



**អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា**

Extraordinary Chambers in the Courts of Cambodia

Chambres Extraordinaires au sein des Tribunaux Cambodgiens

**ឯកសារដើម**

**ORIGINAL/ORIGINAL**

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**ព្រះរាជាណាចក្រកម្ពុជា  
ជាតិ សាសនា ព្រះមហាក្សត្រ**

Kingdom of Cambodia

Nation Religion King

Royaume du Cambodge

Nation Religion Roi

**អង្គជំនុំជម្រះសាលាដំបូង**

Trial Chamber

Chambre de première instance

**TRANSCRIPT OF TRIAL PROCEEDINGS**

**PUBLIC**

Case File N° 002/19-09-2007-ECCC/TC

7 March 2016

Trial Day 378

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

The Accused: NUON Chea  
KHIEU Samphan

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

Trial Chamber Greffiers/Legal Officers:  
Matthew MCCARTHY  
SE Kolvuthy

Lawyers for the Civil Parties:  
CHET Vanly  
Marie GUIRAUD  
HONG Kimsuon  
PICH Ang  
SIN Soworn  
VEN Pov

For the Office of the Co-Prosecutors:  
Travis FARR  
William SMITH  
SONG Chorvoin

For Court Management Section:  
UCH Arun

I N D E X

Ms. MOEURNG Chandy (2-TCW-867)

Questioning by Mr. LIV Sovanna resumes..... page 3

Questioning by Mr. KONG Sam Onn ..... page 6

**List of Speakers:**

Language used unless specified otherwise in the transcript

Speaker	Language
Mr. FARR	English
The GREFFIER	Khmer
Ms. GUIRAUD	French
Mr. KOPPE	English
Mr. KONG Sam Onn	Khmer
Judge LAVERGNE	French
Mr. LIV Sovanna	Khmer
Ms. MOEURNG Chandy (2-TCW-867)	Khmer
The President (NIL Nonn)	Khmer
Mr. PICH Ang	Khmer
Mr. SMITH	English

1

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

2 (Court opens at 0903H)

3 MR. PRESIDENT:

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

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

6 Chandy in relation to Au Kanseng security centre.

7 Ms. Se Kolvuthy, please report the attendance of the parties and

8 other individuals to today's proceedings.

9 THE GREFFIER:

10 Mr. President, for today's proceedings, all parties to this case

11 are present.

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

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

14 been delivered to the greffier.

15 The witness who is to conclude the testify today, that is, Madam

16 Moeurng Chandy, and the TPO staff, Sun Solida, are present in the

17 courtroom. We do not have a reserve witness today.

18 Thank you.

19 [09.05.05]

20 MR. PRESIDENT:

21 Thank you, Ms. Se Kovulthy. The Chamber now decides on the

22 request by Nuon Chea.

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

24 2016, which states that, due to his health, headache, back pain,

25 he cannot sit or concentrate for long and in order to effectively

2

1 participate in future hearings, he requests to waive his right to  
2 be present at the 7 March 2016 hearing.

3 <> His counsel advised him about the consequences of this waiver,  
4 that in no way it can be construed as a waiver of his rights to  
5 be tried fairly or to challenge evidence presented to or admitted  
6 by this Court at any time during this trial.

7 Having seen the medical report of Nuon Chea by the duty doctor  
8 for the accused at ECCC, dated 7 March 2016, which notes that  
9 Nuon Chea has a chronic back pain and feels dizzy when he sits  
10 for long and recommends that the Chamber shall grant him his  
11 request so that he can follow the proceedings remotely from the  
12 holding cell downstairs, based on the above information and  
13 pursuant to Rule 81.5 of the ECCC Internal Rules, the Chamber  
14 grants Nuon Chea his request to follow today's proceedings  
15 remotely from the holding cell downstairs via audio-visual means.  
16 The Chamber instructs the AV Unit personnel to link the  
17 proceedings to the room downstairs so that Nuon Chea can follow.  
18 That applies for the whole day.

19 The Chamber now hands the floor to the defence team for Khieu  
20 Samphan to put questions to witness Moeurng Chandy.

21 [09.07.10]

22 MR. LIV SOVANNA:

23 Mr. President, I discussed with the defence team for Khieu  
24 Samphan, and I need 10 to 15 minutes to conclude my session.

25 MR. PRESIDENT:

3

1 And the defence team for Khieu Samphan, are you in agreement with  
2 the defence team for Nuon Chea since the allotted time remaining  
3 is only one session?

4 MR. KONG SAM ONN:

5 That should be okay, Mr. President, since I don't have many  
6 questions as well.

7 [09.07.45]

8 MR. PRESIDENT:

9 If that is the case, then the defence team for Nuon Chea can  
10 proceed.

11 QUESTIONING BY MR. LIV SOVANNA RESUMES:

12 Thank you, Mr. President. Good morning, Mr. President, Your  
13 Honours, everyone in and around the courtroom. And again, good  
14 morning, Madam Witness. My name is Liv Sovanna. I am the National  
15 Defence Counsel for Nuon Chea. I'd like to put some remaining  
16 questions to you.

17 Q. Madam, in relation to your work in the kitchen hall or when  
18 you went to have your meal or pick vegetables around the kitchen  
19 hall, did you ever witness any gall bladder hang on the wall in  
20 the kitchen?

21 MS. MOEURNG CHANDY:

22 A. No, I did not see that. I only heard Ta <Auy>, who said that  
23 he used to consume human gall bladders.

24 Q. Did you ever hear <about> anyone hanging gall bladders in the  
25 kitchen?

1 A. No, I did not.

2 [09.09.21]

3 Q. Did you ever know if any female detainee who were detained  
4 with you who was accused of having immoral affairs?

5 A. I did not know about that. There were women who were detained  
6 with me, but I did not know on what charges. People who were  
7 detained with me were detained there, but I did not know the  
8 reasons for their detention.

9 Q. And based on your observation, besides a group of Jarai women  
10 who were detained in your building, were there any other women  
11 who were also detained in your room or building and later  
12 disappeared?

13 [09.10.32]

14 A. The Jarai -- some of the Jarai group who were detained with me  
15 disappeared, as I testified last week that some of them were tied  
16 up and taken away.

17 Q. What about the Khmer women who were detained in your same  
18 room? Did any of them disappear?

19 A. For Khmer women, none of them disappeared.

20 Q. And while you went to pick vegetables or to work far away from  
21 the <village (sic)>, did you ever meet villagers who were living  
22 in the surrounding areas and who were not detainees at the  
23 centre?

24 A. No, I did not. Surrounding the centre was the forest, and I  
25 never came across any villager.

5

1 Q. On last Thursday, you testified that you saw a pit where the  
2 dirt that was covered cracked open and that you saw the pit after  
3 the disappearance of the Jarai people.

4 Can you tell the Chamber, did you see any jackfruit trees in the  
5 area that you claimed you saw the pit?

6 A. I did not see a jackfruit plantation. Of course, we did not  
7 spend much time there looking in details. We were scared, and I  
8 did not notice whether the area was a jackfruit plantation.

9 Q. Did you ever -- or had you previously been to the area that  
10 you said you saw the pit?

11 [09.13.10]

12 A. Yes, I had.

13 Q. And if so, did you ever observe that there was any jackfruit  
14 plantation nearby?

15 A. I did not think of any jackfruit plantation.

16 Q. Now I refer to a security guard named Auy whom you said that  
17 he used to consume gall bladder. My question to you is that did  
18 you hear that directly from him, or were you told by someone  
19 else?

20 A. He came to have his meal at the kitchen, and he said that he  
21 used to drink human gall bladder. And I heard that directly from  
22 him. And after he left, some other women also said Ta Auy used to  
23 drink human gall bladder.

24 [09.14.39]

25 Q. And when you said you heard him saying that, did he tell



6

1 someone in particular, or did he tell everyone about that?

2 A. Of course, he did not tell every one of us about that. He only  
3 spoke to his other security guards about that. It seems like they  
4 chitchatted amongst themselves and he said that he used to drink  
5 human gall bladder.

6 Q. Did you see Auy remaining there until the time of the arrival  
7 of the Vietnamese or at any point he disappeared from the centre?

8 A. When the Vietnamese arrived, I did not see Ta Auy, but I saw  
9 another guard.

10 Q. How many months did you last see Ta Auy before the arrival of  
11 the Vietnamese?

12 A. The situation was rather confusing when the Vietnamese  
13 arrived, and I did not see him at that time.

14 MR. LIV SOVANNA:

15 Thank you, Madam Witness. And Mr. President, I conclude my  
16 session.

17 [09.16.55]

18 MR. PRESIDENT:

19 Thank you. The floor is now given to the defence team for Khieu  
20 Samphan.

21 QUESTIONING BY MR. KONG SAM ONN:

22 Thank you, Mr. President. Good morning, Mr. President, Your  
23 Honours, parties. And good morning, Madam Witness. I'd like to  
24 put some questions to you in relation to your work.

25 Q. I have heard through your testimonies that you were involved

7

1 in certain task, and I'd like to focus on your task while you  
2 were at the Au Kanseng Re-education Centre.

3 Upon your first arrival at Au Kanseng centre that you said you  
4 picked vegetables to provide to those people in the centre, how  
5 long did you do that work?

6 [09.18.09]

7 A. Upon my arrival, I was not allowed to go and pick vegetables.  
8 In fact, I was detained in that building and only later on, when  
9 they believed that I would not flee, and that is after I  
10 delivered my baby, I was allowed to work outside and to pick  
11 vegetables.

12 So when I arrived there, they observed me closely, and when they  
13 trusted me and believed that I would not flee, then they allowed  
14 me to engage in some outside activities, including picking  
15 vegetables.

16 Q. From my recollection, you testified that you were detained at  
17 the building in Au Kanseng centre for a night and then you were  
18 transferred to another building where it was not locked.

19 So my question to you is this. Besides the first night that you  
20 were detained in the building which was locked, how long did you  
21 spend in other buildings or another building?

22 A. After I was transferred from that <detention> building, I  
23 spent a couple of months in another building.

24 Q. Would it be possible for you to describe the location where  
25 you lived after you were transferred from that one night

1 building?

2 Please try to illustrate the location of that building, for  
3 example, it was to the east or to the west of the interrogation  
4 room.

5 [09.20.44]

6 A. When I arrived, I was placed in that detention building. It  
7 was like a hut with a locked door. And after that, I was  
8 transferred to another hut or building which was long. It was a  
9 long building, and it was roofed with <bamboo planks> and <it was  
10 covered at the back with> bamboo <planks also>, <but the front  
11 was open,> and <all of us> were detained in that building.

12 Q. When you said "<all of us>", can you tell the Chamber, do you  
13 mean your group or all the prisoners in the centre were detained  
14 in that building?

15 A. I refer to those two or three families who were brought in  
16 together with my family. We all stayed together in that building.

17 [09.21.54]

18 Q. From my recollection, those people who left the rubber  
19 plantation with you were three families, including yours, and  
20 that they were -- there were husband wives within each family.  
21 And you said that the members of the three families were in that  
22 long building together. And beside your group, were there other  
23 people also resided in that long building?

24 A. There were a group of Jarai people, and there were other  
25 people. And I did not know where they were from. However, I was

1 close only to those two or three families which were brought in  
2 together.

3 Q. And besides the other two families who were brought in from  
4 the rubber plantation, <do> you <recall> other detainees?

5 A. I cannot recall those people. They were brought in from  
6 somewhere, and they were detained there, too.

7 Q. Do you recall how many people all together in that long  
8 building, that is, a rough estimate or an average of the number  
9 of people there?

10 A. In that long building, there were three or four <> women who  
11 were brought in from somewhere else, and I did not know them.

12 [09.24.18]

13 Q. And while you were in that long building, what kind of work  
14 was assigned to you, and what about the other women who were  
15 detained in that long building? Were they assigned to carry out  
16 any specific task?

17 A. We were given different tasks. Some were sent to remove grass.  
18 Some were sent to the forest to cut wood, while others were sent  
19 to pick vegetables.

20 Q. And for you, yourself, what task was assigned to you?

21 A. I was tasked to pick vegetables or to work in the kitchen.

22 Q. Can you clarify that you only slept during the nighttime in  
23 that long building while you worked during the daytime either  
24 picking vegetables or working in the kitchen? Is that correct?

25 [09.25.42]

10

1 A. Yes, it is.

2 Q. Did you also spend some time resting in the long building  
3 during the daytime, or you only came to the building to sleep at  
4 night?

5 A. I slept there during the nighttime and during the daytime I  
6 went to work.

7 Q. In your previous statement you said that long building was  
8 about 30 metres away from the interrogation room and, later on,  
9 you said that it could be about 20 metres. <So, it could be  
10 between 20 to 30 meters away from the interrogation room.>  
11 Do you recall that?

12 A. As I have said, I find it difficult to give an estimate  
13 distance, so I cannot say whether the estimate that I provided is  
14 a proper one. I cannot tell you the distance of the length in  
15 kilometres. My concern at the time was that if I wake up in the  
16 morning, then I knew that I am alive. That was constantly in my  
17 mind, and I did not think of the distance or anything else.  
18 And as I said, an estimation is just an estimation. It cannot be  
19 accurate, so what I said is that it was about 20 to 30 metres.  
20 <I'm not sure about that.>

21 [09.28.01]

22 Q. Thank you. Yes, I understand that.

23 And my next question is that, did you move to live in another  
24 building or did you remain living in that long building from the  
25 time that you were sent there until the day the Vietnamese

11

1 arrived?

2 A. I remained living in that building until the day the  
3 Vietnamese arrived. I was not moved to another building.

4 Q. You have mentioned that you were tasked to work in the kitchen  
5 or to pick vegetables, and you also recalled that that happened  
6 after your baby delivery. So did you remain working in the  
7 kitchen or pick vegetables and you were not given any other task  
8 <after> you <delivered your baby>?

9 [09.29.54]

10 A. After I delivered my baby, I was assigned to work in the  
11 kitchen, to pick vegetables, and sometimes I was sent to shoulder  
12 carry wood from the forest. And that was hard work.

13 Q. Last week, you also testified in relation to shoulder carrying  
14 wood planks and that the distance from the forest to the centre  
15 was similar to the distance from the main road to this courtroom.  
16 Can you tell the Chamber how many times -- how long did -- were  
17 you assigned to carry wood planks?

18 A. Whenever they wanted to build a building, we would be tasked  
19 to go and shoulder-carry wood planks. And we did that for about  
20 four to 10 days and, later on, we were assigned separate tasks.  
21 So it varied. Maybe one day when we woke up, we were tasked to  
22 carry wood planks and, next day, we would be asked to carry logs.  
23 And another time, we would be tasked to carry <bamboo planks>.  
24 <So, they assigned daily tasks and we just did them accordingly.>  
25 Some works were hard, some work were -- some others were light.

12

1 As for the distance from where I picked up the wood planks and  
2 carried it, it was like from the main road to this courtroom.  
3 From your perception, it might be short, but there was no direct  
4 road at the time. We had to walk through rough, patchy road and  
5 bushes. <It took a very long time and it was far away. It took us  
6 almost a day.> We had to make a detour sometimes, and it was  
7 difficult.

8 [09.32.30]

9 Q. Thank you. What I could recall is that you stated that you did  
10 that shoulder-carrying of wood for <about> 10 days. Were  
11 buildings completely built<? Or were the wood planks just brought  
12 there and the buildings not built yet, not even until the arrival  
13 of the Vietnamese?>

14 A. The buildings were not completely built. The older buildings  
15 were demolished, partially, and refurbished. I was asked to carry  
16 wood planks and logs, so I was focusing on my work. I was afraid  
17 at that time. As I said, I bothered to care of my life, so I was  
18 doing my best to work. So I can only tell what I know from my  
19 experience.

20 Q. Thank you. Did you do other <tasks> besides being a worker in  
21 the kitchen, picking up vegetables and shouldering woods?

22 [09.34.12]

23 A. No, I did not have any other tasks to perform.

24 Q. Thank you. I have another question in relation to your  
25 statement. You said a woman told you that her husband was

13

1     tortured. Can you tell the Court when you were told about that  
2     incident? In which month and year were you told of that incident?

3     A. I do not recall that. I do not recall the month and the year.

4     Q. Thank you. That woman told you that her husband became weak  
5     and it was perhaps her husband who was -- had been tortured. So  
6     when did she tell you about that?

7     MR. PRESIDENT:

8     Please hold on, Madam Witness.

9     You have the floor now, International Deputy Co-Prosecutor.

10    MR. FARR:

11    Thank you, Mr. President. My memory of the witness' testimony is  
12    that she said that multiple women told her that their husbands  
13    had been tortured, so I think Counsel is unduly limiting her  
14    evidence by referring to just a single woman. And I think that  
15    that risks -- that risks changing the evidence.

16    So I would just ask that he be more specific about which incident  
17    he's talking about.

18    [09.36.27]

19    BY MR. KONG SAM ONN:

20    I am trying to clarify this point with the witness.

21    Q. Madam Witness, how many women told you that their husbands  
22    were tortured?

23    MS. MOEURNG CHANDY:

24    A. Women from two or three families who were detained with me  
25    were questioned, one after another. First women were questioned,



14

1 and then the men.

2 After the women had been questioned and then it was the time for  
3 the men, the women <were> worrying about their husband. And later  
4 on, they said that perhaps their husband had been -- may have  
5 been tortured and electrocuted, so they discussed this matter to  
6 one another.

7 Normally, people who were healthy could walk very steadily, but  
8 we can assume -- we could assume that some people may have been  
9 tortured and beaten because we noticed them, that they could not  
10 walk very steadily. That is why those women made mention about  
11 these kind of things to me.

12 [09.38.12]

13 Q. My question wanted to know the specific numbers of women who  
14 had told you about the fact that their husbands had been  
15 tortured. So how many of them came to tell you that their  
16 husbands had been tortured?

17 A. One woman talked to me about that, not many of them. And that  
18 woman said that she discussed with other women that their  
19 husbands may have been tortured. And she came to tell me about  
20 that. Normally, <their> husbands<, my husband probably>  
21 receive<d> the same fate. Male detainees were mistreated.

22 Q. Thank you. Where did she come to -- where did she come to tell  
23 you about that incident?

24 A. She told me in the building where we slept.

25 Q. When? At what specific time did she tell you about that?

1 [09.39.40]

2 A. It was around three or four. The interrogation happened in the  
3 morning and lasted until three or four<>. And that woman's  
4 husband was so weak, seeing that, she told me about <> that<>.

5 Q. So she came to tell you after the interrogation of her  
6 husband, and perhaps it was after the time when you returned back  
7 from work. Is that true?

8 A. <At that time,> I did not go out to work. On that day,  
9 everyone was in the building<, including men and women>. We were  
10 not allowed to go out to work because it was the interrogation  
11 day. Men were interrogated after the women, so at that time, we  
12 were not trusted yet. We were told to stay at one particular  
13 place, that is, in the building.

14 [09.41.03]

15 Q. Thank you. Now I want to ask you about Jarai people. You told  
16 the Court that you saw Jarai people, <> women and children,  
17 coming into your building. <Did you refer to the> building <in  
18 which> you <stayed with the other three or four people>?

19 A. Could you clarify your question to me? I am not quite sure.

20 Q. I want you to make a clarification in relation to Jarai  
21 people. Perhaps 20 of them were brought into your building. Which  
22 building are you referring to? Are you referring to the building  
23 where you slept <at> night?

24 A. Yes, it is.

25 Q. You indicated that Jarai people were tied to a long string

16

1 together. And after they arrived at the building, were the string  
2 untied -- was the string untied, rather?

3 A. After they arrived in the building, the string was not untied  
4 yet at that time.

5 Q. And when were -- was the string untied, or did they remain in  
6 that string while detained in that building?

7 A. It was a while after those Jarai people were trusted. It was  
8 the same case as me when I arrived in the building. It was after  
9 a while and after they were trusted that those women, Jarai  
10 women, could not make an escape, then the string was untied.

11 [09.43.22]

12 Q. So how long did they remain tied in that string?

13 A. I do not know how many days they remained in that string. Most  
14 of the time, I went out to work and I did not know how long they  
15 remained in that string.

16 Q. Thank you. Do you recall how many times Jarai people were  
17 brought into that building while you were detained at Au Kanseng  
18 security centre?

19 A. I witnessed only one time of bringing those Jarai people in.

20 [09.44.30]

21 Q. Thank you. I want to ask you about the reason -- what made you  
22 remember that those <people were> Jarai people, perhaps 20 of  
23 them, <who> were tied to a string and sent into the building?  
24 Last week, you made mention about the language of those Jarai  
25 people. In addition to the language which you could recognize,

17

1 what made you believe that those people were Jarai?

2 A. I was -- I had been living in Ratanakiri province, so I could  
3 recognize language of Tumpoun and Jarai. Their language -- their  
4 languages were distinct from one another, so when those people  
5 were brought into that building, I could recognize -- know very  
6 well that those people were Jarai <because I recognized their  
7 language>.

8 Q. Do you know Jarai language?

9 A. I do not know how to speak Jarai language.

10 Q. Did you, at the time, talk to those Jarai people to make sure  
11 that they were Jarai?

12 A. I did not have any relation with them, but I could be sure  
13 that they were Jarai since I knew their language. I could  
14 recognize their language, particularly the languages of Jarai,  
15 Tumpoun and Kachak.

16 Q. Thank you. So can you tell the Court about the Jarai people  
17 when they were brought in to the building? How long were they  
18 detained in that <long building>?

19 A. They were detained <with me,> not <for> long.

20 [09.47.41]

21 Q. Thank you. While you stayed and lived in the building with  
22 those Jarai people and you told the Court earlier that you slept  
23 in the building -- in the same building with the Jarai people,  
24 was there any distinctive feature that you could recognize that  
25 those people were Jarai? For example, was their clothing distinct

1 from that of Khmer?

2 A. They slept in one side of the building. So, their clothing was  
3 distinctive from our clothing, for example, here you could see  
4 that Judges were wearing red robes and you or the other side were  
5 -- the other side of the table was wearing the purple cloth or  
6 robe, <and you on the other side were wearing black, and the  
7 models were different;> so I could recognize <that the women were  
8 wearing red cloth with white colour in the front. So, I knew that  
9 Jarai people wore that kind of> clothing.

10 [09.49.10]

11 Q. Thank you. Did they have the same clothing, or did they wear  
12 different types of clothing at the time?

13 A. They were in different clothes, depending on their families<,  
14 just like regular villagers in the village or district>. So their  
15 clothing -- their clothes were different from one another<>, and  
16 some were wearing colourful skirts, grey or black skirts, so  
17 different type of clothes and different colours of clothes.

18 Q. Thank you. On the same topic regarding Jarai people, were they  
19 -- did they come with their belonging with them when they were  
20 brought into the building? So what kind of stuff did they have  
21 with them at the time?

22 A. No, they had only one set of clothes at the time.

23 Q. Did they have backpacks with them?

24 A. No.

25 Q. Thank you. I want to ask a point for clarification. I heard

19

1 that the question was asked -- was put to you about jackfruit  
2 plantation. While you were staying in Au Kanseng security centre,  
3 did you happen to overhear about the location named jackfruit  
4 plantation, and where was it?

5 [09.51.53]

6 MR. PRESIDENT:

7 Please hold on, Madam Witness.

8 You have the floor now, National Lead Co-Lawyer for civil party.

9 MR. PICH ANG:

10 I heard the question about jackfruit plantation for three times,  
11 <and the witness said that she did not know about this issue>,  
12 and this is the fourth time that the party asks about the  
13 question in relation to jackfruit plantation, so I would like to  
14 register my objection to that question.

15 [09.52.23]

16 BY MR. KONG SAM ONN:

17 Never mind if there is an objection from the Lead Co-Lawyer for  
18 civil party. So I have another question to put to you, Madam  
19 Witness.

20 Q. Could you tell the Court about the <bomb> crater? Where was it  
21 located, the <bomb> crater which <was> located close to Au  
22 Kanseng security centre? Could you tell it to the Court?

23 MS. MOEURNG CHANDY:

24 A. You want me to describe the length or the dimension of that <>  
25 crater? In fact, I do not know about the dimension <or distance

1 in kilometres> of that crater or pit.

2 Q. Thank you. Did you ever go to that pit or <> crater, and how  
3 many times did you see that crater while you were detained at Au  
4 Kanseng security centre?

5 A. It was when I was assigned to pick up vegetables or pick up  
6 sweet potatoes. The crater or pit was deep and, at the time, it  
7 was not covered with dirt yet. It was resulting -- it was the  
8 result of <the> bombing.

9 Q. Do you recall when that pit was covered with dirt?

10 A. At first, that dirt was not covered with dirt yet, and it was  
11 deep, as I said. And on another occasion, after I went to that  
12 place for the second time, the dirt was used to cover the pit  
13 already.

14 And it was different picture when I saw it for the second time.

15 [09.55.13]

16 Q. Thank you. Could you clarify this point for the Court? How  
17 many times did you go to that place, seeing the empty pit?

18 A. I witnessed also that pit from time to time when I was  
19 assigned to pick up vegetables, but I did not <go near the  
20 crater, stand there and> measure how deep the pit was<>. But I  
21 could know <> that <> the pit was deep<>. <And later on, we went  
22 there again. Sometimes we went to pick> up vegetables <> at a  
23 location close to that pit, and <sometimes we went to different  
24 locations. I went there a few times, but> I did not know how many  
25 times I was assigned to pick up vegetables close to that pit

21

1 because I did not bother counting times. So, I cannot tell the  
2 Court how many times I was assigned to go close to that pit  
3 picking up vegetables. I did not bother measuring the pit or  
4 crater. <> I <only> care<d> about my life.

5 [09.56.56]

6 Q. From what I heard, you did not <step on> that pit or <>  
7 crater, and you were assigned to pick up vegetables in a -- in a  
8 location far away from that pit. So did you, at any point in  
9 time, go close to the pit, and how <far> were you from that pit  
10 when you were assigned to go pick it -- pick vegetables close to  
11 that pit?

12 A. I do not know how long -- how far I was from the pit when I  
13 was assigned to pick vegetables close to the pit, so you know, it  
14 was the same as the distance from this courtroom to another  
15 building, for example; I could compare that. And when I was  
16 assigned to pick up vegetables, I glanced at that pit so I could  
17 see it from my location.

18 So I did not dare to step <> on the <> pit since I was afraid of  
19 ghosts at the time. And <> the dirt <in> that pit was cracked  
20 open, <it smelled> bad, so no one would go near it>.

21 [09.58.40]

22 Q. You stated that at one time, you saw the empty pit. The dirt  
23 was not covered yet at that pit.  
24 Now I would like to ask you about the surrounding area of that  
25 crater or pit.



1 Did there -- was there any landmark for you to recognize that --  
2 that the pit was the same as the one you saw later on?

3 A. The pit, at one time, was deep and, at another time, it was  
4 covered with dirt. And it was like a hill later on, so what I  
5 could tell you is that, at one time, the pit was deep and that  
6 empty pit and, on another occasion, that pit was covered with  
7 dirt.

8 Q. My question that I put to you is to ask about the landmark  
9 close to that pit. Was there a termite mound close to that pit or  
10 were there tall trees recognizable to you, and what made you  
11 recognize that that was the same pit as the one that you had seen  
12 before? Was there any landmark or specific feature that you could  
13 recognize?

14 [10.00.32]

15 A. Nothing. No specific feature that I could recognize  
16 surrounding the pit was the forest. And then there were potatoes  
17 -- potato trees.

18 Q. So please elaborate a bit further. You have -- there were  
19 forest in the surrounding area, and then there were potato  
20 plants.

21 Can you, for example, try to think how far was the forest from  
22 the pit, and was there anything of significance of the forest,  
23 whether it was crowded forest or it was bushes -- or there were  
24 bushes in the area?

25 A. If you looked from a distance, you could see thick forest and,

1 of course, you could not identify which trees were in the forest.

2 And in other parts, there were bushes. And in the forest, there  
3 were large trees.

4 Q. So you just said that surrounding the pit there was a forest.

5 Parts of it were thick, while others were bushes. Could you try  
6 to tell the Chamber whether the trees that you saw were wild  
7 trees or whether they were trees planted by people?

8 [10.02.50]

9 A. We could actually pick some fruits from some of those trees.

10 However, I could not tell you what kind of trees there were in  
11 that forest. As I said, the distant was from -- I could see the  
12 forest. I could not distinguish the kinds of trees in the forest.  
13 It's like when you stand afar and look at a village. And part of  
14 the area was a plantation, while there were some bushes in the  
15 area as well.

16 If you ask me to try to give a rough estimate of the area, this  
17 is what I can say, so I cannot say that it is accurate.

18 Q. You spoke about potato plants in the area. What kind of potato  
19 was it, and how far was it from the pit?

20 [10.04.39]

21 A. I believe that the potato plants were grown by detainees from  
22 <Boeng> Kanseng centre because there were no villagers living  
23 nearby. And as I said, near the vicinity of the pit, there were  
24 potato plants, kadev (phonetic) trees and some other trees. For  
25 kadev (phonetic) trees, you can actually pick and cook the

1 leaves.

2 Q. Please try to tell us what kind of potato plants they were.

3 A. In Khmer, we say cassava.

4 Q. Can you tell us how far -- how tall were the cassava plants?

5 A. It is very difficult for me to tell you. If you know cassava  
6 trees or cassava plants, then you would know how tall they grow.

7 Q. My question is in relation to the height and the size of the  
8 cassava plants. For example, were those cassava plants as tall as  
9 your height?

10 A. They were higher than my height.

11 Q. And how many of them?

12 A. Of course, when people planted cassava, they would plant many  
13 of them, so there were many. And if you grow, for example, behind  
14 your house, then you might grow a few only.

15 Q. Can you tell us the location of the cassava plants in relation  
16 to the <bomb crater>, whether it was to the east, to the west or  
17 to the north of the pit?

18 [10.07.29]

19 A. I did not think of where it was in relation to the pit. What I  
20 could tell you is that there were cassava plants and there were  
21 trees in the vicinity -- within the vicinity of the pit.

22 Q. You said that you later saw the <> bomb crater was covered  
23 with dirt. What made you to conclude that the pit that you saw  
24 which was empty and the pit that you saw with dirt covered was  
25 the same pit?

1 A. There was only one pit. When I first saw it, it was deep and  
2 not covered. And when I saw it again, it was covered with dirt.  
3 What else do you want me to say?

4 Q. Maybe you can try to recall the trees that were near the pit  
5 that was empty and the -- later on, you saw the pit with dirt  
6 covered. Were the same trees in the area?

7 [10.09.17]

8 A. When I first saw the pit, there were no cassava plants nearby.  
9 And only later on, cassava tree plants were grown.

10 Q. So when you first saw the pit, there were no cassava plants  
11 nearby. And you said later on, when the -- when you saw a pit  
12 covered with dirt, you saw cassava plants near it. Is that  
13 correct?

14 A. Later on, when I saw the pit which was covered with dirt, I  
15 also saw cassava plants.

16 Q. Can you tell the Chamber whether the cassava plants that you  
17 saw were they planted in rows or beds, or were they just planted  
18 randomly?

19 A. Allow me to clarify it for one more time. The potato plants  
20 were to the left of the pit, and when you looked further, you  
21 would see dense forest. And when you looked to the back, you  
22 would see bushes. And cassava plants were grown a bit far from  
23 the pit. It was similar to the way that you <would> plant <crops  
24 a bit further from> your <house>. So I could identify that the  
25 cassava plants were to the left of the pit. And it was not <on>

1 the rim of the pit, but a bit far from the pit.

2 Q. My question to you is whether you saw those cassava plants  
3 were grown in rows or were they planted randomly.

4 [10.12.08]

5 A. I cannot recall whether they were planted in rows or whether  
6 dirt was raised to make beds to plant those cassava plants. I  
7 cannot tell you any more about that.

8 MR. PRESIDENT:

9 Counsel, your time has run out.

10 Madam Moeurng Chandy, the Chamber is grateful of your testimony,  
11 and hearing of your testimony as a witness is now concluded. And  
12 it may contribute to ascertaining the truth in this case. Your  
13 presence here is no longer required, and you may return to your  
14 home or wherever you wish to return to. The Chamber wishes you  
15 all the very best.

16 And Madam Solida, the TPO staff, the Chamber would like to thank  
17 you for your support given to this witness during her testimony  
18 based on her request. You may also be excused.

19 Court officer, please collaborate with WESU and make transport  
20 arrangement for Madam Chandy to return to her home or whatever  
21 she wishes to go to.

22 And the Chamber would like to inform the Chamber -- the parties  
23 that, after the conclusion of this witness testimony, the Chamber  
24 will hear oral submissions in relation to the request by the two  
25 Defence to submit certain documents so that they can use to

1 question the expert, 2-TCE-88.

2 It is now convenient for a short break. And we'll take a break  
3 now and resume at half past 10.00.

4 The Court is now in recess.

5 (Court recesses from 1014H to 1035H)

6 MR. PRESIDENT:

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

8 And the Chamber now is hearing oral responses and submission in  
9 relation to Nuon Chea and Khieu Samphan defence request to admit  
10 documents -- 17 documents and six others in relation --under Rule  
11 87.4 of the Internal Rules, so that those documents can be used  
12 in the examination of witness -- expert witness 2-TCE-88. This  
13 witness is scheduled to testify on 14 March 2016.

14 Please refer to documents E387 and E387/1.

15 And <on 4 March 2016,> the legal officer of the Trial Chamber  
16 <has informed the> parties that the Chamber is scheduled to hear  
17 the responses <to> the defence counsel's request after the  
18 conclusion of Moeurng Chandy.

19 And now the floor is given to the Co-Prosecutors to give  
20 responses to the Defence's request.

21 So you may now proceed.

22 [10.37.20]

23 MR. SMITH:

24 Good morning, Mr. President. Good morning, Your Honours. Good  
25 morning, counsel.

1 Your Honours, yes, we have received Rule 87.4 applications for  
2 documents to be used with Alex Hinton -- sorry, TCE-88. That's  
3 E387 and E387/1.

4 In the main in relation to Khieu Samphan's documents, we have no  
5 objections to them going in. They have asked for five documents  
6 to be admitted. One's a CV, curriculum vitae. We think that's a  
7 good idea to have that in.

8 The others relate to documents written by the expert witness, and  
9 generally on the issues that he will be testifying about, and the  
10 other relates to a critique on his book by Henri -- Henri Locard.  
11 And that critique, albeit a letter to the Phnom Penh Post, like a  
12 few of Mr. -- the expert witnesses, it does -- they do contain  
13 some factual basis that they put forward for the discussion in  
14 relation to the critique of his book.

15 In terms of the probative value of the documents, Your Honours,  
16 we submit documents are used with witnesses take on a slightly  
17 different probative value than documents that are tendered  
18 independently, and not necessarily used for questioning. The  
19 reason for that is that, ultimately, the value of those documents  
20 will arise out of the conversations had or the questions in the  
21 courtroom.

22 As far as the application for Nuon Chea is concerned, they've  
23 asked for 17 documents to be admitted. And apart from two, which  
24 we would oppose, we would agree that 15 of those documents could  
25 be useful to, Your Honours, in ascertaining the truth,

1 particularly in how they may be used with the witnesses -- with  
2 the expert.

3 [10.39.52]

4 The two documents -- sorry, those 15 documents largely relate to  
5 documents written by the expert or documents about the expert,  
6 his is biographical details, summaries of what he was doing or  
7 what he is doing in his area of work on the web site, etc. We  
8 find that they will be useful.

9 Where documents have been requested to go in, and perhaps this  
10 relates a little more to Khieu Samphan, in relation to arguments  
11 or debates about whether genocide occurred in Cambodia, as Your  
12 Honours have said in your decision, E388 designating the next --  
13 this person as an expert, that issue of whether genocide occurred  
14 is an issue for the Chamber and it's not an issue so much for the  
15 expert or a witness that comes before you.

16 [10.40.57]

17 But what, Your Honours, have said is that the factual basis on  
18 which these conclusions are drawn can be helpful, of course, to  
19 assist you in arriving at whatever decisions you need to make on  
20 the issue. And so with that caveat, we accept those documents to  
21 go in.

22 The two documents that Nuon Chea's team would like to put in  
23 relation to this expert, and I refer to E387.1.14, and that's an  
24 article, "The Problems of International Codification: Were the  
25 Atrocities in Cambodia and Kosovo Genocide?" That's been written



30

1 by a leading academic, William Schabas.

2 And we oppose this one going in on the basis that, again, it's  
3 the issue of whether genocide occurred, is a question for, Your  
4 Honours. Unless the article or the document brings some  
5 significant factual basis to support such assertions of which,  
6 Your Honours, may be assisted by, then a legal discussion on the  
7 issue, we submit, is not -- it doesn't assist, Your Honours, in  
8 ascertaining the truth of the matters.

9 [10.42.26]

10 And if, Your Honours, look at this article, you can see that it's  
11 an article arising out of a debate presentation where the  
12 significant facts are not really discussed, and even the first  
13 page of the article, you can see that there's no real discussion  
14 of the facts to support this opinion where it says:

15 "Indeed, the notorious emptying of Cambodian cities that  
16 characterized the beginning of the country's bizarre social  
17 revolution was accomplished peacefully."

18 That's obviously, we would submit, not in accordance with the  
19 evidence, so we would ask that that one not be admitted because  
20 it's largely a legal opinion not based on facts.

21 And the only other one we would oppose is E387.1.16. It's an  
22 opinion piece from the expert to the New York -- to the New York  
23 Times, and it includes a comment about his concerns in 2008 about  
24 the independence of the Cambodian judiciary that were appointed  
25 at the ECCC.

1 [10.43.42]

2 The first point we make is that that issue is not the issue in  
3 which this expert is testifying to.

4 Secondly, the substance of that issue is so remote in time, it's  
5 vague in terms of -- in terms of its direct connection to this  
6 trial, and it certainly comes well, well before much litigation  
7 on these issues, of which these and other matters have been  
8 discussed about the impartiality of, particularly, this Trial  
9 Chamber.

10 So we would submit that that is not -- of extremely negligible  
11 probative value, and we would ask -- we would oppose that that be  
12 admitted.

13 So that's our submissions, Your Honours. Thank you.

14 MR. PRESIDENT:

15 And now the floor is given to Lead Co-Lawyers for civil parties.

16 You have the floor now.

17 MS. GUIRAUD:

18 Thank you, Mr. President. Good morning, everyone.

19 We will rely on the discretion of the Chamber as regards all the  
20 documents presented by Khieu Samphan and Nuon Chea to you.

21 MR. PRESIDENT:

22 Now you have the floor, Judge Lavergne.

23 [10.45.25]

24 JUDGE LAVERGNE:

25 Yes. Thank you, Mr. President.

1 This is rather a formal remark, but I noted that the documents in  
2 the annex of the application by Nuon Chea. It appears that some  
3 of the documents have not been presented in a very orderly  
4 manner. Document number 2 and document number 3, unless I am  
5 wrong, are wrongly numbered. That is, document D -- document 2  
6 has number 387.1.3, and the inverse for document number 3. And  
7 the same is true of documents 14 and 15.

8 So may I request the Nuon Chea defence team to properly ascertain  
9 whether such numbering is correct? And if it's correct -- or if  
10 it is not correct, the Nuon Chea team should file an application  
11 to have the numbers corrected.

12 [10.46.52]

13 MR. PRESIDENT:

14 The Chamber gives the floor to the defence team for Mr. Nuon  
15 Chea. You may now proceed.

16 MR. KOPPE:

17 Thank you, Mr. President.

18 To start with the last remark of Judge Lavergne, let me get back  
19 to that. If there is, indeed, a wrong use of numbers, we will  
20 file a new application as soon as possible, most likely today.  
21 Now responding to the remarks of the Prosecution, I think I can  
22 be brief in my reply.

23 Indeed, 17 documents we're asking to admit into evidence. Maybe,  
24 as a general remark, Mr. President, there are only one or two  
25 publications on the case file relating to Mr. Hinton. There's not

1 much right now on the case file, only mainly his book, "Why Did  
2 They Kill?" Therefore, we felt it was necessary to broaden the  
3 extent of the evidence presented or given by Mr. Hinton -- or the  
4 expert, rather.

5 [10.48.20]

6 So our documents fall into three categories. Three documents are  
7 related to his background and methodology of research. Nine of  
8 our proposed documents are related to the expert's possible lack  
9 of neutrality and objectivity. And there are some general  
10 documents, two of them just now referred to by the Prosecution.

11 To finish my general remarks, half of the documents were not  
12 available prior to the start of the trial, and the other half  
13 could only be identified after the Trial Chamber rendered its  
14 decision on the scope of expertise of the expert which, as you  
15 know, it did on 24th of February 2016.

16 I think all parties agree that it is not up to the expert to make  
17 any statements as to whether or not genocide has taken place  
18 between '75 and '79. There is no doubt that that is only and  
19 exclusively within the realm of the Trial Chamber.

20 [10.49.47]

21 However, the expert is not just anybody. Although not a lawyer,  
22 he has been involved extensively in all kinds of debates in  
23 relation to genocide. As a matter of fact, as the Trial Chamber  
24 itself has considered in decision 388, the expert was, at one  
25 point in time, President of the International Association of

1 Genocide Scholars, and also held the UNESCO Chair in Genocide  
2 Prevention.

3 So although we certainly, and I presume all parties, will refrain  
4 from asking any question to the expert as to the legal  
5 definition, I think the article of well-known expert Schabas on  
6 the question whether cultural genocide falls within the scope of  
7 the Genocide Convention is something that should be admitted  
8 because the expert challenged that -- challenges that very  
9 notion.

10 But again, it's not meant to enter into a legal debate with the  
11 scholar, but it's just as background information as to his  
12 position that he -- that he has undertaken.

13 I understand the objections from the Prosecution in relation to  
14 the second document. Obviously, we will not question the expert  
15 at length as to matters of jurisdiction, be it personal temporal  
16 jurisdiction or matters of whether a fair trial at this  
17 institution is possible. Obviously, the Trial Chamber knows our  
18 position in this respect.

19 [10.51.57]

20 It's merely meant as background to have a full and proper  
21 understanding of positions taken by the expert, so that's the  
22 background for those two documents that the Prosecution objected  
23 to.

24 That's all. Thank you, Mr. President.

25 MR. PRESIDENT:

1 And lastly, the floor is now given to the defence team for Mr.

2 Khieu Samphan.

3 MR. KONG SAM ONN:

4 Thank you, Mr. President.

5 After hearing the responses -- the responses from the

6 Co-Prosecutors, and I know that they do not have any objection to

7 the documents requested to be admitted<, so I do not have any

8 response>. And in light of the submission by the defence counsel

9 for Mr. Nuon Chea, <we also> have no <objections>.

10 [10.52.56]

11 MR. PRESIDENT:

12 Thank you. The hearing of submission and responses in relation to

13 Defence Counsel's request to admit documents has now come to an

14 end. I am grateful -- the Chamber is grateful to all parties for

15 their submissions and responses in relation to above-mentioned

16 agenda, and it will be -- form the basis for decisions of the

17 Trial Chamber. And the Chamber will issue the decision in due

18 course.

19 It is now time for the adjournment. The hearing will resume on 9,

20 Wednesday, March 2016 to hear 2-TCW-893 in relation to the

21 treatment of targeted groups, namely, Cham.

22 And there will be -- the Chamber is still having two witnesses in

23 relation to this fact, treatment of Cham. And it will hear the

24 two witnesses in due course.

25 And as far as you are concerned, the Chamber -- the hearing is

1 now come to an end since 2-TCW-840 -- 880 has severe health issue  
2 and cannot be available for the testimony before the Chamber, so  
3 the Chamber has no reserve witnesses to come replace -- in the  
4 replacement of 880.

5 Security personnel are instructed to bring the two accused, Nuon  
6 Chea and Khieu Samphan, back to the ECCC's detention facility and  
7 have them returned into the courtroom on Wednesday, 9 March 2016  
8 before 9.00 a.m.

9 The Court is now adjourned.

10 (Court adjourns at 1055H)

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*Corrected transcript: Text occurring between less than (<) and greater than (>) signs has been corrected to ensure consistency among the three language versions of the transcript. The corrections are based on the audio recordings in the source language and may differ from verbatim interpretation in the relay and target languages.*