



**អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា**

Extraordinary Chambers in the Courts of Cambodia

Chambres Extraordinaires au sein des Tribunaux Cambodgiens

**ព្រះរាជាណាចក្រកម្ពុជា  
ជាតិ សាសនា ព្រះមហាក្សត្រ**

Kingdom of Cambodia

Nation Religion King

Royaume du Cambodge

Nation Religion Roi

**អង្គជំនុំជម្រះសាលាដំបូង**

Trial Chamber

Chambre de première instance

**TRANSCRIPT OF TRIAL PROCEEDINGS**

**PUBLIC**

Case File N° 002/19-09-2007-ECCC/TC

13 September 2016

Trial Day 453

**ឯកសារដើម**

**ORIGINAL/ORIGINAL**

ថ្ងៃ ខែ ឆ្នាំ (Date): 09-Dec-2016, 15:21

CMS/CFO: Sann Rada

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

The Accused: NUON Chea  
KHIEU Samphan

Lawyers for the Accused:  
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Victor KOPPE  
LIV Sovanna  
KONG Sam Onn  
Anta GUISSSE

Trial Chamber Greffiers/Legal Officers:  
Maddalena GHEZZI  
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For the Office of the Co-Prosecutors:  
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**List of Speakers:**

Language used unless specified otherwise in the transcript

Speaker	Language
Ms. CHEN	English
Judge FENZ	English
The GREFFIER	Khmer
Ms. GUIRAUD	French
Ms. GUISSE	French
Mr. KOPPE	English
Judge LAVERGNE	French
Ms. NAKAGAWA (2-TCE-82)	English
Mr. PICH Ang	Khmer
Mr. SMITH	English
The President (YA Sokhan)	Khmer
Ms. SONG Chorvoin	Khmer

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

2 (Court opens at 0906H)

3 MR. PRESIDENT:

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

5 For today and tomorrow's proceedings, the Chamber will hear

6 testimony of an expert, 2-TCE-82, in relation to the facts on

7 regulation of marriage.

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

9 other individuals to today's proceedings.

10 [09.08.08]

11 THE GREFFIER:

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

13 are present.

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

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

16 been delivered to the greffier.

17 And the expert who is to testify today, that is, 2-TCE-82,

18 confirms that, to her best knowledge, she has no relationship, by

19 blood or by law, to any of the two accused, that is, Nuon Chea

20 and Khieu Samphan, or to any of the civil parties admitted in

21 this case. The expert is ready to be called by the Chamber.

22 Thank you.

23 [09.08.56]

24 MR. PRESIDENT:

25 Thank you, Ms. Se Kolvuthy. The Chamber now decides on the

2

1 request by Nuon Chea.

2 The Chamber has received a waiver from Nuon Chea, dated 13  
3 September 2016, which states that, due to his health, that is,  
4 headache, back pain, he cannot sit or concentrate for long. And  
5 in order to effectively participate in future hearings, he  
6 requests to waive his right to be present at the 13 September  
7 2016 hearing.

8 He advises that his counsel advised him about the consequence of  
9 this waiver, that in no way it can be construed as a waiver of  
10 his rights to be tried fairly or to challenge evidence presented  
11 to or admitted by this Court at any time during this trial.

12 [09.09.56]

13 Having seen the medical report of Nuon Chea by the duty doctor  
14 for the accused at ECCC, dated 13 September 2016, which notes  
15 that, today, Nuon Chea has back pain and feels dizzy when he sits  
16 for long and recommends that the Chamber shall grant him his  
17 request so that he can follow the proceedings remotely from the  
18 holding cell downstairs.

19 Based on the above information and pursuant to Rule 81.5 of the  
20 ECCC Internal Rules, the Chamber grants Nuon Chea his request to  
21 follow today's proceedings remotely from the holding cell  
22 downstairs via an audio-visual means.

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

25 That applies for the whole day.

3

1 And before we begin hearing testimony of expert 2-TCE-82, the  
2 Chamber wishes to hear oral submissions and observations by  
3 parties on two matters.

4 First is the request to submit nine documents, that is, the  
5 disclosure from OCP, document E319/59. Yesterday, Nuon Chea's  
6 defence sent an email to the Chamber that they wish to make an  
7 oral observation on the request to admit these nine documents.  
8 For that reason, the floor will be given to the parties to  
9 provide oral observation on this; and first, to the defence team  
10 for Nuon Chea to respond to that request.

11 You have the floor.

12 [09.12.02]

13 MS. CHEN:

14 Thank you and good morning, Mr. President, Judges, parties and  
15 everyone in the courtroom. We'll be quite brief.

16 Yesterday afternoon at 15.43, we received notification of nine  
17 new documents from Cases 003 and 004, which is document E319/59.

18 So there were nine documents and, from what we can see, we do not  
19 have access to the documents themselves yet.

20 We understand from the annex describing the documents that  
21 they're dated from November 2013, November 2014, October 2015 and  
22 March and June 2016.

23 [09.12.40]

24 From what we can also see from the summary annex, five of the  
25 documents are indicated as containing potentially exculpatory

4

1 information. This is documents numbered 2 and numbers 6 to 9.

2 Two of the documents are disclosed as they are allegedly related  
3 to the Prosecution's Rule 87 request, E319/58, and these are  
4 documents 4 and 5, and there is no justification provided for the  
5 disclosure of the two remaining documents, numbers 1 and 3.

6 From what we can see again from the summary annex, as we do not  
7 have access to the documents, six are related to the Regulation  
8 of Marriage.

9 So we just wanted to make a number of brief submissions with  
10 respect to these documents.

11 The first thing is that, from what we can observe, the  
12 Prosecution indicates that it sought authorization to disclose  
13 the documents in June and August 2016, and that the OCIJ  
14 subsequently provided authorization for disclosure on the 31st of  
15 August 2016, but two of the documents actually had been  
16 authorized for disclosure back in December 2015.

17 So the submissions we would like to make are as to the timing of  
18 the Prosecution's disclosure of potentially exculpatory materials  
19 dating from as early as 2013 only hours before the appearance of  
20 the expert, 2-TCE-82.

21 [09.14.06]

22 Our understanding is that the Prosecution has an obligation to  
23 disclose exculpatory materials at the earliest opportunity. Now,  
24 as we said, some of the disclosures appear to be dated from 2013.

25 From our perspective, this appears to be a violation of the

5

1 Prosecution's disclosure obligations, so what we'd like to know  
2 is: Why is the Prosecution only disclosing these documents now?  
3 In addition, even though the Prosecution appears to have had  
4 authorization to disclose the documents on the 31st of August, it  
5 waited until the day before the appearance of 2-TCE-82 to  
6 disclose the documents on the Regulation of Marriage. Again, we  
7 would like to know why this has happened.

8 From our perspective, what this means at this stage is that we  
9 are losing an opportunity to question the Regulation of Marriage  
10 expert witness on potentially exculpatory evidence. And I will  
11 note that, according to the summary annex, the evidence in  
12 question was produced by the same NGO, which produced the two  
13 reports on the case file, which formed the core basis of the  
14 decision to appoint the expert witness in such capacity.

15 [09.15.24]

16 I mean, at this point, I think it's necessary to point out a bit  
17 of context here. As you know already, but as we should state  
18 again, we, the Defence, have been bombarded with disclosures and  
19 requests for the admission of new evidence for nearly two years  
20 now while also trying to participate full-time in hearings here.  
21 It's also worth noting, I think, that last week, when we made  
22 oral submissions on Rule 87 requests and our Rule 93 request  
23 concerning this expert witness, the Prosecution criticized us  
24 heavily for allegedly being late in making our Rule 93 request.  
25 Frankly speaking, I think that's the pot calling the kettle black



6

1 here.

2 [09.16.06]

3 So in summary, what we would like is to know why the Prosecution  
4 is disclosing these documents, especially in relation to  
5 documents number 1 and number 3, for which no reason appears to  
6 have been provided.

7 And secondly, we would like to know -- I mean, as we've already  
8 mentioned, the documents to which the disclosures relate were  
9 admitted into evidence a long time ago. They failed to explain  
10 why they are only disclosing them now, and not at a time when we  
11 could review them and use them to challenge the admissibility of  
12 the relevant documents.

13 And finally, we should point out that, if and when we do finally  
14 receive access to these documents, we may also wish to recall the  
15 expert witness at a later date, depending on the documents  
16 disclosed.

17 Thank you very much.

18 MR. PRESIDENT:

19 Thank you, counsel for Nuon Chea.

20 And now I'd like to hand the floor to the defence team for Khieu  
21 Samphan to respond to that <request>.

22 [09.17.16]

23 MS. GUISSSE:

24 Good morning, Mr. President.

25 I think you are not asking me to respond to the Prosecution

7

1 request to admit documents to which we don't have access. Perhaps  
2 all I can do is to provide remarks on what my colleague has just  
3 said.

4 Quite simply, yes, we have, indeed, observed, as the Nuon Chea  
5 team observed yesterday, the disclosure of these documents. If we  
6 may add something regarding chronology, <it's true> there's a  
7 number of documents, two in particular, as my colleague stated,  
8 that are submitted with a report by someone from the same NGO as  
9 the expert who is going to appear.

10 [09.18.00]

11 I would like to simply point out that, not only were these  
12 documents available on the 17th of December 2015 -- and they had  
13 already been made available by the Co-Investigating Judges,  
14 particularly on the 25th of July 2016 motion, E319/52 -- the  
15 Co-Prosecutors were already referring to documents related to  
16 that same report. And the same person who was interviewed, even  
17 though we do not understand why these disclosures were made  
18 rather tardily since they were already available on the 17th of  
19 December 2015. And on the 7th of December 2015 <their disclosure  
20 was authorized>.

21 And even the -- when the Prosecution presented motion E319/52,  
22 they referred to the existence of <these> documents since their  
23 motion had to do with an application to admit into evidence  
24 documents that were in the same batch. And I do not understand  
25 why they've waited for the eve of the appearance of this expert

8

1 to make this motion. <That is what I wanted to add, but let> me  
2 point out that document <27 from annex> E319/52.2 of the motion  
3 dated July 2016 <made by the Co-Prosecutors>. They are of the  
4 same batch as the documents that the Prosecution <disclosed to us  
5 yesterday>.

6 [09.19.39]

7 MR. PRESIDENT:

8 Thank you.

9 And I hand the floor now to the Lead Co-Lawyers for civil parties  
10 if you wish to do so.

11 MR. PICH ANG:

12 Good morning, Mr. President.

13 We do not have any observation to make. Thank you.

14 MR. PRESIDENT:

15 I now hand the floor to the Co-Prosecutor to respond to those  
16 observations.

17 [09.20.06]

18 MR. SMITH:

19 Good morning, Your Honours, Mr. President.

20 Firstly, in relation to the disclosure of these documents,  
21 authorization to disclose most of the documents was given by the  
22 Co-Investigative Judges on the 31s of August this month, or last  
23 month. As a result of a review of those documents, there were  
24 four documents relating to surveys produced by Rochelle Braaf,  
25 who produced a report on sexual violence against ethnic

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1 minorities, and four of them, that's document 6 to 9, related to  
2 statements from witnesses stating that they weren't forcibly  
3 married. That's why they were disclosed.  
4 They were also disclosed along with another 23 documents from her  
5 study, which state that 23 of those people were forcibly married,  
6 and there was an 87.4 application that was put forward on the 1st  
7 of September. It was felt that it was appropriate if the  
8 Prosecution were putting forward an 87.4 application of  
9 inculpatory materials relating to forced marriage from the  
10 surveys used in this report, not of this witness, but another  
11 report before the Chamber, that it would be only fair that the  
12 other four surveys be provided.  
13 [09.21.50]  
14 We've asked for those documents to be released to the Defence.  
15 Your Honours would have seen those documents. None of those  
16 documents, those four surveys stating that these four people  
17 weren't forcibly married, would really affect the  
18 cross-examination of this witness, this expert witness today.  
19 In relation to the Defence's complaint that documents 1 and 3,  
20 there's no reason why they are disclosed, if Your Honours look at  
21 the annex, E319/59.2, you'll see that both of these documents are  
22 statements from proposed witnesses, and they were proposed by the  
23 Prosecution at the beginning of the case.  
24 And Your Honours have advised us on our disclosure obligations.  
25 We're well aware of our obligations to disclose exculpatory

10

1 material on an ongoing basis. And Your Honours have stated in  
2 E363, which is the disclosure decision of the 22nd of August --  
3 October, sorry, 2015 that we have an ongoing obligation to  
4 disclose any exculpatory material right through the end of the  
5 trial.

6 [09.23.12]

7 And the Defence would appreciate as documents are placed on the  
8 case file of Case 003 and 004 and as they're reviewed and as  
9 authorization is given by the Investigative Judges that there  
10 will be material that will relate to points in the proceedings  
11 that will be disclosed afterwards. That's the nature of having a  
12 trial and investigations running in parallel as long as that  
13 material is provided with due diligence. And we state it  
14 definitely was on the basis that authorization was given on the  
15 31st of August for the majority of the material.  
16 When authorization is given for the underlying material from  
17 Rochelle Braaf's report, which resulted in our 87.4 exculpatory  
18 applications, it was also noted that she had a statement that was  
19 given to the Investigative Judges with an attached survey form,  
20 and that's the two documents named 4 and 5.  
21 Now, there was -- even though authorization to disclose those  
22 were given in December last year, Your Honours will remember the  
23 Defence have complained bitterly about being bombarded with  
24 information, certainly at the beginning of the trial and  
25 throughout. Both teams have complained that they've been

11

1 receiving too much information.

2 [09.24.52]

3 And as Your Honours are aware, the Prosecution's approach to  
4 disclosure has been an expansive one from the beginning of the  
5 trial. It's always been the Prosecution's view that any material  
6 that relates to incidents or events being heard in this trial  
7 should be disclosed to the Defence.

8 As a result of that wide approach to our exculpatory obligations,  
9 which we adopted, as Your Honours remember, the Defence  
10 complained that they were receiving too much material. And Your  
11 Honours will remember the Nuon Chea team at one stage basically  
12 saying they just don't want any more material. But regardless, we  
13 still have our disclosure obligations.

14 [09.25.44]

15 Then with your decision, Your Honours, on the 22nd of October  
16 '15, that's E363, Your Honours brought in a more stricter regime,  
17 one which urged the Prosecution to focus their disclosures,  
18 particularly in relation to exculpatory, to not everything that  
19 relates to events and incidents that are on trial, but to  
20 material that is, on its face, truly, truly exculpatory.

21 So once that decision was received, even though the statement of  
22 Rochelle Braaf was on the case file and we'd received authority  
23 to disclose it back in 2015, after the narrower disclosure  
24 obligations that Your Honours placed on the Prosecution, at that  
25 stage, it was thought that it wouldn't fit within the criteria

12

1     that Your Honours set. And certainly, her statement and the  
2     survey form is not exculpatory. It's information in relation to  
3     the production of the report. It doesn't contain exculpatory  
4     information. And so on that narrow regime, it was decided by the  
5     Prosecution that those documents would not be disclosed, and  
6     that's documents 4 and 5 in the annex.  
7     However, when we did the review of the underlying material of  
8     Rochelle Braaf's report, as we -- as I mentioned a moment ago, of  
9     the 47 surveys that supported her report, we put forward 23 as a  
10    Rule 87.4 application as being exculpatory.

11   [09.27.44]

12   When we did that, we then thought it was appropriate to put  
13   forward the other four surveys, which stated that these  
14   interviewees were not forcibly married. It was done on that  
15   basis.

16   And then the decision was made that if we're putting forward the  
17   surveys, it would be helpful for the Defence that they actually  
18   have the methodology, and so we decided to put the statement  
19   forward then. But certainly, that statement of Rochelle Braaf,  
20   you can see at 4 and 5 they don't contain exculpatory material,  
21   but it's simply just being helpful to the Defence.

22   Your Honours, in relation to today's testimony, you've seen the  
23   material. I'll wrap up, Your Honours. You've seen the material,  
24   and I think it's quite clear that this witness will be able to  
25   testify that material doesn't impact any significantly to her

13

1 testimony.

2 [09.28.55]

3 And I will remind Your Honours when the Defence, Nuon Chea,  
4 starts talking about due diligence of the Prosecution, they were  
5 the ones last week that asked for 2,200 documents to be provided  
6 by the expert within seven days, and yet they knew the expert was  
7 appearing before this Court on the 3rd of June.

8 And one final report -- point. In relation to Nuon Chea's  
9 submission that it was on the basis of Rochelle Braaf's report,  
10 or part of the basis that this witness was called to testify,  
11 that's not correct. This witness was called to testify, as you  
12 can see from the decision, on the basis of her reports, not on  
13 the basis of another person that produced a report.

14 Thank you.

15 [09.29.55]

16 JUDGE FENZ:

17 Can I just try to focus everybody's minds on what I think is the  
18 most problematic issue here?

19 There are documents which are potentially relevant to questioning  
20 this expert. Now, as a piece of information, it takes us about 48  
21 hours between disclosure and allowing the parties access, so this  
22 is clearly not helpful. Getting a disclosure at 4 o'clock the day  
23 before expert testimony starts is clearly not helpful, to put it  
24 mildly. And I would have expected submissions or explanations by  
25 the Prosecution to focus on this part of the, well, complaint.



14

1 [09.30.50]

2 MR. SMITH:

3 Your Honour, the timing is just coincidental. The authorization  
4 for these documents came on the 31st of August. That was within  
5 12 days. The 87.4 applications which Your Honours had asked for,  
6 the final 87.4 applications, perhaps with some exceptions, was  
7 due on the 1st of September.

8 The Prosecution prioritized those documents, those other 23  
9 surveys, and put them forward as 87.4, and these four extra  
10 surveys were then attended to and then disclosed.

11 If I could just say one last thing: Your Honours, the  
12 Prosecution's case certainly -- I mean, it's difficult for the  
13 Defence -- they haven't got the material. The Prosecution's case  
14 is not that every person that was married in Cambodia during  
15 Democratic Kampuchea was forcibly married. That's not the case.  
16 But what the Prosecution's case is, there was a system of  
17 forcible marriages.

18 The fact that these four surveys state that four people said that  
19 they weren't forcibly married is not directly exculpatory to the  
20 case, but it's important that that material be disclosed.

21 MR. PRESIDENT:

22 Nuon Chea's counsel, you have the floor.

23 [09.32.25]

24 MS. CHEN:

25 Yes. Thank you, Mr. President. Just a few brief remarks in

15

1 response.

2 From what we heard from the Prosecution's submissions, it's still  
3 unclear to us why this disclosure has occurred only now when some  
4 of the documents date back from as early as November 2013.

5 One other point is, from what we understood from oral submissions  
6 made in the Court by the International Co-Prosecutor a few weeks  
7 ago, the Prosecution had allegedly cleared whatever backlog it  
8 was that they had in terms of materials that needed to be  
9 disclosed to us. We understood that to mean all documents that  
10 were dated earlier than whenever we had that discussion -- I  
11 think it was August 2016 -- if they were relevant, they had been  
12 disclosed to us and that, moving forward, any future disclosures  
13 we would receive would only be documents that had been produced  
14 after that day.

15 [09.33.18]

16 It now appears that that is incorrect, so we're just at a loss as  
17 to what this means in terms of whether we're going to be  
18 receiving future disclosures relevant to trial segments moving  
19 forward.

20 And just one last point is that, last week, when we made the oral  
21 submissions with respect to the Rule 83 and Rule 93 requests that  
22 we were making with respect to this upcoming expert witness, the  
23 Prosecution was the one to note that this trial topic had been  
24 included in Case 002/02 for a long time and that, therefore, we  
25 should have known what kind of material would be relevant and

16

1 ought to be requested. Again, I think that's a principle that  
2 should apply equally to the Prosecution.

3 Thank you very much.

4 [09.34.12]

5 MR. PRESIDENT:

6 The Chamber is now well aware of the issues, and the Chamber  
7 would like to conclude the discussion on the topic now.

8 Number 2, the Chamber received an email from the Co-Prosecutor in  
9 relation to two maps, one of which is intended to be used by the  
10 Co-Prosecutors when examining the expert, so the Co-Prosecutor  
11 would like to request to admit the map into evidence.

12 And now the Chamber is hearing the submissions on the request to  
13 admit that map.

14 And the floor first is given to the defence team for Mr. Nuon  
15 Chea. You may now proceed.

16 [09.35.02]

17 MS. CHEN:

18 Thank you, Mr. President.

19 We don't oppose the admission of this map. The only thing that we  
20 would point out is we were all required to submit lists of  
21 documents that we intended to use for this expert some time ago.  
22 We adhered to that and that, obviously, took us a lot of  
23 resources to be able to do so at that point, so we seem to think  
24 that this is a rather late request, but we don't oppose the  
25 admission of the document.

17

1 MR. PRESIDENT:

2 Thank you, Counsel.

3 And the defence team for Mr. Khieu Samphan, you may now proceed  
4 if you want to address the Chamber.

5 [09.35.38]

6 MS. GUISSÉ:

7 Yes. Thank you, Mr. President.

8 I must say that I'm not quite sure of the issue of the commented  
9 map. I understood that the basis of the maps that the Prosecution  
10 wishes to use <-- please correct me if I'm wrong --> is a  
11 document with an E3 number, E3/2959. So if I understood the  
12 principle of the commented map properly, it is the prosecutor  
13 himself who annotated a map that already existed on the case  
14 file, so it's not an annotation coming from the expert.

15 So if it's an annotation coming from the Prosecutor himself, we  
16 object to <using> this map because we're not here to create  
17 evidence. Either we have the expert comment the map and the  
18 expert will annotate it, but none of the parties should comment  
19 <themselves on> documents that should be tendered into evidence.  
20 But if I didn't understand the Prosecution's position properly, I  
21 stand to be corrected. But if comments are going to be added by  
22 the Prosecution himself, then we will oppose to tendering this  
23 into evidence.

24 [09.37.00]

25 JUDGE FENZ:

18

1 I guess we should perhaps give the Prosecution a chance to  
2 actually make the request in a formal way. But having said that,  
3 the good news is we have just been informed by staff that the  
4 documents that have been disclosed are available effective now  
5 for the parties.

6 MR. PRESIDENT:

7 <Mr. Deputy Co-Prosecutor,> you may now proceed, but please be --  
8 make it brief.

9 MR. SMITH:

10 We don't believe the map is on the case file. E3/2959 is the book  
11 of the expert.

12 The reason why we propose putting the map forward is that will  
13 assist in helping perhaps the witness to explain the different  
14 locations that her studies were conducted in in Cambodia at the  
15 different provinces, and perhaps it would give an easier  
16 graphical representation of that so we can understand her  
17 evidence more clearly.

18 [09.38.14]

19 In relation to the annotations on the map, they are largely from  
20 -- are from the areas in which this expert and the other expert  
21 reports that are before Your Honours at the area in which they  
22 conducted their surveys of -- in relation to forcible -- in  
23 relation to sexual violence. And so what the proposal would be  
24 is, when we're discussing that report, any particular report with  
25 the witness, that that annotated map go up that would visually

19

1 represent the results of where those surveys were conducted.

2 So it's not a submission by the Prosecution; just interposing the  
3 -- some of the data from the other expert reports just to help in  
4 the discussion.

5 So I mean, the annotated ones, we're quite happy that are just  
6 used for demonstration purposes, but the actual core map, the  
7 Cambodia network map, we would ask that that be entered into  
8 evidence to assist in understanding the evidence -- this evidence  
9 and other evidence in the case.

10 [09.39.30]

11 MR. PRESIDENT:

12 Thank you, Mr. Deputy Co-Prosecutor.

13 And now the Lead Co-Lawyers for civil party, if you wish to  
14 respond.

15 MS. GUIRAUD:

16 Thank you. Thank you, Mr. President. Good morning to all of you.

17 We have no comments regarding the map.

18 MR. PRESIDENT:

19 Thank you, Lead Co-Lawyer for civil parties.

20 (Judges deliberate)

21 [09.41.17]

22 JUDGE FENZ:

23 Just an issue of -- for the Prosecution, short question, short  
24 question on the organization.

25 Do you need the maps until the break, or can we make the decision

1 after the break?

2 MR. SMITH:

3 That can wait, Your Honour?

4 (Judges deliberate)

5 [09.41.51]

6 MR. PRESIDENT:

7 We now resume the hearing.

8 Court officer, please invite 2-TCE-82 into the courtroom.

9 (Short pause)

10 (Witness enters the courtroom)

11 [09.43.25]

12 QUESTIONING BY THE PRESIDENT

13 Q. Good morning, the expert. What is your name?

14 MS. NAKAGAWA:

15 A. Good morning. My name is Kasumi Nakagawa.

16 Q. When were you born?

17 A. I was born in 1972, June 11.

18 Q. What is your nationality?

19 A. I am Japanese.

20 Q. Thank you. Ms. Expert.

21 And what is your current place of residence?

22 A. My official residence is in Japan, Kobe.

23 [09.44.30]

24 Q. Thank you.

25 And what is your current occupation?

1 A. I am teaching at Pannasastra University of Cambodia in Phnom  
2 Penh.

3 Q. Thank you.

4 What religion do you believe or follow?

5 A. I do not follow any religion.

6 Q. Thank you.

7 The greffier made an oral report this morning that, to the best  
8 of your knowledge, you are not related, by blood or by law, to  
9 any of the two accused, that is, Nuon Chea and Khieu Samphan, or  
10 to any of the civil parties admitted in this case. Is that  
11 correct?

12 A. Yes, it's correct.

13 [09.45.35]

14 Q. Thank you, Ms. Expert.

15 Ms. Kasumi, pursuant to Internal Rule 31.2 of the Extraordinary  
16 Chambers in the Courts of Cambodia and as an expert witness  
17 before the Chamber, you are required to take an oath or  
18 affirmation in accordance with your religion first prior to your  
19 testimony before the Chamber.

20 Greffier Maddalena, please lead the oath-taking proceedings of  
21 the expert before the Chamber.

22 THE GREFFIER:

23 Good morning, Ms. Nakagawa. Please stand up and please repeat  
24 after me.

25 I solemnly swear that I will assist the Trial Chamber honestly,



22

1 confidentially and to the best of my ability.

2 [09.46.29]

3 MS. NAKAGAWA:

4 I solemnly swear that I will assist the Trial Chamber honestly,  
5 confidentially and to the best of my ability.

6 THE GREFFIER:

7 Thank you.

8 BY MR. PRESIDENT:

9 Q. The Chamber and the parties are grateful to you for coming to  
10 testify in -- before the chamber in the ascertainment of the  
11 truth for the Cambodian people.

12 And the Chamber is now asking you about your academic background,  
13 and a number of your writings.

14 Ms. Kasumi, can you tell the Chamber about your educational --  
15 education background.

16 [09.47.20]

17 MS. NAKAGAWA:

18 A. Thank you.

19 All my academic backgrounds are done in Japan. After I completed  
20 my high school, I entered the Kwansei Gakuin University in 1991,  
21 and finished in 1995. And I studied about Pol Pot. And my  
22 Bachelor degree was about Pol Pot, how Pol Pot took power from  
23 the political point of view and also from the international  
24 relations perspective at the time.

25 And I continued my Master degree at Osaka University from 1996,

1 which I completed in -- sorry, excuse me, in 2000. And I studied  
2 and investigated about the Japanese foreign policy towards  
3 Cambodia, particularly in the field of culture. And I got my  
4 Master degree in international public policy from Osaka  
5 University in 2000.

6 [09.48.47]

7 Q. Thank you, Ms. Expert.

8 When did you arrive in Cambodia, and for what purpose?

9 A. For the first time, I came as a tourist to Cambodia in 1995,  
10 but I came to Cambodia to work in 1997 as a special assistant to  
11 the Japanese Embassy in Phnom Penh employed by the Ministry of  
12 Foreign Affairs, Japan. And I worked in the Embassy for two  
13 years, until 1999, March.

14 Q. Thank you.

15 Can you read, write, listen and speak Khmer fluently?

16 A. Thank you very much for asking.

17 The -- I'm very happy to also speak in Khmer. I read Khmer, but  
18 my Khmer writing is very bad.

19 [09.49.58]

20 Q. Thank you, Ms. Expert.

21 As of now, what topics have you studied and researched in  
22 relation to Cambodia and, in particular, the Democratic  
23 Kampuchea?

24 A. Thank you very much.

25 As a gender expert, I have done a lot of researches about gender

24

1 or women in Cambodia, and have many publications on that. I have  
2 been working with UN, international and national NGOs, and  
3 particularly with the government of Cambodia, Ministry of Women's  
4 Affairs, as a consultant and has studied a lot about Cambodian  
5 women and men, also not only at the grassroots level, but also to  
6 engage in the policy formulation of the government.

7 In regard to the Democratic Kampuchea, or Khmer Rouge, the -- I  
8 have done some studies so far which all relate to the topic of  
9 the day, forced marriage.

10 The first one was back in 2006 when I was working at the  
11 Cambodian NGO called Cambodian Defenders Project; that I was a  
12 project manager to carry out the study on sexual violence or I  
13 call it gender-based violence during the Khmer Rouge regime. And  
14 this research documented many stories of sexual violence against  
15 women and forced marriages and rape in the forced marriages  
16 during the Democratic Kampuchea in 2006.

17 [09.52.04]

18 The second one, I did a research in 2008 on the same topic, but  
19 it was particularly only for the sexual violence and forced  
20 marriages. I did with my students, approximately 200 students,  
21 that I had at Pannasastra University, and we did the research  
22 into the topic.

23 And in 2014, I did another research on gender-based violence  
24 against sexual minorities during the Pol Pot regime or Khmer  
25 Rouge regime, and I documented many stories of sexual violence

1 and forced marriages that attacked the sexual minorities in a  
2 very different way from many Cambodians.

3 From 2014 to 2015, I did another research that I titled  
4 "Motherhood at War" which I wanted to investigate the pregnancy  
5 during the Khmer Rouge time. And I also documented many stories  
6 of marriages and rape or pregnancies in the Khmer Rouge time.

7 [09.53.40]

8 After this since exactly one year ago until now, I have been  
9 doing another study on "Childhood at War" which I investigate the  
10 life of children during the Khmer Rouge time that how the  
11 children were denied their childhood in the war. And I also  
12 collected many stories of forced marriages that small girls were  
13 forced into marriages.

14 That so far, I have done those researches on particularly about  
15 the Democratic Kampuchea.

16 Q. Why are you interested in conducting your research on these  
17 topics?

18 A. Thank you so much for asking.

19 The simple answer is I want to know why it happened. When I was  
20 in university, the -- there are a lot of mixed information about  
21 Democratic Kampuchea, and I couldn't find out why it happened,  
22 why Khmer Rouge took power and why many people had to be dead or  
23 killed in the Khmer Rouge time. And I continued on to have this  
24 curiosity that I want to know why it happened, but because of my  
25 expertise that I am a gender expert, I was particularly

26

1 interested how women were affected by the war, how women were  
2 disproportionately impacted because of the regime. And I couldn't  
3 find studies.

4 [09.55.43]

5 When I was teaching in the class, my students did not know about  
6 anything. They didn't know anything about sexual violence. They  
7 didn't know anything about forced marriages in -- during the  
8 Khmer Rouge. So I thought I could contribute by gathering the  
9 information and evidences of why it happened, particularly from  
10 women's point of view, because so far we don't have any  
11 historical evidence from women's point of view. All histories  
12 about Khmer Rouge were written by men from male perspectives.  
13 So that's why I was very motivated to do those researches.

14 [09.56.36]

15 Q. Thank you, Ms. Expert.

16 When did you start conducting your work title "Gender-based  
17 Violence during the Khmer Rouge Regime: Stories of the survivors  
18 for the Democratic Kampuchea 1975 through 1979", and when was the  
19 first publication?

20 A. Thank you very much.

21 I started the -- to have the idea in 2005, and it was very  
22 difficult to find a sponsor, so it was only in 2006 that I could  
23 manage to make a team to do the research within the Cambodian  
24 Defenders Project. And my -- and after the research -- it was  
25 very, very painful research for me personally because I

1 continuously listened to the horrible stories from the survivors  
2 who experienced the horrific, traumatic experience, so I paused a  
3 little and I wrote a small piece of research paper by using the  
4 evidence in Japanese first.

5 So the very first publication was actually in Japanese. It was  
6 like my brainstorming to construct how I can write a book. And  
7 then I published the first book in July 2007. This is the book,  
8 the first publications in English that I collected those stories  
9 that I personally want to use in my publications.

10 [09.58.32]

11 And the -- if I may add, Your Honour, the -- I used the same body  
12 of these documents to write this book that maybe you have in your  
13 hand. This has the additional information from my research in  
14 2008.

15 JUDGE FENZ:

16 Sorry for interrupting. The record doesn't see what you are  
17 doing, so if you are referring to books, please refer to the  
18 titles.

19 MS. NAKAGAWA:

20 Okay. I'm sorry. I'm sorry.

21 So let me go back that my first publication that Your Honour  
22 asked me was back in 2007, July, titled "Gender-based violence  
23 during the Khmer Rouge Regime: Stories of survivors from the  
24 Democratic Kampuchea 1975-1979". And I used the same information  
25 from that book and published the book in December 2008 titled

1 "Gender-based violence during the Khmer Rouge: Stories of  
2 survivors from the Democratic Kampuchea 1979-1979 (sic)", the  
3 second edition.

4 Thank you.

5 [09.59.50]

6 BY MR. PRESIDENT:

7 Q. Thank you.

8 What areas or issues did you conduct your research in producing  
9 this report, and please make it brief.

10 MS. NAKAGAWA:

11 A. Thank you very much.

12 The initial idea was I wanted to collect any stories that were  
13 linking to sexual violence during the Democratic Kampuchea. I  
14 didn't have specific idea of what type, but through my baseline  
15 interviews with people in Phnom Penh, particularly activists and  
16 academics, I knew that there was rape. So rape was one of the  
17 primary target of my investigations. And through those  
18 investigation, we came up to know other forms of sexual violences  
19 that we also documented.

20 [10.00.59]

21 Q. Thank you.

22 And what research methodology did you use in producing your  
23 report? What are the sources of information for your report? Did  
24 you interview people and, if so, who they were and how many?

25 A. Yes. Thank you very much.

1 This research was carried out by the Cambodian Defenders Project  
2 which I was a project manager for this project, and also the  
3 Publication and Advocacy Unit. So we mobilized our resources  
4 within this human rights NGO.

5 [10.01.42]

6 The NGO had acquired a large number of volunteers, mostly from  
7 the line of the Provincial Department of Women's Affairs, who are  
8 helping the women in the villages who are suffering from domestic  
9 violence or other forms of gender-based violence.

10 So we asked their cooperation, and 50 of those people became the  
11 volunteers from five provinces, and we trained 10 volunteers out  
12 of 50 in Phnom Penh. We conducted our intensive training for two  
13 days for those 10 researchers who go into the village to do the  
14 baseline study.

15 So after the two days' training, 10 volunteers who were trained  
16 went back to their own provinces and trained other remaining 40  
17 volunteers to do the research; in total, 50 volunteers.

18 They collected total 1,500 information -- 1,500 people's evidence  
19 of their experiences during the Khmer Rouge time. And 300 from  
20 each province, so five provinces.

21 And all the data was collected by handwriting from the  
22 volunteers. And they were sent back to the head office of the  
23 Cambodian Defenders Project, and we screened out of those 1,500  
24 people who could tell the stories of sexual violences with the  
25 evidence to the researchers, that is, to me.



1 [10.03.37]

2 And we selected -- if I am not wrong, we selected about 100  
3 people out of 1,500 whom we thought that we should meet to do the  
4 interviews. In the questionnaires in baseline, we had a question,  
5 "Did you witness the sexual violence? Did you experience the  
6 sexual violence?" And the last question in many, many questions  
7 on the bottom was, "If there is a foreign researcher coming to  
8 ask you to interview about sexual violence during the Democratic  
9 Kampuchea, do you have something to tell?"

10 And then if somebody who click this, based on the information  
11 they gave, we also selected those people to do actual interview.  
12 So first baseline was for 1,500 people in five provinces, and we  
13 selected approximately 100 people to meet to actually listen to  
14 their stories. And my team consisting of me and one -- another  
15 researcher with a translator, we went to conduct the interviews  
16 separately in different provinces.

17 [10.04.56]

18 And my memory is not correct, but I met approximately 50 plus  
19 people within my capacity as a researcher in this research.  
20 And after we document -- we tape recorded all the conversations  
21 with strict confidentiality. And after we brought back all the  
22 tape recording, the -- we had a person who made a transcript so  
23 the tape recording interview was transcribed in Khmer first, and  
24 we hired the translator who translated all those transcripts. And  
25 then those final products in English were used as a base for the

1 studies.

2 [10.05.50]

3 Q. Thank you.

4 And you also produced another report entitled "I Want to Tell You  
5 - Stories of Sexual Violence during Democratic Kampuchea". That  
6 is document <E3/3417 (sic)>.

7 Can you tell the Chamber, when did you start your research in  
8 order to write that report, and when it was first published?

9 A. Thank you very much.

10 Your Honour, this report was not written by me. It was written by  
11 Ms. Bridgette, who was a research team member in my team in the  
12 research. She was my colleague. We conducted the research  
13 together.

14 And she produced this paper based on her background as a lawyer,  
15 so she has a lot of legal analysis. And I did not touch upon this  
16 paper.

17 [10.07.01]

18 Q. Thank you.

19 And can you tell the Chamber what issues were the main focus of  
20 this report, if you can describe it briefly?

21 A. The -- I may be wrong, but we share -- Ms. Bridgette and I  
22 share the common goal that we want to document the evidences of  
23 sexual violence during the Democratic Kampuchea, so her purpose  
24 was -- one of the main purpose should have been to gather the  
25 evidence, but in addition, because she was an intern at Cambodian

1 Defenders Project, this -- not dispatched, but she came from the  
2 Harvard University. And it was one of her coursework.

3 So I think she wanted to also bring some legal arguments about  
4 the sexual violence during the Democratic Kampuchea.

5 [10.08.12]

6 Q. And can you tell the Chamber the sources of reference in  
7 producing the report and how many people were interviewed?

8 A. Excuse me, Your Honour. Is it about "I Want to Tell You"  
9 report, or--?

10 The sources -- the evidences from the survivors are the same. We  
11 used the same evidences from approximately 100 people's tape  
12 recording and transcript and the translations. So we used the  
13 same evidences. But for the interviews with the experts or the  
14 references -- the literature review references, I think she  
15 referred many from the international tribunals and other  
16 documentations that we also shared from Cambodia about the  
17 Democratic Kampuchea.

18 MR. PRESIDENT:

19 Thank you.

20 I'd like to hand the floor to Judge Fenz -- rather, to Judge  
21 Lavergne.

22 [10.09.30]

23 JUDGE LAVERGNE:

24 Yes. Thank you, Mr. President.

25 In fact, before we rule on the requests for admissibility

1 regarding the maps as tabled by the Prosecution, I would request  
2 some clarifications of the prosecutor.

3 Mr. Prosecutor, if I understood correctly, you are asking for six  
4 maps to be admitted into evidence. Is that the case? And these  
5 six maps, at least as regards the first, has to do with the road  
6 network of Cambodia which doesn't have any particular  
7 annotations, but for the five other maps, we are talking of  
8 indications of geographical zones.

9 [10.10.21]

10 These indications are red or orange <points> and, if I understood  
11 correctly, there are five maps since each of those five maps  
12 correspond to specific studies conducted, studies that were  
13 either conducted by the expert here present and who is about to  
14 testify, or studies that were conducted by other researchers.

15 What I didn't quite understand in your submissions is the  
16 following: what do the indications of geographical zones  
17 correspond to? Are these indications of geographical zones with  
18 regard to zones in which the <research was conducted,> or are  
19 these zones in which sexual violence was committed and reported,  
20 and do all these studies that served as a basis for the  
21 production of these annotated maps -- <were> all these studies  
22 admitted into evidence, are <they> on the record?

23 So we should know the precise purpose of those maps. And <which  
24 exactly are> the maps that you intend to use in examining the  
25 expert here present.

34

1 [10.11.55]

2 MR. SMITH:

3 Thank you, Your Honour.

4 The core basis of the application is that the underlying map, the  
5 Cambodia road network map, be admitted into evidence. That's  
6 unannotated. That's the core application.

7 The annotated maps, which show the areas, the geographical zones,  
8 as you mentioned, in fact, provinces, where the authors of the  
9 reports sought their information as the basis of the report and  
10 it's not clear in some cases whether or not the provinces in  
11 which they sought their information, conducted their surveys,  
12 whether, in fact, in all of those reports, they received reports  
13 of forced marriage within those particular provinces.

14 [10.13.00]

15 All the reports are on the case file, and I do have copies of  
16 these maps for Your Honours. And in the annotated maps, we  
17 provide the E3 number of the report to which the annotations  
18 relate.

19 But the main purpose was to be able to use a map with the witness  
20 when we discuss the particular reports and the locations in which  
21 these surveys were done in relation to sexual violence, and  
22 particularly in relation to forced marriage.

23 We could show that on the screen, and I would take the expert to  
24 the appropriate page in the report where they state that they  
25 conducted their surveys so at least the public can see -- follow

1 the -- follow the evidence. But the primary purpose is to put the  
2 underlying map into evidence, and secondly, at the very least, be  
3 able to show the annotations on the screen to the witness to have  
4 a discussion.

5 [10.14.04]

6 But that could be either done in terms of demonstration -- for  
7 demonstration purposes or, secondly, if Your Honours wish them to  
8 be entered into evidence after her testimony, we would certainly  
9 be pleased to do that. But it's largely the underlying map and to  
10 be able to use the annotated ones on the screen when discussing  
11 the particular reports with the expert.

12 And I do have copies if Your Honours would like copies to take  
13 with you to the break. I have them here.

14 JUDGE LAVERGNE:

15 Counsel for the Prosecution, in the email we received, there were  
16 six maps <attached>. I do not understand whether you're asking  
17 for four maps to be admitted into evidence.

18 Can you clearly indicate what your request is? Is it for six maps  
19 to be admitted into evidence, or for four maps to be admitted  
20 into evidence?

21 [10.15.17]

22 MR. SMITH:

23 Your Honour, we are asking for one map to be admitted into  
24 evidence at this stage. It's the Cambodia road network map  
25 without any annotations.

1 MR. PRESIDENT:

2 Counsel for Khieu Samphan, you have the floor.

3 MS. GUISSÉ:

4 Yes. Thank you, Mr. President.

5 Quite simply, taking into account the clarifications made by the

6 Prosecution, if the only objective is to have one map without

7 annotations admitted into evidence, the Khieu Samphan defence

8 team doesn't object to the map that is not annotated to be used.

9 As to the background knowledge on the annotations, we will rely

10 on the decision that you delivered in a similar case. That was on

11 the 21st of January 2015. It was at the hearing PV E1/249.1 at

12 about 9.12.58.

13 [10.16.32]

14 It was a Civil Party Co-Lawyer who wanted to tender into evidence

15 a document, a map that he, himself, had annotated in line with

16 the testimony of the civil party who was testifying, and you

17 rejected that application, saying that a map produced by a lawyer

18 could not be admitted into evidence. So I request you to follow

19 your jurisprudence.

20 MR. PRESIDENT:

21 Thank you, Counsel.

22 It is now time for the morning break. We'll take a 20-minute

23 break from now.

24 (Court recesses from 1017H to 1037H)

25 MR. PRESIDENT:

1 Please be seated. The Chamber now is back in session.

2 And the floor is given to Judge Fenz to issue the rulings on the  
3 request by the Co-Prosecutors.

4 You may now proceed, Judge Fenz.

5 JUDGE FENZ:

6 Thank you.

7 The Chamber admits into evidence the one map identified by the  
8 prosecutor, which is the Cambodian road network map without any  
9 annotations.

10 As to the other maps, the Chamber permits the use of those  
11 annotated maps during the expertise or during the time the expert  
12 is heard. The way we understand it is, these are, basically,  
13 visualization tools that are here to show the representativeness  
14 of samples taken in various studies.

15 There is -- this is something -- the accuracy of that is easily  
16 to be checked by Chambers and parties, and this is an expert, so  
17 there is no danger that she will be unduly influenced. If she's  
18 shown this map and she says, "No, it's not true", she can tell us  
19 immediately.

20 So as to further requests to admit them into evidence, the  
21 Chamber is waiting for requests should they come.

22 [10.39.00]

23 MR. PRESIDENT:

24 Thank you, Judge Fenz.

25 In questioning the expert in accordance with Rule 91bis of the



1 Internal Rule of the ECCC, the floor is first given to the  
2 Co-Prosecutors before other parties. The combined time for the  
3 Co-Prosecutors and Lead Co-Lawyers for civil parties is three  
4 sessions.

5 You may now proceed.

6 [10.39.32]

7 QUESTIONING BY MS. SONG CHORVOIN:

8 Thank you, Mr. President. Thank you, Your -- good morning, Your  
9 Honours, everyone in and around the courtroom. And good morning,  
10 the expert.

11 Q. My name is Song Chorvoin. I am the Deputy National  
12 Co-Prosecutor, and I have some questions to discuss with you, Ms.  
13 Expert.

14 Earlier, the Chamber asked you about your academic background.  
15 Before I put some questions to you, I would like to inform you  
16 that I will first ask you about the marriage before the Khmer  
17 Rouge time because I want to -- I want the Chamber to understand  
18 the differences between the marriages in -- before the Khmer  
19 Rouge and those <during> the Khmer Rouge.

20 I would like to ask you, the expert, to describe about the  
21 marriages before the -- Pol Pot's time or Khmer Rouge time.  
22 Before Pol Pot came to power, were there traditions and customs  
23 applied in relation to marriage before that period? <Who attended  
24 the marriage? For example, did> parents <and relatives> of both  
25 sides attend the marriage at the time?

1 [10.41.16]

2 MS. NAKAGAWA:

3 A. Thank you very much.

4 To answer to your question about the traditional marriage before

5 the Khmer Rouge time, I don't have any account from the French

6 colonial time or the Japanese occupation time, so perhaps what I

7 can explain is only from 1950s or 1960s, after the Sihanouk

8 regime (sic), which I would call tradition, and immediately

9 before the Khmer Rouge.

10 The traditional marriages in Cambodian society was arranged by

11 the parents and agreed upon by the parents. In regard to the

12 women's decision-making power, there was almost zero, so a

13 daughter was given the instruction or order to marry with

14 somebody by her parents. And mostly, the daughters were expecting

15 their parents to make a decision for her.

16 [10.42.29]

17 On the other hand, the boys had more freedom, and boy could

18 initiate their own marriages by proposing to his parents or

19 guardians or relatives, who could approach to the parents of a

20 girl that he wants to marry.

21 At any case, mostly the weddings were arranged by the parents and

22 decided by the parents, so even though a boy wanted to marry with

23 a girl that he loves, if parents disapproved, it could have been

24 extremely difficult for him to proceed to seek for the approval

25 from the marriage.

40

1 Once the agreement was done among both parties, meaning the  
2 parents of the groom and parents of the bride, then the -- if the  
3 family follows a very traditional way, they would have an  
4 engagement ceremony, but immediately before the war, after,  
5 especially, the coup, this ceremony was not done because of the  
6 very difficult situation and the bombing.

7 [10.43.46]

8 But anyway, the process after the approval of the both parents  
9 would be to set the date for the wedding ceremony. And the  
10 traditional, the fortune teller might be called to decide on the  
11 date or the parents may decide, and then the date is set. And  
12 it's a huge -- traditionally, it's a huge ceremony, normally done  
13 for three days, including many ceremonies with a lot of Buddhist  
14 monks participating in the ceremonies. And a lot of people in the  
15 villages were invited to participate.

16 So it's not a personal matter. It's a family matter between the  
17 two parties, two families, and also, it's a communal matters,  
18 that the people in the village were invited to authorize such a  
19 marriage.

20 They -- unfortunately, immediately before the Khmer Rouge,  
21 because the war was becoming very tough, a lot of marriages were  
22 very simplified, and many people could marry only within one day  
23 and no lightning and no big sounds. But it's only for like three,  
24 four years immediately before the Khmer Rouge.

25 Thank you very much.

1 [10.45.11]

2 Q. Thank you.

3 To clarify the issue, I would like you to make a further  
4 clarification about the traditional marriage before the Khmer  
5 Rouge.

6 Were marriages involved by parents? And did parents decide on  
7 marriages? Or were <the> decisions <and arrangement> involved  
8 from the authorities <or the district authority> in the local  
9 areas as well?

10 A. Okay. Thank you very much.

11 The -- to be accurate, mostly for the parents of the bride, they  
12 decide the marriage. And for the groom's side, the parents of the  
13 groom might decide or they may approve the proposal from the  
14 groom.

15 And how it was authorized was that it could have been registered  
16 in the local authorities, but mostly, that local authorities such  
17 as village chief was invited to join the wedding ceremony. And  
18 this is a process to authorize the marriage.

19 [10.46.37]

20 Q. Were the chiefs of communes and villages attending as the  
21 witnesses, or <as the decision makers about the marriage>?

22 A. Excuse me. I do not have answer to this question.

23 Q. Another question is about the customs to select the partners  
24 before the Khmer Rouge time.

25 You have briefly explained that, but I want to -- you to expand

1 further.

2 Concerning the selection of partners, did the older people  
3 consult with one another before allowing the would-be husband and  
4 wife to consider and discuss as well?

5 What was the process of selection? Could you expand on the  
6 matter, and who was involved in the selection process and also  
7 decision-making process?

8 [10.48.18]

9 A. Excuse me. So this is question about the marriage before the  
10 Khmer Rouge. Is it correct?

11 Then let me continue.

12 The -- your question is about the selections of the partners in  
13 the marriage, who is involved in selecting the partner to a groom  
14 and the bride; right?

15 The -- let me rephrase. For the single girls who are not yet  
16 married, their parents decide. But many of the girls lost their  
17 parent or parents before the war, according to my study. In that  
18 case, her sisters, her brothers, her relatives, whoever take care  
19 of this girl made a decision, and the girl did not have any  
20 decision-making power to say yes or no. It was decided upon her.

21 [10.49.20]

22 For the groom, a boy, single boy who has not yet married, he  
23 could propose to his parents or relatives, whoever who has the  
24 authority, to arrange his marriages. So it could be from the boy  
25 to the elders, and then it is now the elder's hand to approve or

1 to allow and then to decide and to start negotiation with the  
2 parents of the groom -- to the bride, sorry.

3 So decision-making power lies on -- basically on the parents. And  
4 the selection in that matter also, the parents selected who is a  
5 nice match for their daughters or for their son.

6 [10.50.25]

7 Q. Before the Khmer Rouge time, why did parents involve in the  
8 decision to marry their children?

9 A. Thank you so much.

10 Traditionally, in Cambodian culture, as in many other cultures,  
11 children were not understood as a person who has the full rights.  
12 Parents (sic) were understood as not properties, but belongings  
13 to the parents. So parents thought they have to make a decision  
14 for everything about their children, including from the education  
15 to the marriage, which is the most important issues for many  
16 Cambodians. So that's why parents had to engage in the  
17 decision-making of the decision for the marriage of the children.  
18 It's not only for the marriage. Children's life were decided by  
19 the parents.

20 Q. <Before the Khmer Rouge regime,> could men or women refuse  
21 the marriage proposed by the senior people?

22 A. As far as I understand from my research, almost all females  
23 before the Khmer Rouge time, they expected and hoped their  
24 mothers, fathers to make a decision for them. So there was no  
25 option to say no because they are waiting for their spouse to be

1 decided by the parents.

2 And for the boy, I would say technically he could say no, but I  
3 don't have any accounts that the boys refused, to say no to the  
4 decision by the parents.

5 [10.52.55]

6 Q. Could you bring up examples in relation to the reasons that  
7 men or women refused to get married? So what were the  
8 circumstances make a man or woman refuse to get married?

9 A. The one woman that I met in my study, she refused to marry  
10 before the Khmer Rouge, but consequently, she was forced to marry  
11 in the Khmer Rouge, which was very unfortunate. She could refuse  
12 to marry before the Khmer Rouge because she wanted to be a  
13 medical doctor and she was studying in the medical school. And  
14 her parents decided on her marriage and brought a very nice man  
15 to marry with her, and she said no.  
16 She could escape because her younger sister was forced to marry  
17 with that man. That's one example I can recall.

18 [10.54.10]

19 Q. Were men or women punished for refusing to marry before the  
20 Khmer Rouge time?

21 <For example, earlier> you brought <a case> about the woman who  
22 refused to get married.<>

23 A. It's interesting question. I've never thought about it, but I  
24 don't recall any case that a boy or a girl was sanctioned or  
25 punished for not agreeing to the marriage decided by the parents.

1 No.

2 Q. In relation to the traditional marriage before the Khmer Rouge  
3 and usually the marriages were known to the couples, I would like  
4 to refer you to the October 2014 study of De Langis, Strasser,  
5 Kim and Taing entitled "Like Ghost Changes Body (A Study on the  
6 Impact of Forced Marriages under the Khmer Rouge Regime)",  
7 document <E3/9614> at ERN in -- ERN in Khmer <01037040>. <Sorry  
8 that was ERN in English, the ERN in Khmer is 01212343> . There is  
9 no French translation.

10 The author quotes from Ebihara <who conducted a comprehensive  
11 anthropological study on the life of the villagers in Khmer Rouge  
12 regime -->

13 [10.56.47]

14 MR. PRESIDENT:

15 You may now proceed, counsel for Mr. Khieu Samphan.

16 MS. GUISSÉ:

17 My apologies for interrupting, Mr. President.

18 It's simply we did not get the English ERN. I know that there's  
19 no French ERN, but <we also did not get one in English, so> could  
20 you please repeat the English ERN?

21 MR. PRESIDENT:

22 Please repeat the ERN.

23 [10.57.16]

24 BY MS. SONG CHORVOIN:

25 Thank you. The document is E3/9614, 01037040. That is English



1 ERN.

2 And I seek permission from the President to display the document  
3 on the screen so that the expert can follow.

4 Q. In the study by De Langis, the book that is about the forced  
5 marriage in the Khmer Rouge time. And he refers to the work of  
6 Ebihara, <a comprehensive anthropological study> on villagers  
7 <before> the Khmer Rouge time.

8 And it <described> about the <marriage, for example,> days of  
9 marriage<, activities on the wedding day in> Svay village.

10 And <the study> describes about the customs and tradition of  
11 marriage from 1959 through 1960. Ebihara described about a  
12 traditional marriage, and I would like to quote:

13 "According to ideal custom, a young man makes his own choice as  
14 to whom to marry and, once having decided, asks his parents to  
15 begin negotiations with the girl's family. When the latter  
16 receives a marriage proposal, the young woman herself is  
17 consulted and, again according to tradition, is free to accept or  
18 reject the offer."

19 [10.59.18]

20 Further in this study by De Langis and others, the same document,  
21 and the Khmer is two pages -- two pages below, after reviewing  
22 the available research on traditional Cambodian marriages on the  
23 issue of the consent between men and women to the marriage  
24 concluded the following - quote:

25 "In summary, traditional weddings before the Khmer Rouge time

1 were largely arranged and it's very important for the family,  
2 <the whole community> and also for the <spirit of the> ancestor.  
3 The marriages <> were largely arranged and most often with the  
4 consent of the intended and rarely coerced according to <the  
5 existing> research."

6 Based on the research, which I have just read to you, do these  
7 opinions accord with your findings; namely, <the study on> the  
8 traditional Cambodian marriage <before the Khmer Rouge regime?>  
9 [11.00.54]

10 MS. NAKAGAWA:

11 A. Thank you very much. Yes, I think it's largely the same as to  
12 my opinion, but from my studies, even though the single girls  
13 were consulted by her parents about her marriage, they blindly  
14 agreed to the marriage. So I don't think so it was a genuine  
15 consent that she really wanted to marry with that man from her  
16 own choice.

17 Q. In order to clarify this point, <was> the woman who has to  
18 marry contacted <or> consulted? And did she receive information  
19 from the man that she's supposed to get married before she made  
20 her decision whether to marry him or to refuse the proposal?

21 A. It depends on the parents as to how much information they give  
22 to their daughters. The many women that I interviewed, the  
23 wedding day was the first time that they met with their husband,  
24 so they knew very little about their husband before the marriage.  
25 But again, they don't regard -- the women, they don't regard as

1   unfortunate marriage, but they were happy to accept and follow  
2   the decision by their parents.

3   [11.03.01]

4   Q. And regarding the decision to get married, was it a family  
5   choice or was it done through the participations of the  
6   authorities?

7   A. If I understand the question correctly, it is 100 per cent  
8   family matter. Authority is informed after everything was decided  
9   among the families.

10   Q. Thank you. You just briefly described about the traditional  
11   marriage that in -- details the participation of certain people  
12   and now, I'd like to ask you about the timing of the wedding  
13   itself. When there was a proposal from a man to the <> woman's  
14   side, what was the gap between the actual proposal and the  
15   wedding day itself? For example, <if> there is a proposal from  
16   the man's side to the bride's parents; how long would it take  
17   before the approval was made and before the wedding, itself, took  
18   place?

19   [11.04.37]

20   A. I cannot generalize how much time was required from the very  
21   first initiation of the marriage until the marriage ceremonies.  
22   But I don't recall any marriages that was arranged in a short  
23   manner, meaning it may take months; it may take a half year,  
24   except some marriages in 1973 or 1974, when parents of the  
25   daughters were very worried about the security situation of the

1 daughters, I have some accounts that they were rushed into the  
2 marriage. So they were not ready to marry, but parents wanted to  
3 arrange the marriage for their daughters because the bombardment  
4 was so terrifying over their daily lives and parents thought it's  
5 very important that their daughters should have immediate  
6 protection.

7 Besides this time period -- and it's not nationwide; it's only  
8 some areas -- besides this, the wedding process, starting from  
9 initiation from mostly male side and approval from the female  
10 side, it takes months and there are a lot of negotiations between  
11 the two families.

12 Q. In the cases that the engagement took place before the  
13 marriage, what was the waiting period between the engagement and  
14 the marriage; can you give an estimate period, for example, the  
15 shortest and the longest?

16 A. I'm sorry; I don't have answer to this question.

17 [11.06.55]

18 Q. Thank you. And based on your study and research, <before> the  
19 Khmer Rouge regime, what were the main factors that led the men  
20 and the women and the parents of both sides to consider <about>  
21 marriage and <it> should be held according to the tradition?

22 A. The marriages in the Khmer Rouge was completely different from  
23 the traditional marriages.

24 Q. Were there <any> main factors that <made> Cambodian people,  
25 prior to the Khmer Rouge regime, believed <that> their

1 traditional marriage was important to them?

2 A. The traditional marriage should include the participation of  
3 the parents and family members who celebrate the weddings and  
4 this was missing in the Khmer Rouge time.

5 Q. And about the men and the women who had to marry one another,  
6 was there any process of thinking about their social status; for  
7 example, the poor could marry the wealthy family or those who had  
8 higher education could marry with the one with lower education,  
9 that is, for those marriages that took place prior to the Khmer  
10 Rouge regime?

11 [11.09.14]

12 A. The -- it was the marriages before the Khmer Rouge was very  
13 much a family issues, so two families involved in the marriage  
14 should agree upon the marriage. So from this view, it would be  
15 very difficult to match a girl from completely different from  
16 social background to marry to a man who is living in another  
17 world.

18 So mostly, for example, the farmers were married among with the  
19 farmers, merchants were married among with the merchants.

20 Educated, at that time, living only in the cities, they were  
21 marrying -- married among with the educated. So, for example,  
22 educated daughters, at that time, was very rare because girls  
23 could not go to school. So girls who had education would expect  
24 that her parents would arrange the marriages of her to a man who  
25 has higher education.

1 [11.10.40]

2 Q. Thank you. Regarding the day of the marriage itself <before>  
3 the Khmer Rouge regime, how <did it> start and who participated  
4 in the wedding? <How important was the participation of> the  
5 elders or the family <members> and relatives of both sides <for  
6 the traditional wedding ceremony?>

7 A. Excuse me, so it's in the Khmer Rouge time, before. The --  
8 before the Khmer Rouge time, at the wedding, it was a time when  
9 the community, itself, welcome and authorize the wedding. So it's  
10 not only the people marrying, but also the siblings, parents,  
11 relatives; even from far away, and also people in the villages.  
12 That include the neighbours, maybe sellers; the local  
13 authorities, such as village chief etc.; they were all expected  
14 to join.

15 Q. Thank you. Also touching upon the same topic and in relation  
16 to the period before the Khmer Rouge regime, after the couples  
17 <got married>, did they have to live together? And if they <could  
18 not get along> with one another, did they have the right to  
19 proceed with a divorce or <a separation>?

20 [11.12.43]

21 A. Technically, it was possible that the married couple seek for  
22 divorce, but it was very, very rare because, at that time,  
23 Cambodia was still following the polygamy system, so men could  
24 keep several wives. There is no reason that he may divorce a  
25 wife; he could just keep several, multiple wives.

1 And for women's side, it's a very shameful conduct if she is  
2 divorced, at any cost, so it was extremely rare from both male  
3 side and female side the reasons that they had a divorce.  
4 But there was a divorce and people -- I have an account that  
5 woman divorced and I could imagine that it was extremely tough  
6 decision for a woman to decide on the decision from her side, but  
7 it was possible to divorce somebody.

8 Q. Thank you. And after the wedding <day>, were <the> couples  
9 expressly ordered or told that they should consummate the  
10 marriage? Or did they have the rights to make their own decision?  
11 [11.14.24]

12 A. To my understanding, it's a taboo to talk about it, so parents  
13 would not tell the daughters or son how they should behave to --  
14 in the night of the weddings etc.

15 They -- I remember some woman were told to be obedient to the  
16 husband in the night of the wedding, but it's against Cambodian  
17 tradition to talk about sexualities among the women, even between  
18 the mother and the daughters.

19 I met a lot of women who were not educated about their  
20 reproductive health, such as menstruation, so in the society  
21 where even the mother or sisters could not teach about even the  
22 menstruation issue, I don't think so that the parents educated  
23 anything about sexualities after the marriage.

24 And for men's side, I don't think so that parents -- or I didn't  
25 hear any stories that men were educated in that way. But perhaps

1 one of the common or casual conversations that people before the  
2 Khmer Rouge or even now have in Cambodian society is people  
3 tended to ask about a child: "Do you have a child? How many  
4 children do they have?" It's a very common conversation, so it  
5 could be assumed that after the marriage, parents were inquiring  
6 about their daughters or son that: "Are you expecting a child? Do  
7 you have child?," etc., but I think that's the maximum of their  
8 inquiry level in regard to the reproductive health issues.

9 [11.16.34]

10 Q. And based again on your research, were there cases where the  
11 elders or the parents of the bride or the groom ever instructed  
12 them that they had to produce children in order to carry on their  
13 family <line?> And if there were such cases, did you know whether  
14 any of the men or women had the right to refuse to such  
15 instructions? <Or did they have rights to decide on this matter?>

16 A. I do not recall any accounts that the parents made explicit  
17 instructions to their children, before the Khmer Rouge, that they  
18 should have a child in order keep the family line, but I may be  
19 wrong because even nowadays, in Cambodia, parents are asking this  
20 and I don't know if it's called instructions.

21 [11.18.04]

22 Q. Whether there were instructions or advice that they should  
23 produce children, <did> the <married> couple have the right to  
24 refuse to such advice or instruction or did they have to follow  
25 it?



1 A. I'm sorry; I forgot to answer to the second question. The --  
2 in English it says that the parents instructed that they should  
3 have a child and if I understand it correctly, I don't think so  
4 that parents said they should have a child, but they would  
5 suggest that they want a grandchild to be born. So it's directing  
6 the same thing that the married couple should have a child, but I  
7 don't think the parents would instruct their daughters or son  
8 that you should have a child.

9 But on the other hand, as I said, there is a social pressure, not  
10 only from the parents or siblings, but from the community that  
11 once you are married in Cambodian societies, you should have a  
12 child. This is a social pressure that we still have now and while  
13 women or men had the right to say no, before the Khmer Rouge  
14 time; technically, it was possible because there was an abortion  
15 possible for women.

16 [11.19.56]

17 But if I imagine whether women or men said no to their parents  
18 that they choose not to have a child; it's revolutionary and it's  
19 -- it's unimaginable. I cannot imagine that family, before the  
20 Khmer Rouge, had such a conversation.

21 So to rephrase it, I don't think so, from my research, that  
22 parents instructed a child that they should have a child. There  
23 was not such instruction by the parents, but they would ask them  
24 that they want to have a grandchild etc., so it's not an  
25 instruction per se. And if the parents ask a daughter if you are

1 marry -- as you are married now, "Are you expecting a baby?," I  
2 cannot imagine the situation the daughter would reply to the  
3 mother or father that, "I decided not to have a child." I don't  
4 think so it was possible for a woman to say that and on the same  
5 token men; they not say that.

6 [11.21.28]

7 Q. This may be my last question to conclude the area that I  
8 cover. <Prior to> the Khmer Rouge regime, <marriage was held in a  
9 traditional Khmer way and> after the couples got <married>, did  
10 the couple have the right to choose to consummate the marriage by  
11 themselves or <>was the decision made by the local authority, for  
12 example, from the village commune or district authority level?

13 A. The -- during the Khmer Rouge time, some--

14 Q. My question is for the period prior to the Khmer Rouge regime.

15 A. Excuse me; could you rephrase the question again in brief?

16 Q. In order to make it brief, before the Khmer Rouge regime,  
17 after the couples got married, did they have the right to decide  
18 on the issue of consummation <by themselves> or was there a  
19 <policy> from the local <authorities>; for example, village or  
20 commune or district levels to order them <> to consummate the  
21 marriage?

22 [11.23.15]

23 A. It was a very personal matter, so the outsiders, except  
24 husband and wife, could deal with it. Even orally, they were not  
25 instructed to consummate a marriage.

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1 I remember that I met a woman who said -- who was married before  
2 the Khmer Rouge, but she didn't consummate her marriage in the  
3 beginning for three months or so because she was very shy and her  
4 husband also very shy because they were assigned or instructed to  
5 marry by their parents and it was just fine. And I think that was  
6 the case with many couples because many couples met for the first  
7 time on the arranged wedding day and maybe they were very shy and  
8 that's a very honest feeling.

9 [11.24.14]

10 MS. SONG CHORVOIN:

11 Thank you, Expert, and Mr. President, I finish my part and I'd  
12 like to hand the floor to Mr. William Smith.

13 MR. SMITH:

14 Thank you, Mr. President, Your Honours, counsel, and expert.

15 Mr. President, if I can just begin by providing the expert with  
16 some documents which were notified to the Defence a few weeks ago  
17 and a set of the maps that we just talked about earlier.

18 MR. PRESIDENT:

19 Court officer, could you hand over the documents to the expert?

20 [11.25.00]

21 MR. SMITH:

22 Thank you.

23 Good morning, Ms. Expert.

24 Those documents look a bit daunting, but we may just refer to a  
25 few pages in that book and you'll see -- often at the top of the

1 page, you'll see a large number or on the side of the page,  
2 depending on how it printed out.

3 But at the same time, I would be asking the President to allow us  
4 to show some of the excerpts on the screen, as well, so that may  
5 be easier for you to follow along.

6 And perhaps, in the few minutes that we have before lunch, if I  
7 can just explain the purpose of what I will like to ask you about  
8 today. Following on from my colleague, Ms. Song, I would like to  
9 talk to you about marriages during the Khmer Rouge period and the  
10 reason, of course, we discussed, earlier, marriages before the  
11 Khmer Rouge period was to get a sense of was there any contrast,  
12 was there any difference, was there any change to the marriage  
13 process during the Khmer Rouge period.

14 [11.26.16]

15 QUESTIONING BY MR. SMITH:

16 Q. And so my first question to you: During the Khmer Rouge  
17 period, where they took power in Cambodia, did the process of  
18 marriage fundamentally change? And if you can just answer in  
19 brief and then I'll follow up with some specific questions

20 MS. NAKAGAWA:

21 A. Thank you so much. When the Khmer Rouge took power, they  
22 fundamentally changed all the system of the marriages; they  
23 changed everything.

24 [11.27.10]

25 Q. So, in terms of your evidence earlier, you said that marriage

1 before the Khmer Rouge period was a family matter -- a hundred  
2 per cent family matter between the bride and groom-to-be, between  
3 the parents. In the Khmer Rouge period, was the authorization or  
4 the marriage process, was that a family matter or was it a state  
5 matter, a Khmer Rouge matter, if you can explain?

6 A. The process of the marriages varied in many ways, but Khmer  
7 Rouge had absolute right to authorize the marriage.

8 [11.28.17]

9 Q. And just going on and I want to follow your book and  
10 particularly your book in relation to "Motherhood at War -  
11 Pregnancy during the Khmer Rouge Regime", and that's at E3/10655  
12 and at -- that's at ER -- English ERN 01322862 and in Chapter 5  
13 of this book, you discuss marriages during the Khmer Rouge  
14 period. And in a section of that book, you discuss two ways in  
15 which a man and woman would become married primarily: One, where  
16 the marriage was authorized by the Khmer Rouge as a result of a  
17 proposal and another, where people were forced to marry and when  
18 there was no proposal. Is it -- is that fair to say, from the way  
19 that your chapter is written, that that's your opinion that  
20 largely marriages fell into those two categories; one that was  
21 authorized and others that were forced without a proposal being  
22 put forward?

23 And I think we have an objection so -- or perhaps two.

24 MR. PRESIDENT:

25 Ms. Expert, please hold on and counsel for Nuon Chea, you have

1 the floor.

2 [11.29.49]

3 MR. KOPPE:

4 Yes, thank you, Mr. President. Good morning, Your Honours. Good  
5 morning, counsel.

6 I'm revisiting a very old objection in terms of terminology used  
7 in questions. In the question from the prosecutor, I heard the  
8 words "Khmer Rouge". Now, we're not dealing today with a witness;  
9 we're dealing with an expert. The words "Khmer Rouge", as such,  
10 in terms of state power, be it local or on a national level,  
11 doesn't really mean anything. I think we should be very specific  
12 when it comes to asking questions to the expert as to on what  
13 local -- on what level we are talking about. Khmer Rouge, as  
14 such, is a handy phrase, but doesn't really mean anything.  
15 So when the Prosecution ask the question, he should be very  
16 specific in terms of what kind of state level is he speaking  
17 about. Is he speaking about commune, village level? Is he  
18 speaking about state level? Is he talking about CPK policy, which  
19 is also, of course, a possibility?

20 In other words, we should be very specific because it matters  
21 whether we're dealing with local, grassroots events or policy or  
22 whatever you want to call it or rather nationwide or statewide.

23 [11.31.35]

24 MR. SMITH:

25 Mr. President, perhaps the reason why that terminology was used

60

1 is largely because this expert uses the terminology of the Khmer  
2 Rouge regime in her book, so largely, I'm tracking the evidence  
3 of the expert.

4 And I suppose I understand what my friend is saying, but  
5 initially, we're trying to discuss some concepts and we need to  
6 speak in broader terms. But I think my friend will be happy to  
7 hear that we'll be going into more detail and then we'll get a  
8 sense of was the leaders -- were the leaders ordering forced  
9 marriages or was it done at the local level, but we'll get to  
10 that, but I just had to introduce the topic.

11 [11.32.42]

12 MR. PRESIDENT:

13 The objection is overruled.<> Counsel, you will have your chance  
14 <to ask for a clarification. Mr.> Prosecutor, you may continue.

15 BY MR. SMITH:

16 Thank you, Your Honour. I'm happy to continue. I do note the  
17 time.

18 Q. But Ms. Expert, I would like to -- or perhaps - perhaps, I  
19 will stop.

20 JUDGE FENZ:

21 Just a second.

22 MR. SMITH:

23 Yes.

24 [11.33.16]

25 MR. PRESIDENT:

*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.*

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1 Thank you, Co-Prosecutor.

2 It is now time for lunch break and the Chamber will take a break  
3 from now and resume at 1.30 this afternoon to continue our  
4 proceedings.

5 And Ms. Expert, we will take a break now and please return to the  
6 courtroom at 1.30 this afternoon.

7 Security personnel, you are instructed to take Khieu Samphan to  
8 the room downstairs and have him returned to attend the  
9 proceedings this afternoon before 1.30.

10 The Court is now in recess.

11 (Court recesses from 1133H to 1329H)

12 MR. PRESIDENT:

13 Please be seated.

14 The Court is now in session and Mr. Co-Prosecutor, you may resume  
15 your questioning.

16 BY MR. SMITH:

17 Thank you and good afternoon, Mr. President, Your Honours,  
18 counsel, and Ms. Expert.

19 Before we commenced lunch, you stated that during the Khmer Rouge  
20 period, there were two main ways in which people became married  
21 and one was where a couple were authorized to be married and  
22 another way was when a couple were forced to be married.

23 Q. I want to briefly talk about how authorized marriages worked;  
24 can you explain that process, particularly with an eye to  
25 contrasting any differences that may have occurred with the



1 pre-DK marriages?

2 [13.31.15]

3 MS. NAKAGAWA:

4 A. Thank you very much and good afternoon.

5 The authorized marriage by the Khmer Rouge was very different  
6 from the way that people would marry before the Khmer Rouge. The  
7 -- during the Khmer Rouge, if anybody who wanted to marry had to  
8 ask permissions from the Khmer Rouge and this was not the process  
9 before the Khmer Rouge time; meaning, before the Khmer Rouge  
10 time, those who were marrying did not have to ask permission from  
11 the local authority, which represented the state or the  
12 government.

13 But during the Khmer Rouge time, in order to have a permission to  
14 marry, which legalized their relationship, they had to ask  
15 permission and approval from the Khmer Rouge. That will be also  
16 endorsed by the mass wedding.

17 [13.32.29]

18 Q. And for permission to be requested, did the normal process  
19 that you referred to in the pre-Khmer Rouge period of proposals  
20 where, perhaps, the groom may have wanted to marry a certain  
21 woman and he would approach his parents and those parents would  
22 approach their parents, the woman's parents and there would be a  
23 negotiation process and then a proposal would be put forward; was  
24 it similar to the pre-DK period, that arrangement process or that  
25 proposal process?

1 A. The evidence that I have, that I gathered from the people, may  
2 not represent all those marriages which were proposed, but what I  
3 have known from my -- the informants or from my conversation is  
4 that the process to arrange the marriage was the similar to prior  
5 to Khmer Rouge time, so that the parents of both parties had  
6 discussions and they agreed upon and then they jointly approached  
7 to the Khmer Rouge for the permission.

8 But I also heard the stories that individual woman tried to  
9 approach the Khmer Rouge asking for permission to marry, so in  
10 that sense, I don't have the -- all the evidences about this  
11 process.

12 [13.34.20]

13 Q. Thank you. And when you say "approach the Khmer Rouge", are  
14 you talking about central authorities in Phnom Penh or are you  
15 talking about local Khmer Rouge authorities in a particular  
16 village or district?

17 A. The -- my research -- my researches were all at the village  
18 level and the people who are referring to the authority, the  
19 Khmer Rouge, is at the village level.

20 Q. And through your research, are you aware of what  
21 considerations the Khmer Rouge authorities at the village level  
22 took into account in whether or not they would approve a marriage  
23 or authorize it, sorry?

24 [13.35.23]

25 A. It's very diverse and I cannot say it was uniformed. For

1 example, some people were allowed if they were at the certain age  
2 range; if they were over 20 or 25, and those people who were  
3 young, who were not married, to marry. So that's one of the  
4 restrictions imposed by some authorities.

5 Whereas, in -- at least in Kampong Cham, they didn't allow  
6 anybody to marry until certain time, so a lot of people tried to  
7 apply for marriage, but the authority denied and told them to  
8 wait until certain time. That was in 1978, if I'm not wrong. So  
9 it's very diverse.

10 Q. And just with the Kampong Cham example, do you know the  
11 reasons why they didn't authorize marriages until a later date?

12 A. I do not know and my informants, they also did not know, so we  
13 want to know why.

14 Q. And from your interviews and the research that you have done,  
15 can you tell the Court what the main reason was, during the Khmer  
16 Rouge period, why some men and women proposed a marriage?

17 [13.37.14]

18 A. There's a clear difference between men and women for the  
19 motivation to propose a marriage. For the women, one of the main  
20 driving factor was that the Khmer Rouge allowed injured Khmer  
21 Rouge soldiers to select the wife and it was -- I think, from my  
22 knowledge, it was nationwide, so many young, single women were  
23 very scared. If she was selected by a former injured Khmer Rouge  
24 soldier, unfortunately, who became paralyzed or handicapped, then  
25 she had to marry with that soldier and many single, young women

1 were afraid to be selected for this. And this didn't apply for  
2 the man.

3 And also another important factor for the single, young women who  
4 tried to rush to marry was that, there were certain privileges  
5 that they believed that they could enjoy if they were married.  
6 That is, for example, any married women could stay close to their  
7 parents, which was and is a very important obligation of  
8 Cambodian daughters to take care of their parents and the second  
9 one is, that many believed that a status as a wife could enable  
10 them to reduce their burden of work. So there are several  
11 motivations for the young women to propose for the marriage.  
12 For the male, I have no information about this, what drives the  
13 men to apply for the marriages.

14 [13.39.18]

15 Q. You referred to the ability of a disabled soldier perhaps to  
16 choose a marriage -- a marriage partner and in your study at  
17 E3/2959 and English 00421894 to 95; in Khmer, 00738350; and  
18 French, 00701497; you spoke to a female regarding being forced to  
19 marry a disabled man and she stated, "My husband was a disabled  
20 person. He had a missing leg. They asked him to build a dam and  
21 he stepped on a landmine. Angkar gave him the right to choose a  
22 wife and he suggested to the Angkar that he'd like to marry me.  
23 He lost a leg during the Pol Pot time, so he had the right to  
24 choose."

25 So my question is: If disabled Khmer Rouge soldiers had the right

1 to choose, did the woman have a right to refuse; could the woman  
2 refuse that?

3 A. To my knowledge, no, she has to follow the decision without  
4 any questioning.

5 [13.41.00]

6 Q. And you also, in another account, you spoke to a former child  
7 soldier who discussed the privileges of a -- the Khmer Rouge  
8 soldier to choose a wife and this is in the -- your book, page  
9 33, and it's E3/2959; English, 00421894; in Khmer, 00738349; and  
10 French, 00701497; and this child soldier said, "One good thing  
11 about the Khmer Rouge was that if you wanted to marry someone,  
12 you could suggest it to the Angkar, but raping was absolutely  
13 prohibited. You can marry anyone you love, but you have to ask  
14 her and then suggest to Angkar. If she did not agree, then the  
15 Angkar would force her."

16 Was that a common account that you -- you've heard in the  
17 research, in the interviews done, where Khmer Rouge soldiers had  
18 more of a privilege to or a privilege to choose a wife and the  
19 wife or the woman would be unable to refuse? Was that a common  
20 situation in your research?

21 [13.42.44]

22 A. The -- my understandings from the interview is this statement  
23 of a former child soldier is very rare that he inquired the  
24 opinion of a girl. The -- most commonly, what I heard is that if  
25 a woman -- a young, single woman was selected to marry a former

1 injured soldier, she has to marry with that man.

2 And I interviewed one injured soldier, earlier this year in

3 Ratanakiri who was a Khmer Rouge soldier. He also confirmed this.

4 It's not very easy for me to meet with the former Khmer Rouge

5 soldier, but I was lucky to meet with him.

6 He told me that he was married in 1975 after he was hospitalized

7 for three months. He was lucky he didn't die. After he came back

8 to Kampong Cham, he could not walk anymore, so he asked the --

9 his leader in the Khmer Rouge that he wants to have a wife now

10 and the leader asked him, "With whom do you want to marry?" And

11 then he just pointed out that girl.

12 And I asked him, "How did you see his -- her face if she's away?"

13 And he said, "Anyway, I thought it's nice to marry with her," and

14 he married with her.

15 And apparently, many others confirmed that many young women were

16 very, very scared if she was selected to marry with the injured

17 soldiers.

18 [13.44.35]

19 Q. You also mentioned, in relation to these authorized marriages,

20 that some -- I think some women decided to accept the proposal to

21 marry because it would improve their living conditions; is that

22 correct? What -- did they explain to you what type of living

23 conditions that they were under that they felt so -- that they

24 felt was so difficult and what did they perceive in terms of an

25 improvement of living conditions if they married?

1 A. The mostly young women, single women, who are up to the  
2 reproductive age, was in the youth group or the mobile unit --  
3 "kang chalat" -- and their lives were very difficult because they  
4 had to wake up at 3 o'clock in the morning or sometimes, 2  
5 o'clock in the morning and they were sent very far away from  
6 their family; particularly, the parents, the mothers. Their lives  
7 were miserable, but they believed if they married, at least they  
8 were not in this group and they could escape from a really tough  
9 labour assigned for the young, single girls and then they could  
10 stay close to their parents and then, potentially, they could  
11 take care of their parents in case they need the daughter.

12 [13.46.24]

13 Q. Thank you. And did you ask this question, specifically, of  
14 them -- of these women that wanted to get married to improve  
15 their living conditions; did you ask them if it wasn't for those  
16 living and working conditions that was imposed upon them that  
17 they wouldn't have got married? Did you ask them that directly or  
18 was that an inference that you drew from the circumstances of  
19 these interviews?

20 A. No, I didn't ask in that way, so the information I collected  
21 was from what they have told me.

22 Q. But it's certainly your opinion that it was because of those  
23 harsh living conditions that provided a strong motivation to them  
24 to accept a marriage proposal; is that correct?

25 A. Yes, that's correct. I would say that they would prefer to get

1 married and they would propose to marry. They were not waiting  
2 for the Khmer Rouge to approach them, but they were waiting to  
3 marry with somebody.

4 [13.47.50]

5 Q. Thank you. And can you explain very briefly a wedding ceremony  
6 -- a typical wedding ceremony, and we understand that not every  
7 situation can be exactly the same, but the common features of a  
8 -- an authorized marriage wedding ceremony in contrast to pre-DK  
9 period?

10 A. The wedding ceremony was very different from the weddings  
11 before the Khmer Rouge. To put it simple, it was just like a  
12 meeting. People were mobilized to have a meeting and, indeed,  
13 many men and women were called for meeting and it was a wedding.  
14 There was no participants from the family members, relatives, or  
15 friends, but only those who were marrying because it was mass  
16 ceremony. There was always more than two or three couples  
17 presenting and the Khmer Rouge or the group of the leaders or the  
18 village chief, who had the authority during the time, were also  
19 presenting and somebody presided the meeting which was the  
20 wedding.  
21 The wedding was very short, most probably to save time, and every  
22 couple were not all; sometimes, their representative, but  
23 basically, every couple was required to make an oath that they  
24 were voluntarily marrying for Angkar and then the meeting was  
25 finished.



1 [13.49.55]

2 Q. Was there any Buddhist rituals at the wedding ceremony; was  
3 there any religious element as was present in the pre-DK period?

4 A. The Khmer Rouge abolished the religion, so there was no  
5 religious ceremony at all and no monks present at the meeting --  
6 the wedding.

7 Q. And I think you mentioned this, but how short was the ceremony  
8 or how long?

9 A. I didn't specifically ask how long it was for each individual,  
10 but I would assume that, maximum one hour, because when they said  
11 there were 100 couples who were marrying in one wedding, they  
12 told me there were representatives who were making an oath  
13 because if every 100 couples were making oath, it is more than  
14 one hour already and everybody said the wedding ceremony was very  
15 short.

16 [13.51.17]

17 Q. Now, still just speaking about the authorized marriages,  
18 before we move into the forced marriages that you've spoken  
19 about, were the parents generally present, parents and family, at  
20 the authorized marriages?

21 A. No, only some rare occasions. Some women and men told me that  
22 their parents were there, but it was very, very rare.

23 Q. Thank you. And the celebratory element; the -- perhaps the  
24 music, the food, the drinks, the dancing, the fashion; all of  
25 those aspects, were they common features at these authorized

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1 wedding ceremonies or were they rare and uncommon?

2 A. All what you have mentioned were uncommon. The -- it's very  
3 diverse, so some people reported that they celebrated the wedding  
4 by killing the cow or there were some special meals, but it was  
5 very, very rare. So commonly, there was no ceremony, no dance;  
6 nothing, but it was just like a meeting.

7 [13.53.00]

8 Q. Thank you. After these authorized marriages had been  
9 officiated in that meeting, was the husband and wife, were they  
10 allowed to live together from that point forward?

11 A. Yes and Khmer Rouge provided a small hut for the newlywed  
12 couples to stay for, my research shows, maybe maximum one day --  
13 one week, so it depends like maybe three days to one week. The  
14 newlyweds were allowed to stay in that hut for the evening, but  
15 during the daytime, they had to work somewhere separately and  
16 after, perhaps, one week, they were already removed meaning most  
17 often husbands were taken away or husbands were forced to move  
18 very far to engage in the hard labour and after, maybe, three  
19 months or if he's lucky, one month, he came back to see the wife.

20 [13.54.26]

21 Q. And can you explain: What was the purpose of providing the hut  
22 or the house for the night of the -- after the marriage or for  
23 the week; why did the Khmer Rouge authorities provide that  
24 accommodation for that short time period?

25 A. It's a very interesting question, but I have no answer to

1 that. I want to think about it.

2 Q. And is it fair to say that your research in relation to  
3 marriages in the -- during the Khmer Rouge period, alongside of  
4 your research into sexual violence more broadly, it's really an  
5 approach from the victim-witness approach as opposed to  
6 analyzing, say, contemporaneous documents from the Party centre  
7 or statements from, you know, former leaders and leaders of the  
8 Khmer Rouge; would that be correct, that's your -- that was your  
9 focus?

10 A. Yes, that's correct. I want to collect the voices of the women  
11 whose stories were never heard. I want those women to feel that  
12 their stories are important and that there are people who are  
13 listening to their stories, so I didn't take account of those  
14 policy documents or whatever that you may have here in the Court.  
15 [13.55.56]

16 Q. And you mentioned there's two ways that people were married;  
17 authorized and forced, and we talked -- we talked a bit about the  
18 authorized marriages.

19 Now, can we talk about the forced marriages and my first question  
20 is: What do you mean by the forced marriages in contrast to the  
21 authorized ones; particularly, bearing in mind, with the  
22 authorized ones, you state that many women would accept a  
23 proposal because of the conditions that was imposed upon them to  
24 help improve their living condition? So understanding -- we  
25 understand that within that authorized marriage way that you were

1 -- have been discussing, but can you tell us what you mean by  
2 this forced marriage -- this forced marriage process? Can you  
3 describe it briefly, how that occurred?

4 [13.57.32]

5 A. The forced marriage that I meant is women simply did not want  
6 to marry for whatever reasons. The -- there were women who were  
7 willing to have husbands chosen by either the parents or Khmer  
8 Rouge and they would have accepted those marriages. I called that  
9 authorized marriage. They were ready to marry with somebody.  
10 But the forced marriage is, regardless of age or social status;  
11 if a person did not want to marry, but forced or instructed by  
12 the Khmer Rouge, I call it forced marriage.

13 [13.58.25]

14 Q. And do you call it forced marriage if only one of the partners  
15 didn't want to marry or are you calling it forced marriage only  
16 when both partners didn't want to marry?

17 A. I am looking at individual, so for example, if any man where I  
18 met with man who were forced into marriage against his will. He  
19 was forced to marry even though his wife requested a marriage to  
20 the Khmer Rouge.

21 And for example, other good examples are those former Khmer Rouge  
22 soldiers who became paralyzed. They were willing to marry with a  
23 woman that they have chosen or any woman that the Khmer Rouge may  
24 have chosen. But in these marriages with the former soldiers, in  
25 most cases, women were forced. They didn't want to marry.

1 [13.5.36]

2 Q. You described the authorized marriages and the way those  
3 ceremonies were conducted and how that process was initiated. In  
4 terms of the ceremony, the marriage ceremony or the meeting, were  
5 the forced marriage ceremonies different to the authorized  
6 marriage ceremonies or is it a case that they were often mixed?

7 A. Again, I cannot generalize but my impression is that it's  
8 mixed. It's mixed and some were forced and some were not forced.  
9 But my impression, though I don't have accurate figure, is at  
10 least in 1970, late 1977-1978, many mass weddings were organized  
11 among only forced marriage couples.

12 Q. And perhaps if you can give us an example of how one of those  
13 forced marriage ceremonies occurred. From the time that the man  
14 or woman was told they would be married to the time of the  
15 wedding, can you just briefly describe it again in relation to  
16 those forced marriage ceremonies?

17 [14.01.21]

18 A. There are many patterns but most commonly both men and women  
19 they were informed that they were going to marry early in the  
20 morning or one day before, afternoon or one day before. And the  
21 marriage ceremony was conducted by the evening of that day. So it  
22 was very short, within 24 hours.

23 Q. And perhaps if I can read a brief account from one of your  
24 books in relation to one of these forced marriage ceremonies, and  
25 it's at page 277.

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1 Mr. President, if I can ask that perhaps the quote that I am  
2 about to read could be shown on the screen so others can follow?

3 And in fact, there is a few excerpts that I would like to read  
4 out to the witness. I'm just asking if we can call those up on  
5 the screen as they are being read out, if Your Honour pleases.

6 MR. PRESIDENT:

7 Yes, please proceed.

8 [14.02.40]

9 BY MR. SMITH:

10 Thank you. This is at bookmark 277 and it's E3/10655 and English  
11 ERN 01322865; no French and no Khmer.

12 Q. And this is an interview that you state was from--

13 MR. PRESIDENT:

14 Mr. Co-Prosecutor, please repeat the ERN numbers once again to  
15 facilitate the interpretation.

16 [14.03.12]

17 BY MR. SMITH:

18 I apologize, Your Honour; 01322865 in English only.

19 Q. And this person was from a forced marriage in Preah Vihear,  
20 and she states:

21 "I was forced to marry a man who lived in another village. I  
22 never knew him before the marriage. I felt so bad, and I really  
23 did not want to marry him. The ceremony was held inside a house  
24 with a roof, a kind of Khmer Rouge meeting place. There was no  
25 music. My parents were not there with me. The only people present

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1 were those who were going to marry, so there were hundreds of men  
2 and women who had never seen nor known each other before. There  
3 were both Base People and New People there. Suddenly, a Khmer  
4 Rouge leader of the male group ordered those men in the room to  
5 choose any woman who they wanted to have as a partner. One man  
6 pointed at me, and the Khmer Rouge soldier instructed us to make  
7 an oath for Angkar by saying that we were marrying. It was in  
8 June or July 1976. We then became a couple from that day on."

9 [14.04.43]

10 "At that time hundreds of couples had to marry and ate together  
11 after the ceremony. No one could refuse the marriage order. If  
12 anyone refused, they would be killed. "It was unfortunate that my  
13 mother was not there with me when I was forced to marry."

14 Is that account from the woman that you spoke to, is that an  
15 account that's perhaps typical to some of the other people that  
16 you spoke to in relation to forced marriages, the way in which  
17 the meeting occurred and the fact that there was lack of notice  
18 and the fact that there was large numbers of people all being  
19 married at the same time? Is that a common account?

20 MS. NAKAGAWA:

21 A. The way how the wedding ceremony was arranged was common, but  
22 this situation where -- my notes say "Mae Krom Pros" (phonetic)  
23 -- so the male group leaders ordered the people to select either  
24 the man to select the wife. This is not very common.

25 So normally before the wedding, they are instructed and the

1 partner was decided already and then they were brought to the  
2 wedding. And I think this is very unique case.

3 [14.06.25]

4 Q. So in these forced marriage situations of the people you have  
5 spoken to, was it when they arrived at the ceremony and the Khmer  
6 Rouge authorities had already selected who would marry who; is  
7 that correct?

8 A. That is correct. So even though the women did not know who to  
9 be her husband beforehand, when they were brought to the wedding  
10 ceremony place, they were ordered to sit in one line, females in  
11 one line and males in one line. And normally, the person that you  
12 are marrying is in front. They were matched together already or  
13 sometimes they were given the numbers, so that if there are too  
14 many people, you cannot see who is the husband. So the Khmer  
15 Rouge already prepared the match in the wedding.

16 Q. And did you hear many accounts from witnesses that there were  
17 these forced weddings or forced marriages were in large numbers?

18 I mean here the woman said there was hundreds of people there to  
19 be married. Have you heard other accounts where there were  
20 hundreds or certainly large numbers of people that were forced  
21 together?

22 [14.08.09]

23 A. The largest number I heard was 300 but it's very rare. It is  
24 mostly less than 50.

25 And this woman, the same woman that you are quoting, she



1 explained the typical wedding in the Khmer Rouge is two to eight  
2 couples per day and they married at "angkapheap", but her wedding  
3 was different.

4 Q. And was a man or a woman able to refuse an order to get  
5 married?

6 A. It is again very diverse. There are a lot of opportunities  
7 when both men and women could refuse. Not only one time but  
8 multiple times they could refuse and they escaped the marriage.  
9 But a lot of times, particularly in 1977-1978 when people were  
10 already terrorized by the Khmer Rouge, by saying no, by refusing,  
11 it might mean their death, that they would be killed. So many  
12 people could not even say no even they didn't want to say no.  
13 But the answer is that there was possibility that the people  
14 refused to marry.

15 [14.09.50]

16 Q. And was that possibility to refuse to marry; was that -- did  
17 that exist in all areas, all parts of the country from where you  
18 interviewed your witnesses or would that appear or that option  
19 appeared in one location or a number of locations?

20 A. If I am not wrong, I hear those possibilities everywhere that  
21 I visited.

22 Q. And did you also hear accounts from witnesses that they were  
23 unable to refuse to marry? So you were hearing two different  
24 accounts?

25 If I can read you a passage from your book and it's E3/10655;

1 English, 01322864; no Khmer or no French. And this is a passage  
2 from a widow who was threatened to be killed for refusing a  
3 marriage arranged by the Khmer Rouge.

4 [14.11.12]

5 And she states -- and this is the large book, page 276:

6 "When my son was one year old, I was ordered to marry by the  
7 Khmer Rouge. I did not want to marry. I was scared that my future  
8 husband might abuse my baby from the previous husband. Therefore,  
9 I refused. It was in the morning when I was told to marry. Then  
10 the village chief came to talk with me and said, 'If you do not  
11 agree to marry that man, you will be killed.' Therefore, there  
12 was no choice and I had to marry that man.

13 "I married him in the evening of the same day when I was ordered  
14 to marry. I was never happy with that husband and we did not talk  
15 to each other at all. I had no feelings for him. After our  
16 marriage, he was sent to somewhere else and we did not stay or  
17 live together. Maybe only one time in three months he came back  
18 to see me."

19 This -- these threats of being killed that this woman refers to,  
20 was that a common feature that you heard from other witnesses in  
21 relation to their choice to go through with the marriage because  
22 of these threats or was that a rare example?

23 [14.12.51]

24 A. There are two patterns. One was that the Khmer Rouge or the  
25 village chief explicitly said so that they would be killed or a

1 family member was killed if they refused, but it is not very  
2 common even though I cannot minimize the size.

3 The -- more importantly, the second pattern is that people are  
4 already terrified. They were living under the extreme fear if  
5 they were against the Khmer Rouge they would be killed.

6 So there was a silent pressure in the society where they should  
7 not say no.

8 Q. Did you hear any accounts or you referred to some in your  
9 reports of women that were raped because they refused to marry;  
10 is that correct?

11 A. Yes, I think in my first research I heard that story. And I  
12 also heard a woman who had to witness another woman's rape  
13 because she refused to marry.

14 [14.14.14]

15 Q. And perhaps if I can just read one of those accounts out, and  
16 this is in relation to your first book at E3/2959; English,  
17 00421893; and Khmer, 00738347 to 48; and French, 00701496.

18 This woman states her husband had died and then she was ordered  
19 to marry, and she states: "My husband was a French soldier. They  
20 hanged my husband. Five months later they told me I had to marry  
21 but I refused. They took me to the forest and raped me. After  
22 they raped me, I said to them, 'Kill me'. I said, 'Six of my  
23 children have already died, so please dig a hole and bury me  
24 together with my four remaining children. I won't agree to marry.  
25 Now, I'm almost mad.'"

1 Do you remember speaking to that woman?

2 A. I'm sorry; I don't recall my conversation with her.

3 [14.15.45]

4 Q. And with -- with all of the interviews or the excerpts from  
5 interviews in your three different reports, were all of those  
6 interviews conducted by you or were some of them conducted by  
7 other researchers that were working with you?

8 A. The -- my first research as I informed the President of the  
9 Court this morning, the interviews were conducted by me and my  
10 colleague, so there were two.

11 And the -- another book, "Motherhood at War" which you are  
12 referring, many interviews were conducted by me but some were  
13 conducted by my students.

14 And if I may, you may have another evidence -- another book on  
15 gender-based violence against sexual minorities in the Khmer  
16 Rouge time which I also documented many forced marriages. All the  
17 accounts are taken by me. I did all the interviews.

18 [14.16.57]

19 Q. Did you also hear accounts of people that were forced to --  
20 ordered to marry but refused and were sent to hard labour or sent  
21 to prison, and if you can explain a little?

22 A. Yes. I heard many stories of the punishment of refusal to the  
23 marriage. One of the recent ones I heard was from Ratanakiri. She  
24 was in the child group "Kong Koh Chhmar" (phonetic) and she was  
25 15 years old when she was forced to marry. That was the end of

1 1978. No -- yes, around 1978.

2 And she was too small. She was only 15 years old and she refused  
3 to marry and she was sent to the re-education camp for three  
4 months. Then the Vietnamese came.

5 And also in my research in "Motherhood at War", I interviewed one  
6 woman who was also sent to -- well, maybe not one but I recall  
7 now one woman in Siem Reap that I interviewed. She told me she  
8 was sent to the re-education camp because she refused the  
9 marriage.

10 [14.18.16]

11 Q. In relation to these accounts that you refer to, do you think  
12 that when a Khmer Rouge authority approached a man or a woman and  
13 instructed or ordered them to marry, do you think, and from the  
14 information you have received from the people you have spoken to  
15 that they were in -- had an ability to exercise a full and frank  
16 consent to that marriage or not?

17 A. It may depend on the location, the governance system of the  
18 location and the year, in my opinion.

19 In some areas, apparently the village chiefs were very  
20 sympathetic and very nice. So even though the people are forced  
21 to engage in the very tough labour, still the village chief was  
22 sympathetic and very nice. And under those conditions, people  
23 dared to question or refuse their proposals.

24 But in other areas where Khmer Rouge at the village level imposed  
25 a strict level -- strict regulation, people's lives were filled

1 with terror. They were terrified and they were scared all the  
2 time. So it could have been impossible to raise their voices to  
3 say no.

4 [14.20.09]

5 Q. And just briefly, when we discuss where your interviews were  
6 conducted and where people gave you evidence of reports of these  
7 forced marriages, was -- were the people that said they were in  
8 terror, in fear from refusing if they refused to accept to follow  
9 the marriage proposal or the marriage instructions, were they  
10 people living in different areas around the country?

11 A. My research was not only focusing on the forced marriage, it  
12 was broader in scope. So it was the lives of mostly women in the  
13 Khmer Rouge time.

14 And most commonly, women were scared, women were afraid and women  
15 were very worried during the Khmer Rouge time. And the degree of  
16 those feelings differs from one place to another and also from  
17 individual to another, so I cannot generalize.

18 But it was reported from all divisions that I visited, women were  
19 living under the terror, continuous terror.

20 [14.21.43]

21 Q. Thank you. And perhaps now after the -- we can move to what  
22 happened after the marriage ceremony.

23 You said in the authorized marriages that the Khmer Rouge  
24 authorities provided a hut or a place for the men and women to  
25 stay together for a day or a week. For the people that were

1 forced to marry, did you receive any accounts from witnesses that  
2 they were also forced to consummate that marriage or not?

3 A. For those men and women who were authorized to marriage, I  
4 don't have a clear picture whether they were instructed.

5 But for those people who were forced against their will to marry,  
6 the same with the others. They were prepared a hut to stay a  
7 night or several nights together. So they were instructed to stay  
8 together overnight in those places and mostly they were  
9 instructed to consummate the marriage.

10 [14.23.15]

11 Q. From speaking to witnesses, did you come across accounts of  
12 witnesses that didn't want to consummate the marriage but were in  
13 fear not to do so?

14 A. Yes, both men and women. They said that they didn't want to.  
15 Not all but some explicitly said that they didn't want to and  
16 they had to for their survival.

17 Q. If I can read an account from your first book, E3/2959;  
18 English, 00421892; Khmer, 00738345; and French, 00701495; and  
19 it's in the book at page 89.

20 An interview was conducted with a female who states she was  
21 beaten by her husband after refusing to have sex after the  
22 wedding.

23 And she states: "My second husband was a New Person. At the first  
24 day after the wedding, he beat me because I did not love him and  
25 refused to have sex. He hit me on the thighs with his hands so I

1    couldn't struggle and it made it easier for him to have sex with  
2    me."

3    [14.24.57]

4    My question is, is that type of account common or isolated where  
5    a husband would beat his new wife if she didn't consummate the  
6    marriage? Is that a common story or an isolated one?

7    A. It's very difficult to answer to your question because it  
8    depends on the individual. Apparently, some men used violence. It  
9    could be because he was also scared that he has to consummate the  
10   marriage and that drove him to use the violence against his wife.  
11   But I also met men who were very scared and who could not do it  
12   because a lot of men, they were deprived. If they were forced to  
13   marry, they were deprived of their masculinity to initiate the  
14   marriage, to start controlling the marriage life. And on the  
15   first day, he was forced to see a wife that he has to be a  
16   provider and a protector according to the Cambodian tradition.  
17   Khmer Rouge could not get rid of those stereotypes of masculinity  
18   among the Cambodian men.

19   [14.26.47]

20   Then those men also wanted to treat their wives nice. They wanted  
21   their wife to like him and then they were at a loss. They didn't  
22   know how to do in front of the wife who was so scared and who was  
23   apparently refusing him.  
24   So this account -- there were some accounts like this but not all  
25   men who were forced into marriage behaved in this way. And I



1 cannot say it was rather common or rare.

2 Q. Did the couples that were forcibly married -- did you hear  
3 accounts that said they were being monitored by the Khmer Rouge  
4 local authorities to ensure that the marriage was consummated?  
5 Did you hear accounts of that nature?

6 A. Yes, I heard those stories, particularly by the people who  
7 were forced to marry against their will.

8 Q. And were those accounts of being monitored to ensure that  
9 their marriage was consummated, were they -- were they common  
10 accounts?

11 A. I heard many stories but I cannot say it was common. It could  
12 have been common.

13 [14.28.40]

14 Q. As a result of a couple being forced to marry, were you -- did  
15 you hear any accounts of women that had become pregnant because  
16 of that forced marriage and particularly any thoughts that those  
17 women had in relation to wanting to abort the child?

18 A. Many women got pregnant in the Khmer Rouge time and some were  
19 as the result of those forced marriages. In principle, those  
20 women that I met, all women did not want to get pregnant in the  
21 Khmer Rouge time. So there is no difference between the women who  
22 were forced to marry or who were already married or who were  
23 voluntarily married and authorized in the Khmer Rouge time.  
24 But what I heard was those women who were forced to marry against  
25 their will and who became pregnant as a consequence of those

1 marriages, their suffering was more severe than the others. The  
2 depression level was higher than the other women.

3 [14.30.10]

4 Q. And perhaps if I can read a brief account from your book, your  
5 motherhood book, and it's book page number 289. It's E3/10655;  
6 English, 01322877; and this woman talks about having an abortion  
7 after being forced to marry a man when her dreams of being a  
8 doctor died. Now, this may be the woman you referred to earlier  
9 and she states:

10 "When I was pregnant, I thought about having an abortion. It was  
11 really tough for me to be pregnant during that time. Even after  
12 some babies were born, their lives were so tragic. They could  
13 live with old grandmothers who fed the babies by chewing betel  
14 nut and rice together. I could not stand to see that. Those  
15 babies were sick a lot. It was so miserable, and I felt so sorry  
16 for my future baby. I thought it was better for a baby not to be  
17 born. It was better for me not to have a baby. However, there was  
18 nothing I could do to stop my pregnancy. We did not have the  
19 means to have an abortion during the war."

20 That account of a woman wanting to have an abortion but was  
21 physically unable to, have you heard other accounts from other  
22 women that were forcibly married that had that thinking as well?

23 [14.32.04]

24 A. Because abortion is a taboo issue to talk among Cambodians, it  
25 is against their religion as they believe and it's against their

1 tradition, so I don't think so -- women openly talk about it with  
2 me.

3 But in my research I always asked the women: Was there any time  
4 when they thought about abortion when they were pregnant in the  
5 Khmer Rouge time? And many explicitly said they wanted to have  
6 abortion regardless of the reason of marriage.

7 And I think this woman, Ms. Phom was really sad when she was  
8 pregnant because she didn't like the husband.

9 Q. And did you meet many people that were forced to be married  
10 but stayed together after the Khmer Rouge period and if they did,  
11 did they give you any reason why they stayed together if their  
12 marriage in fact wasn't their own choice?

13 [14.33.28]

14 A. Yes, I did ask this question and the majority of the people  
15 thought that they were married by whatever reason they should  
16 stay together. That's the bottom line.

17 But if I listen to the voices of women, many women said that they  
18 decided to stay with the husband or they decided or they liked  
19 their husband because their husband brought food. And it was an  
20 expectation, stereotypical expectation of Cambodian women that  
21 man should be a protector and provider.

22 During the Khmer Rouge time those masculinities or gender roles  
23 were deprived from the man. The husband could not provide any  
24 protection for their wives.

25 After the Khmer Rouge, the traditional stereotypical ideas came

1 back and men were expected to support the family, to protect, to  
2 provide and if men could fulfil those masculinities, the wives  
3 started to like the husband.

4 And that was the major reason that I heard.

5 [14.34.52]

6 Q. And what about the issue with forced marriage generally? When  
7 you spoke to these men and women that were forced, what was --  
8 was there a common view about it that they were unhappy that they  
9 were forced to be married or they were happy about it? Can you  
10 explain how they felt about the forced marriage itself?

11 A. Because it's already 40 years after they were forced to marry  
12 the idea would be identified as of now. Those who were forced and  
13 separated already by their decision or husband's decision, they  
14 regret that the marriage happened at all. They didn't welcome it  
15 at all.

16 But those who continued their marriage, they may not deny all the  
17 journeys they travelled together until now because they started  
18 up from the scratch after the Khmer Rouge, their marriage life  
19 with the children for survival.

20 But when I asked them about the specific ceremony, wedding  
21 ceremony and how they were married, mostly women said that they  
22 regret that they didn't have a proper wedding, particularly they  
23 regret they didn't have nice clothes, nice makeup and parents  
24 were not there.

25 For the man, those that I interviewed, they didn't show much

1 emotions about their forced marriages. They accept it as it was  
2 and they didn't have great remorse.

3 [14.36.55]

4 Q. When -- just going back with the consummation of the marriage,  
5 in your opinion when the woman or man was instructed or ordered  
6 to be married, were they able to exercise full and free consent  
7 in terms of having sexual intercourse with their partners in that  
8 DK period?

9 A. No, I don't think so. The consent to the marriage, the forced  
10 marriage, was of course not their own free will and the decision  
11 to sexuality was also not their own. They were terrified and they  
12 were scared. So it was not from their genuine decision, both men  
13 and women.

14 [14.38.06]

15 MR. SMITH:

16 All right. Thank you.

17 Mr. President, it's 20 to 3.00. I can keep going but if you would  
18 like to break, I leave it in your hands.

19 MR. PRESIDENT:

20 Thank you, Mr. Deputy Co-Prosecutor. The Chamber will take a  
21 20-minute break.

22 The Chamber is now in recess.

23 (Court recesses from 1438H to 1500H)

24 MR. PRESIDENT:

25 Please be seated.

1 And the prosecutor, you may resume your questioning.

2 [15.00.49]

3 BY MR. SMITH:

4 Good afternoon, Mr. President, counsel and Ms. Expert.

5 Q. I just have a few more questions for you.

6 You've said today that you've done some significant research in  
7 relation to sexual violence in Democratic Kampuchea and, in  
8 particular as well, in relation to the regulation of marriage,  
9 authorized marriages and forced marriages. You have material on  
10 that in your first book in 2008. You have material on that in  
11 your second book in relation to sexual violence against  
12 minorities; sexual minorities. You have information about forced  
13 marriages in your third book "Motherhood at War".

14 You said today that you've also received information reports of  
15 forced marriage in relation to your current work dealing with  
16 child soldiers during Democratic Kampuchea.

17 You refer in your report to the report of De Langis and others.

18 It's entitled, "Like Ghost Changes Body (Study on the Impact of  
19 Forced Marriage Under the Khmer Rouge Regime)" which was produced  
20 in 2014.

21 And I assume you've also read the study of Rochelle Braaf,  
22 "Sexual Violence Against Ethnic Minorities During the Khmer Rouge  
23 Regime" in 2014.

24 So my question is, in light of what you've told us today, in  
25 light of the studies you have done and the studies you are doing,

1 the studies of these others, other authors, in your opinion, were  
2 forced marriages occurring in Democratic Kampuchea in most  
3 provinces during that period of time?

4 [15.03.03]

5 MS. NAKAGAWA:

6 A. Yes, that's correct.

7 Q. Also you mentioned earlier that another woman who did a -- who  
8 made a report who was working with you at the time, I think at  
9 the Cambodian Defenders Project, her name was Ms. Bridgette  
10 Toy-Cronin and she wrote a report based on the same evidence that  
11 you collected as a team. And I would just like to put to you an  
12 opinion she had on that evidence and I would ask you if you could  
13 comment on it.

14 The book is "I Want to Tell You" - Stories of Sexual Violence  
15 during Democratic Kampuchea" and it's E3/3416; English, 00449489;  
16 Khmer, 00721382; and French, 00630485. And it appears in book 87,  
17 book number 87 and if I can ask that it be shown on the screen?  
18 But if I just read -- if I just read her quote:

19 [15.04.24]

20 "The consistency of the description of the ceremonies across  
21 geographical areas indicates the top level policy of forced  
22 marriage. There were some variations in how strictly the local  
23 administration applied the policy. As Sophon explained: I  
24 declined to marry two times on the pretext that I lacked a dress  
25 or a scarf but I decided to marry when they asked the third time.

1 In that area people were not forced to marry as they did at  
2 others. Some areas were very strict that people could not deny  
3 their orders, but Kampong Trach district where I lived was not so  
4 strict, that is why I could reject their order." End of quote.

5 And then Ms. Toy-Cronin goes on to state, "Even in this area, it  
6 is clear that policy existed. The variation was only in the  
7 implementation."

8 I assume you've read her report. Can you comment on her opinion  
9 as to the consistency of descriptions in the geographical areas  
10 indicates a top-level policy and the variation of forced  
11 marriages in different areas was only in the implementation? Do  
12 you agree with that?

13 [15.06.10]

14 A. I think there was a policy from top level to organize mass  
15 weddings. But I don't have enough evidence to say that there was  
16 a policy from the top level to organize forced marriages.

17 Q. Thank you. And nonetheless, your evidence is that forced  
18 marriages occurred in most provinces in Cambodia. Is that  
19 correct?

20 A. That was correct.

21 [15.06.51]

22 Q. Okay. If I can put a document to you and it is a policy  
23 document from the Communist Party of Kampuchea, and it relates to  
24 a "Revolutionary Flag" and it's entitled "Revolutionary and  
25 Non-Revolutionary World Views Regarding the Matter of Family



1 Building". It's from the 2nd of June 1975 but was reprinted from  
2 the 2nd of February 1974. And we show it on the screen. It's book  
3 number 487 and the E3 number is E3/775; English, 00417943; Khmer,  
4 00407101; and French, 00593930.

5 And it reads, "How should we, the revolutionary youth, choose a  
6 spouse?"

7 It goes on and says: "Organizational discipline must be  
8 absolutely respected. In the matter of family building, no matter  
9 the outcome of the organizations and the collectives' assessments  
10 and decisions, they must be absolutely respected. Do not have  
11 hard feelings. Do not be disappointed. This is because only the  
12 organization and the collective are able to make a thorough  
13 assessment from every aspect. Therefore, do subjectively and  
14 follow your personal emotions."

15 Now, that's a magazine that's directed towards Communist Party of  
16 Kampuchea cadre, high-level Khmer Rouge during the period.

17 [15.08.54]

18 And I'll just put one more quote and then I'll just ask you a  
19 question.

20 Now, this is a statement from Nuon Chea, which was recorded by  
21 his biographers, Gina Chon and Thet Sambath in their book,  
22 "Behind the Killing Fields". This is book number 455 and it's  
23 E3/4202, 00757496 and Khmer 0085--

24 MR. PRESIDENT:

25 Co-Prosecutor, please repeat the ERN numbers again and do it

1 slower.

2 BY MR. SMITH:

3 I apologize again, Your Honour, 00858253 in Khmer; in French,  
4 00849377 to 78.

5 Q. And the authors quote Nuon Chea when he states, "The man  
6 always wants to choose a beautiful girl. So that's why we forced  
7 them to get married and Angkar choose his wife."

8 With these statements in mind -- we have an objection.

9 [15.10.26]

10 MR. KOPPE:

11 We do have an objection, indeed.

12 MR. PRESIDENT:

13 Yes, counsel for Nuon Chea, you have the floor.

14 MR. KOPPE:

15 Yes, Mr. President, I do have an objection. Let me start with a  
16 minor one. I'm not quite sure as to why Thet Sambath and Gina  
17 Chon have now been promoted to the biographers of Nuon Chea. So  
18 that is a very small objection to that phrasing of that  
19 particular question.

20 The other objection goes to the selectivity of the documents the  
21 Prosecution is quoting from. It's quoting from a "Revolutionary  
22 Flag" whereas, at the same time, the Prosecution is well aware of  
23 the existence of the 12 revolutionary principles, specifically  
24 principle 6, which is much more concrete as to marriages.

25 [15.11.34]

1 More importantly, the expert has just testified earlier that she  
2 has not studied any documents, policy documents, revolutionary  
3 documents, contemporaneous documents. So by her own admission,  
4 she is not an expert as to those particular documents, policy  
5 documents so--

6 JUDGE FENZ:

7 I'm sorry, Counsel. Wouldn't it make sense to wait for the  
8 question until you object? You object to -- I haven't heard the  
9 question yet. I have just heard documents that were presented.  
10 You seem to make assumptions as to what the question will be.  
11 Doesn't it make more sense to wait for the question until you  
12 object?

13 MR. KOPPE:

14 We can all anticipate the question but if the Prosecution would  
15 be so kind and stand up and ask the question, I am sure I will  
16 object on the exact same grounds.

17 [15.12.32]

18 BY MR. SMITH:

19 Thank you, Your Honour.

20 Q. These statements that I have just read out to you where the  
21 authors are indicating that the CPK, Communist Party of Kampuchea  
22 have control over the marriage process, is that -- are those  
23 statements consistent with the field studies that you have done  
24 about the control of Khmer Rouge authorities at the local level  
25 on a nationwide basis?

1 MR. KOPPE:

2 So now the question has been posed, I maintain my objections. It  
3 is a selective quotation, selective citation from the existing  
4 contemporaneous documents from the CPK. And in addition, as I  
5 said earlier, according to the admission of the expert, she  
6 herself is not familiar with policy documents. She hasn't studied  
7 them. So asking her for an expert opinion on this particular  
8 issue is going beyond her expertise.

9 And the minor objection as to how Thet Sambath and Gina Chon  
10 should be qualified, I, of course, also maintain.

11 [15.14.11]

12 JUDGE FENZ:

13 Counsel, do you so far get the impression that this expert isn't  
14 able to say, "I don't know" or "I don't have an answer" if she  
15 doesn't have an answer? I have heard that, I think, two or three  
16 times.

17 So this is not a witness which can be easily misled and obviously  
18 you are open or free to use all the evidence you want to use in  
19 support of a question to the expert. Again, that's an expert.  
20 That's not a witness to be misled.

21 MR. KOPPE:

22 I do absolutely agree with you that this expert other than most  
23 experts is perfectly capable of acknowledging as to what she is  
24 an expert in or not. That doesn't change the fact that I do  
25 object to the selection of the contemporaneous document. That is

1 something that is a very common objection in this courtroom. I  
2 get objected to selective use of materials all the time. So I  
3 wouldn't have any problem with the question than if the  
4 Prosecution would add in the mix the sixth revolutionary  
5 principle.

6 And I take your guidance as to the capability of this particular  
7 expert, other than others, acknowledge what is indeed her  
8 knowledge and what isn't.

9 [15.15.39]

10 BY MR. SMITH:

11 Yes Your Honour, in fact, that's my last point. I will get to the  
12 12 precepts or certainly, code six.

13 Your Honour, certainly the witness -- the expert wasn't being  
14 misled. It was just she has expertise in terms of the widespread  
15 practice of forced marriage, it is reasonable for her to comment  
16 on whether or not those documents are credible in the position  
17 that they are putting forward.

18 Q. But perhaps if we move forward, did you answer my question?

19 MS. NAKAGAWA:

20 A. No.

21 [15.16.16]

22 Q. No, all right.

23 So are those -- are the observations that you had made in  
24 relation to the widespread practice of forced marriage across  
25 Cambodia from yours and other research, is that consistent with

1 the level of control that is being indicated in relation to this  
2 magazine and the statement of Nuon Chea as to the level of  
3 control over marriages in Democratic Kampuchea? Is it consistent?

4 MR. KOPPE:

5 Then I need to have a ruling. I object, Mr. President, because  
6 it's a very smooth way of moving away from it but I need to have  
7 the Prosecution read out that sixth principle. Otherwise, I  
8 object to the question.

9 [15.17.10]

10 MR. PRESIDENT:

11 The objection is overruled.

12 And Ms. Expert, please respond to the question.

13 MS. NAKAGAWA:

14 A. Thank you very much for the evidence from "Behind the Killing  
15 Fields".

16 The reasons for marriages seems to me very weird and I do not  
17 recall those reasons to be raised that men were choosing the  
18 beautiful girls and etc. But on the bottom that Nuon Chea thought  
19 the purpose of marriage should be to serve the movement as he --  
20 to have married -- the purpose of marriage should be to serve the  
21 movement, exactly much what I have seen.

22 And for another document also, I don't think so I can link this  
23 to forced marriage but I can link this to the marriage life that  
24 the marriage life per se did not exist after people were married  
25 or people were forced to marry. That's what I can say.

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1 [15.18.32]

2 BY MR. SMITH:

3 Q. Thank you, Ms. Expert.

4 I just have two last, two very quick last questions. I want to  
5 refer you to a "Revolutionary Flag" magazine. It's produced by  
6 the Communist Party of Kampuchea in October 1978 and it states --  
7 it was entitled, "Concentrate on Further Indoctrination of the 12  
8 Precepts of the Revolutionary" and it's at E3/765; English,  
9 00539994; Khmer, 00376493 to 97; and French, 00540024 to 25. And  
10 that's the book number, 514, effectively showing on the screen.

11 I want to just go to a small passage where it states:

12 "And as for the current issue of setting up a family, there is no  
13 obstacle; this is just based on two principles of the Party.

14 First, both parties agree and, second, the collective agrees, and  
15 then it is done. Why should this impact on male-female morality."

16 This is dated October 1978.

17 My question to you: Does this reflect what was happening in  
18 Cambodia in relation to the practice of forced marriage or not?

19 [15.20.31]

20 A. These two principles to some who are married, they could have  
21 applied, that I mean two principles was applied, but those who  
22 are forced to married, they were forced to make an oath that they  
23 agreed to marriage. So it was not from their genuine consensus.  
24 And for the collective agrees under the fear of the violence,  
25 nobody could make any objections to other people's marriage. So

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1 from the Party side, it could have been said that both party  
2 agreed in the wedding ceremony, and collective agreed in the  
3 ceremony, but from the women and men's view, some, yes, they  
4 agreed, but some they didn't. So those two principles were not  
5 applied to all the marriages.

6 MR. SMITH:

7 Thank you, Mr. President. We have no further questions.

8 MR. PRESIDENT:

9 Thank you, Co-Prosecutor. And now I hand the floor to the Lead  
10 Co-Lawyers for civil parties.

11 [15.22.15]

12 QUESTIONING BY MS. GUIRAUD:

13 Thank you, Mr. President. Good afternoon, everyone.

14 Good afternoon, Madam Expert, my name is Marie Guiraud and with  
15 my colleague, Ang Pich, I will be representing the civil parties  
16 in this case.

17 Q. I have several questions to ask of you, principally on the  
18 impact of these forced marriages on men and women during the  
19 Democratic Kampuchea regime and then afterwards after the end of  
20 the regime.

21 I would like to begin by what you spoke about this morning when  
22 you indicated that for the parents before the regime of  
23 Democratic Kampuchea, the decisions concerning education and  
24 marriages were probably the most important ones for Cambodians.  
25 So, I wanted to know if marriages at that time, before the DK



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1 regime, were an important event in the life of a woman or a man  
2 in Cambodia. What was the importance of the event of marriage in  
3 someone's life?

4 [15.23.40]

5 MS. NAKAGAWA:

6 A. Thank you so much.

7 The importance of the marriage before the Khmer Rouge time for  
8 women was, they had to fulfil the duties as daughters to follow  
9 their parents' decision to marry them and to pay the respect,  
10 gratitude to the parents. So it's a very important symbolic  
11 process for the daughters.

12 And for men, it was a very important start that men can fulfil  
13 their hegemonic masculinities to be a main protector and main  
14 providers for his own family away from his parents.

15 Q. Thank you. You have explained how women, in particular, viewed  
16 marriage as a way to honour and respect their parents. I wanted  
17 to know if, on the other hand, marriage also offered some type of  
18 protection to the woman who accepted to get married?

19 [15.25.14]

20 A. Yes, that's correct. Women are under the protection at all  
21 stages of their lives. So they were under the protection of their  
22 parents and then this switched to their husband.

23 Q. In a document that has already been submitted to you this  
24 morning, Theresa De Langis's work E3/9614, ERN in English  
25 01037063, she mentions a "safety net" which is said to have

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1 disappeared during the DK regime. Do you agree or what is your  
2 opinion on this term "safety net" which existed before and which  
3 is said to have disappeared after?

4 A. I agree. There was no safety net at all for both men and women  
5 during the Khmer Rouge time. An individual was separated from  
6 their families. Daughters and sons were removed by their parents.  
7 Husband was removed from the wife, wife was removed from the  
8 husband.

9 All social, fundamental structure was destructed and destroyed by  
10 the Khmer Rouge, so there was no safety net.

11 [15.27.00]

12 Q. And can you describe more precisely to the Chamber what the  
13 impact was on the women that you interviewed of the disappearance  
14 of the safety net?

15 A. For the young single women who were not yet married, they lost  
16 the protection from their parents and, of course, they lost the  
17 opportunity to provide protection for their parents that they  
18 were supposed to do. And the emotional impact from such should  
19 have been huge that daughters could not protect their parents.

20 It depends on the age, but if a girl at that time started already  
21 to help some housework, she was already internalized the idea  
22 that she has to also provide some protection to their parents.

23 It's vice versa. So the daughters would have impacted to be  
24 deprived of such an important duty in her life, to protect their  
25 parents, which is a part of paying back their respect, gratitude

1 to their parents.

2 [15.28.38]

3 Q. And for the men, were you able to draw a conclusion on the  
4 impact that it had on them, the disappearance of the safety net?

5 A. For the single man, single boys, who are not married in the  
6 Khmer Rouge, they -- again, it depends -- but for the elder one,  
7 let's say between 10 to 20 who are single, they were -- the  
8 younger ones missed their mothers so much. They needed a lot of  
9 protection and love from their mothers.

10 I was very much moved when I met with elder man who repeated that  
11 he told me they missed their mother. It was very moving to me.

12 And how they tried to see their mothers at the risk of their  
13 life. But I don't think so that the man, in the same way as  
14 women, they thought that they have to provide protection for  
15 their parents.

16 [15.29.57]

17 Q. Thank you. Now, I would like to quote to you a very short  
18 excerpt from testimony we heard here before the Court. This is  
19 2-TCCP-232, that is the pseudonym that was assigned to this civil  
20 party who was heard on 25 August 2016, and who indicated at 10.05  
21 approximately -- he was describing the differences between the  
22 marriages before the DK regime and after the DK regime, <and> he  
23 said: "Before <the> family had to take part in order to bless the  
24 future husband and wife." So I wanted to question you about this  
25 blessing.

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1 Can you explain to the Court how the family used to bless or  
2 provide blessings to the spouses when they were married before  
3 the regime and if this possibility of blessing marriages existed  
4 during the DK regime?

5 A. The -- first of all, during the Khmer Rouge time, DK time as  
6 you say, there was no blessing. The parents were deprived of the  
7 opportunity to fulfil the obligations to bless or to congratulate  
8 or to welcome the weddings of their children.

9 Before the DK period, in the process of the marriage, the parents  
10 of both parties engaged actively more than their son or daughter  
11 because it's a very important duty of the parents to proceed to  
12 arrange and to proceed and to manage, materialize the marriage.

13 [15.32.22]

14 This process may be old -- already called a blessing and in the  
15 ceremony itself, in the weddings, the parents had to attend the  
16 whole ceremony with the monks, with the community people and the  
17 relatives, and I think this is already a sign for blessing and to  
18 welcome the weddings.

19 For example, I remember one woman that I met, she told me her  
20 father could not join her wedding -- before the Khmer Rouge time  
21 -- her father could not join her wedding for half a morning  
22 because he had a government meeting and she thought it's a shame  
23 that her father was not presenting at the meeting.

24 So the simple participation or attendance to the event of the  
25 wedding showing the attitude that they welcome the wedding, they

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1 are happy to -- they are accepting and they are also giving some  
2 words to congratulate, I think that's already called blessing.

3 [15.33.50]

4 Q. Did you note that people who were married during the DK regime  
5 without their family being able to participate in the ceremony,  
6 did you note that they suffered from the absence of their family?  
7 And, if that was the case, what can you say about this? Can you  
8 provide us with details on the impact of the absence of the  
9 family during the wedding ceremony?

10 A. It impacted absolutely a lot over the people who were married  
11 in the DK regime, whatever ways they were married.

12 I don't have many accounts from men who were married in the Khmer  
13 Rouge, how they felt about the wedding that their parents were  
14 not there, but I have many accounts from the women who were  
15 married and whose parents were not there.

16 They were very sad. They regretted that their parents were not  
17 there to stay with them and they still carry on this legacy or  
18 remorse until now.

19 [15.35.32]

20 Q. Thank you. You also said this morning that religious blessings  
21 had been abolished during the DK regime and that there were no  
22 religious ceremonies during weddings. So which impact did this  
23 absence of religious ceremonies, of religious presence, have on  
24 the people that you interviewed?

25 A. To my memory -- because the way that I interviewed was not

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1 very much focusing on the religious part in the wedding ceremony  
2 because I, myself, do not believe any religion, so I do not  
3 recall any impacts of missing the -- any sort of religious  
4 ceremony that they practised before the Khmer Rouge were present.  
5 But it's more about the absence of their parents and the family  
6 members and they wanted the community people to also celebrate  
7 but it was not possible. And also the clothing that they were  
8 forced to wear, the black clothes with only the krama which was  
9 completely against what they were expecting their wedding to be.  
10 And also the food because Khmer weddings were filled with a lot  
11 of pigs, with chickens, special food with snacks and everything.  
12 That was all -- not ignored, but that was not all prepared in the  
13 wedding, and women missed those parts also.

14 [15.37.40]

15 Q. Thank you. So you were speaking about the issue of <female>  
16 virginity in your book, E3/2959; English, ERN 00421889, and you  
17 are speaking -- or you spoke about the importance of virginity  
18 for Cambodian women, or for Cambodians in general, men as well,  
19 by referring to a Cambodian proverb which I'm going to quote in  
20 English because the document only exists in English: "Men are  
21 golds while women are white cloths."

22 Can you therefore explain to the Chamber how or why virginity is  
23 so important in Cambodia?

24 A. I'll try to make it simple. The -- according to Cambodian  
25 traditions, children are the properties of the parents and,

1 particularly, the daughters were regarded as important  
2 properties, which should be kept pure until the marriage. This is  
3 for the purpose of maintaining the family reputation and also to  
4 ensure that the daughters could have a good, decent marriage as  
5 the parents wish so.

6 [15.39.43]

7 So from generation to generation, the parents are enforcing this  
8 idea that their daughters should be pure, to keep their virginity  
9 until the marriage. And the daughters internalize this idea that  
10 they should be away from any boys until the marriage date.

11 So virginity is not only about virginity in the reproductive  
12 health sense, but before the Khmer Rouge time, the women that I  
13 met many told me that they tried to avoid any contacts with men,  
14 to keep them as pure. Having any contacts with boys could provoke  
15 the rumour that she was a bad girl meeting with the boys. So it  
16 is not about only the physical issues.

17 Q. Thank you. In the course of your research, were you able to  
18 conclude that certain women had suffered from having lost their  
19 virginity in the context of a forced marriage during the DK  
20 regime? Is that part of the suffering that was expressed in the  
21 interviews that you conducted?

22 A. Yes, it was. The -- it depends of the women, how they  
23 described, but, first of all, they regarded a forced sex in the  
24 forced marriage as an attack over their body, that the husbands  
25 tried to attack their body and, as a consequence, they lost their

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1 virginity and they feel regret about it.

2 [15.42.03]

3 Q. Thank you. In your book, the same ERN and indexed E3/2959;

4 English, ERN 00421892; Khmer, 00738345; you indicate -- and I'm

5 going to quote this in English: "The private sphere for

6 newly-weds was completely ignored."

7 Can you explain to the Chamber what you mean by this assertion?

8 In which way was the private sphere of the newly-weds ignored

9 under the DK regime and can you tell the Chamber, if the men and

10 women you interviewed suffered from this disappearance of their

11 private sphere?

12 [15.43.13]

13 A. When I refer to the private affairs was deprived, I was

14 specifically referring to those couples who are forced to marry

15 and who are monitored by the spies. There are a lot of accounts

16 by both men and women who were forced to get into the marriage

17 against their will by the Khmer Rouge.

18 In the evenings, or after the wedding days, the spy that were

19 most probably the small children that was sent by the Khmer

20 Rouge, came around their houses -- but it's not the house,

21 concrete house, it's a hut made by the leaves of bananas or

22 something that -- it already lacked the privacy that people may

23 -- people might could have seen inside from the hole. But in

24 addition to those lack of privacy, the spies came to monitor what

25 the husband and wife was talking about and husband and wife also

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1 assumed that the spies came to check whether they were completing  
2 the marriage. So that is what I refer to.

3 Q. Thank you. You said this morning -- or maybe at the beginning  
4 of this afternoon -- that the issue of sex was particularly taboo  
5 in Cambodia and that people did not speak about it. So the fact  
6 of having been monitored with the aim of checking if marriages  
7 were consummated, did you note that this is something that caused  
8 harm or suffering to the people you interviewed?

9 A. Yes, yes, and it impacted extremely and disproportionately  
10 impacted over the man because men were tasked and forced to rape  
11 a wife.

12 [15.45.55]

13 Q. So what conclusion can you draw from what you said? That is to  
14 say that men were obliged to rape their wives? What was the  
15 impact of this on men and on women; let's start with the men?

16 A. Thank you. Yes, let's start with the man. The -- forcing a man  
17 to rape somebody is inhuman act. Not all men could do it, first  
18 of all, but they were forced to do that. And the fear is  
19 unmeasurable how he was scared if he failed to do it.

20 And many women apparently were very scared or they were showing  
21 the emotion that they don't want to accept the husband.

22 And under such terrible circumstances, men had to complete it.

23 It's an inhuman act and I cannot imagine how some men could have  
24 done that, and maybe that's why many men were sent to  
25 re-education for failing to rape the wife.

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1 And I'm sure that it impacted over the marriage life, that the  
2 husband might have been feel guilty to the wife or he worried or  
3 scared that his wife would never love him and that might have  
4 remained as a scar or a trauma for a long period of time until he  
5 could recover his masculinity and to ensure that -- he could  
6 ensure that his wife actually accepted him.

7 So the impact was huge and it's really inhuman act against the  
8 man.

9 [15.48.27]

10 For the women, I would continue? For the women, the -- first of  
11 all, the impact was already huge when she was forced to marry  
12 against her will and her -- without her parents' consent. So she  
13 was already after the stage that she was deprived of almost all  
14 the hopes. And those forced married couples, mostly they knew  
15 that they have to consummate the marriage because of the  
16 instruction at the marriage ceremony or from the village chief.  
17 So she knew what would be happening in the evening of the  
18 wedding. And, again, on one hand she has to accept his - her  
19 husband because it's an absolute order. She cannot say no. If she  
20 could say no, then the result might be -- the worst scenario is  
21 death. So she has to accept the husband.

22 And this is a huge terror imposed on a woman who may not have  
23 been most probably exposed to any sexuality issues and, of  
24 course, after the rape it happens, I think, in many ways. Some  
25 rape happened in a very violent way as I have documented. The

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1 husband used violence, but some rapes were not violent as I  
2 documented, but the men were forced to rape their wife and the  
3 wife had to be raped by the husband.

4 [15.50.21]

5 This leaves a lot of traumatic experience for the wife. It  
6 depends on how they could have lived afterwards, but a loss of  
7 parental consent to the husband was a big traumatic experience  
8 and now that she was forced to actually have the relationship,  
9 sexual relationship, with the man by breaking her virginity  
10 without her parents' consent is another step to enter her -- to  
11 put her into another traumatic experience.

12 And, of course, some women had their reproductive health problem  
13 because of the violence rape. That may remain until now, for some  
14 women became pregnant as a consequences of such a rape.

15 [15.51.20]

16 Q. Thank you. In order to understand your position clearly  
17 regarding this issue, do you believe that with regard to all of  
18 the forced marriages which you spoke about -- and you made a  
19 clear distinction between authorized and forced marriages -- so  
20 when we're speaking about a forced marriage, do you believe that  
21 the consummation of this marriage necessarily led to rape or not?  
22 Did this depend on the circumstances or on the cases, or do you  
23 believe that in the case of forced marriages, as of the moment  
24 that this marriage was consummated, this was, in your eyes, a  
25 rape?

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1 A. Yes. In my opinion, it was legalized rape. The rape had to be  
2 done in order to follow the instruction of the Khmer Rouge.

3 [15.52.35]

4 Q. Thank you. So you therefore clearly explained to the  
5 International Co-Prosecutor the difference between authorized and  
6 forced marriages and you also, upon several occasions, spoke  
7 about the climate of extreme fear or of continuous terror that  
8 was rife during the DK regime.

9 So I wanted to know if this climate of extreme <fear and> terror  
10 was also the same one in which the people whose marriages were  
11 authorized lived in?

12 A. Yes, that's correct. So women -- both men and women, were  
13 living under the multiple layers of terrors and horrors, and they  
14 were subjected to the multiple types of human rights violations  
15 that include the rape.

16 Q. Let me please insist upon this -- so this climate of fear  
17 prevailed whether the marriages were authorized or forced. Did I  
18 understand your testimony properly?

19 A. Excuse me, could you please rephrase the question?

20 [15.54.23]

21 Q. Of course. I'm trying to go fast because I don't have much  
22 time, so maybe this leads me to take shortcuts.

23 You explained this morning the difference between authorized and  
24 forced marriages, and you described upon several occasions the  
25 climate of fear <and terror> that existed under the DK regime.

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1 So in your eyes, the people whose marriages were authorized, were  
2 they also living under this same climate of fear and terror that  
3 you described <throughout your testimony>?

4 A. Yes, that's correct.

5 Q. Thank you. You spoke about maternity and about women who  
6 became pregnant during the DK regime following a forced marriage.

7 So I would like you to explain to the Chamber which kind of  
8 impact, which kind of harm these women suffered because they  
9 became pregnant during the DK regime? That's my first question.

10 And then, if they became pregnant following a forced marriage?

11 [15.55.57]

12 A. I'm sorry, I think I couldn't catch that second question  
13 correctly, but let me reply to you the first question, the impact  
14 of the pregnancy from the forced marriages over the women and  
15 maybe men.

16 For the women, she was forced into the unwanted -- the marriage  
17 -- the unwanted marriage, meaning that she was forced to marry  
18 with a man that she was not intending to marry by the instruction  
19 of the parents or by the suggestion by the parents.

20 So from the beginning, she has -- she had no love or affection to  
21 the husband and she was not obliged at all to love him because  
22 there was no parental consent to the marriage. And then if you --  
23 or if she finds that she's pregnant with such a man, a lot of  
24 women get angry because they could not escape from the pregnancy.  
25 They didn't love the husband. They didn't want that child. They

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1 didn't want that child with her husband, but she has to carry on  
2 the pregnancy and during the Khmer Rouge time DK period, that  
3 pregnant women were not provided any special care as expectant  
4 mothers so being pregnant is added burden for any pregnant women.

5 [15.57.45]

6 But if she is carrying a child of a man that raped her or the  
7 husband whom she didn't want, she also fears that she cannot --  
8 not all women -- but she cannot have affection to a child at all  
9 in addition to the terrible living circumstances. She was at a  
10 loss of how she could manage her pregnancy and also many women  
11 thought about after the child birth if she could love her child.  
12 How -- from the beginning, how the child can survive. Many women  
13 thought about it. If the pregnancy continued, can the baby  
14 survive? That's a big concern of a woman. And if a child is born,  
15 can she love a child as a child that was born from the parental  
16 consent marriage from the husband. So there is a huge traumatic  
17 experience for the women.

18 And for man, I would imagine -- I didn't interview a man whose  
19 wife was pregnant because of the forced marriage, but I would  
20 easily imagine that man would also suffer by knowing that as a  
21 consequences of rape, even though he didn't want to, his wife,  
22 his partner became pregnant, and this should have a huge impact  
23 over the manhood; that he might have accepted and wanted the  
24 child as his responsibility.

25 [15.59.40]

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1 MS. GUIRAUD:

2 Thank you, Madam Expert.

3 Mr. President, I have 10 to 15 minutes of additional questions  
4 that I would like to pose. I would like to ask the Chamber 10 to  
5 15 additional minutes tomorrow morning, if that's possible?

6 MR. PRESIDENT:

7 Yes, your request is granted.

8 It is now an appropriate time for the adjournment.

9 The Chamber will resume its hearing on Wednesday, 14 September  
10 2016 at 9 a.m.

11 Tomorrow, the Chamber will continue hearing the testimony of the  
12 expert, Kasumi, and then proceeds to hear the witness 2-TCW-954  
13 in relation to Security Centres and Internal Purges. Please be  
14 informed and please be on time.

15 I'm grateful to you, Ms. Expert Kasumi. The hearing of your  
16 testimony has not come to an end yet. You are therefore invited  
17 to come and testify once again tomorrow, starting from 9 a.m.

18 [16.01.04]

19 Court officer with WESU, please send Kasumi to the place where  
20 she is staying at the moment and invite her into the courtroom  
21 tomorrow on 14 September 2016 at 9 a.m.

22 Security personnel are instructed to bring the two accused, Nuon  
23 Chea and Khieu Samphan, back to the ECCC's detention facility and  
24 have them returned into the courtroom tomorrow before 9.a.m.

25 The Court is now adjourned.

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1 (Court adjourns at 1601H)

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