station. And from what I can recall, it was this Phnom Penh
4 railway station.

5 Q.So you were all brought together to this train station, and
6 then maybe there was another driver who brought you from the
7 station to a place that you identified later on as being Tuol
8 Sleng. Is that so?

9 A.I do not remember the driver and those soldiers, but I thought
10 at that time because we were just children, and when we were
11 riding on the Jeep we were very happy. We did not think that we
12 would be taken to a horrifying place; we were just happy to hop
13 along on the Jeep.

14 [12.01.40]

15 Q.Do you remember that you received any kind of information?
16 Were you told, for example, that you were going to meet your
17 father again? Did you get any kind of information?

18 A.When they went to take my mother and my children, my mother
19 was told that they're going to take her to see my father. So I
20 was happy that I would go to Phnom Penh and meet my father but,
21 in fact, in Phnom Penh. until after the liberation and until
22 today, I have never see my father.

23 Q.When you arrived at Tuol Sleng so you explained that your
24 mother was photographed. Well, can you tell us when your mother
25 was handcuffed or was she handcuffed, and when did this happen if

48

1 so was the case?

2 A.I remember when they pushed my mother off the vehicle she was
3 not cuffed or shackled, and she was pushed into the rooms where
4 the photograph was taken, and she was not handcuffed. And later
5 on when she was sent to that building, she was also not cuffed.
6 And all of us were sent into that big room and then the door was
7 locked from outside.

8 Q.Do you remember that your mother was blindfolded or were you
9 blindfolded to hide your sight?

10 A.My mother was not blindfolded. I was also not blindfolded.
11 We were just led into the third building, the second room on the
12 second floor.

13 [12.04.38]

14 Q.When you say "the third building", do you think you would be
15 able to identify it? What does "the third building" mean for
16 you, exactly?

17 A.At that time, I was not sure what building it was, but I could
18 recall after leaving the room where it was photographed, when we
19 walked to the back we walked straight into that building, into
20 that room. And only after the liberation date, I went into the
21 place where my mother was detained and only later that I recalled
22 that building and it was the third building. It was in the
23 second room on the second floor of the third building.

24 Q.So if you returned to Tuol Sleng, when you face the main gate
25 of the current museum, is it -- are you speaking about a building

49

1 that's in front of you or that's on the side; what do you mean by
2 "the third building"?

3 A.I can recall until today, when I went in it was the building
4 to the right, and on the left it was the second building.

5 Q.So you are telling us that when you are at the entrance of the
6 current museum that it is a building that's on the right hand
7 side. Is that what I must understand; on the right hand side?

8 A.Yes, that is correct.

9 Q.So when you say you were on the second floor, is it the second
10 floor -- well, is the ground floor the first floor, or is it the
11 last floor of the building?

12 A.I can remember that. When I went through the stairs, first
13 there was a ground floor and then there was the first floor, and
14 then the other floor was the second floor. So the second floor
15 was actually the top floor of that building.

16 Q.In the cell where you were brought in with your mother, were
17 there other prisoners and were you and your mother also shackled?

18 A.I can recall that when my mother and myself were sent into
19 that big large room we were not handcuffed or shackled. When we
20 slept there, there was no mosquito net, so my mother used her
21 scarf to chase away the mosquitoes at night when I slept.

22 [12.08.51]

23 Q.And on the floor were there any kinds of metal stems, or do
24 you remember anything particular on the floor, or do you remember
25 anything?

50

1 A.I can remember that there were bars on the windows, and on the
2 floor where we slept, we slept on the tile floor and there was no
3 mat.

4 Q.So you were separated, if I understood correctly, the next
5 day; separated from your mother. Can you therefore describe to
6 us more specifically the place you were led to afterwards?

7 A.I can recall that after we slept for one night then the guards
8 -- I don't know how many guards -- asked us to go down, so I was
9 the first child to walk downstairs and we were all led into the
10 workshop to sit next to the pig pen.

11 Q.And were you shackled in that place? Did you have also
12 something to sleep on? Were there mattresses?

13 A.At the back at that location there was no mattress or pillow.
14 There was only wooden floor, a piece of large wooden floor, and
15 there were some old pieces of cloth. And we were looking after
16 by that old woman and we were not allowed to go anywhere, but we
17 were not shackled or handcuffed.

18 [12.11.41]

19 Q.Were there any hammocks?

20 A.I cannot recall if there was any hammock. I cannot recall
21 that. Probably I did not see one.

22 MR. PRESIDENT:

23 I think we now went over time. It's time for the lunch break,
24 so the Chamber will take a break for lunch and we will resume in
25 the afternoon starting from 1.30 p.m.

51

1 Court officer, can you make an arrangement to provide an
2 appropriate place and a meal?

3 Security officer, take the accused back to the room and bring him
4 back before 1.30 p.m. this afternoon.

5 The Court is adjourned.

6 (Judges exit courtroom)

7 (Court recesses from 1212H to 1333H)

8 (Judges enter courtroom)

9 MR. PRESIDENT:

10 Please be seated. The Court is in session.

11 We're going to continue hearing the testimony of Mr. Norng

12 Chanphal. I would like to know whether the Judges of the Bench
13 would wish to put further questions to the survivor.

14 The floor is yours, Judge Lavergne.

15 [13.33.57]

16 BY JUDGE LAVERGNE:

17 Q.Mr. Norng Chanphal, could you please tell us whether, in your
18 recollection, you were free to wander away from the place where
19 the children were kept?

20 You explained earlier that you were in a position to see a woman,
21 who was perhaps your mother, at the window of a room on the
22 second floor of the building.

23 Was it always possible for you to move about or were you
24 restricted to staying in a particular place and you were ordered
25 to stay in such a place?

52

1 A.When I stayed at the rear of the workshop I could look behind
2 and saw my mother, who was standing with her hands holding the
3 bars of the window, looking at me. I knew that she would want to
4 talk to me something but it was rather far from the place where
5 she was standing and from my location. I looked at her for a
6 moment and then I never saw her again.

7 Q.I'm not sure you fully understood my question.

8 Were you in a position to be able to move around or did you have
9 to stay behind the central building, or were you supposed to stay
10 in the place where you had been put? Were you supposed to stay
11 there all the time or did you have some freedom to move around?

12 A.At that time we could not move about, but then when the gate
13 of the prison was open and then the woman waved to us to get out,
14 it was that time that we could move around.

15 [13.36.53]

16 Q.So it is at that moment when the gate was open -- it's at that
17 moment that, according to your memory, you remember seeing that
18 woman at the window of the second floor, or is it at some time
19 before the opening of the gate that you remember seeing your
20 mother at the window?

21 A.Your Honour, I think I don't understand your question.

22 Actually I saw my mother, but the other woman was a different
23 woman who actually called me out and I did not want to go with
24 her. Could you please ask your question again?

25 Q.Let me try and be clearer. We are talking about your mother

53

1 on the one hand, and on the other hand another woman who asked
2 you to leave and you refused to leave. In your recollection do
3 you remember having seen your mother before the time when the
4 other woman asked you to leave, or did you see your mother after
5 the moment when that second woman asked you to leave?

6 A. When I saw my mother that moment the gate was still closed.
7 Only when she disappeared, and later on, far later on when the
8 second woman who -- when the opportunity of the gate was open,
9 asked me to leave with her. And my mother was detained and I saw
10 her long before that.

11 [13.39.14]

12 Q. When you were behind the building did you ever have an
13 opportunity to see other people than the guards? Did you hear
14 anything? Did you hear people screaming, weeping, crying? Is
15 there anything particular that you heard?

16 A. I don't remember very well; it has been a long time ago. I
17 heard some sounds and I tried to locate where the sounds would
18 have come from but I could not find the person.

19 Q. I have one last question for you. This morning, if I'm not
20 mistaken, you said that the group of siblings or of young
21 children -- the group of your siblings was made up of seven
22 children. So were there seven children making up the group of
23 siblings? And have some of your brothers and sisters survived
24 and have you had any news of them since then?

25 A. I have seven siblings but only I and my little brother came

54

1 along with my mother. The other five siblings were in the
2 co-operative and they still survive as the other people who
3 survived the regime, except the eldest sister who was perished
4 during the regime.

5 Q.Thank you very much, Mr. Norng Chanphal.

6 JUDGE LAVERGNE:

7 I have no further questions for the witness.

8 [13.41.48]

9 MR. PRESIDENT:

10 Judge Thou Mony, you take the floor.

11 JUDGE THOU MONY:

12 Thank you, the President.

13 BY JUDGE THOU MONY:

14 Q.Mr. Norng Chanphal, can you confirm that when you saw a woman
15 you claimed was your mother standing near the window, how many
16 times did you see her?

17 A.When I was separated from her to the rear workshop I saw her
18 once only from the place where I was to her on the second floor
19 next to the window.

20 Q.How long was it -- I mean, from the day that you saw your
21 mother last to the date when the woman called you to leave S-21?

22 A.I saw my mother before she called me to leave prison and I
23 never saw my mother again. And regarding the woman who called me
24 to leave the prison, she did call me only when the situation in
25 the prison was calm, and then the gates were open and then she

55

1 would call me out.

2 Q.Can you tell us how many days or months between this interval

3 -- I mean, from the date the woman -- you saw your mother and the

4 date when the woman called you?

5 A.I don't remember because I was too young. I cannot tell you

6 whether it was soon or longer.

7 [13.44.14]

8 Q.Another question: when you said there were Vietnamese

9 soldiers and some Khmer people who took you from S-21 and brought

10 you to the hospital, were you taken to the hospital the same day

11 when you were taken from the prison?

12 A.Two soldiers came and cooked a meal for us and the next

13 morning, or maybe the day after, there were more soldiers

14 wandering around the compound and many would be visiting the

15 prison compound.

16 Q.Please tell us, when you were taken to the hospital was it the

17 same day when you were being taken from the prison?

18 A.Of course we were taken to the hospital right away from the

19 prison because the kid, the young kid, was in severe condition

20 and did not have enough food.

21 Q.When you stayed at the hospital how long were you there before

22 being discharged?

23 A.I don't remember the date. We went there and stayed in the

24 hospital and I saw some wounded soldiers and civilians and the

25 Vietnamese, and the soldiers withdrew from the hospital to be

56

1 stationed at Dangkao area, and I also followed them.

2 [13.46.39]

3 Q.How long did you stay with the Vietnamese soldiers; how many
4 months or days?

5 A.I don't remember the date or the duration but I did not stay
6 long with the Vietnamese soldiers because they would be moving
7 from one place to another. And Grandfather Keo Chenda asked that
8 I be taken to live with a woman who has two children and then he
9 would put me to study at Wat Koh School.

10 JUDGE THOU MONY:

11 Thank you. Mr. President. I have no further questions.

12 MR. PRESIDENT:

13 Judge Ya Sokhan, you take the floor.

14 JUDGE YA SOKHAN:

15 Thank you, Mr. President.

16 [13.47.37]

17 BY JUDGE YA SOKHAN:

18 Q.When you were at the kitchen did you know the person named
19 Grandmother Soh

20 A.I don't remember a lot and I don't know whether she was a
21 cook. I did not ask her any questions so I did not know her
22 name.

23 Q.When you were at the kitchen did you meet two children who
24 claimed to be the children of Cheng On, maybe the children the
25 same age as yours?

57

1 A.I think I did not see any other children other than the five
2 of us. And an elderly woman was looking after five of us and I
3 did not remember seeing other children around.

4 JUDGE YA SOKHAN:

5 I have no further questions. Thank you, Mr. President.

6 MR. PRESIDENT:

7 So next we would like to give the floor to the Co-Prosecutors.

8 MR. TAN SENARONG:

9 Thank you, the President.

10 QUESTIONING BY THE CO-PROSECUTORS

11 [13.49.30]

12 BY MR. TAN SENARONG:

13 Q.And thank you very much Mr. Norng Chanphal for coming here to
14 testify about your suffering and story and accounts.

15 My first question is, when did you know that the ECCC is
16 established?

17 A.I don't remember it very well because I worked far from this
18 location, but I learned from -- I learned later that my
19 application was received late, after the deadline.

20 Q.Thank you.

21 The second question: have you ever been interviewed by the
22 DC-Cam?

23 A.Yes, I once was interviewed by the DC-Cam and I have been also
24 interviewed by other journalists who asked me about the accounts
25 of Tuol Sleng and other events. But later on I could not manage

58

1 to meet more journalists and it made me file the application too
2 late also.

3 Q.Thank you very much.

4 The third question: have you ever seen the videos taken by the
5 Vietnamese soldiers when they entered Phnom Penh and when they
6 went to Tuol Sleng museum?

7 A.I did not learn that there were such video filming because
8 when I lived with Grandfather Keo Chenda in the orphanage, I did
9 not know anything about the movie. Only recently, that I learned
10 that the video was in the possession of the DC-Cam and I learned
11 from CTN and they came to interview me in Kampong Speu province
12 too.

13 [13.52.03]

14 Q.Thank you.

15 In the movie, have you noticed that your picture -- you appeared
16 along with your little brother and other people you mentioned in
17 that video footage?

18 A.I saw them and other children in the movie and the one little
19 boy who died already he has died. I would like to rephrase it.
20 I saw I myself and my little brother and other people in the
21 movie, but when we left there were only four of us left while one
22 of the kids was adopted -- or two of the kids were adopted by the
23 Germans and the other were refuge at the hospital.

24 Q.Thank you very much. If I show you a photo that I have taken
25 from the movie to show to you, can you point to the picture to

59

1 identify which one is your photo and your little brother who
2 survived the regime? Could you do that?
3 No, not the video footage. It's only a photo taken from the
4 segment of the videos. And we would like you to prove whether
5 you know that the picture taken by the Vietnamese troops belongs
6 to you. I mean, I would like only to take the picture, not the
7 video footage itself to show just a few children.

8 MR. PRESIDENT:

9 The defence counsel, we note your presence. The floor is yours.
10 [13.54.23]

11 MS. CANIZARES:

12 Mr. President, it seems to me quite intolerable to have -- be it
13 only one -- photo accepted from the video footage to be shown
14 right now since your jurisdiction earlier on stated that it had
15 not yet produced a ruling on the issue of deciding whether the
16 footage should be shown or not before the Chamber.

17 The Co-Prosecutor is now referring to merely one photo but if
18 that photo is accepted from that video footage, I would deem it
19 quite impossible for this photo to be produced here.

20 MR. PRESIDENT:

21 The objection sustained.

22 Although it is part of the video footage, and since the decision
23 regarding the video footage is pending, the Chamber notes that
24 the Co-Prosecutor should change the question in relation to the
25 presentation of that photo because the Chamber has not yet made

60

1 any decision regarding the video footages.

2 MR. TAN SENARONG:

3 Thank you.

4 [13.55.46]

5 BY MR. TAN SENARONG:

6 Q.The next question to Chanphal -- during the time when you were
7 staying at Tuol Sleng, the security office, did you ever meet
8 senior people, elderly people like painters or artists, while you
9 were playing around in the compound?

10 A.During that time we were near the pig pen and the elderly
11 people were to our right-hand side. We could see from a far
12 distance but I could not remember them all.

13 But when Phnom Penh was liberated and when we were in the
14 orphanage and we walked to the close by location and I could
15 recognize the fence of the prisons and I was told that I was the
16 children who survived the regime.

17 And one of the grandfathers who might have been the blacksmith
18 during that time told me about having seen me in that location.

19 Q.Thank you, Mr. Norng Chanphal.

20 If the Chamber shows the map of the location of S-21, will you be
21 able to indicate or point to any particular location in which you
22 and your mother and little brother were taken to and that after
23 your mother was taken photograph, which location would she be
24 taken to? Will you be able to do that?

25 A.Of course. I still remember and I hope I can really point to

61

1 the location.

2 [13.58.14]

3 MR. TAN SENARONG:

4 Mr. President, with your leave, could you please instruct to the
5 A/V Unit to show the location, the map of S-21, so that the
6 witness can point to the location?

7 MR. PRESIDENT:

8 Could you please give us the identity of the map grid reference
9 number?

10 MR. TAN SENARONG:

11 D45 the document is referred. The Co-Prosecutor used to show
12 that photo when Chum Mey was testifying. It was an aerial
13 overview of the location. The document's reference is D45 two
14 dashes, and ERN Number is 00195373.

15 MR. PRESIDENT:

16 The audio-visual officer, could you project the photo of the
17 image of Reference Number 00195373 which shows the aerial photo
18 of S-21?

19 BY MR. TAN SENARONG:

20 Q. Please look at the aerial overview of the Tuol Sleng compound.
21 To the left, the Building A and then we have the Building B. And
22 another building, it was Building C, and then D. And the
23 building in the middle is Building E.

24 Can you show us or indicate which building you were taken to,
25 along with your brother and your mother, when you were first

62

1 arrived? To the east that is the entrance, the main entrance,
2 which is the current entrance at the moment. So that was the
3 gate of the Tuol Sleng Museum at present.

4 So when you first arrived, which building were you taken into?
5 [14.01.35]

6 A.I can remember that after I stepped out of the vehicle, I was
7 taken into a building with a white wall and tiled floor, and
8 there was a photographer and other people whom I cannot recall,
9 and later that we turned to the right of the office.

10 So from this map, we were taken to Building C. Then we went
11 upstairs, we turned left to the first floor and to the second
12 floor, and we entered the second room on the second floor.

13 Q.The location where you ate and stayed, as you described to the
14 Chamber, which building was it behind?

15 A.When I was there near the workshop, it was to behind Building
16 C a little bit to the west. It was close to the pig pen and I
17 could see the doors of Building C, and when I looked towards
18 Building B, behind that I saw the workshop with a lot of old
19 people working in it. So it was behind Building B where the
20 workshop those old people worked in.

21 Q.Thank you for your description. I have no further questions.

22 MR. TAN SENARONG:

23 Thank you, Mr. President. I will now give the floor to my
24 international colleague.

25 MR. PRESIDENT:

63

1 The International Co-Prosecutor, you take the floor.

2 [14.03.54]

3 MR. SMITH:

4 Thank you, Mr. President.

5 BY MR. SMITH:

6 Q.Good afternoon, Mr. Norng Chanphal.

7 Just continuing on with my colleagues questions. You stated that
8 the workshop that you stayed in was behind Building C to the
9 west. Was there a gate to S-21 that was close to the workshop,
10 to the outside?

11 A.After that building there was a fence. It's a barbed wire
12 fence and there were a lot of barbed wires, and after that fence
13 then there was the workshop.

14 Q.And after the workshop to the outer fence of S-21 on the west
15 side, was there a gate to get out?

16 A.Could you please ask me the question again?

17 Q.You said that the workshop was behind Building C. To the west
18 of the workshop, further away from Building C, was there a gate
19 to get out of the compound of S-21?

20 A.Yes. To the back, from what I could see, it was a big field
21 and there were trees, tamarind trees and mango trees, but I was
22 not sure if there was a gate or not.

23 [14.05.56]

24 Q.And in answer to Judge Lavergne's question, you said that you
25 think you left from the gate at the east of S-21. Is it possible

64

1 that you left to the west of S-21 when you left with the
2 Vietnamese?

3 A.Regarding the west gate, I cannot recall, but there was of
4 course a gate to the east of the prison and there were two gates;
5 one at the front and one at the back. And when I boarded the
6 truck with the Vietnamese and the Cambodian soldiers, there were
7 a lot of people looking at me and I did not know whether the
8 truck turned left or right when we were taken to the maternity
9 hospital.

10 Q.Thank you.

11 Can you be sure whether you left S-21 from the front gate or the
12 back gate, or are you uncertain?

13 A.I am quite certain that we left through the front gate,
14 because we were carried by those soldiers and we were put into
15 the truck. The only thing I cannot recall, whether the truck
16 turned left or right.

17 Q.Thank you.

18 Mr. Norng Chanphal, you were asked by the Trial Chamber whether
19 you had any evidence to show that your father was in fact
20 arrested and taken to S-21.

21 I would like to show you a document. It's E5/12/1. ERN Number
22 in the Khmer is 00289900, in the French 00291146, and in the
23 English 00289887.

24 [14.08.27]

25 MR. SMITH:

65

1 Mr. President, with your permission can we show the Khmer
2 document on the screen please?

3 MR. PRESIDENT:

4 The AV unit, can you show the document 00289900 on the screen?

5 BY MR. SMITH:

6 Q.Mr. Norng Chanphal, this is a prison biography -- prisoner
7 biography from S-21. Can you look at the name of the person and
8 can you look at the other details in relation to the person, and
9 can you tell the Court whether that's a person that you know?

10 A.When I was young I did not study how to read letters but now I
11 can read and I am sure that this is the biography of my father.
12 There was my father's name and the names of my mother, father and
13 the actual village commune and district, and it was also the
14 location where I was born. So this is the biography of my father
15 with the correct name of my father. And the address where he
16 lived was the place where they saw timbers for building the
17 railroad. There was a sawmill there and they cut a lot of
18 timbers in the Treng Trayeang village.

19 [14.10.26]

20 MR. SMITH:

21 Thank you, Your Honours. Just for the record, that's a prisoner
22 biography from S-21.

23 Thank you, Mr. Chanphal, for coming to Court today.

24 I have no further questions, Your Honour.

25 MR. PRESIDENT:

66

1 Next I would like to give the floor to the defence counsel, and
2 defence counsel, if you have any questions -- my apologies, the
3 floor is now given to the civil party lawyers. If you have, then
4 you can take the floor.

5 So which group will go first; Group 1?

6 MR. WERNER:

7 Good afternoon, Your Honour.

8 We would ask leave from the Chamber. We understand that this
9 witness is not a civil party technically but a witness.

10 Nevertheless, we have an arrangement on this side of the room and
11 I'm grateful to my colleagues who agreed to have our group asking
12 questions for half an hour. So I would request your leave to go
13 with that arrangement.

14 MR. PRESIDENT:

15 So if you are ready, whoever has to take the question first, you
16 can do it. The whole civil party groups have 40 minutes.

17 [14.12.20]

18 MR. WERNER:

19 Thank you, Mr. President.

20 QUESTIONING BY CIVIL PARTY COUNSEL

21 BY MR. WERNER:

22 Q. Good afternoon, Mr. Norng Chanphal.

23 Let me tell you first, on behalf of my group, that we really are
24 grateful for you to have come today and we do understand that
25 it's not easy, and I will try to be as short as I can with my

67

1 questions. I just would like to clarify a few matters.

2 First of all, Mr. Chanphal, you explained to us that after your
3 father was arrested you stayed with your mother and your little
4 brother, and then you told us that your mother basically was
5 waiting for your father.

6 Can you tell us if your mother inquired -- did she try to inquire
7 about the whereabouts of your father during the time she was
8 waiting for him?

9 A. During that time only I who asked for my father. I always
10 asked my mother when my father would come. And my mother was
11 very concerned that we were all waiting for the return of my
12 father. And my mother did not ask anybody else; she only asked
13 those whom she knows close about my father. And I kept asking
14 her all the time about when my father would return.

15 [14.14.21]

16 Q. And do you know why she didn't ask anybody else at that time?

17 A. I did not know. My mother was concerned or worried but I
18 didn't know why she worried, but to me it seems she dare not ask
19 any other people besides those close people that she knew.

20 Q. And then you told us -- and I just want to clarify that --
21 when you arrived with your mother at Tuol Sleng and you were
22 asked about what happened to your mother, who was sick at the
23 time, as you said, and you said -- and I quote you -- you said
24 that, "They pushed her" -- this is your mother -- "They pushed
25 her back and forth and she was terrified."

68

1 Let me ask you this: was your mother hit at the time you and she
2 arrived at Tuol Sleng and the photograph was being taken?

3 A.I can remember that event when I got off the vehicle. At
4 Treng Trayeang village the people respected my parents, but when
5 we entered Tuol Sleng she was threatened and pushed here and
6 there, and she was photographed with a camera, and she was pushed
7 and shouted at her to stand straight. And at that time she was
8 sick, she also had swollen legs, and she was pushed around. When
9 she almost fell down the person pulled her by the hair to stand
10 up. When I think of that event it seems so new, so vivid in my
11 mind. They slapped her and she was kicked and she fell down on
12 the floor. Before she could stand and make a correct posture to
13 be photographed she was kicked.

14 Q.So do you feel that I can carry on with my questions -- I do
15 not have too many questions -- or would you like for me to
16 request the Chamber for you to take some minutes?

17 A.I can continue.

18 Q.Well, you explained to this Chamber that after you were
19 separated from your mother you were at the rear of the workshop
20 with a woman who was looking after the children, and then later
21 you explained very, very clearly how many children there were
22 once this woman had left -- at the end when the woman had left --
23 but it was not clear to me, during the time you were at Tuol
24 Sleng with that woman in the rear of that workshop, how many
25 children were there with that woman; if you can remember?

69

1 A.I can recall that there were no other children besides the
2 five of us and that a woman was looking after us at the time.
3 That is my recollection of the event.

4 [14.18.43]

5 Q.And, sir, just to clarify because you spoke about a woman who
6 was looking after the children in that place, and then you spoke
7 as well about a woman who left at the end and asked you to come
8 with you but you didn't come. Are we talking about the same
9 woman?

10 A.Yes, the woman who looked after me was the one who asked me to
11 go out with her, but I was afraid that my mother would be looking
12 after me so I refused to go and I was still waiting for my mother
13 at the rear of the workshop.

14 Q.And when the woman left -- and I understand that you didn't go
15 with her -- did she leave with anyone, with any children?

16 A.I cannot recall. I think I only saw her alone and then I ran
17 back inside the prison and I did not look back. So I didn't
18 know, when she left, whether she left alone or with any other
19 people.

20 Q.Now, I just want to clarify a few things you told the Judges.
21 Judge Lavergne asked you if you heard anything and you told him
22 that you heard sound. Which kind of sound did you hear, if you
23 can remember? Which kind of sound was it?

24 A.The sound that I heard, from my recollection, it was a scream.
25 I heard it once in a while but I was not sure whether the

70

1 screaming was from the pain or not, and it was rather weak. When
2 I heard the scream I looked to the direction of the building
3 where my mother was there but I did not see my mother and I only
4 heard the screaming and I was not sure which building the
5 screaming came from. I think it came from the third building.

6 [14.21.19]

7 Q.And so just to clarify because of the interpretation, I just
8 want to be completely clear, is it the position that you heard
9 that sound more than once from time to time? So you heard that
10 sound several times; is that correct?

11 A.That is correct. Because when I sat behind the pig pen and
12 the workshop occasionally I heard the sound once or twice and
13 every time I heard the sound I looked into the direction of the
14 window where my mother was standing.

15 Q.And at the time you were at the rear of the workshop, looked
16 after by that woman, did you see any prisoners?

17 A.I did not see any other prisoners.

18 Q.And then, answering a question, you said that later a worker
19 who was a blacksmith told you that he, the blacksmith, had seen
20 you during -- in S-21, in Tuol Sleng. Do you remember the name
21 of that blacksmith who told you that?

22 A.From what I can recall, he told me he was a shackle maker, so
23 after the Liberation Day he told me that he made shackles at the
24 workshop and that he saw me too during the time. At that time I
25 saw him from a distance but I did not go close to the workshop

71

1 where he worked. I saw some -- oh, about four old people working
2 in the workshop. And that person, Ta Kung, I only met him after
3 the Liberation Day and I think he worked at the Tuol Sleng Museum
4 after the liberation as a gardener.

5 [14.23.31]

6 Q. Just to be completely clear, is Ta Kung the shackle maker? Is
7 that correct?

8 A. Yes, Ta Kung told me when I was in the workshop -- when I was
9 in the workshop before the Liberation Day, from a distance I saw
10 him working in a workshop, type of blacksmith, and only after the
11 Liberation Day when I went to visit Tuol Sleng he recognized me
12 and he asked me and talked to me, and he had pity on me at the
13 time and he gave me some money, and then I returned back to the
14 orphanage.

15 Q. Now, so you spoke about a pile of clothes and you said that
16 you hid in the pile of clothes, and as well in some furniture, if
17 I understood you correctly. Do you know anything about this pile
18 of clothes? Do you have any information about these clothes or
19 not?

20 A. From what I can recall, they were like old clothes that were
21 no longer used and I did not know whom the clothes belonged to.

22 Q. And later on were you told anything about that, if at all?

23 A. When I was at the orphanage for one or two years, and when I
24 made a visit to Ta Kung, I have heard that those clothes belonged
25 to the prisoners. I didn't know at the time. I didn't know who

72

1 the prisoners were and I was told that, "Those prisoners were
2 those brought to Tuol Sleng, including your mother and father."
3 So those clothes belonged to the prisoners.

4 [14.26.02]

5 Q.Now, I just have really two or three more questions and then I
6 will be finished.

7 I just have a question. You explained that you went around when
8 the place was quiet at the end, because you are looking for your
9 mother, and then you said that you went inside one room and you
10 said that you saw someone lying in a bed.

11 If you can remember, did you see any wound or anything else when
12 you looked at that person lying in the bed?

13 A.I can recall that after that woman called me I refused to go,
14 and when the situation was quiet I ran along the corridor of the
15 first building and I saw like a male person lying on the bed. I
16 was not sure whether he was dead or not but I saw some flies.

17 From the video I saw on CNN it was a dead body there on the bed.

18 So after I saw that person I ran back to go back behind the
19 workshop.

20 Q.And how did you feel at the time you were looking around and
21 entering this room, if you can say?

22 A.I was so scared. I was thinking that if when I ran there
23 maybe the person who was lying on the bed would sit up and call
24 me not to run everywhere. So I was afraid and I ran back to the
25 workshop and I stayed there at the workshop until the day the

73

1 Vietnamese took me outside.

2 [14.28.15]

3 Q.My last question, sir.

4 Just to clarify -- you explained that one of the kids died, one
5 of the kids who were with you died, and you said that the ants
6 were running into his mouth and his ears. Now, taking into
7 account the context of what you said this morning, I don't have
8 the exact words, my understanding was that that kid died out of
9 hunger. Is that correct?

10 A.It's correct, because when they came with their mothers they
11 were still carried by their mothers but he was left without any
12 proper food and that kid did not or was not able to eat the gruel
13 yet and he was left crying until he could not cry any longer.
14 And then the ants would run into his ears and I did not know yet
15 that the little boy died. Only when the Vietnamese troops came
16 that I learned from them that the kid died already.

17 Q.I am very grateful for your answer and your time.

18 MR. WERNER:

19 I have not further questions, Your Honours.

20 MR. PRESIDENT:

21 Ms. Lawyer, you take the floor.

22 MS. JACQUIN:

23 Thank you, Your Honour.

24 BY MS. JACQUIN:

25 Q.Good afternoon, Mr. Norng Chanphal, and thank you for being

74

1 here. I would like to put a few questions to you to clarify
2 certain issues that you have already referred to.

3 [14.30.22]

4 First of all, when you arrived in S-21, your mother was
5 photographed. Were you and your brother also photographed?

6 A.After my mother was photographed, we were not photographed.

7 When my mother was slapped and pushed until she collapsed, I was
8 terrified but my little boy did not know anything about this
9 because he was still young and were playing around.

10 Q.The first night that you spent there you spent with your
11 brother and mother in one room on the second floor of Building C.
12 Were you and your mother and brother alone in that room, or were
13 there other people with you in that room, men and/or women?

14 A.The room was empty, only filled with my mother, I and little
15 brother along with the other two women. So we were all alone in
16 that empty room.

17 Q,When you saw your mother at the window from where you were
18 behind the building, did you see her alone at the window or did
19 you see other women with her at the window?

20 A.I saw only my mother alone. I did not see the other women.

21 Q.I think you have tried your very best to see your mother
22 again. When you were looking in the direction of that building,
23 as you were often looking in that direction, did you ever see
24 other people at that window?

25 A.I looked in the direction of the window where my mother once

75

1 stood, but it was the last time I saw her and I never saw her
2 again.

3 Q.Did you ever see other people at that window? Or did you
4 never see anybody at that window?

5 A.The other windows were not open except the window at which my
6 mother once stood. And I tried to look in the direction where
7 she once stood later on, although it was remained open, but I
8 could not see her again.

9 Q.So you were by then nine years old. You were the eldest of
10 the five children who were there in Tuol Sleng?

11 A.Yes, I was the eldest one.

12 Q.In the daytime were you playing? Did you have somebody taking
13 care of you, doing things with you? Or were you supposed to
14 work?

15 A.At the rear of the building I was not supposed to walk places
16 and I was looked after by a woman who would tell us not to go
17 anywhere. And I could see that the woman would have been scared
18 of the guards too.

19 And after I seen my mother being pushed and beaten, I felt that I
20 myself had to mind my business too because I would be treated the
21 same, because I noticed already that my mother would be badly
22 treated already.

23 [14.36.04]

24 Q.And to return to that very difficult moment at the time of the
25 liberation, when you returned into the building to look for your

76

1 mother, you said that you saw corpses. In the first building
2 where you looked for your mother did you see people alive, dead
3 or nobody at all?

4 A. After the woman who waved to me and asked me to leave, I did
5 not go and it was quiet and I was searching for my mother and I
6 left from the east gate to Building A and I saw people lying down
7 on the bed. I don't know whether the person dies or not, but he
8 seemed to be motionless and some flies could be seen flying
9 around. And I did not see other.

10 Q. Lastly, you said that out of the five children, four left with
11 you to Tuol Sleng, two were adopted in Germany, and then there's
12 you. And where did the fourth child go?

13 A. When we were put into the orphanage and the other were too
14 young, they would be taken to another orphanage for baby near
15 Calmette Hospital. And the teacher registered them as my sister
16 and when there was a ceremony we were allowed to meet one another
17 and I asked those women where those sisters are gone, then they
18 told me that the German already adopted them. And I tried to ask
19 for them, but I think they were too young when we were separated
20 that I probably could not recognize her when we meet again. And
21 my other brother still survives and work as the driver.

22 MS. JACQUIN:

23 Thank you, Mr. Norng Chanphal.

24 [14.38.58]

25 MR. KIM MENGKHY:

77

1 Mr. President, I only have very few questions to be put to Mr.
2 Norng Chanphal.

3 BY MR. KIM MENGKHY:

4 Q.You said after you had been arrested and sent to Tuol Sleng
5 were you -- were there any scars left on your body until now?

6 A.We were not beaten. We had some rashes, skin rashes, and
7 wounds because of malnutrition so we looked pale, and we were
8 bitten by mosquitoes days and night. And that's all.

9 Q.I would like to seek your clarification also. When you said
10 you ate the mouldy gruel, how much of the gruel you consumed that
11 -- what was it like?

12 A.I cannot remember. I was so hungry that I tasted the gruel,
13 although it tasted sour, because it turned mouldy. And my
14 brother and other children could not eat the gruel. And later on
15 we were cooked the rice and a duck was prepared for our meal.
16 And that's all I can remember.

17 [14.40.52]

18 Q.Another question: did you have water to drink after eating the
19 meal?

20 A.We made use of the water left in the broken jar -- the rain.
21 And we saw some water taps but there was no running water. So,
22 in conclusion, we drank water from a leftover in the broken jar.

23 MR. PRESIDENT:

24 The lawyer, you take the floor.

25 MR. HONG KIMSUON:

78

1 Thank you, Mr. President. I have only two questions. Maybe a
2 little one more, Mr. President, Your Honours.

3 BY MR. HONG KIMSUON:

4 Q.Good afternoon Mr. Norng Chanphal.

5 My first question is: during the first day when your mother, you,
6 and your little brother were arrested by the Khmer Rouge and put
7 on the jeep and taken to Tuol Sleng, the first day you entered
8 that location were you given food during the first full day at
9 the premises?

10 A.I don't seem to remember having been given food or anything.
11 Because I was terrified by the way my mother was being treated
12 while we arrived there -- you know, when they grabbed her hair
13 and beat her. So I did not remember about having got any food.
14 [14.42.44]

15 Q.Thank you.

16 The lawyer asked you already about the Vietnamese troops who went
17 to see you and that you had eaten the mouldy gruel.

18 The next question is, when the Vietnamese troops came to rescue
19 you at that workshop, back then were you given adequate food?

20 A.I could remember that I was always hungry, and I did not know
21 whether we ate adequate food because I kept being hungry, and my
22 little boy kept crying for food, and only if he asked that the
23 food would be given.

24 Q.Thank you.

25 Could you please think back a little bit, whether you ever went

79

1 to ask for crushed rice from the kitchen?

2 A.I don't think I remember it. I think I had been terrified
3 ever after having seen my mother being beaten.

4 Q.The last question: you told the court clearly already that
5 when the Vietnamese troops or the Cambodian troops came to carry
6 you and took you to the hospital and you stayed with the
7 Vietnamese soldiers. The question is, when you stayed with them,
8 were you ever taken to be photographed somewhere?

9 A.When I lived with the Vietnamese troops I did not go anywhere,
10 because the Vietnamese troops would relocate several times. And
11 then only when Grandfather Keo Chenda learned that some orphans
12 were being with the Vietnamese troops that he asked that we were
13 taken to him.

14 And when we were taken photograph we were at the orphanage
15 already and we had good clothes and we were put to school
16 already.

17 [14.45.18]

18 Q.Now you are not a civil party, but my question is, you -- when
19 you applied to join as a civil party, what would be the
20 reparation you claimed for?

21 A.I think because I had other commitments with my job, after I
22 got cashed, the salary, then I watched the TV regarding the civil
23 party application which would be closed soon. Then I rushed to
24 file that application, but later on I learned that it was too
25 late, that I could only become witness rather than civil party.

80

1 Q.At that time, what would you like?

2 A.I would like justice for my mother, that's all -- for my
3 parents.

4 MR. HONG KIMSUON:

5 Thank you, Mr. President. I have no further questions.

6 MR. PRESIDENT:

7 The other lawyer.

8 MS. TY SRINNA:

9 Thank you, Mr. President.

10 I think we have five minutes remaining. However, I personally
11 don't have any questions to be put to Norng Chanphal, but I have
12 a request to the President. With your leave, I may put that
13 request to the Chamber?

14 MR. PRESIDENT:

15 I think your request should be put first and the decision would
16 be made later.

17 MS. TY SRINNA:

18 We would like to request that -- from the President to ask the
19 accused to clarify the statement by Norng Chanphal when he said
20 that he saw the corpse on the bed. And he said that the corpse
21 was not yet swollen, and I would like to make the question
22 through you whether that was the corpse amongst the other corpses
23 that Duch made the request to leave for further being
24 interrogated.

25 So I just would like to know whether these corpses would have

81

1 been one prisoner, the last prisoner among the nine left.

2 [14.48.17]

3 BY MR. PRESIDENT:

4 Q.Mr. Norng Chanphal, you said you saw a corpse while you were
5 looking for your mother and that the corpse was lying in Building

6 A. Do you remember saying that? Can you confirm?

7 The question is, is the corpse that attached to the chain to the
8 bed was lying on the ground floor or on the second floor?

9 A.Mr. President, when I was looking for my mother and while I
10 was crying for her, I did not hear any sound back but I saw a
11 figure, maybe a male or female, I don't know, with a lot of
12 flies, but he didn't look swollen.

13 Q.We did not want to know that anyway, but we want to know
14 whether the corpse lied on the ground floor or the second floor
15 because you said something already, but it is not yet clear
16 because you told us that you were running and that you did not
17 step on the stairs into any building. You only could see the
18 corpse while you were running.

19 So the question is, did you see the corpse in Building A, in
20 ground floor or second floor?

21 A.I still remember when I was running; I was running on the
22 ground floor. Here we can call it E-1. Then I saw the room with
23 the door open and a man was lying. He was about the same age as
24 my father, and I think that person may have not died yet although
25 I could see flies circling around on the first floor.

82

1 [14.50.52]

2 MR. PRESIDENT:

3 So we would like to give the opportunity to the accused to
4 response, but since it is time to take an adjournment, the
5 Chamber will take the adjournment and resume at ten past three.
6 Then the floor will be given to the remarks by the accused
7 regarding the question by Ty Srinna.

8 The court official, could you please make sure that Norng
9 Chunphal is taken to his waiting room.

10 (Judges exit courtroom)

11 (Court recesses from 1451H to 1515H)

12 (Judges enter courtroom)

13 MR. PRESIDENT:

14 Please be seated. The Chamber is now back in session.
15 The Chamber will now give the floor to the accused to make his
16 observations regarding the testimony of Mr. Norng Chanphal. If
17 possible, the accused can also respond to the request made by the
18 civil party lawyer.

19 And the Chamber would also like to remind the accused that the
20 response shall be an observation to the testimony made by this
21 survivor.

22 [15.16.53]

23 There is no need for you to reveal or to acknowledge your
24 responsibility of the crimes.

25 We just want your observation on his testimony today. If the

83

1 accused has the observation you can take the floor.

2 THE ACCUSED:

3 Mr. President, I would like to make some clarifications based on
4 the hearing of the testimony of Mr. Norng Chanphal.

5 Initially I would like to acknowledge that this testimony
6 reflects the suffering, the separation of Mr. Norng Chanphal.

7 Initially, before I saw the document of Norng Chan biography, I
8 thought this crime was outside of S-21 and maybe Mr. Norng Chan
9 suffered under another security office, but when I read the
10 biography of Mr. Norng Chan with DSL0529, then I acknowledge Mr.
11 Norng Chan died there. And as the mother of Norng Chanphal -- I
12 do not have any document.

13 [15.19.00]

14 So let me put the matter into two separate aspects. First, if
15 there is such a biography of the mother of Norng Chanphal it
16 would prove that Mum Yaul and his sibling also died there,
17 because at S-21 no child was spared. However, if we cannot find
18 such document I could conclude that Mum Yaul, the mother of Norng
19 Chanphal, would die elsewhere. And this person survived because
20 of the Vietnamese soldiers and the Heng Samrin soldiers collected
21 him and raised him up.

22 So these are my observations on the two separate matters. If we
23 can find the S-21 document on the biography of his mother, then I
24 would accept a complete testimony of Mr. Norng Chanphal, with
25 respect. I do not deny it or object to any of it.

84

1 I would like to now respond to the question raised by Ms. Lawyer.
2 I would like to say that the YO-8 people, there were only four of
3 them, not nine. I think I saw that photo of a man lying on the
4 bed. I think it was in 2006 or 2007 before I came to this Court.
5 I met a Japanese TV crew or an Italian TV crew and I was shown
6 the photo of a person lying on the bed; it was in the big room.
7 So whatever was said by Norng Chanphal and that the person was
8 dead or not, I think probably the photo reflected what was seen
9 by Mr. Norng Chanphal. This is just my observation.
10 And this is my response to the Chamber, Mr. President.
11 (Deliberation between Judges)
12 [15.23.04]
13 MR. PRESIDENT:
14 Judge Cartwright, you take the floor.
15 JUDGE CARTWRIGHT:
16 Thank you, Mr. President.
17 The statement made by the accused has left me unsure of whether
18 he agrees that this witness Norng Chanphal was a detainee, a
19 child detainee at S-21 or not. Could defence counsel advise, if
20 necessary after consulting with the accused, whether he
21 acknowledges this or not?
22 Thank you.
23 MR. KAR SAVUTH:
24 Thank you, Mr. President.
25 I would seek your leave to inform you that I have discussed with

85

1 my client, and my client does not recognize that Mr. Norng
2 Chanphal who survived during the last few days in Tuol Sleng.
3 The fact that he does not recognize this, because the measures
4 and the regulations from Angkar were so strict that nobody would
5 dare to object to it or that person would be dead, especially the
6 order for the 2nd and the 3rd of January 1979.

7 [15.25.01]

8 Nuon Chea himself ordered all the children, all the male and
9 female prisoners' heads to be smashed, all of them have to be
10 smashed, and there was no-one left at S-21 except the four people
11 who shot the foreign journalists whose confessions were not yet
12 extracted, and they were the only four people left. And the
13 accused confirms with me that nobody dared to object the order
14 from the upper echelon.

15 This is our response, Mr. President. Thank you.

16 MR. PRESIDENT:

17 Judge Lavergne, you take the floor.

18 JUDGE LAVERGNE:

19 Again, to try to make -- to get clear about this. The defence is
20 saying that Mr. Norng Chanphal could not have been somebody who
21 had survived S-21. But is the defence also telling us that he is
22 somebody who was never detained at S-21? Is it these both -- are
23 they denying both things?

24 But, however, the accused was saying earlier on that he does not
25 object to the content of Norng Chanphal's statement, so I'm a bit

86

1 confused here.

2 MR. KAR SAVUTH:

3 Your Honour, in the matter of Mr. Norng Chanphal, and as defence
4 counsel, I still do not understand how or whether he actually
5 lived in Tuol Sleng.

6 And I would like Your Honour to consider: he said his mother
7 entered S-21 and she was slapped, she was pushed around, and she
8 was grabbed by her hair a couple of times, the photos were taken
9 from the front, from the sides, and he was horrified. And after
10 1979, he went to Tuol Sleng to look for the photo of his mother
11 and he could not find it. So those people who entered S-21, they
12 were all photographed and the photographs were all there, and how
13 come the photograph of his mother was not there?

14 And on the second matter, the number of the people who killed --
15 12,380 people who were killed there -- none of the named has the
16 name of the mother of Mr. Norng Chanphal. How can we believe
17 that?

18 This is our response, and thank you, Mr. President and Your
19 Honours.

20 [15.28.11]

21 MR. PRESIDENT:

22 Judge Lavergne, you take the floor.

23 JUDGE LAVERGNE:

24 Does the accused -- could the accused tell us what he wanted to
25 tell us when he did not -- when he said that he did not object to

87

1 Mr. Norng Chanphal's statement?

2 THE ACCUSED:

3 Your Honour, I do not object to the content of the testimony of
4 Mr. Norng Chanphal. That he was actually a person who suffered
5 and who separated from his father and his mother. I do not
6 object to that. And before I saw this piece of document, I
7 thought his father would have died somewhere else, at another
8 security office, however, with this document I acknowledge that
9 his father suffered and died in Tuol Sleng in the hand of the
10 people at Tuol Sleng.

11 But regarding his mother and Mr. Norng Chanphal himself, where
12 did they suffer? I'm certain on this matter. Therefore, if there
13 is a piece of such document, then it is evident that if his
14 mother was sent to S-21 then he, himself, would come along. Or,
15 if there is another form of similar document in the form -- for
16 Chum Mey for S-24 to send to the rice field. So I would
17 acknowledge any piece of S-21 documents confirming the
18 identification his mother.

19 MR. PRESIDENT:

20 Judge Lavergne, you take the floor.

21 [15.30.31]

22 JUDGE LAVERGNE:

23 So if I have understood correctly, what you said -- you are
24 saying, therefore, that it is possible that, according to you,
25 that the witness is -- that what the witness is relating does not

88

1 concern -- does not relate to S-21, but to another security
2 centre. Is that what you are telling us?

3 THE ACCUSED:

4 That's correct. Probably his mother had suffered at other
5 security office, or maybe his mother was sent to S-24.

6 So we would like the Office of Co-Prosecutors to help trace down
7 the documents.

8 MR. PRESIDENT:

9 We note the presence of the international Co-Prosecutor.

10 MR. SMITH:

11 Your Honour, just a brief comment. It appears that the defence
12 position and the accused's position seem to change depending on
13 what pieces of evidence are put before them. So, for example,
14 prior to that biography being put to the Chamber, the accused was
15 of the view that his father could not have been at S-21, and
16 then, the defence are presented with a document, then he accepts
17 the fact that he was at S-21.

18 His defence lawyer is saying, on the one hand, that his father
19 wasn't tortured and killed at S-21 because he doesn't appear on
20 the prisoner list, and yet on the other hand, the accused himself
21 says that he was at S-21 because of the biography.

22 [15.32.31]

23 My point, your Honour, is that regardless of the defence
24 agreement or disagreement on the issue, ultimately it is the
25 ability of the defence and particularly of the evidence to be

89

1 able to give proof beyond reasonable doubt of that matter.
2 And I would submit that one of the best ways of doing that,
3 bearing in mind that the witness today has said that he has seen
4 the Vietnamese video footage -- it came through on the English,
5 as he hadn't, but I checked with the Khmer -- that he seen the
6 Vietnamese video footage, and he has recognized himself on that
7 video. I would submit, your Honours, that if the possibility of
8 the witness being shown that video could be made, then it would
9 really clear up this issue of whether or not he was at S-21.
10 It's not the only way of doing it, of course, but it's certainly
11 one way. And if Your Honours are not of a mind to do that today,
12 I would ask that before you make a decision on the video footage
13 that the witness at least be able to be re-called and to be able
14 to point out -- as it appears he can do -- point out himself on
15 that video, which is clearly made at S-21.

16 MR. PRESIDENT:

17 The accused, you take the floor.

18 THE ACCUSED:

19 Mr. President, all evidence that is influential are all the
20 evidence derived from S-21, and I will not regard other evidence
21 as influential to me.

22 [15.34.35]

23 MR. KAR SAVUTH:

24 As the defence counsel, I would like to inform to the
25 international Co-Prosecutor that I'm not objecting the acceptance

90

1 of evidence as long as there is ample evidence that prove that
2 among the more than 12,000 detainees and that my client has
3 accepted already, and he has never pointed his finger to his
4 subordinates. So I don't even think that adding one more person
5 into the list would be any problem to the acceptance of my client
6 as the person who would have been detained at S-21.

7 But we would like to see the truth, and the real evidence. We
8 don't want any exaggeration or fake evidence. So evidence
9 supported by the fact. So Norng Chanphal said that his father
10 has a biography. While he said that verbally I did not agree
11 with him, but then when the prosecutor projected that biography
12 on the screen then I and my client accepted immediately that his
13 father would have been killed immediately at S-21. So only when
14 the evidence is presented and with supporting facts, then we
15 would accept it.

16 Thank you.

17 MR. WERNER:

18 Your Honour, just to say two words?

19 Can I just very briefly support, very strongly, the prosecution's
20 submission? First, can I say, as well, that the defence on the
21 30th of March, 2009, in the response of the defence on the list
22 of witnesses, specifically spoke about Mr. Norng Chanphal, and at
23 the time the submission was on the ground of relevance. And
24 everything they said at that time that it was not useful for this
25 Chamber to hear Mr. Norng Chanphal because anyway the accused was

91

1 not putting into question the fact that children were at S-21,
2 and at no point at that time did they say anything about
3 authenticity or veracity of the submission.

4 And can I just say, as a civil party lawyer, that if Your Honours
5 are minded at one point to show the video to this witness, then
6 we would strongly request that that be done today because we do
7 not think it's wise to recall this witness. I think it's painful
8 enough for this witness today to have to come to Court.

9 So if at one point the video has to be shown to this witness --
10 and, of course, we do strongly support that submission, but then
11 we would ask that to be done today, and for this witness not to
12 have to come again to this Court because I think for everybody
13 it's clear that it's painful enough for this witness and we
14 really would like to spare him a second visit in this courtroom.

15 Thank you.

16 [15.38.10]

17 (Deliberation between Judges)

18 MR. PRESIDENT:

19 Judge Cartwright, you take the floor.

20 JUDGE CARTWRIGHT:

21 Yes, thank you, Mr. President.

22 The Trial Chamber has decided that one portion of the video under
23 discussion will be shown and the witness will be asked to comment
24 on it. It will be a still portion; that is, not several seconds
25 of the documentary.

92

1 So I ask the A/V Unit to set-up that particular part, and could
2 the Greffier give us the indication of precisely where in this
3 disputed video this portion comes from, so that the parties are
4 aware of it? Yes, it's at seven minutes and eight seconds.

5 Now, Mr. Norng Chanphal, you will see a picture come up on your
6 screen in a few moments and then I will ask you a question about
7 it.

8 (Video recording played)

9 BY JUDGE CARTWRIGHT:

10 Q.Can you see that picture clearly?

11 A.Yes, I see it clearly.

12 [15.45.19]

13 Q.Can you tell me if you recognize either of the children in
14 that photograph?

15 A.The bigger boy here without any shirt facing us is the photo
16 of me, and on the right-hand side, the little boy is my little
17 brother, and we both survived. That's all, Your Honour.

18 Q.Thank you. Is there anything else you want to say about that
19 photograph?

20 A.I would like to add a little bit more; that when the soldiers
21 asked me any questions I did not know that I was being filmed. I
22 just -- they asked several questions and that after all I told
23 them that my father's name was Chin and my mother's was Yaul and
24 that my little brother could not answer anything because he was
25 too young. That's all. Thank you.

93

1 Q.Thank you very much.

2 BY JUDGE LAVERGNE:

3 Q.Earlier on, if I remember correctly, you said that you did not
4 have any recollection of having been filmed when you saw the
5 arrival of Vietnamese soldiers.

6 Do you remember whether later on you took part in the shooting of
7 a film?

8 A.I don't think I understand your question clearly. Maybe you
9 are asking that is it my real photo? I would say yes, but during
10 the time when I was being questioned I did not take any notice
11 that I would be being filmed.

12 Q.According to you, this is a picture of a time when questions
13 are put to you at the time when the Vietnamese soldiers are
14 there. This is not a film that would have been shot at a later
15 date; at a later date after the arrival of the Vietnamese
16 soldiers?

17 A.When the soldiers, other soldiers came, I was also asked some
18 further questions like when the other two soldiers came and asked
19 me the questions.

20 [15.49.20]

21 MR. PRESIDENT:

22 The AV Unit, could you please move to the normal mode?

23 Next, we would like to give the floor to the defence counsel,
24 whether they would wish to put any questions to the witness.

25 MS. CANIZARES:

94

1 Thank you, Your Honour. I do indeed have a few questions to put
2 to Mr. Norng Chanphal.

3 QUESTIONING BY DEFENCE COUNSEL

4 BY MS. CANIZARES:

5 Q.Sir, you have stated that you met Ta Kung the blacksmith and
6 that he recognized you and that he said to you that you had been
7 in Tuol Sleng.

8 Could you tell us under what circumstances that encounter with
9 him took place?

10 A.It was after the liberation when I was at the Orphanage Number
11 Two and when I walked to Tuol Sleng Prison because I missed my
12 mother. When I missed her I would go there. And I knew him and
13 I met Grandfather Kung and he also knew me. He called me and
14 asked where I lived now and I told him that I now lived in the
15 orphanage and he asked whether I knew him.

16 [15.51.17]

17 I said no, I didn't. And he said that, "When you were playing
18 behind the prison, did you see me?" That's what he said. And I
19 told him that, "Of course I saw somebody but I did not know
20 whether it was you. And I did not know that you were Grandfather
21 Kung."

22 Q.Apart from the fact that Ta Kung allegedly told you that you
23 had been detained in Tuol Sleng, other than that did he give you
24 any other indications as to you -- as to how you lived in Tuol
25 Sleng -- how your stay in Tuol Sleng took place?

95

1 A.He said the people who lived here had suffered a great deal
2 and he asked me to forget about this and asked me to learn hard
3 at the orphanage. And he only encouraged me to study hard when I
4 was at the orphanage.

5 Q.A further question, sir. You have stated that since 1979 you
6 have returned to Tuol Sleng. Could you tell us on what dates and
7 under what circumstances you returned to Tuol Sleng?

8 A.I remember that when I returned to Tuol Sleng, sometimes there
9 were delegations, a group of people who came to visit orphanage,
10 and some of the orphans would like to see the place where I would
11 have been detained. Then I was invited to show to those people
12 and guide them and recall the accounts of what happened to me
13 during those regimes. So I could lead the group and tell them
14 what I could recollect.

15 [15.54.05]

16 Q.At what dates did the representatives of DC-Cam pay a visit to
17 you in Kampong Speu province?

18 A.The DC-Cam learned that I was the child survivor among the
19 four children at Tuol Sleng and they knew that I worked in
20 Kampong Speu as the bulldozer operator. So they tried to contact
21 me and asked me some questions but I don't remember the date
22 because no-one could replace me as the bulldozer operator. It
23 was rare to find someone who could be that good to operate the
24 bulldozer. So I could not manage some time to answer to the
25 questions properly and I don't even remember when exactly it was.

96

1 Q.Sir, I would not ask for a very specific date, but could you
2 give us an idea, approximately when your first encounter with
3 DC-Cam representatives took place approximately?

4 A.I cannot remember it but I probably do not understand your
5 question. I thought that you were not asking me yet, so please
6 repeat it, then I it would be a question.

7 Q.Sir, I would like to know, to have even a very approximative
8 idea -- that is to say, without a very specific date -- an idea
9 of when you had that first encounter with DC-Cam representatives.
10 A very vague approximation -- would it have been this year, last
11 year, many years before, around 2005/2006 or even earlier than
12 that?

13 A.I think I met with them for a short period of time because I
14 learned that the civil party application, that line comes to an
15 end, and then I filed the complaint -- the application and I was
16 advised that I was too late.

17 And if the Court accepted the application that I would be lucky,
18 but then I could also file an application as the survivor of Tuol
19 Sleng, and then they also asked whether I have got any photos of
20 my father at Tuol Sleng, and people told me that the only best
21 place to find those photos would be the DC-Cam.

22 MS. CANIZARES:

23 I have no further questions for the witness, Mr. President but,
24 Your Honour, I would like to perhaps respond to an observation by
25 my colleague, Alain Werner, a while ago.

97

1 [15.58.44]

2 Subject to a mistake on my part, he seemed to imply that today
3 the accused might be revisiting and modifying something that he
4 had stated earlier on, to the effect that he had never questioned
5 -- never challenged the fact that children were detained and
6 executed at S-21.

7 We would possibly like to finish off this day of hearing with the
8 authorization of the Bench and yourself, Mr. President -- we
9 would like to ask Mr. Kaing Guek Eav to tell us that he does not
10 re-open that assertion but he is simply wondering whether, in
11 this particular case -- wondering whether the witness has indeed
12 been detained at S-21.

13 MR. PRESIDENT:

14 Mr. Kaing Guek Eav, do you have any additional observation to
15 make? Additional, I mean something new, something extra, and not
16 what you have said already. And if you don't have anything
17 additional, then there is no need to repeat what you have said
18 because it has been noted by the Chamber already.

19 THE ACCUSED:

20 Mr. President, in the matter of children entering that location,
21 no-one was spared; neither the children nor the adults. All of
22 them were smashed by the 2nd or the 3rd of January. Yes,
23 children were detained there but none survived. Even the adults,
24 none survived. So this is just my clarification on the matter.
25 So that's why when Mr. Chanphal came to provide the testimony, I

98

1 acknowledged his suffering and, in addition, one I saw this
2 official document, then I acknowledged that his father suffered
3 there. Thank you.

4 [16.01.04]

5 MR. PRESIDENT:

6 The hearing of the testimony of Norng Chanphal, who was a child
7 survivor at S-21, has been dealt with in questions, and some
8 observations and rejections have been raised as to his assistance
9 at the centre towards the end of 1978, and the Chamber now has
10 sufficient information for our consideration.

11 Therefore, the Chamber declares the hearing today is adjourned
12 and the Chamber will resume its hearing on the 6th of July 2009
13 from 9 a.m. We will hear the testimony of another survivor from
14 the S-21 Office, E2/61; and another survivor who is in reserve,
15 E2/80, will be heard according to the planned schedule. That is
16 the 8th of July 2009.

17 Court officer, could you make necessary arrangements for Mr.
18 Norng Chanphal in cooperation with the official unit for his
19 return to his residence.

20 Security guards, take the accused back to the detention facility
21 and bring him back next Monday before 9 a.m.

22 The Court is adjourned.

23 (Judges exit courtroom)

24 (Court adjourns at 1603H)

25 -

- 1 -
- 2 -
- 3 -
- 4 -
- 5 -
- 6 -
- 7 -
- 8 -
- 9 -
- 10 -
- 11 -
- 12 -
- 13 -
- 14 -
- 15 -
- 16 -
- 17 -
- 18 -
- 19 -
- 20 -
- 21 -
- 22 -
- 23 -
- 24 -
- 25 -