



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia

Chambres Extraordinaires au sein des Tribunaux Cambodgiens

**ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ**

Kingdom of Cambodia

Nation Religion King

Royaume du Cambodge

Nation Religion Roi

អង្គជំនុំជម្រះសាលាដំបូង

Trial Chamber

Chambre de première instance

ឯកសារដើម

ORIGINAL/ORIGINAL

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TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

6 June 2013

Trial Day 189

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

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MR. ABDULHAK	English
JUDGE CARTWRIGHT	English
MR. CHHIM SOTHEARA (TCE-12)	Khmer
MR. DE WILDE D'ESTMAEL	French
MS. GUISSÉ	French
MR. KONG SAM ONN	Khmer
MR. KOPPE	English
MS. MARTINEAU	French
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. NUON CHEA	Khmer
MR. PICH ANG	Khmer
MR. SCHANBERG (TCW-624)	English
MS. SIMONNEAU-FORT	French
MR. SON ARUN	Khmer

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

2 (Court opens at 0834H)

3 MR. PRESIDENT:

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

5 This morning we will continue to hear the testimony of Mr.

6 Schanberg via video link from the United States.

7 Ms. Se Kolvuthy, could you report the attendance of the parties

8 and individuals to today's proceeding, as well as other issues

9 that need to be raised, if you have any?

10 THE GREFFIER:

11 Mr. President, for today's proceeding, all parties to the case

12 are present.

13 As for Nuon Chea, he's present in the holding cell downstairs,

14 which is equipped with audio-visual link, and it is based on the

15 decision by the Trial Chamber due to his health.

16 Today the Chamber will continue to hear the testimony of the

17 witness Sydney Schanberg via video link and he's ready. And for

18 this afternoon session, we will continue to hear the testimony of

19 the expert Chhim Sotheara. We also have a reserve witness,

20 TCW-665. This reserve witness confirms to his best knowledge and

21 ability that he has no relationship by blood or by law to any of

22 the two accused or any of the civil parties in this case. And he

23 already took an oath on the 5th.

24 Thank you.

25 [08.36.18]

2

1 MR. PRESIDENT:

2 Thank you.

3 I notice the counsel for Nuon Chea is on his feet, you may
4 proceed.

5 MR. SON ARUN:

6 During the hearing of the testimony of the witness Sydney
7 Schanberg, my client, Nuon Chea, would like to make a statement
8 regarding the evacuation planned for Phnom Penh people on the
9 17th of April. And he would like to make this statement during
10 any time of the period of the testimony of Mr. Schanberg.

11 MR. PRESIDENT:

12 Thank you for your information.

13 Good evening, Mr. Sydney Schanberg. Mr. Schanberg, during the
14 testimony yesterday, did you face any difficulty or any issues at
15 your end?

16 [08.37.43]

17 MR. SCHANBERG:

18 No, I think I learned the procedure very well and I feel
19 comfortable.

20 MR. PRESIDENT:

21 Thank you. Once again, we would like to give the floor to the
22 Prosecution and then to the Lead Co-Lawyers to put the questions
23 to Mr. Sydney Schanberg. You will have one session for this
24 morning's proceeding. And based on the information that we
25 received, there are difficulties in locating the quotes in the

3

1 questions put to the witness. For that reason, you should clearly
2 specify the documents that your refer to so that the witness can
3 locate the portion that you referred in your questions.

4 And you may now proceed.

5 [08.38.58]

6 QUESTIONING BY MR. ABDULHAK RESUMES:

7 Thank you, Mr. President and good morning, Your Honours. Good
8 morning, Counsel and a very good morning or good evening to you,
9 Mr. Schanberg. And thank you for returning to answer the
10 questions and assist the Court in this manner.

11 Just by way of a general road map, I'm going to ask you more
12 questions this morning about the evacuation of the city, the
13 events you describe in your diary with respect to the searches
14 for Khmer Republic officials. Then we will move on to the events
15 that you observed while staying in the French embassy, and
16 lastly, your trip out of Phnom Penh towards Thailand. And before
17 I start with those topics, I just want to ask you a couple of
18 questions about the diary, which in fairness I should have
19 started with yesterday. The diary covers the period from January
20 the 4th to May the 3rd of 1975 and of course it's a day-by-day
21 account.

22 Q. Can I ask you first, when was that - when was this information
23 recorded by you?

24 [08.40.24]

25 MR. SCHANBERG:

4

1 A. My editors asked me early on in that year to keep a diary and
2 I didn't write the diary until after I came out of Cambodia,
3 after we were released and came into Bangkok and to Thailand. And
4 the – and it has never been published because the stories that I
5 wrote immediately after my freedom covered most of the same
6 ground. So it was not necessary to be published, but I kept the
7 text.

8 Q. Did you take any notes during the period that the diary
9 covers?

10 A. Yes, I mean my notebooks are filled with lots of things that
11 didn't get in the newspaper because it wasn't necessary. But I
12 thought in a diary it would be useful.

13 Q. And did you use those notes in preparing the diary?

14 A. Yes, absolutely.

15 Q. Thank you. And just one more question on your work. The
16 information that we have in documents before the Court indicates
17 that you were awarded a Pulitzer Prize in 1976. Can you tell the
18 Court very briefly what that prize was awarded for?

19 [08.42.15]

20 A. It was awarded for foreign reporting at great risk and I
21 accepted it on behalf of my assistant and brother, Dith Pran, as
22 well as for myself, because without him I would never have been
23 able to do the work that I did.

24 Q. So when you say "for work done at great risk", does that
25 relate to your work in Cambodia or elsewhere?

5

1 A. It was a reference to the fact that I stayed behind and did
2 not join when the embassy – American embassy left on – I think it
3 was April 12th – the – I didn't go with the rest of the reporters
4 – American reporters.

5 Q. Thank you.

6 A. I chose to stay and Dith Pran chose to stay and we sent his
7 family out in the evacuation, and his family is still – is
8 flourishing now in America.

9 [08.43.42]

10 Q. Thank you. I thank you for those answers. I'm going to move on
11 now to the topics that I outlined earlier. So, returning the
12 images of the evacuation which you depict in your diary, a few
13 additional aspects of the event – I would like to turn to now.
14 You describe at several points in the diary looting of shops and
15 just by way of an example and for everyone's benefit, I will read
16 one representative quote and then ask you to expand for us. This
17 is in the diary, Document Number E236/1/4/3.1 at page 63, which
18 is English ERN 00898271. And that will be towards the bottom of
19 the page, Mr. Schanberg, only a single sentence, quote:

20 "As the city turned into a ghostly shell, the insurgents took to
21 claiming their spoils, looting shops and setting fires."

22 Can I ask you how many times you observed this and where did you
23 see it?

24 [08.45.27]

25 A. I only saw the outcomes. I saw the Khmer Rouge soldiers coming

6

1 back from the centre of town with soft drinks and other things
2 from shops that they had broken into. And there were people in
3 the embassy, officials, who were allowed to go into the city, but
4 we were not. And so people would come back and tell us what they
5 saw. So that's a reference that I did not personally witness
6 myself. But obviously it was taking place.

7 Q. Thank you.

8 A. In fact when we were captured at the beginning of their
9 arrival, they took my typewriter and my watch and a radio that I
10 carried and I did not protest, because I was going to be allowed
11 to live.

12 Q. Okay. And just - while we're dealing with that particular
13 moment in time while you were held, at pages 68 to 69 you
14 describe something that you saw, it relates to again the issue of
15 people's possessions being taken away.

16 [08.47.07]

17 Again, this is the diary and page numbers 68 to 69, the ERN in
18 English 00898276 to 277, quote:

19 "We watch jubilant soldiers passing by with truckloads of looted
20 cloth, wine, liquor, cigarettes and soft drinks. They scatter
21 some of the booty to soldiers at the bridge. We also watch
22 civilian refugees leaving the city in a steady stream. The
23 soldiers take watches and radios from them."

24 So just on that last point, was that something you observed,
25 soldiers taking watches and radios from the refugees?

7

1 A. Right, well that we – those are things I actually saw on that
2 first day. And it was – they were celebrating, they were doing
3 things to – they would come close to us and hold out a soft drink
4 and then pull it back, it was a very hot day, and then they would
5 laugh at us. And I can understand that kind of – the war was over
6 and they had won and so they were celebrating. So those – that
7 looting and – I didn't see any fires.

8 [08.48.39]

9 And there were times when we were inside when we could hear
10 things going on outside and we heard – you could hear one of the
11 soldiers, the Khmer Rouge soldiers, get into a car and try to
12 ride it and he had never driven a car before, apparently. We
13 found out later from one of the other guards. And so he was
14 trying to start it up and he couldn't get it started and he got
15 it – somehow he got it moving and he – it bashed into one of the
16 wall, one of the walls around the French embassy.

17 Q. Thank you.

18 A. And so they were–

19 Q. I apologize for interrupting you there, just – we have limited
20 time and I want to get back to a lot of additional facts that
21 hopefully you can assist us with. Again, since we're discussing
22 this particular moment in time while you were being held and what
23 you were able to observe then, if I can follow up in relation to
24 one of your answers yesterday. You described how Dith Pran got
25 onto a motorcycle with a Khmer Rouge soldier or officer and went

8

1 away for 20 to 30 minutes, and then upon his return you were
2 released. Do you know anything about where he went and what
3 happened there?

4 [08.50.16]

5 A. He went to the Information Ministry where they were setting up
6 a temporary - the Khmer Rouge were setting up a temporary
7 headquarters. And it's a place that when they released us we went
8 to, to see what was going on. And what he did - he couldn't tell
9 us right away, but when we got out - they released us - he told
10 us what he did. He told us he just questioned the general that
11 was there to explain what - if reporters could be - do their
12 work. And he said he heard this that they were able to do their
13 work because was on the radio, a Khmer Rouge official, in the
14 morning and said that the press could operate. So he came back
15 with the officer and told the officers, his senior officers that
16 we were - we were legal and we were not to be killed. And so we
17 were released.

18 Q. Thank you, that's very useful. Thank you very much. And now
19 returning to the evacuation and the circumstances of the
20 evacuation, you discuss in your diary at pages 76 and 79 your
21 discussions with officials working for the Red Cross and United
22 Nations. I'm going to read those passages before I ask you a
23 couple of questions.

24 [08.52.08]

25 The first passage is at page 76, English ERN 00898284. This is a

1 conversation with a Red Cross doctor, quote:

2 "'They haven't got a humanitarian thought in their heads', says
3 Murray Carmichael, a doctor on the Red Cross surgical team who
4 describes the emptying of one of the hospitals yesterday. 'They
5 threw everyone out, even paralytics, critical cases, people on
6 plasma, many will die, it was just horrible.' The insurgents had
7 forced Carmichael to abandon a patient in mid-operation at the
8 Red Cross surgery in the Hotel Le Phnom ."

9 Can I stop there first? Are you conveying there a conversation
10 that you had with this doctor personally?

11 A. Yes. It was a personal conversation, yes.

12 [08.53.15]

13 Q. Thank you. And I'll just move on to the next quote before I
14 ask additional questions. At page 79, English ERN 00898287, you
15 spoke or you describe here a statement made by a United Nations
16 representative, quote:

17 "Fernand Scheller, the Chief United Nations representative here
18 is in a frustrated mood. 'They're like people from another
19 planet" he says, "Their thinking is completely foreign to ours. I
20 told them that I'm at their disposal if they wish us to help. I
21 said I had 42 experts waiting in Bangkok to come back and help.
22 You know what they did? They laughed. They don't want our kind of
23 help. I would help them if I could, but there's no way.'"

24 Again, can I ask you first, was that a conversation you had with
25 this gentleman?

10

1 A. Yes, that was a conversation I had, those are my notes.

2 Q. Thank you. And as far as you are aware, from everything you
3 observed, people you spoke to and what you heard, were
4 humanitarian agencies such as the Red Cross or the United
5 Nations, able to provide humanitarian assistance to evacuees at
6 any time following the start of the evacuation?

7 A. No, they were prevented from taking any role and medical help
8 or any other kind of help.

9 [08.55.06]

10 Q. Thank you. These conversations took part during your stay at
11 the embassy of course, on the 18th of April. Around that time you
12 also describe – a little bit later in time but also while at the
13 French embassy – you describe some of the radio broadcast you
14 were able to hear. This takes us to page 104 of the diary,
15 English ERN 00898312, it's a 4.00 p.m. entry and you say the
16 following, quote:

17 "Phnom Penh radio announcing the results of the Special National
18 Congress just held in the capital, said the Congress expressed
19 the country's determination to struggle resolutely against any
20 foreign interference in Cambodia's internal affairs, whether it
21 is military, political, economic, social, diplomatic or whether
22 it takes on a so-called humanitarian form."

23 Was that a broadcast that you listened to or was it translated
24 for you perhaps by someone who spoke Khmer?

25 [08.56.35]

11

1 A. I don't remember actually listening to it and I don't know
2 enough Khmer to be that detailed. So I'm going to have to say
3 that I was told – I know I must have been told by somebody else.

4 Q. Thank you. In the passage we looked at earlier, there was a
5 description of doctors being forced to leave Hotel Le Phnom. I
6 want to look at couple of other places that were apparently
7 evacuated and that you described in the diary again. So just
8 starting at page 50 first of the diary – I apologize, this is
9 page 82 in fact, page 82 of the diary, English ERN 00898290. It's
10 a 19th of April entry and it's at 6.00 p.m. You say the
11 following, quote:

12 "The staff of Calmette Hospital forced out by the insurgents
13 begins arriving at the embassy in a caravan of about a dozen full
14 loaded cars, some of them packed with medicine."

15 In the next paragraph:

16 "A nurse from the hospital says 'The insurgents ordered nearly
17 all the patients out over the last two days. Those who could not
18 walk' she said, 'were pushed up the streets on beds.' She said
19 however, that 'The staff left behind some gravely wounded and
20 newly operated persons who could not be moved, in the hope that
21 Khmer Rouge doctors would come and care for them. But we never
22 saw any Khmer Rouge medical teams, only soldiers. Among those
23 left behind, were five badly malnourished infants.'"

24 [08.56.57]

25 So if I understand that passage correctly on the information you

12

1 received, the - it appears to have taken a little bit longer to
2 empty or evacuate the Calmette Hospital, this is an entry of the
3 19th of April. Would that be right?

4 A. Yes, that was correct, that hospital staff kept working. This
5 was I believe a French government hospital, Calmette. And so they
6 - very close - the building was very close to the embassy and so
7 they told us that they knew they could - if they were thrown out
8 of the hospital, that they could come into the embassy. And
9 that's what they did with this caravan of cars with supplies and
10 medicine and so forth. And told us that they were operating on
11 people with guns - with Khmer Rouge guns pointing at them and it
12 had been very stressful.

13 [09.00.09]

14 Q. Thank you. And just one other example, this is at page 101,
15 it's a 26 April entry, English ERN 00898309, at 10.15 a.m., you
16 say the following, quote:

17 "'Spots' Leopard, the Save the Children Fund representative,
18 finally comes to stay in the embassy after nine days of holding
19 out at his headquarters caring for the abandoned children there.
20 Like others, he was evicted by the Khmer Rouge, but apparently
21 without force. 'Spots' says the Khmer Rouge didn't even realize
22 there was anyone in the clinic until a baby cried loudly a few
23 days after the takeover of the city and attracted the attention
24 of soldiers outside. Since then, the Khmer Rouge had been urging
25 him to leave and come to the embassy, and today made it official.

13

1 They told him the children would be put in a school, which he did
2 not believe, and that his Cambodian nurses would be sent to the
3 countryside like the rest of the population, which he did."

4 And I'll stop there. First, again, is that a conversation that
5 you had personally with this gentleman?

6 [09.01.42]

7 A. Yes, it was a personal conversation.

8 Q. Was he able to describe for you whether there were any
9 provisions being made for these children and nurses that he was
10 leaving behind?

11 A. No, I think - my memory tells me that he was very worried
12 about what was going to happen to them, because they were - they
13 had been working for a foreign organization.

14 Q. Thank you. Now moving on to another area that I outlined
15 earlier, and this relates to what you observed and the
16 information you gathered about the apparent searches for Khmer
17 Republic officials and soldiers. For context, if I can start
18 first with what you describe as a mood - as a changing mood in
19 the city, this is at page 65 of the diary, English ERN 00898273.

20 [09.03.05]

21 And in this part you first describe how Alan Rockoff said he had
22 seen troops in the southern section marching over 100 government
23 soldiers as prisoners, and then a little bit further down you say
24 the following, quote:

25 "The mood of the city can now be seen changing. Government

14

1 soldiers, who had been embracing their conquerors a few hours
2 before, are now shedding their uniforms in fear all over town."

3 Can I ask you to tell the Court how you concluded that people
4 were shedding their uniforms in fear?

5 A. This information came from French embassy officials who were
6 allowed to make excursions into the city to - whatever - find -
7 to find something in their homes that they wanted to take with
8 them and so forth. And they would come back and tell us what they
9 saw. So that was - those were comments made or descriptions given
10 to me by some of those officers - embassy officers.

11 Q. Thank you. You testified yesterday in relation to some of the
12 senior officials of the Khmer Republic that the Khmer Rouge had
13 made announcements to the effect that they had been executed or
14 killed. Could you tell us which particular Khmer Republic
15 officials you recall being mentioned?

16 [09.05.09]

17 A. Well, I don't know when each of these men were killed. All I
18 was reporting was what those embassy officials, French embassy
19 officials, told us had happened. And all I remember was that it
20 was - Long Boret was executed. And I'm trying to think of - well,
21 we know that Sirik Matak was executed. And I don't know when or
22 if the other five names on the list to be killed, when they were
23 killed. But I'm guessing, that's all it is, it's a guess that
24 they were done away with very quickly.

25 Q. Thank you. At page 67 of the diary, English ERN 00898275,

15

1 there are a number of bullet points and the one that relates to
2 the time of 3.00 p.m., contains the following – and I should say
3 in fairness that I believe you are conveying information there
4 that you received from others, but we can verify that. Quote:
5 "In the afternoon around 3.00 p.m. while I was preoccupied
6 elsewhere, having been arrested, Khmer Rouge troops brandishing
7 rockets and other weapons forced their way into the neutral zone,
8 the Hotel Le Phnom. Their main mission seems to be a search for
9 government military officers."

10 And then you describe how nurses hid an individual who was a
11 Khmer Republic soldier. But if I can simply ask you how you
12 received that information, who did you receive it from?

13 [09.07.30]

14 A. There were people – foreigners like myself – coming out of the
15 hotel and we ask them what had happened, why was he leaving the
16 hotel and why were they leaving the hotel, and they told us that
17 they had been given a half-hour to get out and go to the French
18 embassy. And I said "When was that?" I asked a particular
19 Scandinavian official, and he said "That was 25 minutes ago." So
20 I rushed upstairs and got a bunch of clothes and some food,
21 canned food that I had and took off up the road to go to the
22 French embassy.

23 Q. And just in relation to this observation that the main mission
24 of the soldiers, who had entered at around 3.00 p.m., was to
25 search for government military officers. Was that something you

16

1 were told by people who were there?

2 [09.08.32]

3 A. Yes, who were there and who - and coming out then. And some of
4 them told it to us later. I did not - I did not see the
5 searching, I simply had to get my own stuff together and get out
6 quickly.

7 Q. Very well, thank you. I'm going to move on now to the events
8 in the French embassy which we've already touched upon. Of
9 course, yesterday we - you described for us the surrender of
10 Sirik Matak which took place on the 20th of April. In that same
11 period you also describe the arrangements being made to remove
12 from the embassy all of the remaining Cambodians. And you
13 describe starting at page 108, first the surrender of
14 identification documents for everybody who remained in the
15 compound, apart from Sirik Matak and the group that had been
16 surrendered. And then you move on to describe how babies were
17 handed over to expat families and how marriages were arranged
18 between Cambodian women and foreigners, in order to enable these
19 women to stay at the embassy. I'm summarizing information in
20 about three or four pages in the interest of time. Can I ask you
21 to describe for the Court what you saw in relation to these
22 events?

23 [09.10.26]

24 A. Well, Mr. Dyrac, the lead official in the embassy, was using
25 his powers to conduct marriages that you just described and

17

1 helping people to – who would normally not be allowed to go out
2 to let them get out. And when the Khmer Rouge found out that he
3 had been doing that – and I don't know how they found out, except
4 maybe they were monitoring his radio contacts with the French
5 embassy in Bangkok – but the Khmer Rouge told him he had to stop
6 that. And so he presided over some marriages in order to have –
7 get Cambodians out. And then had to stop because he was told that
8 if he didn't stop – this is what he said – that people – that the
9 officers that, you know, his staff would be punished. And so –
10 but he was both very brave and very helpful as far as he could
11 be.

12 Q. Can you describe what you saw and observed in terms of the
13 condition of these families as they were being apparently forced
14 to leave?

15 [09.11.59]

16 A. Well, one family was – the husband had been a senior person at
17 the Telegraph Office and I got to know him, he was educated in
18 the United States, and he and his wife – she had just birthed
19 their first baby during all of this excitement and war and
20 killing. And he came to me and asked if I would make a deposit –
21 he wrote a – made a document giving me control over a bank
22 account in the United States. And then on the day that they were
23 being – he and his wife and lots of other Cambodians – were being
24 herded out of the embassy, I was in the centre of it and saw the
25 man and his wife and the baby and she asked me to take the baby

18

1 and look after him, because I was going to be able to get out.
2 And I thought about it and I thought that – I thought well, I
3 don't really know that I'm going to get out and what will happen
4 on the – if they do takes us out. And so I said I'd be reluctant
5 to do that because it's more than – I mean maybe I can't fulfil
6 it. And at that point, a French woman who had been listening said
7 "I'll take him and I know all these people in relief
8 organizations and I will see that he finds a family." And the
9 wife weeping through all of this, turned over the baby to that
10 woman. And she did, you know, she did come through, she found him
11 a family and I turned over that money to the youngster when he
12 was somewhere around 10 years old.

13 [09.14.15]

14 Q. Thank you for that account. Once the hundreds of people had
15 left – and this is at pages 87 to 88 of the book, starting at
16 English ERN 00898295 and the following page, you describe the
17 entry of Khmer Rouge soldiers into the compound and I'll read it
18 for you, quote:

19 "A few minutes later three Khmer Rouge officers in black with
20 pistols and notebooks guarded by two riflemen came into the
21 embassy. The Consul, Dyrac, acts as their guide, they walk here
22 and there with blank unsmiling faces looking at people closely,
23 asking questions, making notes and discussing things among
24 themselves. A few Cambodians suddenly come out of the woodwork.
25 One is a Calmette Hospital aide and walked up to the Khmer Rouge

19

1 officers to try to plead that special circumstances warrant their
2 stay in the embassy. Their appeals are ignored by the Communists
3 and they are pushed out of the embassy gate by French officials."

4 [09.15.44]

5 Is that something that you observed personally, these officers
6 coming in apparently to search for any remaining Cambodians?

7 A. Yes, that's what I saw.

8 Q. Thank you. In the book "The Killing Fields", E243.2, this is a
9 document we looked at yesterday, at pages 70 to 71 there is a
10 photograph, and I want to show it to you to see if that is a
11 depiction of the scenes at the French embassy.

12 MR. ABDULHAK:

13 Mr. President, with your permission, we will display this on the
14 screen. The relevant ERN is 00862602.

15 MR. PRESIDENT:

16 You may proceed.

17 [09.16.44]

18 BY MR. ABDULHAK:

19 Thank you, Mr. President.

20 Q. I should say Mr. Schanberg, the photograph is attributed to Al
21 Rockoff and if you could take a look at it and tell us whether
22 that is a place that you can recognize?

23 MR. SCHANBERG:

24 A. The copy of this that I have is very dark - oh, excuse me, I'm
25 going to go look at the screen now. No, it doesn't ring any bells

20

1 for me.

2 Q. Very well. We will move on.

3 A. What was the caption under the-

4 Q. I propose to simply move on in the interest of time. There's

5 not caption, it appears on pages that deal with the French

6 embassy, but we will move on. I'm going to ask you now a few more

7 questions about your journey to Thailand, you touched on this

8 yesterday.

9 [09.17.58]

10 And can I ask you first to describe for the Court, if you recall,

11 how a number of Cambodians were able to be smuggled onto the

12 trucks, the first convoy that you left with on the morning of the

13 30th of April?

14 A. What is the question?

15 Q. It relates to the boarding of the trucks on the morning of the

16 30th of April and the smuggling - for want of a better word - of

17 three, I believe, Cambodian women in that process who were able

18 to leave with the rest of you in that first convoy.

19 A. Right. Well - I'm trying to think of his first name, it was

20 Bizot, he was a - what was his first name?

21 Q. That's fine, Mr. Schanberg, Bizot will suffice. You can just

22 give us the account.

23 [09.19.31]

24 A. He was helping - looking after the loading of our truck, it

25 was 5.00 in the morning, it was dark. And he helped people come

21

1 up on the side of the truck and get into it, even though their
2 names were not on the manifest. And then he would count and the
3 military soldiers – the Communist soldiers – saw this and they
4 said "Well that's too many" and they made him pull off everybody
5 from the truck and start over again. And this time they did it
6 more skilfully and we had three or four people in our truck who
7 were getting out without permission. One was an American pilot
8 who was an alcoholic and there were two Cambodian women who – one
9 of whom was apparently married to this man. And there was also a
10 woman and her daughter from one of the Russian colonies, and I
11 think that she was on the list.

12 Q. Thank you.

13 A. And so I don't know if he – I don't know if Bizot did that on
14 many trucks or not, but I know that we had – we had stowaways on
15 ours and we were not – we were glad to have them.

16 [09.21.23]

17 Q. Thank you. Now, we have limited time remaining, so if I can
18 ask you to be as brief as you can. We're going to look at the
19 descriptions of what you saw on your way from Phnom Penh towards
20 the Thai border.

21 A. You want me to describe some of this –

22 Q. I'll take you – I'll take you to specific passages.

23 A. Okay.

24 Q. First at page 109, English ERN 00898317, you describe
25 travelling down – or I guess south on the Monivong Boulevard, you

1 say the following, quote:

2 "As we head down Phnom Penh's main thoroughfare, Monivong
3 Boulevard, the city is an eerie site, the street lights are on
4 casting their rays on spectral emptiness. Pieces of paper swirl
5 around an occasional abandoned car. A shutter blows in the
6 breeze, a dog trots across the road, a rat scurries through the
7 gutter. But there are no people, no civilians, only Khmer Rouge
8 soldiers. Some camp on the sidewalk, others in the shops, all of
9 which have been broken into and looted, their bent steel gates
10 hanging askew."

11 [09.22.55]

12 We talked about looting earlier, is this image that you describe
13 here of shops having been looted, is that something that you are
14 able to observe while travelling along Monivong?

15 A. Yes, it was clear that they had been looted and it was a ghost
16 town - city - I guess.

17 Q. Thank you. Now moving on to the next part of your journey,
18 this is at pages 114 to 115, English ERN 00898322. You are - at
19 this point you have arrived near a village called Lvea in the
20 Kampong Chhnang province and you were able to see some people and
21 you say the following, quote:

22 "Several people in the convoy speak Khmer, so are able to talk to
23 the residents. 'The Vietnamese took 25 years to liberate their
24 country, we took only five' one Khmer Rouge soldier living in the
25 village said proudly. Another soldier says that officers of the

1 old regime above the rank of captain will have to spend three
2 years in the rice fields being 'processed'." End of quote.

3 [09.24.37]

4 Was that a conversation that you heard or witnessed personally
5 with a soldier discussing what was to happen with officers of the
6 old regime?

7 A. It was told to me by other people in the convoy when we would
8 make a stop, and they would meet someone and speak in Khmer with
9 them. And this is - this was sort of several people came back and
10 told us these stories.

11 Q. Thank you. Immediately below that you describe the refugees
12 coming out of Kampong Chhnang town, you say the following, quote:

13 "Some refugees, people pushed out of Kampong Chhnang town, are
14 camping on the edge of the village. One of them, a disheartened
15 doctor named Dam Chan (phonetic) tells me that Kampong Chhnang
16 fell to the Khmer Rouge on April 18th, a day after Phnom Penh,
17 and was emptied of people on the night of April 23rd. He said
18 that the hospitals were emptied of patients too, as in Phnom
19 Penh. 'We were given no time to pack' the doctor says 'I simply
20 grabbed my three children and my wife and mother and we ran. I
21 have only what you see on my back.' The doctor also says 'The
22 Khmer Rouge seemed to be harassing hospital personnel in
23 particular, never letting us stop to rest, always chasing us on
24 and we don't even know where we're going. Suddenly a Khmer Rouge
25 officer who had been watching us strode up and started

24

1 questioning the doctor. The doctor's face turned frightened, his
2 eyes dropped to the ground and he hurried off into the woods
3 where his family was."

4 [09.26.23]

5 The officer then turned to me, staring at my notebook and in
6 French asked, what I had been talking to the doctor about."

7 Q. Can I ask you how large was this group that you saw when you
8 spoke to the doctor and were they all from Kampong Chhnang town?

9 A. My memory tells me that it wasn't a huge group and the doctor
10 came out, sort of, of the woods and to talk to us. And he wanted
11 to tell his condition; what the condition he was in and he and
12 his family and others and so that's what he did. And I was, you
13 know, yes I took the notes on that and that's what he said.

14 Q. Thank you. In the following sentence you say that you "played
15 dumb and he finally gave up and asked you for a cigarette." Can
16 you tell the Court why was it that you played dumb speaking to
17 the officer?

18 A. Because I thought that if he felt that I was going to use this
19 conversation for a purpose that the Khmer Rouge would oppose,
20 that he might do something to me. So I played dumb meaning like
21 I'm just a guy here, you know and I'm from Canada and that's why
22 I played dumb.

23 [09.28.00]

24 Q. Thank you. Now in the interest of time, I'm going to just
25 refer to other towns and cities that you saw and ask you to

25

1 confirm whether these are images that you saw yourself. First
2 Kampong Chhnang City, then Ponley and Krakor; two more evacuated
3 towns and then Pursat also evacuated. Did you go through all of
4 the cities or parts to all of these cities and did you see them
5 to have been emptied of people?

6 A. Yes. I saw them personally as did everybody else in the
7 convoy.

8 Q. You also describe or refer to Battambang and Poipet. Did you
9 also go through or past those two cities and were you able to
10 observe their condition?

11 [09.28.59]

12 A. Yes and that occasionally we would see a cow or some animal in
13 a field and no people as we went through these towns.

14 Q. Thank you. When you were going through Pursat, this is at page
15 120, English ERN 00898328 at 1.40 p.m., you say the following,
16 quote: "In Pursat, the scene is a repeat of all the other towns.
17 No civilians, only soldiers. All the houses looted, in this case,
18 smashed up a bit with kapok, a local product, broken open and
19 strewn everywhere. Half-finished meals sit on the tables in some
20 houses; people obviously had to leave in a hurry." Again for the
21 Record, are these images, that you, yourself observed while going
22 through Pursat?

23 A. Yes. We sometimes were allowed get out of the – get off the
24 trucks and stretch our legs and that's what I would do when I was
25 stretching my legs.

26

1 Q. And perhaps this might be my last question, as you were going
2 along the roads and you saw the emptied towns, to the extent that
3 you were able to look around, did you see where the populations
4 of these cities had gone; were they able to stay near the cities,
5 were they able to stay near the roads? Were you able to see any
6 of them?

7 A. No. We had no way of - there was no indications of where they
8 had been taken.

9 [09.30.43]

10 Q. Thank you. I'm very grateful for your patience. I realize
11 you're answering these questions late at night. I want to thank
12 you on behalf of the Office of the Co-Prosecutors for your
13 patience and your efforts and for making yourself available to
14 the Court. Your Honours, that concludes our questioning and Mr.
15 President, with your leave we will hand the floor over to the
16 civil party lawyers. Thank Mr. Schanberg.

17 MR. PRESIDENT:

18 Thank you.

19 The floor is now given to the Lead Co-Lawyers for civil parties.

20 You may proceed.

21 QUESTIONING BY MR. PICH ANG:

22 Good morning Mr. President, Your Honours. I and Ms. Christine
23 Martineau will put questions to this witness. We only have a few
24 questions for him.

25 [09.31.41]

1 Q. Good evening Mr. Witness. I have some questions for you. After
2 the Americans stopped bombing Cambodia either in June or July in
3 1973 as you stated, did any American soldiers participate with
4 the Lon Nol soldiers in the fight against the Khmer Rouge
5 soldiers; did you have any knowledge of this event?

6 MR. SCHANBERG:

7 A. They - as far as I could tell, they would give advice to the
8 leaders of Cambodian units, suggestions as to how to proceed, but
9 they didn't take any physical part in the fighting outside of the
10 bombing; the American bombing.

11 Q. When you refer to "they," whom are you referring to?

12 A. I'm sorry I don't understand the question.

13 Q. You just stated that "they gave instructions for their
14 attack." When you used the word "they," whom are you referring
15 to?

16 [09.33.43]

17 A. I'm referring to military men in the Embassy, in the American
18 Embassy, who discussed with Cambodian military leaders
19 suggestions for how to proceed. That's all I know and I was never
20 present to listen to any of that, but that's what I am told by
21 others that they were doing. And that's, I guess all I know about
22 it.

23 Q. Did the advice that they gave leak out to the public or was
24 published in any of the newspapers back then?

25 A. No. There were - there was one occasion.

28

1 Q. Thank you and this is my last question and after I would like
2 to hand the floor to my colleague. After the bombing ceased in
3 June or July 1973, was there any concern that the bombing would
4 be restarted?

5 [09.35.55]

6 A. No, not that I know of because the Congress – the Government
7 in Washington was opposed to giving a great deal more of aid to
8 the Cambodian side, believing that it was clear that they were
9 being slowly defeated by the Khmer Rouge.

10 Q. Thank you Mr. President, I now conclude my question and I'd
11 like to hand the floor to my colleague.

12 MR. PRESIDENT:

13 Yes, you may proceed.

14 QUESTIONING BY MS. MARTINEAU:

15 Good morning Mr. President. Good morning to the Bench and hello
16 Mr. Schanberg; I can't see you on my screen, but I know you are
17 there.

18 Q. The Prosecutor asked you a great many questions and I want to
19 come back to one or two issues, but I'll begin with a question
20 that could be very useful for us. In 1970 you went to Cambodia
21 and then we understand that you came back after that. Indeed your
22 diary testifies to this from January to May 1975, but between
23 those two periods, 1970-1975, did you also go to Cambodia and
24 stay for any length of time?

25 [09.37.49]

1 MR. SCHANBERG:

2 A. Yes, several times and for long periods of time.

3 Q. When you came to Cambodia on those occasions and that final
4 stint, January to May '75, you were coming for the New York Times
5 and on those trips, did you have any information about what was
6 happening in the country, what the government was doing on the
7 one hand, but also what was going on in the rest of the country
8 and news about the gradual advancement of the Khmer Rouge over
9 the years had liberated a good part of the country?

10 A. Well there was several places where we got information from.
11 The American Embassy would sometimes answer questions about the
12 advances of the Khmer Rouge. The Cambodian generals were
13 sometimes open to interviews and would tell us that their losses
14 were heavy or so forth and so on. So it became very clear that
15 slowly the country was shrinking as the company run by the Lon
16 Nol government was shrinking really to Phnom Penh and all of the
17 cities.

18 [09.39.50]

19 Rural people had come in and taken - became - started living in
20 those cities and some of them were seized by the Khmer Rouge and
21 used as soldiers. But there was information because we, for a
22 long time or a reasonable time, we were able to travel; not
23 everywhere but we could go far enough to find out from local
24 people what the Khmer Rouge was doing and how far they had
25 advanced. So it wasn't like at the very end (inaudible)-

30

1 Q. You're telling us here that you were able to move relatively
2 freely. I was going to ask you about this. Where were you able to
3 go during those pre-1975 visits and what was your perception of
4 what was going in the liberated zones?

5 A. It was clear that the Khmer Rouge were making headway, that
6 they had, for example, taken over Siem Reap and apparently having
7 done some damage to the buildings; how should I put it,
8 government buildings built in the 12th century and that tourists
9 would go to in earlier years and visit.

10 [09.41.40]

11 And you could - people would tell you; in places if the Khmer
12 Rouge that had not yet taken over, they would tell us that the
13 neighbouring town had been taken over and many of the people had
14 come into their village. So there was information to be gained if
15 you were willing to take quick visits by automobile to go to
16 those places which I did. ///

17 Q. So you gathered a certain amount of information in this way,
18 but were you also able to pick up facts from refugees who had fled
19 from the liberated zones and who were coming into Phnom Penh?

20 A. Yes, the answer yes because there were many refugees and lots
21 of refugee camps in and around Phnom Penh. So there were a lot of
22 people to talk to and it was clear that slowly but surely the
23 Khmer Rouge were taking more towns and villages, but not the
24 cities yet and it was not - there wasn't any optimism that I
25 could find that the Cambodian government was going to be able to

1 turn this around.

2 [09.43.29]

3 Even with the American bombing that ended in 1973, Congress ended
4 it. No more money for the bombing; the American Congress.

5 Q. There is one thing that surprises me in your diary that you
6 also mention in a number of your articles, as well which is that
7 the Cambodians and the foreigners who were in Phnom Penh thought
8 that Lon Nol regime was going to fall and no doubt many of them
9 hoped it would and they thought that Communism wouldn't be such a
10 bad thing. Now, apart from the fact that the Khmer Rouge were
11 advancing, did you have any information about what life was like
12 in these liberated zones because there appears to be some kind of
13 contradiction here between all of these people who are running
14 away from the liberated zones; and on the other hand this kind of
15 optimism which does appear to have existed as well?

16 [09.45.07]

17 A. Well I don't know what optimism you're talking about. I mean I
18 didn't hear anybody that - I can't remember anybody saying that
19 Communism was a good idea unless it was somebody that was in a
20 Communist Embassy. And I didn't know anybody like that. I think
21 that most of the military and civilian diplomats that were there
22 were really becoming resigned to the likelihood that the Khmer
23 Rouge were going to win. And the Cambodian people are sometimes
24 not aggressive, they just wanted the war to go over, go away.

25 Q. Time is short and so I won't quote the passage where you say

1 that even under Communism things might have worked in some way,
2 but let me come back to this issue of whether you had precise
3 information about the way in which daily life was organized by
4 the Khmer Rouge in the liberated zones?

5 [09.46.51]

6 A. I don't think we – we heard reports somebody would escape and
7 come into Phnom Penh. We heard reports of what happened in some
8 of these places in which people were taken prisoner and made to
9 work in the fields and weren't fed very well and there was lots
10 of disease and death and malnutrition. And there was malnutrition
11 in the places that were still protected by the government of Lon
12 Nol, the Cambodian government, and it was a very, very negative
13 scene; if, unless you were rooting for the Khmer Rouge.

14 Q. I'd like to turn to something else now. It would appear that
15 the information you had at your disposal was fairly general and
16 that no doubt it was difficult to acquire hard facts; in a
17 situation where it was impossible for you and your colleagues to
18 go into the liberated zones. So let's return to Phnom Penh. A
19 moment ago, the Prosecutor was talking to you about the Le Phnom
20 hotel where you were staying, so can you tell us a little bit
21 about the organization of the infirmary or hospital or whatever
22 you wish to call it at that place? What kind of capacity did it
23 have and when you returned from that rather harrowing day, I
24 believe you found the hospital had been more or less destroyed.
25 Could you tell us about that please?

1 [09.49.26]

2 A. What day are you speaking about? I'm confused.

3 Q. I apologize. I am talking about the 17th of April when you
4 came back to the Hotel, Le Phnom and I believe that it was on the
5 17th of April that you realized that the hotel had to be
6 evacuated. Now within that hotel, it would appear there was a
7 kind of infirmary that had been set up, a sort of field hospital
8 you might say and I'm going to ask you if you could give us a
9 little bit more detail of that; how many wounded people were
10 being cared for there and how, in fact, did all that end up being
11 reduced to nothing? Thank you.

12 A. Well my memory may have failed me, but I didn't know of
13 anything. There were doctors, but I don't have anything that
14 resembled a hospital or even a branch of a hospital. The Red
15 Cross office had several people and they stayed in the hotel, but
16 I didn't know very much about their work.

17 [09.51.05]

18 And the really most of the victims of the war were placed in much
19 larger, in a hotel - in hospitals, Preah Ket Mealea and the
20 buildings that were turned into - that were - that had been for
21 sports, in an Asian competition some years before; those
22 buildings were turned into a hospital. That was the main military
23 hospital and so that - I don't know what specifically the Red
24 Cross was doing. I just know there were some medical people who
25 were there, that's all.

1 Q. Thank you. In your book rather than the journal, excuse me,
2 the reference is E243.2, and in this book you wrote, in parallel
3 with Dith Pran at some point, and he described some of the
4 conditions under the Khmer Rouge, the taxing conditions, the
5 violence and the lies and the way he was treated and the ways in
6 which his compatriots were treated, as well. This is one question
7 that could - really involves two questions, but tell me when did
8 you hear about these terms that were used for the deportees; the
9 New People and the 17th of April people. Did you hear this kind
10 of terminology when you were at the Embassy or was it only Dith
11 Pran who told you about this subsequently?

12 A. Dith Pran, when Pran came out he talked about this at length
13 and in detail. And there was no way that I - I went searching for
14 - I used whatever sources I had to try to find out if he was
15 still alive for four years, more than four years and so I had no
16 information from him until the miraculous day when I got the news
17 that he was alive. And so he's the one that told me what went on
18 and how he was punished when stole a tomato that he wasn't
19 supposed to be eating; and how he was beaten up and all kinds of
20 things and how he hid his real occupation and pretended to simply
21 be a cyclo-man, meaning a man who pushed carriages around in
22 Phnom Penh and played dumb.

23 [09.55.07]

24 And he succeeded, God Bless and Pran, as I say, he told me
25 everything and this is not a man who tells lies.

1 Q. Thank you. When he told you his story which was full of
2 violence and as was the case for many of the New People, did he
3 tell you about a kind of separation between the Base People and
4 the New People? Did he say that the people deported from Phnom
5 Penh such as himself were treated in a different way to the
6 others?

7 A. Yes, yes. They were always - he told me stories about people
8 that I had known who were discovered let's say two years in or
9 something, who were discovered having worked for an American
10 company or an American newspaper, or something; and they would be
11 executed.

12 [09.56.42]

13 And one of my driver was thus executed, Siran (phonetic). I found
14 out all of this later, after the war. His family was still intact
15 and so I helped them get out of their rut afterward and so forth.
16 But the - there really is you know - I have seen reports now from
17 people who were former Khmer Rouge who say it was - that they
18 liked their Khmer Rouge life. I have not heard that personally,
19 but from those who escaped, I heard nothing but, you know, but a
20 killing. You know, a slaughter house and I think clearly a
21 genocide but that's my opinion because all of the evidence that I
22 have now or had very soon after the war ended says it was a
23 genocide, by the definition that genocide has.

24 Q. I'm very grateful to you Mr. Schanberg for having answered our
25 questions. Mr. President, this brings me to a close, thank you.

36

1 [09.58.42]

2 MS. GUISSÉ:

3 Just one point about the transcription Mr. President; with
4 respect to Mr. Schanberg's experiences it is important to
5 remember that if we did not allow Mr. Short to qualify what had
6 happened in these terms, then we should also remember that such
7 qualification of things is not required of Mr. Schanberg either.
8 I am remembering what Judge Cartwright told Mr. Short and I think
9 that same comment that she made at that time applies today. Thank
10 you.

11 MR. PRESIDENT:

12 Thank you and Mr. Sydney Schanberg, the Chamber would like to
13 remind you that you are testifying as a witness so you are not
14 entitled to make an analysis and provide your own conclusions.
15 And that is the regulations of the proceeding before this Court
16 and of course, it is the Chamber who will consider all the facts
17 and the laws before us.

18 [10.00.04]

19 And thank you Mr. Sydney Schanberg, the time is appropriate for a
20 short break. We will take a 20 minute break and we will return
21 after that.

22 Before we take a break, we would like to inform Nuon Chea and his
23 team that upon receiving your request this morning by your
24 counsel Son Arun, that you would like to make a statement
25 regarding the fact on the evacuation of people from Phnom and

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1 Penh and other towns. The Chamber will grant Nuon Chea the time
2 to make a statement for the second session of this morning, that
3 is, upon the resumption of the session this morning, the floor
4 will be given to you.

5 We will take a short break and return at 20 past 10.00. The Court
6 is now adjourned.

7 (Court recesses from 1001H to 1022H)

8 MR. PRESIDENT:

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

10 We will now give the floor to Nuon Chea to make his statement
11 related to the facts of the evacuation of people from Phnom Penh
12 on the 17th April 1975 and from certain other towns.

13 Mr. Nuon Chea, you may now proceed.

14 [10.22.55]

15 MR. NUON CHEA:

16 Thank you Mr. President. Good morning Your Honours and good
17 morning my Cambodian compatriots. I am delighted that I am given
18 the opportunity to enlighten the Court to my Cambodian people
19 inside the country and overseas regarding the evacuation of
20 people from Phnom Penh city after the liberation day of 17 April
21 1975.

22 To my recollection, the opinion of the Standing Committee of
23 Democratic Kampuchea at the time, or we can say bluntly of the
24 Communist Party of Kampuchea made the following decisions. Upon
25 the liberation of Phnom Penh, we have to evacuate the people

1 Phnom Penh or not. It's because one: If our soldiers come to
2 control the city, will the Americans bomb the city and we cannot
3 actually predict the behaviour of the Americans as they used to
4 bomb the countryside for 330 days in order to smash the resistant
5 movement and to destroy our economy.

6 [10.25.01]

7 Two: If the Americans bombed the city, will the Vietnamese just
8 stand idle? No, in fact the Vietnamese would pretend to come to
9 lend their support to Democratic Kampuchea and by that means they
10 would mobilize their soldiers under the pretext of assisting
11 Cambodia, but instead to control us, to invade us.

12 And for these two main reasons that would lead to the evacuation
13 and for that reason, the Standing Committee actually invited
14 chairmen of all zones to inform them of the imminent evacuation
15 of Phnom Penh residents upon the liberation and inquired which
16 zone could actually accommodate a number of certain people from
17 Phnom Penh. And to my recollection, for those zones which could
18 produce a lot of agricultural products would accommodate more and
19 that would be the north zone. So we consulted with the chairman
20 of the north zone and the chairman of the north zone decided to
21 accommodate 1.5 million people and the rest of the remaining
22 residents of Phnom Penh that is another 0.5 would be distributed
23 to various other zones. For example, to the east or to the other
24 zones and they also confirmed that the people at the base shall
25 behave properly toward the evacuees, that is the New People and

1 in particular, to lend their spiritual support as brothers and
2 sisters, as a one nation of Kampuchea; and that they should not
3 discriminate the newcomers.

4 [10.27.44]

5 And the zone chairmen participated in the meeting and they also
6 relayed the instructions to all those cooperatives. So it is not
7 that the Democratic Kampuchea decided to evacuate Phnom Penh
8 without taking any responsibility; in fact they took
9 responsibility and they decided that matter in a formal meeting.
10 Unfortunately, as we saw it upon the liberation and it is
11 apparent that we had to evacuate the people as we were afraid the
12 Americans would bomb the city as they used to do it. They used to
13 bomb for more than 200 to 300 tonnes and you could see the
14 remnants of the bombs as being as a large pond.

15 [10.28.57]

16 And we did have conflicts with the number of countries and of
17 course I could point out that would be Vietnam. And Pol Pot
18 actually spoke in the meeting that Vietnam was our friend, but
19 they were of adversary nature. They could pretend to lend their
20 support to Kampuchea, but in fact, they would strengthen their
21 authority via their soldiers, upon their entry into Kampuchea.
22 And that is a very complicated issue and this is for all the
23 national compatriots to understand; it is not just we do
24 everything and we took it for granted. If people in Phnom Penh
25 and based on the means of food support, it would be a difficult

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1 choice to consider based on the information that we could get,
2 there would be issues with the fuel provision and with the food
3 supply to Phnom Penh residents. And if we let them remain in
4 Phnom Penh then they would face the challenge of the lack of food
5 and if the food could be provided in limited amounts, it would
6 mean the food would not go to the poorest group; it would go to
7 the ones who could afford it, who could purchase the food.

8 [10.30.40]

9 And that's another main reason of the issues of the lack of food
10 supply and transportation. I would also like to reiterate that
11 each zone was instructed to give instruction to the cooperatives
12 to have good, positive attitude towards the evacuees because they
13 could not engage in hard labour as the Base People did. And they
14 had to be friendly to one another, but in practice certain areas
15 could do it, but other areas lacked in substance despite the
16 repeated instructions given to them. And, of course, we had those
17 groups who created havoc within the group.

18 I, at the time, was a member of the Standing Committee of the
19 Communist Party of Kampuchea and I actually recall these very two
20 main points and there was the first one as I said, whether the
21 Americans would bomb the city and the second one is the food
22 supply and transportation to the people in the city. And upon
23 seeing such difficulties and challenges, we had to reserve the
24 situation based on what we had and for that reason we decided to
25 evacuate the people to resettle at the cooperatives in order to

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1 minimize the difficulties they faced in the city.

2 [10.32.31]

3 And we did that out of the kindness of the generosity and not for
4 the fact that we would land them in difficult situation. And this
5 is my frank statement from the bottom of my heart as someone who
6 was responsible for what happened at the time.

7 MR. PRESIDENT:

8 Thank you, Mr. Nuon Chea.

9 I would like now to give the floor to Nuon Chea's defence to put
10 questions to the witness, Mr. Sydney Schanberg; you may proceed.

11 QUESTIONING BY MR. KOPPE:

12 Q. Good evening Mr. Schanberg, can you hear me?

13 MR. SCHANBERG:

14 A. Yes I can hear you; it's clear.

15 Q. Just a first question before I go to the content of my
16 questions; were you able to listen to what Nuon Chea just stated?

17 A. Yes, I heard his remarks or the translation of his remarks.

18 [10.34.07]

19 Q. Then you have heard him speak about a few subjects in relation
20 to the events in April '75 that I would also like to ask you
21 questions about. The topics that I would like to cover at least
22 today would be the question of U.S. bombing, the questions of
23 food shortage, situations in refugee camps and possibly also a
24 possible threat of Vietnam.

25 But before I go to these questions, I would briefly like to ask

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1 you a few introductory questions if that is all right with you.

2 Firstly, I just noticed this morning that you were asking
3 somebody in the room with you to help you memorize the first name
4 of Bizot. I was just wondering so that we know who is present
5 with you in the video room?

6 [10.35.24]

7 A. My wife and a UN official who help set up this system so that
8 I could testify from New York, instead of flying all the way to
9 Cambodia.

10 Q. Okay, thank you very much. Another introductory question would
11 be where you were stationed in the period between 1970 and 1975.
12 You were, as I understand, covering the events in Southeast Asia;
13 what was your position, where were you stationed in the period
14 between '70 and '75?

15 A. My post, my original post was the Bureau Chief in New Delhi
16 covering South - that section of Asia; India, Pakistan, Burma and
17 countries there; and I was called to Cambodia when in 1970, when
18 Prince Sihanouk was deposed and a new group took over the
19 government, the Lon Nol group.

20 And so I came in and covered that for several months and then
21 went back to New Delhi to do my stories there. And then I was
22 asked to come back to Southeast Asia when the North Vietnamese
23 began an attack called the: "The Easter Offensive," 1974. I'm
24 thinking - I'm trying to think of the year, but I may be wrong on
25 the year, but in any case, and so I spent that year, most of that

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1 year covering that "Offensive" and then it was over. I went to
2 Cambodia again and spent a long time and I kept going back to
3 Cambodia is what I guess I'm trying to say; because it was a
4 country that was not being – the war in Cambodia was not being
5 covered very well and I wanted to dig deeper.

6 And so that's – that was my situation.

7 [10.38.26]

8 Q. So if I would summarize; you were in fact covering for the New
9 York Times the war in Cambodia between '70 and '75?

10 A. Yes.

11 Q. Were you also covering the events in neighbouring Vietnam?

12 A. The only long period of time I spent in Vietnam was in –
13 during that "Easter Offensive," and then I travelled to all kinds
14 of places in the North where the Vietnamese Army crossed the –
15 you know, crossed into the South Vietnam. And I, you know, I
16 stayed there for a few months and so forth and so I became very,
17 very interested in Cambodia simply because they – it was a
18 country that seemed to be not able to defend itself.

19 And it's a country I didn't know a great deal about and I began
20 to learn and I guess that's my story.

21 [10.39.54]

22 Q. Thank you. You have been testifying earlier that you have
23 visited Cambodia between '70 and '75 frequently. In your diary on
24 page 111, the first or the second paragraph that would be ERN
25 00898319; the second paragraph it says, and I quote: "At times

1 along this road today we see heavy war damage with homes and
2 pagoda's flattened by the massive B-52 bombing raids of 1973."
3 Now this is something that you have been describing in - what
4 you've been seeing in '75. Would this description correspond with
5 the things that you have seen in respect of in terms of results
6 of the U.S. bombings in the period that you visited Cambodia
7 between '70 and '75?

8 A. I saw in many places the damage caused by the bombings and
9 reported them. I had no biases as to who was doing what, but both
10 sides got covered and certainly the American portion was covered
11 very, very carefully and in great detail.

12 Q. Could you please expand today, a little bit more about the
13 things that you have seen, the results from the U.S. bombings in
14 that period between 1970 and 1973?

15 [10.41.57]

16 A. What I saw were places where nobody lived anymore and I had no
17 way of going off into the countryside where reporters, when they
18 did venture into the countryside, were captured and killed. So
19 and that would limit writing any stories about it. The point is
20 that I talked to local people when I found them and they told me
21 what happened and I reported it. And you can go back to - go into
22 the New York Times Archives or Google it and you will find the
23 stories and I was doing a lot of covering of what the Americans
24 were doing and they were not happy about it.

25 Q. And are you able to recollect the direct effects of the U.S.

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1 bombing on the economy, on the inhabitants of Cambodia. What was
2 the impact of those U.S. bombings?

3 [10.43.25]

4 A. I have no way of knowing-

5 MR. PRESIDENT:

6 Witness, please wait; the Prosecutor, you may proceed.

7 MR. ABDULHAK:

8 Your Honours I object because this is the exact type of question
9 to which my learned friend yesterday objected when I asked it and
10 his objection was sustained and so now it should stand against
11 him as well. It should not be permitted.

12 MR. KOPPE:

13 I didn't object to anything. The pre-'75 conditions are relevant;
14 there's always our viewpoint. I didn't object to the questions in
15 that respect at all. I think you are mistaken with my learned
16 friend here on that side. I didn't object so I have no idea what
17 this objection is coming from.

18 MR. ABULHAK:

19 And in fairness to my learned friend, I should be more specific.
20 The objection is in relation to seeking conclusions or opinions
21 from the witness and that the nature of the evidence my learned
22 friend was just seeking to elicit is the type of evidence that I
23 was instructed yesterday to refrain from eliciting and so the
24 same standard should apply to him.

25 [10.44.36]

1 BY MR. KOPPE:

2 Very well I will rephrase it.

3 Q. Mr. Schanberg have you seen the results of the U.S. bombing;
4 have you been able to see with your own eyes or to hear with your
5 own ears what the results were in fact of the U.S. bombing
6 campaign?

7 MR. SCHANBERG:

8 A. I have seen villages along roads that were destroyed by
9 bombing. I had no way, unless I wanted to get killed, of going
10 into the territory held by the Khmer Rouge, because all the
11 evidence pointed to certain death for – because the men who did
12 looking in early years, early months were killed. And so what I
13 saw was only partial. I don't know how it affected the economy. I
14 don't know how many people were killed. I don't know whether the
15 bombing had a positive affect for the Khmer Rouge in convincing
16 young men to come and fight for them.

17 [10.46.07]

18 And so there's no way – I have no specific information and you
19 know, eventually after the war, reporters were not allowed in
20 either, so – but I wanted to continue to live a little longer
21 that's all.

22 Q. Thank you. Let me follow-up on this subject and refer you to
23 what you have been writing – what you have written in your diary
24 on page seven, that would be the entry of January 11; ERN Number
25 00898215. Directly under January 11, you write the following:

1 "Long rolls of thunder awaken me, but the skies are clear. The
2 noise is manmade; government planes dropping CBU's; cluster bomb
3 units. These are anti-personnel bombs. Each projectile carrying
4 thousands of little bombs that explode over a wide area and are
5 designed to kill and maim as many people as possible. As distinct
6 from ordinary bombs meant for destroying pinpoint targets and
7 insulations. This is the first time," you write, "the Cambodian
8 Air Force has used these American weapons extensively. These are
9 advanced versions of the CBU. Many of them contain napalm."

10 [10.47.47]

11 Would you tell us what were your sources when you wrote this down
12 in your diary?

13 A. Can I tell you what? I didn't hear the rest of the question.

14 Q. What were your sources for this information in your diary?

15 A. My sources were sources in Cambodia and in the United States;
16 military sources that I have and they were confidential sources.
17 And that's where my information came from.

18 Q. Following up on the question asked by the civil parties about
19 involvement of American military advisors, on page 8, the very
20 bottom of the page, the entry January 14, ERN Number 00898216,
21 you write the following:

22 [10.49.03]

23 "With head bowed, he tells me that an American Colonel in charge
24 of U.S. arms deliveries ordered him out of the airport citing
25 security reasons. Washington contends it has no advisers here and

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1 that the Cambodians are running their own war. Yet an American
2 Colonel orders Cambodians off a Cambodian Airport. The Americans
3 are king here now, Pran says dejectedly."

4 Is that something that you have observed yourself, as well?

5 A. Yes. I observed it that day and I protested it and we went on
6 doing our jobs writing what was going in Cambodia.

7 Q. But what would you be able to tell about the actual
8 involvement of military advisors in respect of the war that was
9 fought by the Lon Nol regime against the insurgents?

10 A. I don't know what your question is. Are you saying how could I
11 find out about American-

12 Q. My question would be is what do you know about the active
13 military involvement in the fighting of the Lon Nol military
14 against the insurgents?

15 A. Well, all I really do know is that the military office in the
16 American Embassy sent men to discuss ways, you know to fight more
17 successfully; discuss with the Cambodian government and I had got
18 no information about any soldier or officer, America, that went
19 into combat with the troops and guide them on the spot.

20 [10.51.05]

21 This was just discussions of ways to fight the war as far as I
22 could tell and there were no American units that were ever sent
23 in except in 1970 and that I wrote about. I don't know what point
24 you're trying to make.

25 Q. Later in your diary, Mr. Schanberg, page 43 just above the

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1 entry of April 12th and that would be ERN number 00898251. You
2 write: "Later at the American Embassy, I have a normal
3 conversation with a military attaché. He says the overall
4 situation is hopeless, but does find out one bright spot; a brief
5 battle that took place north of the city today. We killed 22 on
6 the ground he says grinning and that's pretty nice."

7 [10.52.13]

8 Do you recall Mr. Schanberg, this conversation with this military
9 attaché?

10 A. Yes, that's why it's in the diary.

11 Q. What else do you remember about this conversation?

12 A. Only that. That was what to me leaped out of it, you know
13 because that is how people – that is how people talk when they're
14 at war or involved in a war. And anyway, that's what wars are
15 like, that's what I was writing about and who gets hurt and who
16 doesn't.

17 Q. And well my question to you and that is the point that I am
18 getting at I suppose, is what are you able to tell us about the
19 active military involvement by the U.S. government in the war
20 being fought against the insurgents?

21 A. All that I know is that the Americans used men and equipment
22 to guide the bombing. The bombers came from Cambodia and they
23 came from Guam, I mean from Thailand and they came from Guam and
24 the Americans taught the Cambodian army people how to guide these
25 planes and make sure they were on the right path.

1 [1053.44]

2 And at one point, they – it was discovered that they were doing
3 this from the American Embassy which was a violation of a law
4 that had been passed by the American Congress and they had to
5 move out of the Embassy and help – and do the work at a Cambodian
6 military building.

7 So it wasn't being done inside the Embassy. So they were trying
8 to help obviously, but they were not in any way that I know,
9 about the definition of a war in any direct way, they were not
10 involved in the war. The bombing was the involvement.

11 Q. What do you remember about the constant possibility of U.S.
12 military aid being stepped up in the period '74 and '75?

13 [10.54.53]

14 A. Well it was known that the American Congress was very – felt
15 very urgently about closing down our role, the American role in
16 Cambodia. And they decided they were not – first of all they
17 decided that the bombing had to stop and that was in, I believe
18 July 15th or 18th in 1973. So the bombing stopped and later on
19 they – the Congress refused to add any more aid as the Khmer
20 Rouge group – closer and closer to ceasing the capital. And so no
21 new aid was supplied and we wrote about that. Again, as you say,
22 who got hurt and who – wars are not – how should I put it, wars
23 are not – how should I say – sane occupations; they're insane,
24 they're bestial and so, and I've covered several of them and this
25 was one of them. And so that the – you know, what I wrote was

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1 what I saw and learned and that's what I put into the - into my,
2 you know my stories.

3 Q. Do you remember Mr. Schanberg, speaking in 1973 or '74, '75,
4 if at all, to sources about a possible resuming again of U.S.
5 bombings?

6 A. I think - I know of no renewed discussion of turning the
7 bombing on again. I know of none. There may have been
8 discussions, but it would take place in Washington and I didn't
9 find out - nobody at the American Embassy in Cambodia mentioned
10 that or in my discussions with them and so, no I know nothing
11 about that.

12 [10.57.33]

13 Q. Yet or maybe not yet, but in your diary on April 5 that would
14 be page 36 in the fourth paragraph, ERN number 00898244, you
15 write down: "A rumour spreads through some military units that
16 the Americans are going to save the government in a few days by
17 resuming their massive bombing with B-52's." Why would you write
18 that down if you didn't think it was a possibility?

19 A. Because if, I take it that you haven't actually been in a war
20 because during wars, lots of rumours crop up and that's all it
21 was. It's just that people are looking for some ray of hope that
22 the war will end so the rumour spreads and that's all it was. It
23 was a rumour and that's what I was doing; I wrote these words
24 there because I'm telling you what the atmosphere was in the city
25 and in the country. That's all.

1 [10.58.49]

2 Q. Are you able to tell or do you recall if people were in fact
3 taking this rumour seriously at the time?

4 A. I have no way of knowing. I didn't do a - I didn't run around
5 doing a - asking people did they believe the rumour or not; it's
6 a rumour. And that's why it's called a rumour and not a fact.

7 Q. Let me rephrase or let me ask it differently. Do you remember
8 where the rumour came from?

9 A. No. All it was - in other words it started somewhere, you
10 know, but by the time it got to me, you know, it was at least a
11 few hours old. I don't know where it started.

12 Q. Did you ever speak to people at the time who were convinced
13 that U.S. bombing could resume any moment?

14 A. No. The truth of the matter is Counsellor, is that the only
15 thing I knew about what was being planned in the Embassy was that
16 the Ambassador, John Gunther Dean, was trying to convince
17 Washington, that means Nixon and Kissinger to consider
18 negotiations with the Khmer Rouge and I wrote about that. And
19 they - he was rebuffed again and again with the argument that
20 unless you're winning the war, there are going to be no
21 negotiations because the Khmer Rouge have no reason to negotiate
22 if they're winning. And John Gunther Dean, the Ambassador,
23 thought it was still worth trying to contact the Khmer Rouge
24 leaders and he was rebuffed again and again. And that's part of
25 the history and I wrote about it.

1 [11.01.16]

2 Q. Speaking about Ambassador Dean, Mr. Schanberg, on page 10 of
3 your diary, your entry January 29, you write – that will be, ERN
4 number 00892218 in the fourth paragraph down below, you write the
5 following: "Asked what the Americans know about the Khmer Rouge
6 leadership and who they might negotiate with, Mr. Dean says" and
7 I quote: "'We know little, very dam little about the Khmer
8 Rouge.'" Do you remember him saying that to you?

9 A. Yes.

10 Q. Do you remember him expanding on this; did he say more?

11 [11.02.13]

12 A. No, he did not.

13 Q. Earlier, on a question you have testified that you, in that
14 period, had not been speaking to any Khmer Rouge cadres be it
15 high up, high ranking or low ranking; would that be correct?

16 A. Yes because they weren't around.

17 Q. Would it be fair to say on the basis of your recollection that
18 you also knew little, very dam little about the Khmer Rouge?

19 A. Yes. We didn't know everything that they were doing and we had
20 – there was no – there were no reporters were allowed to go into
21 those areas or no reporters ventured in those areas because of
22 those who did got killed. And so no, we didn't know a lot except
23 what we called the "Bush Telegraph" meaning people – the stories
24 kept coming in about people being attacked and killed and
25 frightened and forced into the war by the Khmer Rouge; that they

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1 were rough and worse.

2 Q. Would it be possible for you in your recollection in going
3 through the experience and the answering of the questions to say
4 something about the perception of the Khmer Rouge at the period
5 '70-'75, more specifically 1975 about potential U.S. bombing? I
6 know I'm on a slippery slope here so I'm not asking you to
7 speculate, but just based on your experience and knowledge and
8 your conversations with everybody involved that it would be
9 possible that the Khmer Rouge would actually – were actually
10 fearing that the U.S. would resume their bombing once Phnom Penh
11 would be liberated?

12 [11.04.35]

13 MR. PRESIDENT:

14 Mr. Schanberg, please hold on. Mr. Prosecutor, you may proceed.

15 MR. ABDULHAK:

16 We object to this question and my friend was right to be
17 reluctant. He's inviting the witness to enter the minds of the
18 Khmer Rouge and speculate as to what they were thinking. It is an
19 improper question and should not be allowed.

20 [11.05.03]

21 MR. KOPPE:

22 As you have heard Mr. President, I tried to refrain (sic) the
23 questions as much as I could. Although I am the first one to
24 admit that this witness is not an expert, I think it's still
25 within realms of cross-examination to ask him on the basis of all

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1 the conversations that he's had and all the observations that he
2 has made, whether he would still think it is feasible that the
3 leaders of the Khmer Rouge were thinking that U.S. bombing of
4 Phnom Penh was likely.

5 MR. SCHANBERG:

6 Do they want me to answer?

7 UNIDENTIFIED SPEAKER:

8 No, they need to rule on the objection.

9 (Judges deliberate)

10 [11.06.12]

11 MR. PRESIDENT:

12 The objection and the ground of objection by the Prosecutor
13 against the last question posed by the defence counsel is
14 sustained. And the counsel is directed not to put such question
15 to the witness. And we believe that the defence counsel for Mr.
16 Nuon Chea understands the nature of the question very well. You
17 should not ask any questions that elicit his personal conclusion
18 of the event. Therefore, the witness is instructed not to respond
19 to the last question posed by international counsel for Mr. Nuon
20 Chea.

21 And Counsel, you may now move on.

22 [11.07.07]

23 BY MR. KOPPE:

24 Thank you, Mr. President.

25 I will move on to a second subject. And that is a subject that

1 was also mentioned briefly by the brief statement that Nuon Chea
2 was giving earlier this morning. And that was the question of
3 food supply in Phnom Penh in 1975. There are quite some entries,
4 Mr. Schanberg, in your diary where you speak about the food
5 shortage, malnutrition, the increase in hunger. If, just for the
6 record, I could lead you through your diary and point at those
7 quotations of you. For instance, on page 10 of your diary, that
8 would be the last paragraph, January 30, ERN number 00898218.
9 You're speaking about the last supply ships with food, fuel and
10 ammunition are coming in. One page further, on top of page 11,
11 you're saying - you're writing: "The rice rationing has begun."
12 [11.08.41]
13 On page 14 of your diary, on the very top of the page, you write:
14 "I visited an overcrowded western relief clinic. The malnutrition
15 problem is starkly visible here, dying children are on every
16 treatment table." A little further on that same page, entry of
17 your diary is February 13th, you write: "Prices are moving
18 farther out of reach of average Cambodians, hunger is
19 increasing." On page 16 entry of the diary, February 23, ERN
20 number 00898224, you write in the second paragraph and below:
21 "Despite the underground living, casualties remain heavy and this
22 food situation is even greater than it was a month ago. Every
23 child one sees is suffering from some form of malnutrition."
24 And the situation seems to get worse when we progress in time,
25 because on page 27 entry of your diary, March 14, ERN number

1 00898235 in the paragraph – the third paragraph of March 14 you
2 write, and I quote: "The international relief agencies hold a
3 meeting on the severe malnutrition problem."

4 [11.10.24]

5 One page further, page 28, you talk about street dogs, March 16
6 in the middle of that same page: "There used to be an army of
7 stray dogs on the streets, some streets had so many you had to
8 drive slowly to avoid them. Now there are hardly any, the reason
9 is hunger. Before the war it was unheard of, only Vietnamese ate
10 dogs, now a dog meat is in all the market."

11 And I just have three more quotes to put to you. That would be
12 page 32 at the very bottom, that would – the entry is March 24,
13 you write:

14 "At the malnutrition clinic, about 1,500 mothers press forward
15 holding out starving infants and appealing to western doctors to
16 allow them in for treatment."

17 One page further, page 33, same date, you write on the third
18 paragraph: "Food is getting shorter; the government reduces the
19 rice ration again."

20 [11.11.39]

21 And finally, Mr. Schanberg, on March 27, on page 34, you write in
22 the middle of that page:

23 "North of Phnom Penh further negative news, wounded soldier
24 evacuees from the surrounded garrison at Longveaek report food so
25 short there, that the troops are eating banana stalks and the

1 trunks of papaya trees. 'We were eating the same food as pigs'
2 said one wounded evacuee.'"

3 In that same paragraph, to conclude: "The soldier said that some
4 friendly insurgent troops had been offering them rice and urging
5 them to retreat and lay down their arms."

6 Q. Mr. Schanberg, if these excerpts from your diary are coming to
7 your mind again, would you be able to expand also today on the
8 effects of the food shortage and the malnutrition? What were you
9 able to see and experience in those months in 1975?

10 MR. SCHANBERG:

11 A. Well, first of all, the reason that the rations - rice and
12 other food and also ammunitions - the reason that those materials
13 were not getting into Phnom Penh was that the Khmer Rouge had
14 been successful in cutting off all the entries into the capital,
15 whether on land or from the river, the Mekong. And so it was an
16 obvious thing, there was nothing coming in, they weren't getting
17 any - food wasn't being dropped by airplanes at that point and
18 that was the reason.

19 [11.13.56]

20 So I don't understand - is there any question in your mind about
21 why there was not enough food? The city had grown from one
22 million to two million, the extra million were people who fled to
23 - into Phnom Penh and there wasn't enough food.

24 Q. Could there be other reasons, for instance, the fact that
25 there were so many refugees that people were starving?

1 A. Why there were so many - what were they running - I mean what
2 can - they told us they were running because the Khmer Rouge army
3 was closing in, seizing their towns and they wanted to save
4 themselves and they wanted to feed their children. I mean that's
5 what wars are, they're not tea parties. And so it's - that's what
6 - if you go back and look at histories of wars, you will see that
7 that's one of the things that armies do, cut off food supply and
8 ammunition supply to an enemy.

9 [11.15.27]

10 Q. Are you saying - are you saying, I interrupt you, Mr.
11 Schanberg, are you saying that before the supply lines were cut
12 off, there was no malnutrition or food shortage or hunger in
13 Phnom Penh?

14 A. Oh, I think that's absolutely true. You can go find doctors
15 who'll tell you that. The fact is there was enough rice before
16 the Khmer Rouge began to chew up and occupy large segments of the
17 country. And yes, that's something you could find anywhere. I
18 mean that's a fact.

19 Q. Did you - did you-

20 A. They occupied more than 80 percent of the land in the country.

21 Q. Did you also speak, Mr. Schanberg, to refugees who had fled to
22 Phnom Penh because of the U.S. bombings or the napalm bombings of
23 the Cambodian air force?

24 A. Well, I can tell you that I interviewed lots and lots of
25 refugees and they did not talk about the bombings as something

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1 that drove them out of their houses. And they – that may be an
2 omission on their part, but that's not what they talked about,
3 they talked about the Khmer Rouge.

4 [11.16.59]

5 Q. Would it be also – could it be also an omission on your part
6 that you were not speaking to the right people or that you were
7 not speaking to refugees who had in fact been fleeing the U.S.
8 bombings?

9 A. How would I – how would I – how would I know if I walked into
10 a refugee camp, which ones would talk to me and which wouldn't?

11 Q. Then –

12 A. Are you suggesting –

13 Q. Then why are you making – then why are you making the
14 statement that they were all fleeing for – the occupation by the
15 insurgents? Maybe you should have been speaking to more refugees.
16 Would that be fair to say?

17 [11.17.36]

18 A. Well that's an interesting suggestion, but it's laughable.

19 Q. Because–

20 A. That's what happens in wars–

21 Q. – because – it's laughable because?

22 A. They were (inaudible) and people were fleeing from them.

23 Q. So is your testimony that nobody was fleeing from the effects
24 of the U.S. bombing?

25 A. Well when somebody bombs you, yeah, you have to get out of

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1 your house or somebody's going to get killed. But that is not
2 what they talked about.

3 Q. That's not what the people that you were speaking to talked
4 about. But have you heard any other stories about - from people
5 about refugees fleeing from the U.S. bombing?

6 A. From other people that it was the bombs they were running
7 from?

8 Q. Yes.

9 [11.18.28]

10 A. Yes? Where did you read that?

11 Q. Well there's abundant evidence, Mr. Schanberg, but apparently
12 not privy for you.

13 MR. PRESIDENT:

14 Mr. Witness, please hold on. Mr. Prosecutor is on his feet. You
15 may proceed, Prosecutor.

16 MR. ABDULHAK:

17 Your Honours, I think we've all observed counsel speaking over
18 the top of the video feed from New York with Mr. Schanberg trying
19 to answer his questions. Could counsel be invited to wait for the
20 answers to come through and then formulate his questions, so that
21 we can all understand what the questions and what the answers
22 are?

23 BY MR. KOPPE:

24 I don't know if that's an objection, Mr. President, but I will -
25 I will try to observe that. However, sometimes it is actually the

1 witness who is interrupting me.

2 [11.19.27]

3 Q. But never mind, my questions still – and to sum up this
4 subject, Mr. Schanberg, would be, have you heard from any others,
5 from any source about refugees fleeing the devastating effects of
6 the U.S. bombing and refugees who went to Phnom Penh?

7 MR. SCHANBERG:

8 A. There may have been such refugees, but when – but that's where
9 they headed for safety. And if you have evidence that the
10 bombings were the reason, then you should bring it up and show us
11 the evidence. Because I was on the scene, I'm a professional
12 journalist, I had no reason to write these things and I didn't –
13 I had no reason to make remarks that were favourable to the
14 successes of the Khmer Rouge. Whatever I found out, I put in my
15 stories. So – and it's not pleasant to be told that you have
16 evidence but you can't show it to us. That's not the way to get
17 at the truth.

18 [11.20.49]

19 Q. But – while we're on the subject – I wanted to leave that for
20 tomorrow – but now we're on the subject, there is quite some
21 critique on your reporting in the sense that you were presenting
22 too much an American view – other people might call it
23 imperialist view – but that you were really portraying the
24 American view on the events that happened in Cambodia at that
25 time.

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1 A. Let me make a suggestion to you, counsel. You go back and do
2 some more research, you-

3 MR. PRESIDENT:

4 Mr. Witness, please hold on. Mr. Prosecutor, you may proceed.

5 MR. ABDULHAK:

6 I do have to object, Your Honours, I think my learned friend is
7 being entirely unfair to the witness. He wishes to accuse him of
8 being less than objective or if he wishes to point to specific
9 criticism of his work, then that - as the witness himself has
10 just been suggesting - then that information should be put to him
11 and he should be asked to comment.

12 [11.22.02]

13 To make these broad assertions whereby counsels are effectively
14 testifying before Your Honours is not appropriate and it doesn't
15 help the witness and it doesn't help Your Honours.

16 MR. KOPPE:

17 Mr. President, we can all observe that we have a witness here who
18 is not afraid to say the things that he wants to say; he doesn't
19 really need any protection from the Prosecution.

20 So - but I will rephrase it in a more neutral way, Mr. President.

21 BY MR. KOPPE:

22 Q. Are you aware, Mr. Schanberg, of critique on the content of
23 your reporting?

24 [11.22.39]

25 MR. SCHANBERG:

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1 A. You'll have to be more specific, what critique?

2 Q. That the critique was on your reporting that your reporting
3 was too one-sided, too much favouring the American position in
4 Cambodia, too much ignoring the viewpoints of the Khmer Rouge?

5 MR. ABDULHAK:

6 Again, Your Honours, -

7 MR. PRESIDENT:

8 Witness is instructed not to respond to the question of this
9 kind, because the nature of the question falls far beyond the
10 scope of the hearing. And the question of this kind makes the
11 witness lose his confidence in responding to the question. So the
12 Chamber rules that the witness need not respond to this question.
13 And counsel is directed to prepare your questions in accordance
14 with the guidelines introduced to parties. And they should
15 refrain from putting any questions that is not allowed in the
16 course of the hearing we have had thus far.

17 [11.24.17]

18 MR. KOPPE:

19 Thank you, Mr. President, but I'm not quite sure if I understand
20 this correctly. We have a witness here who has been a-

21 MR. PRESIDENT:

22 Please hold on. Judges need to discuss this.

23 (Judges deliberate)

24 MR. PRESIDENT:

25 I hand over the floor to Judge Silvia Cartwright to direct the

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1 counsel in relation to the question put to the witness. Judge,
2 you may proceed.

3 [11.26.09]

4 JUDGE CARTWRIGHT:

5 Yes, thank you, President. As an addendum to the President's
6 ruling, counsel for Nuon Chea is entitled to challenge this
7 witness as to the balance of his reporting, as to its accuracy.
8 But he cannot put blanket challenges such as "There have been
9 critiques, what do you have to say to that?" They must be
10 specific and the witness himself has asked for those details.
11 So, Mr. Koppe, if you intend to pursue this line of questioning,
12 please be specific.

13 MR. KOPPE:

14 Thank you, Judge Cartwright. I completely agree with you.
15 Actually it was a topic that I wanted to discuss tomorrow in more
16 detail and actually mention the critique, but I suppose I got
17 carried away after the answering of -- after the answers of the
18 witness.

19 [11.27.13]

20 BY MR. KOPPE:

21 I will move on, Mr. Schanberg, to April 17 and the things that
22 you have observed on that day. On page 91 of your diary you write
23 the following - and that would be in the middle of that page, ERN
24 number 00898299, it says:

25 "Becker further reports that the town is a shambles, empty and

1 looted and that there have been a lot of fires. He personally has
2 seen no fighting between different Khmer Rouge factions. But some
3 Cambodians told him that there had been some feuding over the
4 demarcation of sectors in the city."

5 Q. Do you remember having this conversation?

6 MR. SCHANBERG:

7 A. Yes.

8 Q. Would you be able to expand on this conversation, what did he
9 mean when he was writing "the demarcation of sectors in the
10 city"?

11 [11.28.43]

12 A. To tell you the truth, I would have to go back into notebooks
13 to see what that meant, but this is what he told me. And maybe
14 you'll have to go to him to ask him what he meant. But I don't
15 have my notebook with me and the - so I can't answer that
16 question.

17 Q. Do you recall other sources speaking about different behaviour
18 of different insurgent troops coming from - entering Phnom Penh
19 in different parts?

20 A. Well I saw that when the army came in to Phnom Penh, the army
21 of Mr. Nuon Chea, there were young people who looked like - let's
22 say green, new soldiers, and there were a lot of other soldiers
23 who looked very, very - let's say very trained, very - looking
24 like - let's say seasoned soldiers. So there may have been, you
25 know, different groups. That doesn't surprise me.

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1 Q. To be more specific, Mr. Schanberg, have you heard people
2 talking about - for instance, variation in discipline between
3 troops entering from the east or troops entering from the south,
4 stories to that effect?

5 [11.30.44]

6 A. The only story to that effect that I know of is the time
7 during the war when the Communist side moved people from the
8 eastern Cambodia near the Vietnam border and moved them into the
9 western side closer to the Thai border. And the complaint
10 apparently was that this is something that was simply not
11 explained in detail, that they were getting too friendly with the
12 Vietnamese. And Hun Sen, who now is the Prime Minister of
13 Cambodia, was one of the complainants apparently about the rules
14 and punishments of the Khmer Rouge in that area. His own - his
15 own people were, you know, hurting the cause by being cruel.

16 Q. When you were writing down your notes in your diary, Mr.
17 Schanberg, around the period of 17 April or before, or shortly
18 after, did you know any names of Khmer Rouge commanders,
19 commanders who were leading the insurgent forces into Phnom Penh?

20 [11.23.29]

21 A. No, I didn't know the name of the generals who lead the final
22 push, no, I didn't know who they were.

23 Q. Do you know if or do you remember if U.S. military officials
24 or attaché or members of the U.S. embassy were speaking about
25 names of the commanders of the forces that were entering Phnom

1 Penh?

2 A. I never had – no, I never had conversations with any in the
3 military office about who was leading the group.

4 Q. When you were at the French embassy, did you hear stories
5 about variation in possible casualties or possible incidents of
6 looting varying in different parts of Phnom Penh? For instance,
7 there might be more looting incidents or other incidents going on
8 in the Mekong area or in the south of Phnom Penh or at the
9 airport? Have you heard variation in those stories?

10 A. No, I didn't – I didn't hear any stories that they were doing
11 – somebody was looting in one area, but not in another. I don't –
12 I didn't hear any breakdown of that. I just know that there was
13 looting and the evidence was clear, because we drove through the
14 city when our convoy left the embassy and we saw the shops having
15 been looted.

16 [11.34.22]

17 Not only that, the first day when we were released by the Khmer
18 Rouge – Khmer Rouge captors, we walked out of the – we walked out
19 of the place where we had been held and into the street, and they
20 returned some of our belongings that they had taken. And others
21 came up and pushed bottles of soda, Coca-Cola – I mean, excuse
22 Pepsi-Cola, Orangeade, so forth. And we thought they were making
23 a friendly gesture, and then they would pull it away and laugh,
24 and that's, you know, there's nothing – there's nothing civil
25 about a war.

1 And so, I don't have any expertise to – and maybe you'll, you
2 know, you'll tell us more about this, about different sections of
3 that army who were – who were doing good things.

4 [11.35.53]

5 Q. But would it be fair – to finish this topic – that the things
6 that you have seen in Phnom Penh those days, are either the
7 events on 17 April when you were still outside, or after your
8 evacuation to Thailand and the things that you saw alongside of
9 the road, those are the things that you've actually been able to
10 see with your own eyes?

11 A. Right. And I didn't see anything – anything negative. Yes, in
12 the beginning we saw bodies by the side of the road and that must
13 have happened on the last push. These were Cambodian soldiers and
14 there were also civilian bodies by the roadsides.

15 But they – the convoy treated – the convoy people treated us
16 well, they stopped and had food made for us. No one said bad
17 words or shouted or screamed or did anything like that. And the
18 trip was about three days, a little more than three days. And the
19 – I saw – these were colonies that had been built by the Khmer
20 Rouge, and roads that had been dirt roads that had been made by
21 the Khmer Rouge that were not on anybody's map. So it was a whole
22 new – their camps were not on, you know, were not on anybody's
23 map, as I said. And so nobody did anything – nobody did anything
24 bad to us. And in fact, the people who got – some people who got
25 mad at the press called us Nazis because we caused – we caused

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1 you know, being American we caused - in their mind, we caused the
2 war.

3 [11.36.43]

4 MR. PRESIDENT:

5 Thank you, Counsel.

6 And thank you, Mr. Witness.

7 The time is now appropriate for the lunch adjournment. The

8 Chamber will adjourn now and resume at 1.30 this afternoon.

9 This afternoon the Chamber will hear the testimony of an expert,

10 TCE-12, and he will be questioned by the Prosecutor, followed by

11 the two defence teams.

12 And as for the testimony of witness Sydney Schanberg, is

13 adjourned now and will resume tomorrow morning starting from 8.30

14 in the morning, Cambodian time.

15 [11.39.02]

16 Mr. Schanberg, your testimony is now adjourned and we will resume

17 hearing your testimony tomorrow morning starting from 8.30. So we

18 would like to invite you once again, to come to testify tomorrow

19 at 8.30 Cambodian time.

20 Mr. Schanberg, is that clear for you?

21 MR. SCHANBERG:

22 Yes, it's clear and it's fine. We'll be there - we'll be here.

23 MR. PRESIDENT:

24 Thank you, Mr. Schanberg, and goodbye for now.

25 Security guards are instructed to bring Mr. Khieu Samphan to the

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1 holding cell downstairs and have him returned to this courtroom
2 before 1.30 in the afternoon.

3 The Court is now adjourned.

4 (Court recesses from 1140H to 1330H)

5 MR. PRESIDENT:

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

7 For this afternoon's session, the Chamber will continue to hear
8 the testimony of the expert, Chhim Sotheara, who will be
9 questioned by the Prosecution and the Prosecution has 20 minutes
10 to do so. You may proceed.

11 QUESTIONING BY MR. DE WILDE D'ESTMAEL RESUMES:

12 Q. Thank you, Mr. President. Good afternoon to you, sir, to the
13 Judges, and to the parties, and to the expert.

14 In the next 20 minutes, I want to look with you at two subjects:
15 one is your abilities and your qualifications and the other
16 concerns the work that you have done with Khmer Rouge victims, so
17 let's quickly sketch out your qualifications. I might suggest we
18 briefly summarize what came out of your hearing before this
19 Chamber in 2009; added to which there is what you said yesterday,
20 and then, at the end, I'll ask you to correct me if I've made
21 some mistakes.

22 [13.32.37]

23 So basically, you have been a surgeon since 1992. After that, you
24 specialized in psychiatry and you were awarded a diploma in 1988
25 from Oslo University and then you went through further education

1 in 1999 in New South Wales in Australia for 18 months and right
2 now you're completing a doctorate in psychiatry from Monash
3 University in Melbourne while practicing as a psychiatrist and
4 you've been doing this for 19 years and you're also working as
5 the Director of TPO since 2002, in other words, for 11 years; am
6 I correct so far?

7 MR. CHHIM SOTHEARA:

8 A. Yes, in general, it is correct. In fact, regarding the
9 psychiatry degree, it was not from the Oslo University. It was
10 the adjoin study by the Oslo University and the Department of
11 Health here in Phnom Penh.
12 And it was not a medical doctor from Monash University; in fact,
13 it was a PhD degree in Transcultural Psychiatry from Monash
14 University and I am in the final year.

15 [13.34.25]

16 Q. Very good. You also said that TPO Cambodia was established in
17 1994 and before this Chamber in 2009, you said that the TPO
18 program essentially aimed to satisfy the psychological needs of
19 the Cambodian population suffering from psycho-social and mental
20 repercussions of the Khmer Rouge regime; in particular, with
21 respect to post-traumatic stress syndrome, and you told us that
22 TPO was active not only in Phnom Penh, but also was working with
23 traumatized people who participated in ECCC trials and in
24 addition to that with people who were traumatized and who lived
25 in local communities; is that right?

1 A. Yes, that is correct.

2 [13.35.27]

3 Q. Now, I know that you are of a modest disposition, but can we
4 say that in Cambodia, you are the most qualified and most
5 experienced psychiatrist, in particular, with respect to
6 traumatism that Cambodians underwent during the Khmer Rouge
7 regime?

8 A. Yes, I think you can safely say that.

9 Q. Can you tell us what proportion of your day-to-day work as a
10 psychiatrist and as the head of TPO is devoted to therapy or to
11 supervision of psychological or psychiatric-assistance activities
12 given to the victims of the Khmer Rouge; in other words, does
13 this take up a good part of your daily work?

14 A. In relation to my daily work, my -- 50 per cent of the time is
15 related to the management, 30 percent or 20 percent is related to
16 research and the clinical works and the training, so the last
17 three composed about 50 per cent of my daily time.

18 [13.37.03]

19 Q. Thank you.

20 In our files, we have an article that you jointly authored, code
21 E285.1.4. I'm not going to delve into its contents. It was
22 published in the "Journal of Affective Disorders" and the title
23 of the article is "Prolonged grief disorder three decades post
24 loss in survivors of the Khmer Rouge regime in Cambodia".
25 Aside from that article -- and perhaps I will repeat the

1 references; it's E285.1.4, and the title of the article published
2 in the "Journal of Affective Disorders" is "Prolonged grief
3 disorder three decades post loss in survivors of the Khmer Rouge
4 regime in Cambodia".

5 Aside from drafting that particular article, have you written or
6 jointly authored other articles in international reviews,
7 specialized and well-reputed reviews, and in books?

8 A. Yes.

9 [13.38.47]

10 Q. In fact, on internet, I found two recent publications that are
11 signed by you. They're not on the case file, but I'll mention
12 them as we go along, and there are doubtless others too. There's
13 an article you wrote on your own that was published on -- in the
14 internet dated 13 of February 2012 published by Monash University
15 entitled "Baksbat: a trauma-based cultural syndrome in Cambodia",
16 and in the article you talk about this syndrome that is
17 particular to the population of Cambodia.

18 I found another article, in fact, that you wrote with Nigel Field
19 in June 2008 in the "Journal of Loss and Trauma" which is about
20 the desire for revenge and attitudes towards the Khmer Rouge
21 Tribunal among Cambodians.

22 Apart from those two publications, can you tell us if you have
23 published anything else recently?

24 A. What you said is correct. The recent article that I wrote and
25 which is ready for publication by a journal -- and they recently

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1 accepted my article and it might be published in six months' time
2 and the title is "Broken Courage". It is, in fact, forensic
3 evidence amongst the victims of the Khmer Rouge regime, so
4 "Baksbat" or the "Broken Courage" is a forensic evidence that is
5 needed for the assessment of the victims of the Khmer Rouge
6 regime and that article is accepted for its publication and I am
7 the sole author of that article.

8 [13.41.10]

9 Q. Thank you very much.

10 I also read in the media in 2012 and in the 2011 annual report of
11 TPO, which can be seen on your website, that you, yourself, and
12 TPO had received the 2012 human rights award of the Leitner
13 Center for International Law and Justice from Fordham University
14 in New York, U.S. in recognition of your work to treat and
15 promote the rights of people who have mental problems in
16 Cambodia. Can you confirm that you were, indeed, awarded that
17 prize and have you received other awards in your career as well?

18 A. No.

19 Q. But do you confirm that you did receive the award I mentioned
20 even if you didn't get any other prizes?

21 A. Yes, I did receive that award, but I haven't received any
22 other awards.

23 Q. Thank you.

24 Yesterday you told us that Diaspora Cambodians had been treated
25 for trauma by Australian psychiatrists sometimes in ways that

1 were not particularly successful.

2 [13.42.50]

3 Now, what is the importance for psychiatrists working with
4 Cambodian victims, such as yourself, to understand the Khmer
5 language and, in particular, the cultural and religious aspects
6 of Cambodia or, indeed, the "baksbat" syndrome that you,
7 yourself, have described as being close to but different from
8 posttraumatic stress disorder?

9 A. Yes, indeed, the experts from the Western countries, they are
10 very familiar with the biological aspect, but when it comes to
11 the emotional reaction based on culture or language, they are not
12 that familiar, so it is necessary for them to understand well
13 about the culture, about the distress symptoms and if they can
14 work with the Cambodian experts, then the treatment would be far
15 better effective.

16 [13.44.07]

17 And regarding the clients that I spoke about yesterday decided to
18 participate in the cultural, religious treatment and that would
19 -- leads to a better recovery.

20 Q. Thank you.

21 I'm going to turn to another series of questions which echoes
22 those I was asking yesterday. I'd like to know what is particular
23 about the traumatizing events and about the trauma undergone by
24 Khmer Rouge victims if you compare them to individuals who are
25 traumatized by other random events such as an attack or an

1 accident or a murder, so what are these specificities and the
2 differences between these two groups of people who may be
3 suffering from trauma?

4 A. Thank you for your question. There are two aspects here.

5 First, it's the stress. Stress is a minor reaction or changes
6 that we experience on a daily basis; for instance, just the minor
7 changes happening surrounding us that -- or that we are blamed
8 for something. That is a stress which is at a lower level and it
9 is temporary and it's going to go away in a short period of time.

10 [13.45.55]

11 But when it comes to a trauma -- and there is a definition in the
12 DSM which is recognized worldwide -- is defined as a shock or an
13 event and that event could be life threatening or it could be a
14 physical injury or war or torture. So all those kinds of events
15 which are not the daily experience that they would encounter and
16 that person faces such an event or sees it or hears about it and
17 upon facing such an event, that person is shocked to an -- to an
18 extreme and that his ability to resolve other issues in straight
19 thinking has changed.

20 Let me give you an example. A torture or events that took place
21 in Cambodia are not the ordinary stress that we experience every
22 day, but instead it is -- it is kind of a traumatic event that
23 doesn't happen every time and that would lead people to lose
24 their ability to resolve things or to control themselves.

25 [13.47.39]

1 Q. Can one say that prolonged exposure to different traumatic
2 events that happen successively over perhaps three years which is
3 not a single random event, but which is continuously occurring in
4 time; when you talk about that kind of thing, what impact does it
5 have by comparison to that single, random, traumatic event?

6 A. Thank you for this very good question. Allow me to say that
7 PTSD, as indicated by the Western experts, is for the traumatic
8 events that happened only once in the life of that patient. It is
9 not a prolonged exposure or long-term exposure to such an event.
10 So it is my conclusion when it comes to this PTSD that if we make
11 an assessment of Cambodian people based on the -- the measure of
12 the -- of the PTSD, it could be limited for this prolonged or
13 sustained exposure experienced by Cambodian people because the
14 people here and the events are related to culture and -- and so
15 on and so forth

16 [13.49.18]

17 And there are a lot of psychologists in the world who sometimes
18 say PTSD cannot be used as a measure to assess the people who
19 have suffered through prolonged or sustained exposure to
20 traumatic events, so another new thing that I counsel with regard
21 to PTSD for the prolong or cultural exposure to traumatic event
22 can be used in a better way to make an assessment of the
23 Cambodian people who suffered under the regime.

24 Q. Thank you. Well, time is short, so I'll ask two final
25 questions.

1 Many civil parties and witnesses who appeared in this courtroom
2 and who have made statements to investigating judges said that
3 under the Khmer Rouge, they had to be evacuated successively from
4 one place to another; Phnom Penh to Takeo and then a few months
5 later to the northwest of Cambodia towards the region of
6 Battambang.

7 [13.50.44]

8 I'd like to know what the consequences are of being uprooted
9 successively on the victims who were forced to do this; they were
10 certainly not in agreement, and the fact that this was justified
11 by the Khmer Rouge by a certain number of arguments which the
12 victims call lies. For example, the idea that they had to leave
13 for only three days or that when they were going towards
14 Battambang, they were, in fact, being taken to Phnom Penh or they
15 were told that there was a great deal of food where they were
16 going, so what are the psychiatric consequences on victims of
17 both being uprooted and being told lies or words they certainly
18 described as such?

19 [13.51.39]

20 A. The Khmer Rouge had a strategy which seems to destabilize the
21 people to lose their ability to challenge and that kind of
22 strategy actually caused PTSD to the Cambodian people and that is
23 the symptom that scared the people and not a lot of people to
24 face the issues.
25 Cambodian people, in 1975, left Phnom Penh without any protest.

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1 If -- imagine the same thing happened to Thai people living in
2 Bangkok; the scenario would be completely different.
3 So the PTSD experienced by the people under the Khmer Rouge
4 regime and the constant relocation from one place to another;
5 compounded with hard labour and insufficient food, led them to a
6 complete PTSD sufferers. And, of course, they suffered more than
7 the ordinary PTSD as defined by the Western experts.

8 [13.53.01]

9 Q. Well, following up on that, on the question of lies, the fact
10 that these people felt that they were being lied to, did that
11 have an effect on their self-esteem and the trust they were able
12 to vest in other people or in other institutions and in a
13 possible sense of insecurity they might have had to live with?

14 A. Allow me to say that it's because of that impact people become
15 distrust of one another or to conceal their identity or not to
16 speak about the truthful event. This sense of mistrust is the
17 result of the PTSD and all these factors are related to the
18 events that took place during the regime.

19 Q. Mr. President, this is my last question, and I'd like to say
20 thank you to the expert for coming here today.

21 A good many victims have said in this Chamber or to the
22 investigators that they were not treated as human beings during
23 the Khmer Rouge regime; rather, they were treated as slaves or
24 they were living in a prison without walls.

25 [13.54.29]

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1 Did patients talk to you about this; this feeling of being
2 dehumanized and the traumatism that in itself created? And is
3 Cambodian society today still going through the consequences of
4 this dehumanization process that the victims described?

5 A. Yes, some of the patients complained that they -- they were
6 even lower than the human status as people could talk to one
7 another or had their communication, but under the Khmer Rouge
8 regime, they were not treated as humans. And these kinds of
9 events, compounded with hard labour and lack of food, that caused
10 the people these traumatized events and that kind of thing
11 remains with them.

12 MR. DE WILDE D'ESTMAEL:

13 Thank you.

14 I have no further questions, Mr. President.

15 MR. PRESIDENT:

16 Thank you.

17 The floor is now given to Nuon Chea's defence to put questions to
18 this expert. You may proceed.

19 [13.56.13]

20 QUESTIONING BY MR. KOPPE:

21 Thank you, Mr. President, good afternoon.

22 Q. Good afternoon, sir, I have a few questions to you today.

23 First of all, I would like to ask you a few more questions about
24 your academic background and your professional background.

25 You have been testifying -- you have testified yesterday that you

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1 have been working in the psychological area, as you called it,
2 for almost 19 years. Now, if I understand correctly, you started
3 your medicine study in 1986; you finished it in '92. Did you have
4 any psychological classes in that period or was that something
5 which was taught in Cambodia at the time?

6 MR. CHHIM SOTHEARA:

7 A. No. At that time, there was no class for the psychology as the
8 teachers for psychologies were killed. The two of the teachers
9 were killed during the Khmer Rouge regime.

10 [13.57.48]

11 Q. Then in 1992, when you graduated, you started working as a
12 surgeon; is that correct?

13 A. Yes, that is correct. It was from 1992 to 1994.

14 Q. After 1994, you went to Norway. Was that to study? Was that a
15 master's? Was it a -- was it a psychology class in Oslo; what
16 exactly did you do in Norway?

17 A. I did not go to Norway. In fact, the University of Oslo had a
18 special training program in Cambodia in collaboration with the
19 Health Department and the study was from 1994 to 1998. We studied
20 in a problem-based learning approach, so we actually study and we
21 actually have a hand-on practice. So during the first year --
22 that is, in 1994, we actually look at and provided a treatment to
23 the patients under the close monitoring of the expert
24 professional from Norway.

25 Q. But it was -- it was still a training program; am I correct?

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1 A. Yes, it is a training program plus a hand-on session as we
2 were instructed to actually examine the patient from the time
3 that we engage in the study or in the training.

4 [14.00.03]

5 Q. And you finished this training -- training program in 1998, if
6 I'm correct, and afterwards you did a master's in Australia;
7 correct?

8 A. Yes, that is correct.

9 Q. And when the master was finished, did you then become director
10 of TPO?

11 A. No, not yet. I returned to work in the hospital -- in the
12 Khmer-Soviet Hospital in the Department of Psychology and it was
13 until 2002 did I become Executive Director of TPO.

14 Q. My question to you: Are you, in fact, a qualified psychiatrist
15 (sic) -- psychiatrist or somebody who studied psychiatry?

16 A. I was trained and recognized by University of Health. I was
17 one of the 10 -- the first 10 recognized or accredited
18 professionals in psychiatry.

19 Q. Let me rephrase it. Are you a clinical psychiatrist?

20 A. Yes, I am a consultant psychiatrist.

21 [14.02.14]

22 Q. Do you have a practice as a clinical psychiatrist in Cambodia
23 in Phnom Penh?

24 A. Yes, I have. I have practised this profession both in my
25 workplace and in private cabinet.

1 Q. When exactly did you go to Australia to receive your PhD?

2 A. I started this PhD degree in 2008.

3 Q. And have you been full time in Australia or is it also a
4 program in which you can study in Cambodia?

5 A. I did not study full time in Australia. According to the study
6 program, I may go once in a while and as for the research work, I
7 conducted research based in Cambodia.

8 Q. Last week, you received a letter from, I think, one of the
9 lawyers of the civil parties; a letter containing proposed topics
10 for your testimony, and it reads "Proposed Topics for the
11 Testimony of Dr. Chhim Sotheara". Are you a doctor in the
12 scientific sense of the word, in the academic -- academic sense
13 of the word?

14 [14.04.47]

15 A. Well, I am a medical doctor; not a PhD holder, because I have
16 not yet obtained my PhD degree.

17 Q. So, are you -- are you saying that academically you cannot be
18 referred to as Dr. Chhim Sotheara; is that correct?

19 A. I am now a medical doctor and as for PhD or doctor -- academic
20 doctor title, I am about to get it too.

21 Q. I take it from your answer that from an academic point of
22 view, we cannot call you doctor; do you agree with me?

23 A. No, I don't. I don't call myself doctor academically. I call
24 myself a specialist in -- a medical doctor, specialized medical
25 doctor.

1 [14.06.13]

2 Q. Now, in -- in that last capacity as a medical practitioner,
3 how many years of clinical experience do you have?

4 A. As I said in my testimony earlier, I started conducting
5 clinical work on the first day of my training, so I have been
6 working as a clinical specialist for patient for approximately 19
7 years now.

8 Q. So when you're saying that you have been working in the field
9 in the psychological area for 19 years, you include all your
10 training programs and your education; do I understand that
11 correctly?

12 A. Yes, as I said, I started -- I have been working in this field
13 for almost 19 years. That also includes the times when I studied
14 because it was on-the-job training and I -- actually in the
15 course of my study, I also apply the skills that I studied.

16 Q. Maybe my questions come from a misunderstanding of the
17 Cambodian system. I believe in -- in North America and in Europe
18 the system would be that only after a certain amount of
19 professional training and academic training one can call himself
20 or herself a clinical psychiatrist; is that the case in Cambodia
21 as well?

22 [14.08.24]

23 A. That is -- that is correct. Only when a person obtains a
24 qualification or graduated with a degree, then this person can
25 practice it, but in developing country, it was not necessarily

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1 the case because they need certain training for example --
2 intensive training for three months or so and then that person
3 was equipped with certain skills and then this person normally
4 practice their profession.

5 Q. I understand, but if -- you have studied in a Norwegian
6 program; you have -- you're currently doing your PhD in
7 Australia. According to relevant laws in those countries, since
8 when would you -- if you transform the analogy, since when would
9 you be able to call yourself a clinical psychiatrist in Cambodia?

10 A. I actually had become a clinical psychologist before I
11 undertook the course in the Norwegian program.

12 [14.10.00]

13 Q. I -- I'm not sure if we understand each other, but because of
14 the time, I'll -- I will move on to another subject and it is the
15 following. Is it your view that in the period 1975-'79, Cambodia
16 has been destroyed, in all aspects, after or during the KR
17 regime; in other words, is it your view that the Khmer Rouge
18 regime destroyed the entire infrastructure of the country -- the
19 social fabric of Cambodia in every aspect?

20 A. Yes, they completely destroyed everything.

21 Q. Is it your view that the Khmer Rouge regime was, in fact, a
22 genocidal regime?

23 MR. PRESIDENT:

24 Witness needs not answer this question. This is a legal matter to
25 be decided by the Chamber. This question does not fall within the

1 expertise of the expert before us.

2 BY MR. KOPPE:

3 Q. I understand your objection. I'm just quoting from his earlier
4 testimony when he called, in fact, the KR regime a genocidal
5 regime.

6 Is it your view that what was done by the KR is completely
7 inappropriate?

8 [14.11.58]

9 MR. PRESIDENT:

10 Mr. Expert needs not answer this question because this, again,
11 does not fall within his expertise.

12 And Counsel, please be advised that the expert before us is
13 coming to testify in relation to the psychological impacts on the
14 civil parties and victims of the Democratic Kampuchea period, so
15 you may put the question so long as it relates to his areas of
16 expertise in his capacity as the expert.

17 We have directed parties very clearly that the expert before us
18 today is to testify concerning the psychological impacts as a
19 consequence of the Democratic Kampuchea period.

20 BY MR. KOPPE:

21 I understand, Mr. President. I'm, again, merely quoting again
22 from his earlier testimony in Case 001.

23 [14.13.05]

24 Q. Looking at that same evidence that you have been giving in
25 Case 001, it seems that you have very strong, negative views on

1 the DK period, 1975 to '79; would that be a fair summarizing?

2 A. Yes, that is correct.

3 Q. My question to you, having heard your answer -- your
4 affirmative answer, would be: What have you done both in your
5 clinical work and both in your academic work to avoid your
6 personal views of what happened between '75 and '79 interfere
7 with the work that you have been doing? In other words, how have
8 you been able to leave out the -- your personal views on the DK
9 regime when you were both doing your clinical work and your
10 academic work?

11 A. Thank you, Counsel, for the question. I obtained my medical
12 degree and then after -- upon my graduation and at the start of
13 my work, I had to take an oath that I adhere to the professional
14 conduct. I would not let my previous experience to interfere in
15 my work and I would treat patient and clients without any
16 discrimination whatsoever.

17 [14.15.08]

18 And in relation to your question whether or not there was
19 interference in my work when I consulted clients, I would like to
20 inform you that TPO is a professional organization. We stand by
21 our code of ethic and professional conduct and we have
22 consultation process. The consultation process is meant to
23 reconcile ourself and to assess ourself whether or not there is
24 any bias -- selection bias or so in the consultation or practice
25 of our profession.

1 And in the course of our work, we also use tools -- tool that are
2 recognized internationally in order to avoid the allegation that
3 we do not have any basis in our treatment and counselling, so we
4 have tried our best to ensure that our treatment is acceptable.

5 Q. I understand. What have you done concretely in order to avoid
6 an appearance of bias in respect of your academic work?

7 [14.16.44]

8 A. For example, in the study and research: When we conducted
9 research, we did not use the counsellor of -- or staff of TPO
10 because counsellor at TPO, they understand the psychological
11 impact or the psychological disorder. So we make use of people
12 who are outside of the -- the TPO and those people were trained
13 how to conduct interview, how to use questionnaire to conduct
14 interview with target individuals. So this is to avoid bias in
15 our responses and analysis.

16 Q. I'll move on. Yesterday you testified that -- and I -- I
17 quote:

18 "I can say that the majority of the victims that we have worked
19 with or that we have provided psychological expertise to were
20 traumatized."

21 Now, could you explain to me what you meant when you said "...we
22 have worked with..."? What does that mean? Is that clinical
23 treatment or is that talking in respect of a questionnaire
24 relating to academic work?

25 [14.18.29]

1 A. It is the combination of two. Part of it was the research and
2 the other part of it is the consultation and counselling directly
3 with them.

4 Q. And which of the two is more predominant for you? Would that
5 be the people that you spoke to in respect of academic research
6 or would that be patients that you have been seeing clinically?

7 A. Well, in the course of my research, I, myself, did not
8 administer the questionnaire and neither did the staff of TPO. We
9 engage a third party, somebody else who did not know the process
10 very well to conduct the interview with the patient. And when we
11 interact -- interacted with the client, we provided counselling
12 for them and consultation.

13 Q. I'm not sure if I understand. Are you saying that the two
14 things were intertwined, both the clinical experience and the
15 academic research?

16 [14.20.18]

17 A. As I said earlier, the arguments I raised yesterday was based
18 on the result of my research as well as the clinical experience
19 resulting from my consultation and counselling with clients, but
20 as I said, when we conducted research, I did not talk to the
21 clients myself. We prepared questionnaire, but we did not
22 administer this questionnaire for the interviewees by ourself. We
23 engaged the third person to conduct interview with the target
24 interviewees. That is a separate work.
25 But as for clinical experience, we provided consultation and

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1 counselling and it is then we met with the clients. The reason
2 why we met them because we wanted to observe the changes of the
3 patient after treatment. We wanted to measure the improvement if
4 any. That was to avoid any bias or variation in the result.

5 [14.21.41]

6 Q. I'm not sure if I understand you well. I believe there's a -
7 what -- there should be maybe a fundamental difference between
8 what you can establish on the one hand in clinical interviews
9 with patients, and on the other hand what the results are from --
10 from academic research.

11 I will give you an example. And I relate this to the word
12 "majority" that you used yesterday. You said the majority of the
13 victims that you have worked with were traumatized. I -- if I may
14 use that example, I have a -- I have a professional law practice
15 in -- in Holland and if I speak in one year to 50 clients --
16 patients in your -- in your terminology -- they all have problems
17 with breaking criminal law; that says something about those
18 people coming to my office, but it doesn't say anything about the
19 rest of the population of Holland having problems with -- with
20 the law -- with criminal law; am I correct?

21 In other words, people who are patients and are coming to your
22 practice are only coming to your practice because they already
23 have psychological problems and doesn't say anything about if
24 they represent, for instance, a majority of the Cambodian
25 population. Do you understand what I mean?

1 [14.23.33]

2 A. I don't know if you understand what I have explained. I
3 responded to your question earlier that the statement I made
4 concerning the psychological impacts, and you asked me what is
5 the proportion in relation to a clinical experience -- the
6 clinical treatment and the academic research. That was your
7 question earlier. And then I said that the arguments that I
8 raised, the majority of them -- a sheer majority of them were
9 obtained by medical treatments and others were from my research.
10 And once again, when I conducted research, I made use of
11 different approaches and methodologies. And in the research, we
12 wanted to find out the level of suffering and traumatic
13 experience and we also wanted to assess the effect or the impact
14 of the treatment. That's why normally in the research, I did not
15 get involved in asking the question or using the questionnaire
16 myself; I engaged the third party.

17 [14.25.05]

18 And then we obtained the responses from the respondents and then
19 we calculated the results. So once again, we obtained the
20 feedback by research as well as the direct consultation and
21 counselling. And we met them because we want to diagnose the
22 improvement after administering the treatment for them.

23 Q. I'm sure it's because of -- of the way I'm questioning -- the
24 way I'm phrasing my questions that I -- I'm still not
25 understanding what you're saying, but let me rephrase.

1 In a clinical practice or in a practice of a clinical
2 psychiatrist, it would be completely logical if the majority --
3 maybe even the vast majority of the patients -- are suffering a
4 trauma. Why, otherwise, go to a psychiatrist?

5 Speaking to people using a questionnaire and asking if they have
6 -- if they are suffering from a trauma is something completely
7 different; do you agree with me?

8 A. Just for clarification, one; on clinical treatment and the
9 other one is the result from an interview or research.

10 [14.26.43]

11 So in clinical treatment, how do we know that a person or a
12 client suffer from a traumatic event or he has psychological
13 disorder? So we have to use the criteria. We have a statistical
14 manual or international classification of disease as the criteria
15 for our assessment, so based on these internationally recognized
16 tools, we can come to a conclusion that this person is suffer
17 from psychological disorder.

18 And if you ask me to generalize whether or not people suffered
19 from psychological disorder, I cannot respond to you objectively,
20 but I can say that more and more psychological disordered people
21 are on the rise and they are seeking treatment and counselling,
22 as well, but I cannot come to a definite answer as to how many
23 percent of the Cambodian people, particularly the victims of the
24 regimes, suffer from a traumatic disorder or a psychological
25 disorder.

1 [14.27.55]

2 The research that I have done so far was only with the clients
3 that have come to me to seek my consultation and treatment.

4 Q. Thank you for that answer. I think we are almost agreeing now,
5 but just to be -- to be sure, when you said yesterday that the
6 majority of the victims that you have worked with were
7 traumatized, you were, in fact, referring to people that you saw
8 clinically or that your institute saw clinically; is that
9 correct?

10 A. Yes, those who came to my clinics and those who received our
11 counselling services through our outreach programs, we have our
12 teams going to the countryside, as well, to provide counselling
13 in the countryside, so not only those who come to see us
14 clinically in our office, but also those who came to us through
15 our outreach program.

16 [14.29.11]

17 Q. Very well.

18 Now, speaking about the Cambodian population as a whole, would
19 you agree with me that research seems to indicate that not a
20 majority of the Cambodian people are suffering from trauma, but
21 rather a percentage which varies, but is usually indicated at
22 around 14 - one-four per cent?

23 A. What statistic or data are you relying on in your reference?

24 And I can reply to you based on certain documents that I have. In
25 2002-2003, there is a population study, but it's not conducted

1 for the entire country and it was conducted within three
2 provinces. The study was about the -- the trauma -- the level of
3 trauma from the lower to the higher level and the random subject
4 was more than 1,000 people within the three provinces.

5 [14.30.39]

6 And the result that we obtained is that two out of five subjects
7 experienced trauma from the lower to the more serious level and
8 that includes expression, depression, anxiety, and psychosis. And
9 that was -- the study was conducted by De Jong and a book was
10 published, "Trauma, War and Violence".

11 And recently, a study by Sonis et al in 2012 and it is a
12 population study and that can also be trusted and that we can
13 also generalize based on the result of the study and the study is
14 for those who is 16 years of age and above. And the statistic of
15 trauma is about 14 per cent.

16 Q. Maybe I am -- I'm, again, not understanding your answer
17 completely. But are you agreeing that the percentage of the
18 Cambodian population presently suffering from posttraumatic
19 stress disorder is around 14 per cent?

20 [14.32.21]

21 A. Fourteen per cent is only for PTSD, but if you consider the
22 range from mildest to severe trauma, then we can use this
23 indicator -- the PSD (sic) as an indicator because PSD (sic) is
24 just one of the factors and there are other factors including the
25 anxiety and the psychosis for instance.

1 Q. Let me -- let me rephrase my question. Would you be able to
2 say right now which percentage of the Cambodian population is
3 suffering from one or the other psychological disorder as a
4 result of the DK period '75-'79?

5 A. I cannot make a conclusion based on all those diseases or
6 psychological disorders, but let me give an example based on the
7 study by Sonis. Fourteen per cent of the subject -- that is,
8 amongst those 1,000 people, have PTSD syndrome. That study is a
9 reliable one.

10 Although we cannot generalize, the entire population experienced
11 the same syndrome. And if we use the screening tool which is
12 culturally appropriate, maybe the result is different from this
13 study.

14 [14.34.40]

15 Q. But yesterday you did speak about the majority of the
16 Cambodian people. Literally you said:

17 "I'd like also to add that the Cambodian people -- that is, the
18 majority of them, seem to fall into this avoidance symptom more
19 than other people in the world -- that is, the post-war or
20 traumatic experience. So my general observation is that Cambodian
21 people avoid talking about the Khmer Rouge regime even within the
22 family circle."

23 Here you seem to draw conclusions in respect of, again, the
24 majority of the Cambodian people.

25 MR. PRESIDENT:

1 Mr. Expert, please wait.

2 The Prosecution, you may proceed.

3 [14.35.39]

4 MR. DE WILDE D'ESTMAEL:

5 Thank you, Mr. President.

6 It seems to me that the Defence is muddling up the terms. The
7 expert talk about 14 per cent as the result of a PSD (sic) in
8 study and now he says, yes, yesterday you said that the majority
9 of the population is suffering from an avoidance ssyndrome
10 resulting from traumatism, but it's not the same thing. The
11 syndrome, the post-traumatic stress is a clinical diagnosis but
12 general traumatism is much broader and can concern more than 14
13 per cent of the population. That's what was said, in fact, in the
14 2002 study so perhaps the expert could explain but it seems to me
15 that the question in itself is not really very consistent with
16 what was said before.

17 [14.36.34]

18 BY MR. KOPPE:

19 The Prosecutor might very well be right. To me it's not clear yet
20 what the expert has been testifying yesterday and today. The only
21 thing that I have been observing yesterday is that the expert has
22 been testifying on the majority of the Cambodian population and
23 I'm just trying to establish when he uses the word "majority"
24 what that in fact means and on which grounds he's basing himself
25 upon. So I'm just -- I'm not necessarily attacking the expert,

1 I'm just trying to get clarification on what exactly he means
2 when he is speaking about the majority of the Cambodian people
3 and what he is basing himself.

4 Q. Maybe I'll move on. You have heard, Mr. Expert, my reply.
5 Would you be able to explain again those percentages, 14 per cent
6 and what you have been saying earlier yesterday after questions
7 about what the majority of Cambodian people might be suffering
8 of?

9 [14.38.18]

10 MR. CHHIM SOTHEARA:

11 A. When I spoke about 14 per cent; 14 per cent is only for PTSD
12 and PTSD is just one of the several symptoms for the
13 psychological disorder and what I said that the majority of
14 Cambodian people experience the avoidance syndrome more than the
15 rest of the people in the world. And avoidance is one of the
16 trauma and it's because of this avoidance syndrome it may further
17 indicate that more people have the traumatic experience but they
18 avoid coming to seek assistance, psychological assistance or the
19 service. And based on that, I can conclude that there are more
20 people who have this syndromes but it's because of the avoidance
21 syndrome they do not come to get the service from us because they
22 don't want to experience the suffering again.

23 Yes and that is my response that maybe they study next to broaden
24 a little bit further to cover more.

25 [14.39.41]

1 MR. PRESIDENT:

2 Thank you, Expert and Counsel.

3 The time is appropriate for a short break and before the break, I

4 would like to remind the expert please try to use the Khmer

5 language as you mingle the foreign language and the Khmer

6 language and it is difficult for us to understand it in the Khmer

7 language. As when you use a foreign language -- that is, those

8 specific terms, the Khmer interpreters' they follow your specific

9 terms and for us and for the public we are unclear of what it

10 means in the Khmer language. And I hope that after we return, you

11 may please use those terms in the Khmer language that's for - for

12 the sake of our understanding and for the public as well. So then

13 we may know more about your expertise.

14 The time is appropriate for a break and we shall break and resume

15 at 3.00 p.m.

16 Court Officer, could you assist the expert during the break and

17 have him returned to the courtroom at 3.00 p.m.

18 (Court recesses from 1441H to 1500H)

19 MR. PRESIDENT:

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

21 I hand over the floor to the defence team for Mr. Nuon Chea to

22 resume his line of questioning. You may proceed.

23 BY MR. KOPPE:

24 Thank you, Mr. President.

25 Q. Mr. Expert we had a complicated discussion before the break

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1 and also due to the usage of Non-Khmer terms in your answers
2 maybe things were not always clear to everybody. So if you allow
3 me to summarize at least one point which seems to be important
4 and it is the fact that I think we have established that if the
5 majority of the victims that you have worked with suffer from
6 PTSD or from depression, for instance, that that doesn't say
7 anything about the people who lived in the DK period as a whole.
8 Is that correct?

9 [15.02.45]

10 MR. CHHIM SOTHEARA:

11 A. I am afraid I do not really get your point. Are you talking
12 about the impacts of the people following the Khmer Rouge period?
13 Can you please rephrase your sentence?

14 Q. Of course. Is it correct that we have established now that
15 when you were speaking about the majority of the victims that you
16 had worked with that they were suffering from PTSD or another
17 trauma, but that fact doesn't say anything about the percentage
18 of the people who have a trauma and who lived through the DK
19 period as a whole.

20 A. Well, for clarification, when we conducted survey in order to
21 analyze or assess the state of psychological impacts, we use the
22 questionnaire in order to ask whether or not there are symptoms
23 of people who suffered from psychological disorder. According to
24 the results from the respondents -- some 80 per cent of them --
25 they had psychological problem as a consequence of the Khmer

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1 Rouge period. Only a small minority of them who suffered
2 psychological impacts after the Khmer Rouge regime; for example,
3 they may be affected by traumatic events, for example, of robbing
4 or so. But the majority of them suffer psychological disorder
5 during the Khmer Rouge period.

6 [15.05.09]

7 Q. Let me rephrase my question and read something from a report
8 or an article that you also mentioned. An article by Nigel Field
9 and he is -- and I will quote from it. You're saying that:
10 "Enduring impact of the Khmer Rouge regime on the mental health
11 of Cambodians is well documented. In a recent study examining the
12 mental health of Cambodians 14.2 per cent of first generation
13 survivors of the Khmer Rouge were found to currently have
14 posttraumatic stress disorder. And in a separate survey study
15 11.5 per cent of Cambodians met the criteria for major
16 depression."

17 Now, if we briefly focus on those two percentages, 14 and 11, do
18 you agree that that is the percentage that we are dealing with
19 when we are looking at traumas from people who lived through the
20 DK period?

21 [15.06.32]

22 A. Thank you. If you look at the last few pages, the last section
23 of these reports, you will see the limitation, the limitation of
24 the study because there were some constraints in the study.
25 Normally, in any one study, there is some limitation. Some people

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1 found 11, 14, 16, or 17, and some found below 10 so I don't think
2 that this poses any issue. But what is an issue is that these
3 figures do not vary from one research to another.

4 Q. Would it be accurate if I said that 86 per cent of the people
5 who lived through the DK period is not suffering from a
6 posttraumatic stress disorder?

7 MR. PRESIDENT:

8 Mr. Expert, please hold on.

9 Mr. Prosecutor, you may proceed.

10 [15.08.00]

11 MR. DE WILDE D'ESTMAEL:

12 Thank you, Mr. President.

13 A while ago, the expert referred to a 2012 study which referred
14 to 14 per cent. That is the presence of PSD (sic) in the 16 plus
15 age group in Cambodia that was in 2012. This 14 per cent figure,
16 unless I am wrong, includes people aged from 16 to 35 who did not
17 live under the Khmer Rouge regime. So these figures have to be
18 placed in perspective because the 14 per cent figure refers to
19 people who lived under the Khmer Rouge regime and others who did
20 not live under the Khmer Rouge regime. So I believe this
21 question, as formulated, would mislead both the parties and the
22 expert. I thank you.

23 [15.09.12]

24 BY MR. KOPPE:

25 Mr. President, I don't understand the objection. I was just

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1 reading from a report cited by the expert himself from Nigel
2 Field. It's a report called "Intergenerational Transmission of
3 Trauma Stemming from the Khmer Rouge Regime", and it says: "The
4 enduring impact of the Khmer Rouge regime on the mental health of
5 Cambodians is well documented. In a recent study examining the
6 mental health of Cambodians, 14.2 per cent of first generation
7 survivors of the Khmer Rouge were found to currently have
8 posttraumatic stress disorder."

9 Q. Now, my question is only a question for clarification. Would
10 that mean that 85.8 per cent of first generation survivors of the
11 Khmer Rouge regime do not have posttraumatic stress disorder?

12 MR. CHHIM SOTHEARA:

13 A. We cannot draw that conclusion because when we talk about
14 trauma it does not only involve PTSD. There are other diseases as
15 well. What you are saying is the PTSD, but there are other
16 diseases, as I said, might be depression or anxiety or
17 traumatization and other psycho -- social psycho problems as
18 well. So if we conclude that some 85 or so per cent did not have
19 PTSD, I do not agree with this.

20 [15.11.21]

21 Q. That, I have to say, Mr. Expert, I don't understand. But I
22 also mentioned earlier the depression rate, it says here: "That
23 in a separate survey study 11.5 per cent of Cambodians met the
24 criteria for major depression." Now, would that mean that 60 per
25 cent do not - sorry, 89.5 per cent do not have major depression?

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1 A. If you refer solely to depression, that is correct; but if you
2 say it was the result of the traumatic event, then that is not
3 correct because the consequence of a traumatic event may result
4 in many different diseases. And PTSD is one of them and
5 depression is also one of them.

6 Q. If you allow me, let's focus only on PTSD.

7 Do you know how this 14.2 per cent compares to other countries in
8 which conflict has occurred? Which has suffered from conflicts or
9 wars? How does, for instance, Cambodia, when it comes to PTSD,
10 compare with Rwanda or with Kosovo or with other countries like
11 that?

12 [15.13.26]

13 A. According to the study by Professor De Jong who conducted
14 comparative study of the psychological impacts of post-war
15 countries, his study was done in 2002 or so and he said that the
16 rate -- or the prevalence of PTSD accounts for around 80 plus per
17 cent. And this was different from the prevalence of the other
18 countries in Rwanda or in other places, but lower than that of
19 Algeria.

20 Q. Are you saying that the PTSD percentage in Cambodia is higher
21 than in other countries?

22 A. According to that research, Cambodia was even worse; only
23 lower than that in Algeria. That is the only country that the
24 prevalence of people who suffered from traumatic events in
25 Cambodia.

1 Q. In the same article from Nigel Field, I read the following
2 passage:

3 "For many Cambodians, exposure to trauma began well before the
4 beginning of the Khmer Rouge as a result of extensive bombing
5 inside Cambodia by the Americans during the Vietnam war which
6 resulted in heavy casualties and displacement of civilians. It
7 also continued for years after the formal end of the Khmer Rouge
8 through pockets of on-going fighting throughout the country and
9 exposure to trauma in Thai refugee camps."

10 Would you be able on the basis of your research or your knowledge
11 to say that the percentage of PTSD in Cambodia is higher because
12 of the pre-DK period and the post-DK period and the events that
13 happened in those periods?

14 [15.16.05]

15 A. Well, what was written in that research paper, it was actually
16 conducted by a researcher and he actually cited from the previous
17 finding of other writer; it was not a finding by Mr. Nigel Field
18 himself.

19 Of course, PTSD could also exist among Cambodian people during
20 the period prior to the DK period because there was bombardment,
21 but it only confined to only certain group of people and I don't
22 know whether or not the research actually captures the question
23 concerning the period before the DK.

24 But in terms of the research on the people who were affected by
25 the traumatic event during the Khmer Rouge period, actually,

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1 there were questions for them even though they did not suffer
2 from psychological disorder but they were prone or they were
3 vulnerable to PTSD when, for example, anything happens then this
4 person is vulnerable to traumatic experience.

5 [15.17.43]

6 Q. How would you be able to establish that if somebody is
7 suffering from PTSD, didn't get that trauma from the period
8 before '75 or the period after '79, would you be able to
9 establish that at all?

10 A. In numerous researches that I have encountered, they made use
11 of a questionnaire, and there are questions concerning the
12 dramatic events that people have come across. According to the
13 findings from the researches that I mentioned earlier on, they
14 focus on people who suffered from dramatic events and those
15 dramatic events were referred to as the event that took place
16 during the Democratic Kampuchea period.

17 [15.18.49]

18 And they assessed the symptoms and these symptoms actually
19 corroborate with the event that took place during the period of
20 Khmer Rouge. It was actually correlated with the events that took
21 place during the Khmer Rouge period.

22 Q. Yesterday you've been asked questions about the civil parties
23 that have been testifying here the beginning of the week and last
24 week, and it seems that at least the majority of these civil
25 parties who have been testifying are suffering from traumas or

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1 from maybe even posttraumatic stress disorder.

2 Now, would it be fair to say that these civil parties, if they
3 were part of the Cambodian population, belong to that 14.2 per
4 cent of the Cambodian population that is suffering from PTSD?

5 A. Are you talking about the civil party who came to testify in
6 court last week and earlier this week, that they were part of the
7 14.2 per cent? Well, I cannot come into a definite conclusion.
8 They may be part of this 14.2 per cent or they may be not part of
9 this 14.2 per cent.

10 Q. Let me ask it differently. What does the selection of the 16
11 civil parties who have been testifying in court say about the
12 suffering of the Cambodian population as a whole in the DK
13 period? Is there any connection, according to your opinion?

14 [15.21.25]

15 MR. PRESIDENT:

16 Mr. Expert, please hold on.

17 Counsel, you may proceed.

18 MS. SIMONNEAU-FORT:

19 Yes, Mr. President, I would like to object to this question for a
20 simple reason. The choice made by the civil parties was made by
21 the civil party lawyers and Lead Co-Lawyers, so I do not see why
22 the expert should be allowed to speak on this choice and the
23 criteria whereby we made that choice. It is not up to him to
24 express an opinion on that.

25 [15.22.04]

1 MR. KOPPE:

2 Mr. President, if I may quickly reply? I'm trying to establish
3 whether the testimony and the impact statements of the civil
4 parties are, in fact, representative of suffering in the DK
5 period. We have been listening to 16 civil parties. They have
6 been giving their statements on -- and been speaking about
7 impacts.

8 My question is, is this a group representative -- is this group
9 representing the population of DK in '75-'79 as a whole. So I
10 think it's a fair question.

11 MR. PRESIDENT:

12 Prosecutor, you may proceed.

13 [15.23.06]

14 MR. DE WILDE D'ESTMAEL:

15 Thank you, Mr. President. The question may be justified if
16 counsel for Nuon Chea had personally not made an objection
17 yesterday, an objection which was to find out whether the expert
18 had heard the statements or testimonies of civil parties in the
19 two previous weeks, and he stated that he was on a trip. And if
20 he was on a trip, it is possible that he obtain information by
21 other sources.

22 However, the counsel for Nuon Chea objected yesterday saying, did
23 the expert really hear what was said during these hearings. The
24 same counsel is trying to use the same approach to obtain
25 information from the expert, which is not logical and rather

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1 paradoxical.

2 (Judges deliberate)

3 [15.24.40]

4 MR. PRESIDENT:

5 The objection by the Prosecution is appropriate because the
6 witness -- the expert rather -- before us did not come to the
7 court or observe the testimony and statement of suffering of the
8 civil parties that the Chamber summoned to testify over the past
9 weeks. Therefore, the expert need not respond to the last
10 question posed by the defence counsel.

11 MR. KOPPE:

12 Very well, Mr. President, I will rephrase the question
13 completely.

14 BY MR. KOPPE:

15 Q. Mr. Expert, would you be able to inform the Court what, in
16 your opinion, should have been done in respect of the selection
17 of civil parties in order to present the Chamber a representative
18 percentage of people who have suffered during the DK period? In
19 other words, how should the manner of representativeness have
20 been warranted? What should -- which civil parties should have
21 been giving testimony here to this Court? Would you be able to
22 say something about the manner of the representativeness of the
23 civil parties?

24 [15.26.42]

25 MR. CHHIM SOTHEARA:

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1 A. I don't think that I am in the position to say anything about
2 that, particularly in the determination of the criteria for the
3 selection of civil party to testify before this Chamber.

4 Q. Let me -- let me try from another angle. If the percentages
5 are correct, and 14 per cent of the survivors of that period are
6 suffering from PTSD, shouldn't it be -- to give a representative
7 selection of the people who lived in that period - there'd also
8 be civil parties or people who are not suffering from PTSD? In
9 other words, the people belonging to the other 86 per cent of the
10 population in the DK period.

11 MR. PRESIDENT:

12 Expert needs not answer to this question because the question is
13 not founded and the expert has already made it clear that he is
14 not in the position to decide on the criteria for the selection
15 of civil parties to testify.

16 And, Mr. Koppe, please be reminded that these civil parties who
17 were summoned by the Chamber to testify, it was not up to the
18 expert and it was not chosen from among the Cambodian people in
19 general, but they were selected from the admitted civil party to
20 Case 002.

21 [15.28.47]

22 BY MR. KOPPE:

23 That is correct, Your Honour.

24 Q. Another thing that is -- I think is my last series of
25 questions to you, Mr. Expert. Although you haven't been here

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1 while evidence was given by the civil parties on the impact, it
2 could be concluded that quite a few of the civil parties who were
3 testifying -- or are living not in Cambodia but rather in France
4 or the United States.

5 Now, I have seen studies which indicate that the trauma seems to
6 be higher with Cambodians living in the United States or France
7 or Australia. To begin with, is that correct? People who are
8 living -- the percentage of people -- of Cambodian people who are
9 living not in Cambodia, is that percentage higher when it comes
10 to trauma?

11 [15.30.10]

12 MR. CHHIM SOTHEARA:

13 A. If we talk of the number of people comparing to the number of
14 people of Cambodians living overseas, although the percentage may
15 be low but the number is not the same as those people who lived
16 in Cambodia. The previous study, in fact, focussed on the
17 seriousness or the severity of those people who lived overseas,
18 despite their living overseas for 10 to 20 years and that they
19 are continuing. I think my response to you is rather clear now.

20 [15.30.59]

21 Q. But is the fact that somebody is living outside of Cambodia
22 adding to the risk of suffering from, for instance, PTSD or
23 depression?

24 A. Yes, I testified before this Court yesterday. Cambodian people
25 who lived overseas still suffer from psychological trauma due to

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1 a number of factors, although they enjoy the safety and have full
2 social security and support, but they lacked in the area of
3 culture, religion, and their religious practise. They lack in
4 their communication due to language barrier and their younger
5 generation seems to be distant from them. And these are the
6 factors that may trigger them of the previous events.

7 And the study by this professor actually confirmed that amongst
8 the subjects for his study, they are easy to be triggered by a
9 slight event; when they have even just a small fracture with the
10 family members, and that would trigger the trauma. And these are
11 the aspects that they're lacking and for that reason the trauma
12 continues.

13 [15.32.40]

14 Q. Thank you, Mr. -- actually, one last point. Going back to the
15 percentages of 86 versus 14 when it comes to posttraumatic stress
16 disorder, are you able to opine on factors such as education or
17 wealth or status of people who are suffering from PTSD? In other
18 words, do you have a -- where you were living in 1975 a higher
19 chance to develop PTSD when you were an academic or a teacher or
20 somebody having a higher education rather than being a peasant
21 and living in the province?

22 A. If you look at the study by Field and relationship of PTSD and
23 other factors, the number of traumatic events under his study and
24 the support that those people received under Khmer Rouge regime,
25 for instance, if they had an issue and they could seek a support

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1 under their economic situation, they are interlinked to PTSD.

2 [15.34.23]

3 Q. In other words, and that will be my final question, to use the
4 terminology of 17 April People and Base People, is the chance of
5 development of a PTSD or depression higher, or substantially
6 higher, with the former? In other words, do 17 April People have
7 a substantially higher chance to develop a disorder, mental
8 disorder, than people who are referred to as Base People?

9 A. I cannot make that conclusion because I haven't done that
10 study, however, I can say that anyone who suffers more or
11 repeated traumatic events would develop PTSD as indicated by
12 Nigel Field as he indicated the number of the traumatic events to
13 the PTSD. If the 17 April People experienced multiple traumatic
14 events then they would tend to develop more of the symptoms of
15 the PTSD.

16 [15.35.45]

17 Q. In other words – now, I will really finish -- in other words,
18 would you be able to say that the percentage of people with an
19 education or from a higher social class, that they are
20 over-represented in this 14 per cent -- percentage of PTSD?

21 A. It is difficult for me to make a conclusion on this matter. It
22 depends on a number of other factors. Sometimes they may not fall
23 into the 14 per cent of PTSD, but they may fall into the
24 depression syndrome because the present syndrome is related to
25 the loss.

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1 So for those people who were of a higher class or have a higher
2 education, they would fall into the depression group if they
3 actually give more value to the property that they lost. So
4 depression is also part of the trauma, so it means that they fall
5 outside of PTSD but they still experience other symptoms of
6 trauma.

7 MR. KOPPE:

8 Thank you very much, Mr. President.

9 [15.37.15]

10 MR. PRESIDENT:

11 Thank you.

12 The floor is now given to Khieu Samphan's defence to put
13 questions to this expert. You may proceed.

14 MR. KONG SAM ONN:

15 Thank you, Mr. President. Good afternoon, Your Honours.

16 QUESTIONING BY MR. KONG SAM ONN:

17 Q. And good afternoon, Mr. Chhim Sotheara.

18 You testified yesterday that you are 45 years old. Can you tell
19 us your date of birth?

20 MR. CHHIM SOTHEARA:

21 A. I was born on 14 of July 1968.

22 [15.38.09]

23 Q. Is this your real date of birth or it is the one that you
24 changed?

25 A. In fact, I reduced about three years-old after the Khmer Rouge

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1 regime so that I avoid being drafted into the army.

2 Q. Thank you.

3 Regarding your study at the medical university, we knew that you
4 completed it in 1992. What year did you start?

5 A. It was in 1986.

6 Q. So you studied medicine for six years?

7 A. (No interpretation)

8 [15.39.12]

9 Q. Thank you for that. During these last two days of your
10 testimony, I have heard that you did not engage in the study of
11 the percentage of Cambodian people who suffered traumatic event.
12 Am I correct to say that?

13 A. Allow me to say that in Cambodia, there is no study conducted
14 amongst the entire population regarding a traumatic event, but
15 there is also a population study which is the most reliable than
16 other studies, that is the Sonis study conducted in 2012.

17 Q. Thank you.

18 In relation to civil parties in Case 002, you haven't done any
19 study on the percentage or the rate of their -- of the traumatic
20 events occurred upon them. Am I correct?

21 [15.40.34]

22 A. Allow me to say that the TPO where I worked actually conducted
23 interviews with the civil parties for Case 002 and the interviews
24 are 250 in number. We actually established a questionnaire to
25 conduct the survey on this traumatic event and we actually found

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1 some of them do have problems with trauma.

2 Q. Thank you. Do you know the total number of civil parties in
3 Case 002?

4 A. No. I don't know the actual number, but I believe it is almost
5 4,000 -- it's between 3,000 to 4,000.

6 Q. Thank you. Does this mean that you only undertook the study of
7 the civil parties in Case 002 up to about 6 per cent based on the
8 figures that you provided?

9 A. We actually continue our screening for the study. The study
10 has not yet completed and that is due to the limited resources
11 that we have and we only have about six to seven staff working
12 for this project. So we cannot work with all of the 3,000 civil
13 parties, but we will try our best in order to conclude that
14 study.

15 [15.42.35]

16 Q. Thank you. You said that you are working with these people.
17 Are you actually provided -- providing a counselling service to
18 them or the treatment to them?

19 A. It is in a form of psychological intervention. The
20 intervention purpose, and in order to know whether it is
21 effective or not, we have to actually conduct our study with the
22 subjects -- that is, with those people.

23 Q. I don't really get what you mean by the term "intervention".
24 Can you elaborate a little bit further when you talk about the
25 intervention? Is it a kind of a measure in order to reduce their

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1 traumatized feeling, something like that?

2 A. Intervention means giving assistance to them psychologically.

3 It could be in the form of an individual counselling, group
4 counselling, or medical treatment, or the treatment through
5 testimony.

6 Q. So you are the -- are you the leader in this intervention
7 measure over the other experts involving in this project besides
8 you?

9 A. As I just stated, we actually have a group at TPO to provide
10 psychological health service to victims and civil parties.

11 Actually, we work in groups.

12 [15.44.51]

13 Q. Can you be more specific? Are the groups providing the same
14 service to various people or different groups provide different
15 services?

16 A. In the projects that our organization established, there are
17 about six to seven staff and we all have expertise in providing
18 counselling and the group counselling and testimonial therapy and
19 medical treatment. So some staff would come to provide the
20 counselling service or a comfort to civil parties who are
21 providing their testimonies before this Court. Some would provide
22 the telephone counselling service or to provide the counselling
23 through a regular talk-in show -- call-in show.

24 Q. Thank you. Can you tell us the number of people who have come
25 for counselling service from you regarding traumatic events since

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1 your -- since the start of your organization?

2 A. Since our opening of the office, I cannot give you the exact
3 figure because each year we receive thousands of them. I mean,
4 thousands, and we've been operating for about 16 to 17 years.

5 [15.46.46]

6 Q. Thank you. Do you have any specific statistics or have you
7 reviewed the -- review of the rate of people who came for service
8 more than once? I mean, who would come for the second time or for
9 the third time?

10 A. They are all new; the number is incremental from one year to
11 the next. For example, in Phnom Penh, we have provided treatment
12 to about 400 to 500 new people, new patients, and the follow-up
13 surveys would mean that per year each of them would meet us four
14 to five times. So it means there could be four-to-five thousand
15 consultancy sessions each year.

16 Q. Thank you. Regarding the impact of the Democratic Kampuchea
17 regime, do you have any measure in order to ensure that the
18 impact of the Democratic Kampuchea regime can be resolved?

19 [15.48.15]

20 A. In fact, I replied to the previous counsel regarding this very
21 question. We actually have a questionnaire on the types of trauma
22 they suffered, and the majority of those people who we have
23 provided intervention described the traumatic events that they
24 experienced under Khmer Rouge regime.

25 So we look at the symptoms they have today comparing to the

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1 events that they experienced in the past and we can see the
2 consistent pattern and the relationship between the events that
3 happened and the traumatic experience that they have.

4 Q. Thank you. Allow me to confirm that your questionnaire is
5 related to the Khmer Rouge period and its impact. Is this
6 correct?

7 A. Yes, it is.

8 Q. Do you have other questions besides those impacts under the
9 Khmer Rouge regime? For example, questions which are related to
10 the events that happened prior or post the Khmer Rouge regime
11 period?

12 A. Yes. It specified the events that they experienced throughout
13 their lives. It could be before or after or during the Democratic
14 Kampuchea regime, but mostly the questions are related to the
15 period.

16 [15.50.05]

17 Q. Can you give us some examples of the questions in that
18 questionnaire?

19 A. For example -- allow me to read it to you. I haven't brought
20 it with me. Allow me to give you an example. "Do you experience
21 directly or indirectly of the events; namely, the events related
22 to the almost death experience or the lack of food, lack of
23 shelter, of being arrested, tortured, or face natural disasters
24 or other events, or that you saw dangers or accidents happen to
25 your family members?" Etc.

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1 Q. Thank you. Does this questionnaire aim only for the events
2 that happened within the framework of the Democratic Kampuchea
3 regime or it's for the entire life?

4 A. It is for the lifespan, but then we ask them to specify when
5 does that -- when that event happened; is it before or after or
6 during the Democratic Kampuchea regime.

7 [15.52.11]

8 Q. How do you do that?

9 A. We then ask, "When did that event happen?"

10 Q. In terms of percentage, and the events that are described that
11 have impacts, what would be the percentage of those events that
12 happened before, during or after the Democratic Kampuchea regime?

13 A. I do not factor that in, but we, in fact, count events that
14 they experienced. For example, the near-death experience could be
15 up to 90 per cent and that could cover the period before, during
16 or after, but I do not factor in the percentage for each specific
17 period.

18 Q. Thank you.

19 Regarding the age range of the subjects of your study, do you
20 limit the age range? For example, from this -- the number of
21 years of this person and the percentage for this age group.

22 A. Yes, we do. In fact, our service is only provided to adults
23 and we do have an age round, but I cannot recall the exact
24 details of the age range.

25 [15.54.20]

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1 Q. Based on your study, can you make an assessment that people
2 who are about 50 years old and who are under 50 years old or
3 those who are below 30 years old? Can you recall or can you
4 recall the percentage of those people that fall within this age
5 group?

6 A. I cannot recall that, but the majority of them are above 40
7 years old. I have to refer the document in order to give you the
8 specific figure.

9 Q. You refer to the majority. What do you mean by that?

10 A. It means the percentage of those people who receive the
11 service within this age-range group are more than the rest.

12 Q. Can you recall how many age groups have you categorized?

13 A. I cannot recall. There could be four to five age groups.

14 [15.55.58]

15 Q. How many years difference between each age group?

16 A. It's about five years different. Allow me to also add that
17 what I have just described is for those patients that we provide
18 the psychological treatment to them.

19 Q. Thank you.

20 Now, returning to you, you actually reduced your age by about
21 three years, so it is likely that you were born in 1965; is that
22 correct?

23 A. I don't really know. I only know the year of the animal, that
24 I should be about 48 years old. So I reduce probably about three
25 years of my actual age and not more than that.

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1 Q. Thank you. So it means that you -- rather, were you in
2 Cambodia under the Khmer Rouge regime?

3 A. Yes, I was in Cambodia, I was in Kandal Stueng district,
4 Kandal Steung (sic) province.

5 [15.57.46]

6 Q. Were your family members also in Cambodia at the time?

7 A. Yes, they were.

8 Q. Thank you. Did any of your family relatives experience any
9 traumatic event under the Khmer Rouge regimes, which is also the
10 subject of your study?

11 A. My elder sister passed away at the time due to illness and I
12 had several other cousins who passed away.

13 Q. In relation to PTSD, sometimes you say that it is a symptom
14 and sometimes you say it is an illness. Which one of the two?

15 A. Thank you for this very good question. I am undertaking a
16 study in order to define the theory of a trauma based on the
17 Cambodian culture. The study has passed its initial stage and we
18 are moving forward in the study.

19 Currently, I can actually use the term; it is a condition, a
20 condition of an illness. I do not define it as a witness yet, but
21 for ordinary Cambodian people they would say it is an illness or
22 a disease, but for us as a researcher, we had to be more specific
23 in order to define the condition as an illness.

24 [16.00.18]

25 MR. KONG SAM ONN:

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

2 And, Mr. Sotheara, I thank you very much for answering my
3 questions.

4 MR. PRESIDENT:

5 Thank you.

6 Thank you, Mr. Chhim Sotheara. Your testimony has come to a
7 conclusion now, so you may be excused now from the courtroom. I
8 take this opportunity to thank you for taking time off your busy
9 schedule to testify before the Court over the last two days. I
10 thank you for your efforts in responding to the various questions
11 put by the parties. Your testimony will contribute to
12 ascertaining the truth. I wish you the best of luck and
13 happiness.

14 Court officer is now instructed to coordinate with the WESU unit
15 to arrange the transport of the expert to his home or to any
16 direction he wishes to go.

17 The time is also appropriate for the day's adjournment. The
18 Chamber adjourns now and resumes tomorrow, Friday, 7 June 2013,
19 starting from 8.30 in the morning.

20 [16.01.39]

21 And for tomorrow's hearing, the Chamber will resume hearing the
22 testimony of Mr. Sydney Schanberg from New York, and in the
23 afternoon, the Chamber will hear the testimony of TCW-665. And
24 this is also the information for the parties, members of the
25 public and the supporting staff for the arrangement for

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1 tomorrow's hearing.

2 Security guards are now instructed to bring Mr. Khieu Samphan and

3 Mr. Nuon Chea back to the detention facility and have them

4 returned before 8.30 tomorrow morning.

5 And as for Mr. Nuon Chea, he is to be returned to the holding

6 cell downstairs where he can follow the proceedings through

7 remote means.

8 The Court is now adjourned.

9 (Court adjourns at 1602H)

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