



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

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

ឯកសារដើម
ORIGINAL/ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ (Date): 25-Oct-2012, 11:51
Sann Rada
CMS/CFO:.....

TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

19 October 2012
Trial Day 120

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

The Accused: NUON Chea
KHIEU Samphan

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MR. ANG UDOM	Khmer
JUDGE CARTWRIGHT	English
MR. IANUZZI	English
MR. KONG SAM ONN	Khmer
JUDGE LAVERGNE	French
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. PICH ANG	Khmer
MR. RAYNOR	English
MR. SAM SOKONG	Khmer
MS. SIMONNEAU-FORT	French
MR. VERCKEN	French
MS. YIM SOVANN (TCCP-169)	Khmer

1

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

2 (Court opens at 0905H)

3 MR. PRESIDENT:

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

5 In today's hearing, parties will continue to present documents
6 before the Chamber, namely, the document relevant the structure
7 and communication of the Democratic Kampuchea.

8 [09.06.32]

9 And, yesterday, the floor was taken by the Civil Party Lead
10 Co-Lawyers, and the Civil Party Lead Co-Lawyers still have
11 another hour to finish the presentation of the documents.

12 But before I hand over to the Lead Co-Lawyers, I would like to
13 ask Greffier Se Kolvuthy to report the attendance of parties.

14 THE GREFFIER:

15 Good morning, Mr. President. All parties are present except Mr.
16 Ieng Sary, due to his health reason. However, due to his
17 application E237, the Accused has waived his right to be present
18 directly in attending the hearing of certain witnesses, TCCP-169,
19 that the Chamber is scheduled to hear him today.

20 Mr. Michael Karnavas, the international counsel for Mr. Ieng
21 Sary, is not present, due to his busy schedule.

22 As for -- TCCP-169 will be in the waiting room at 10.30 this
23 morning.

24 MR. PRESIDENT:

25 Thank you.

2

1 I note that the defence counsel is on his feet. You may proceed.

2 [09.08.20]

3 MR. IANUZZI:

4 Thank you, Mr. President. Good morning, everyone. Just with
5 respect to that last announcement, will we be moving into witness
6 testimony this afternoon if time permits -- excuse me, civil
7 party testimony?

8 MR. PRESIDENT:

9 The Chamber has determined the date for the Prosecution and the
10 civil parties to put the documents before the Chamber for two
11 days, and we also allocate the time to the defence teams for two
12 days as well. So the Chamber will abide by its decision in
13 relation to the scheduling of the hearing of the document
14 presentation by parties.

15 We will continue hearing this presentation in relation to the
16 documents concerning the communication of the Democratic
17 Kampuchea. However, the Chamber today has reserved one civil
18 party in order to continue the proceeding and to expedite the
19 proceedings before us, in case where the defence teams decide not
20 present any evidentiary documents before the Chamber.

21 [09.10.02]

22 And the civil party that the Chamber has summoned to testify is a
23 reserved civil party. That is in the preparation in case we do
24 not have any other matters; we will have to make use of that
25 opportunity to hear this testimony of the civil party.

1 MR. IANUZZI:

2 Thank you, Mr. President. That's exactly what I wanted to know.

3 Thank you.

4 MR. PRESIDENT:

5 Now I hand over to the Lead Co-Lawyer for the civil parties. You
6 may proceed.

7 MR. PICH ANG:

8 Good morning, Mr. President. Good morning, Your Honours, and good
9 morning to all parties and member of the public. My name is Pich
10 Ang. I am the Lead -- National Lead Co-Lawyer for the civil
11 party.

12 The Civil Party Lead Co-Lawyers Section will wrap up our
13 presentation within an hour this morning. And yesterday I
14 presented a number of documents, including the video clips of Mr.
15 Nuon Chea and Mr. Khieu Samphan, and this morning I will continue
16 on from where I left off yesterday concerning the video clips of
17 Mr. Khieu Samphan.

18 [09.11.44]

19 And, once again, I would like to refer to the video number
20 E109/2.3R. This video clip depicts the second episode of the
21 video, and I have already given it to the AV booth. So I would
22 like to seek permission from the Chamber to have it played for
23 the Chamber as well as the members of the public.

24 MR. PRESIDENT:

25 You may proceed.

4

1 AV assistant, you are instructed to play this video clip as per
2 the request by the Lead Co-Lawyer for the civil parties.

3 [09.12.38]

4 (Audio-visual presentation)

5 "[Interpreted from Khmer]: I respected the discipline. I
6 respected the discipline in the sense that I wasn't working in
7 the fields or building dams with my comrades. I simply stayed out
8 of the way so that I did not disrupt them; that was my spirit.
9 And I was accused of not trying to know or understand anything.

10 "But, firstly, how could I imagine this? It was a nationalist
11 movement, so I trusted from my heart. Secondly, because I was
12 thinking that I could contribute in part if I could not work in
13 the field like my compatriots. So I tried to live modestly. I did
14 not want to be perceived that my countrymen work hard in the
15 field and they had to endure a lot of difficulties and I was
16 living in Phnom Penh, I enjoyed my life, and I had a lot of foods
17 to eat on myself. So, both my wife and I -- I was the head of the
18 state, and my wife was a cook. She cooked, and I was not resented
19 with that because I did not work as hard as my countrymen in the
20 field, and my wife did not work that hard either. So I have no
21 reason to complain because I was fine, myself, in Phnom Penh. I
22 met my family together, even if my children were in the
23 Children's Centre. They came home to visit us every week; they
24 were in a better and privileged situation than those who worked
25 hard in the field. So I had nothing to complain about my life."

5

1 (End of audio-visual presentation)

2 [09.14.40]

3 MR. PICH ANG:

4 I would like to mention that this video start from a minute 30
5 seconds to 28 minutes and 20 seconds, and this video depicts the
6 situation of the victims in the cooperatives.

7 Next, I would like to seek leave from Mr. President to president
8 this Statute of the Communist Party of Kampuchea -- a portion of
9 this Statute, starting from Article 8 -- rather, Article 7,
10 concerning the Party organizational line from the Centre to the
11 base.

12 With your leave, Mr. President, I would like it to be displayed
13 on the screens. And this is document IS 9.1.

14 MR. PRESIDENT:

15 You may proceed.

16 MR. PICH ANG:

17 I would like to start from Article 7, since I have already
18 mentioned the title of the document. And instead of reading the
19 relevant ERNs, I go to the article immediately:

20 [09.16.24]

21 "Article 7: Party organizational lines. The Party organizational
22 lines are as follows:

23 "1. The Party organization which has the highest power rights
24 throughout the country is the General Conference representing the
25 entire country.

1 "During the period of time between one General Conference to
2 another, the highest operational unit throughout the country is
3 the Central Committee.

4 "2. The organization which has the highest power rights in each
5 zone is the Zone Representational Conference.

6 "During the time from one conference to another, the highest
7 operational organization for each individual zone is the Zone
8 Committee.

9 "3. The organization which has the highest power rights in each
10 sector or city is the Sector or the City Representational
11 Conference.

12 "During the time between one Sector or City Conference to
13 another, the highest operational organization for that sector or
14 city is the Sector or City Committee.

15 [09.17.51]

16 "4. The organization which has the highest power rights in each
17 district is Conference representing the district.

18 "During the time period from one District Conference to another,
19 the operational organization for each individual district is the
20 District Committee.

21 "5. The organization which has the highest power rights from a
22 branch is the Branch Representational Conference (for large
23 branches) or the Branch Conference for the entire (sic) of the
24 branches (for small branches).

25 "During the time period between Branch Conferences, the

1 operational organization for each branch is the Branch Committee
2 (for large branches) or the Secretary or Deputy Secretary (for
3 small branches).

4 "6. Party organizations in the Revolutionary Army of Kampuchea
5 have similar organizations, according to each Party echelon
6 framework.

7 [09.19.13]

8 "Article 8: Any sector or unit which has special characteristics,
9 be they political, military, economic or culture-social affairs
10 related, may be organized separately, with the Central Committee
11 being responsible, directly or indirectly, along a specific
12 organizational line.

13 "Article 9: Each revolutionary cooperative, factory, military,
14 company-level unit, worksite, and Ministry Office may organize a
15 Party Branch, provided there are three or more Party members.

16 "Branches which have from three to eight Party members must
17 select a Secretary or Deputy Secretary to lead routine work.

18 "Branches with nine or more Party members must select a Branch
19 Committee to lead.

20 "If necessary for the work, a Sub-Branch may be organized.

21 "Article 10: The tasks of a branch: A branch has two tasks:

22 "1. Tasks among the popular masses

23 "Proselytize the popular masses with specific plans and programs
24 in its area, in the unions and cooperatives, and in the
25 Revolutionary Army, regarding political lines, ideological

1 principles and stances, and organizational lines, according to
2 the task of national defence and the construction of Democratic
3 Kampuchea in the Party stance of class struggle of socialist
4 revolution and in building socialism.

5 [09.21.04]

6 "Along with this, [a branch] must grasp and agitate popular mass
7 organizations at each site in the unions and the cooperatives and
8 in the Revolutionary Army to carry out revolutionary activities
9 strongly in accordance with the tasks of national defence and the
10 construction of Democratic Kampuchea in the Party direction of
11 socialist revolution and building socialism.

12 "2. Internal tasks, that is:

13 "A. Closely re-educate and be a Party members and core
14 organizations politically, ideologically, and organizationally,
15 according to the tasks of national defence and constructing
16 Democratic Kampuchea with the Party stance of class struggle of
17 socialist revolution and building socialism.

18 "B. Closely grasp organization in the strengthening and expanding
19 of and the screening of Party members in core organizations.

20 "Clearly, deeply, and closely arrange the tasking of Party
21 members and core organizations to work among the popular masses,
22 the worker-peasants, in the unions and cooperatives, and in the
23 Revolutionary Army, in order to agitate the revolutionary
24 movement to be constantly hot, according to the Party political
25 lines of national defence and the construction of Democratic

1 Kampuchea, in the Party direction of socialist revolution and
2 building socialism.

3 [09.22.32]

4 "Implement a regular and detailed branch life once monthly.

5 "'Manage branch property and administer branch discipline,

6 maintaining a system of reporting to upper echelon to the

7 situation of the work of the branch, etc."

8 I would like to skip one article and move to Article 12, the

9 District Committee:

10 "The District Committee must hold an ordinary District

11 Representation Conference once every six months in order to:

12 "1. Clearly and profoundly examine and deliberate on District
13 activities by drawing experience, seeking out good and bad
14 qualities.

15 "2. Designate new work, according to the Party line. Must
16 designate clear plans for work among the popular masses and for
17 internal Party work, within its district framework.

18 "3. Select and appoint the new leadership organization, the
19 District Committee (based on the Ten Criteria of the Party and
20 with the prior examination, deliberation, and agreement of the
21 Sector Committee and the Zone Committee).

22 [09.23.38]

23 "Article 13: Tasks of the District Committee.

24 "The tasks of the District Committee are:

25 "1. Go down close to the branches, down to the specific bases of

1 branches in the unions and cooperatives and in the Revolutionary
2 Army, in order to lead the implementation of tasks, both among
3 the popular masses and internally, to be always hot and active in
4 plans, according to the political lines of national defence and
5 the construction of Democratic Kampuchea and according to the
6 Party's direction of socialist revolution and building socialism.

7 "2. Constantly and tightly grasp the popular masses in the
8 unions and cooperatives and in the Revolutionary Army within its
9 district framework politically, ideologically, and
10 organizationally by constantly arming them politically,
11 ideologically, and organizationally in the tasks of national
12 defence and the construction of Democratic Kampuchea, according
13 to the Party direction of socialist revolution and building
14 socialism.

15 "3. Constantly and tightly grasp the branches, cadres, and Party
16 members, along with all the core organizations of the district,
17 in regards to the personal history, politically, ideologically,
18 and organizationally, by arming them politically, ideologically,
19 and organizationally [...].

20 [09.25.03]

21 "4. Manage the property of the district organizations and
22 administer discipline in the district framework, maintaining a
23 system of reporting to upper echelon [...].

24 "Article 14: The District Committee must hold ordinary meetings
25 once monthly to examine, monitor, and deliberate on old work and

1 to bring up new work.

2 "Article 15: Sector-City Committee must hold ordinary
3 Sector-City Representational Conferences once every six months in
4 order to:

5 "1. Clearly and profoundly examine and deliberate the sector-city
6 activities by drawing experience, seeking out good and bad
7 qualities.

8 "2. Designate new work according to the Party line. Must
9 designate clear plans for work among the popular masses and for
10 internal Party work, within its sector [...].

11 "3) Select and appoint the new leadership organization, the
12 Sector-City Committee (based on the Ten Criteria of the Party and
13 with the prior examination, deliberation, and agreement of the
14 Zone Committee).

15 [09.26.08]

16 "Article 16: Tasks of the Sector-City Committee

17 "The tasks of the Sector-City Committee are:

18 "1. Go down close to the district and branches and the specific
19 bases of the branches in the unions and cooperatives and in the
20 Revolutionary Army, in order to lead the implementation of tasks,
21 both among the popular masses and internally, to be always hot
22 and active in plans, according to the political lines of national
23 defence and the construction of Democratic Kampuchea and
24 according to the Party's direction of socialist revolution and
25 building socialism.

1 "2. Constantly and tightly grasp the popular masses in the unions
2 and cooperatives and in the Revolutionary Army within its
3 sector-city framework politically, ideologically, and
4 organizationally by constantly aiming them politically,
5 ideologically, and organizationally in the tasks of national
6 defence and the construction of Democratic Kampuchea, according
7 to Party direction of socialist revolution and building
8 socialism.

9 "3. Constantly and tightly grasp the district organizations, the
10 branch organizations, the cadres, the Party members along with
11 all the core organizations of the sector in regards to personal
12 histories, politically, ideologically, and organizationally, by
13 arming them politically, ideologically, and organizationally in
14 the tasks of national defence and the construction of Democratic
15 Kampuchea [...].

16 "4. Manage the property of the sector-city organizations and
17 administer discipline in the sector-city framework [...].

18 [09.27.54]

19 "Article 17: The Sector-City Committee must hold ordinary
20 meetings once every monthly (sic) to examine, monitor, and
21 deliberate on old work and to bring up new work.

22 "Zone Committee

23 "Article 18: The Zone Committee must hold an ordinary Zone
24 Representational Conference once each year in order to:

25 "1. Clearly and profoundly examine and deliberate on zone

1 activities by drawing experience, seeking out good and bad
2 qualities.

3 "2. Designate new work according to the Party line. Must
4 designate clear plans for work among the popular masses and for
5 the internal Party work, within its zone framework.

6 "3. Select and appoint the new leadership organization, the Zone
7 Committee (based on the Ten Criteria of the Party and with the
8 prior examination, deliberation, and agreement of the Central
9 Committee).

10 [09.28.56]

11 "Article 19: The tasks of the Zone Committee

12 "The tasks of the Zone Committee are:

13 "1. Go down close to the sectors, districts, branches, and the
14 specific bases of the branches in the unions and cooperatives,
15 and in the Revolutionary Army in order to lead the implementation
16 of tasks, both among the popular masses and internally, to be
17 always hot and active in plans according to the political lines
18 of the national defence and the construction of Democratic
19 Kampuchea and according to the Party's direction of socialist
20 revolution and building socialism.

21 "2. Constantly and tightly grasp the popular masses in the unions
22 and cooperatives and in the Revolutionary Army within its zone,
23 politically, ideologically, and organizationally, by constantly
24 arming them politically, ideologically, and organizationally in
25 the tasks of national defence and the construction of Democratic

1 Kampuchea, according to the Party direction of socialist
2 revolution and building socialism.

3 [09.30.10]

4 "3. Constantly and tightly grasp all the sectors, all the
5 district parties, all the branches, all the cadres and Party
6 members, along with all the core organization of the zone in
7 regard to personal histories, politically, ideologically, and
8 organizationally, by arming them politically, ideologically, and
9 organizationally in the tasks of national defence and the
10 construction of Democratic Kampuchea, according to the Party
11 direction of socialist revolution and building socialism.

12 "4. Manage the property of zone organizations and administer
13 discipline in the zone framework, maintaining a system of
14 reporting to the Central Committee on the situation and the work
15 of the zone.

16 "Article 20: The Zone Committee must hold ordinary meetings once
17 every three months to examine, monitor, and deliberate on old
18 work and to bring up new work.

19 "The Central Committee

20 "Article 21: The Central Committee must call an ordinary General
21 Conference representing the entire country once every four years
22 in order to:

23 "1. Clearly and profoundly examine and deliberate on the old
24 Central Committee activities by drawing past experience of right
25 and wrong regarding politics, ideology, and organization, [as

1 well as] all important work.

2 [09.31.38]

3 "2. Designate the political line and Statute of the Party.

4 "3. Select and appoint the new Central Committee (based on the
5 Ten Criteria of the Party).

6 "Article 22: A General Conference may be held before the
7 designated time or can be postponed, according to the specific
8 situation.

9 "The number of full-rights representatives who must be invited to
10 participate in a General Conference representing the entire
11 country will be designated by the Central Committee.

12 "Article 23: The tasks of the Central Committee

13 "The tasks of the Central Committee are:

14 "1. Implement the Party political line and Statute throughout the
15 Party.

16 "2. Instruct all zones and sector-city organizations and Party
17 organizations responsible for various matters to carry out
18 activities, according to the political line and the ideological
19 and organizational [disciplines] and stances in accordance with
20 the tasks of national defence and building Democratic Kampuchea
21 and in accordance with the Party direction of socialist
22 revolution and building socialism.

23 [09.32.58]

24 "3. Govern and arrange cadres and Party members throughout the
25 entire Party, along with all core organizations, by constantly,

16

1 clearly, and closely grasping personal history, political,
2 ideological, and organizational stances and closely and
3 constantly arming them politically, ideologically, and
4 organizationally.

5 "4. Act in the name of the Party in contacts with all
6 brother-sister Marxist-Leninist parties."

7 I would like to end my quote of the Communist Party of Kampuchea.
8 I would like to refer to another document in relation to the book
9 written by Khieu Samphan, entitled "Cambodia's Recent History and
10 the Reasons Behind the Decisions I Made".

11 I do not have the document numbers with me; my apology for that
12 -- Document E4.23 (sic). And I would like to read one sentence of
13 the excerpts: ERN in Khmer, 00103883; ERN in English, 00103785;
14 in French, 00595497. So I would like now to read from the
15 excerpt.

16 [09.34.46]

17 MR. PRESIDENT:

18 You may proceed.

19 MR. PICH ANG:

20 I would like to quote the book written by Mr. Khieu Samphan as
21 the following:

22 "However, if there's a thorough investigation, we can find the
23 Central Committee of the CPK cannot be compared to the Central
24 Committee of other party who was known in the world. As I wrote
25 in my open letter dated 16 of August 2001, this organization was

17

1 not the Angkar of the leadership of the Party; it was just the
2 place where cadres can be trained ideology, politically,
3 especially to educate the secretary and the committee of the
4 Party who were responsible for zones, sectors, and army so that
5 they can learn well on political decision on behalf of the
6 Standing Committee." End of quote.

7 I'm now finishing my presentation of documents, so I would like
8 to request that the Court allow my co-counsel to continue.

9 MR. PRESIDENT:

10 Counsel, you may proceed.

11 [09.36.35]

12 MS. SIMONNEAU-FORT:

13 Good morning, Mr. President. Good morning, Your Honours. Good
14 morning, everyone. I will complete the presentation by the Civil
15 Party Lead Co-Lawyers.

16 A lot of documents have already been presented to the Chamber and
17 to the public. And as I said, I will restrict myself to 11
18 documents -- that is a very small number of documents. I will
19 limit myself solely to the central structure as mentioned in the
20 Closing Order.

21 And to start this presentation, I would like to refer to
22 statements made by Khieu Samphan and Nuon Chea.

23 A few years after the end of the regime, in 2006 and 2007,
24 journalists took statements from them. I will quote these
25 documents. These statements express Nuon Chea's and Khieu

1 Samphan's vision of the central structure and their role within
2 that central structure.

3 [09.38.02]

4 The first document has the number E3/122. It is a series of notes
5 taken by Mr. Ea Meng-Try and Loeung Sopheak during their
6 interviews of Khieu Samphan and Nuon Chea on the 9th, 10th, and
7 11th of June 2006.

8 And, beginning with Mr. Khieu Samphan, this is what he stated in
9 this document E3/122. The ERN in French is 00613201, and the ERN
10 in Khmer is 00347033, and the ERN in English is 00000926. And
11 this is what he states -- and I quote: "Everyone made so many
12 errors. No one is perfect. We have to learn from our mistakes
13 then move to make a change. I also committed mistakes during my
14 time in power."

15 [09.39.14]

16 In the same document -- and the ERN in French is 00613204; ERN in
17 Khmer, 00347037; and the ERN in English, 00000929 -- Mr. Khieu
18 Samphan responds to the following question: "Who are, precisely,
19 members of the Central Committee?"

20 "There were eight persons. Members of the Committee met to take
21 specific decisions before referring them to the members of the
22 Central Committee, who came from every region and zone throughout
23 the country. I was a member of the Central Committee but I did
24 not have any -- I did not have control over any zone. The
25 Standing Committee members include Pol Pot, Secretary; Nuon Chea,

1 Deputy Secretary; Ieng Sary; Son Sen; Ta Mok; Vorn Vet; and So
2 Phim."

3 In the same document - and the ERN--

4 MR. PRESIDENT:

5 Counsel, hold on. Now the defence counsel is on his feet.

6 Counsel, you may proceed.

7 [09.40.43]

8 MR. VERCKEN:

9 Thank you, Mr. President. I am counsel for Mr. Khieu Samphan. I
10 would like to state at this juncture that we challenge these
11 documents, which I note that were purportedly taken by a so
12 called journalist. We do not have any audio recording of that
13 interview. We have already made objections.

14 And I would comment by saying that I view this reading of the
15 notes without any possible objection as going beyond the limits.
16 I think we should do without them, Mr. President. That is what I
17 wanted to state.

18 MS. SIMONNEAU-FORT:

19 May I respond, Mr. President, with your leave?

20 Let me point out that this document has already been tendered
21 into evidence and admitted as number E3/122.

22 [09.41.51]

23 May I also point out that Mr. Khieu Samphan may, as an accused
24 person, comment on these documents. But if I read the
25 instructions of the Chamber correctly, counsel for Khieu Samphan

20

1 is not allowed to make comments at this point, and I see no point
2 -- I don't -- I think Mr. Khieu Samphan should be allowed to
3 comment on these notes, and the Chamber will assess the probative
4 value of these documents subsequently.

5 (Judges deliberate)

6 [09.43.46]

7 MR. PRESIDENT:

8 The objection by the defence counsel for Mr. Khieu Samphan was
9 not well-founded.

10 The document has been indicated as E3, so the party can present
11 before the Chamber as the evidence in the proceeding for
12 presentation of documents before the Chamber.

13 And in the case of probative value or the weight of the evidence,
14 the Trial Chamber will consider this evidence when it makes the
15 decision in the judgement.

16 And the defence counsel for Khieu Samphan should not be on your
17 feet to object the presentation of the document by the other
18 party. And, in fact, the defence counsel and Mr. Khieu Samphan
19 have the right to make remarks under the ruling by the Trial
20 Chamber this week, and the defence counsel for Mr. Khieu Samphan
21 said that his client will be -- remain silent, but, again, the
22 client can make remark after the presentation of the documents by
23 the party.

24 [09.45.43]

25 Counsel for Mr. Nuon Chea, you may proceed.

1 MR. IANUZZI:

2 Thank you, Mr. President. I apologize; I seem to have lost a
3 button on my gown.

4 I would just like clarification of what you just said. Is the
5 Chamber's position that counsel may not object to anything that's
6 said here unless our clients submit to questioning or comment on
7 documents? Is that what you've just said? Because, again, it
8 wasn't clear to me.

9 MR. PRESIDENT:

10 The opportunity to present the documents -- you have the right to
11 make remarks or a response in -- to the presentation of the other
12 party. The Trial Chamber reminded this right for the defence
13 counsels on the 10th of October 2012. The Trial Chamber is in --
14 seized of your request on this matter, but it seems that you
15 failed to listen to the proceedings on the 10 of October 2012 on
16 the reminding of the right of the Accused to make the remark or
17 comment on the document presented by the other parties. So you
18 should have looked at the transcript of the hearing of 10 October
19 2012 before the Trial Chamber gave the floor to the prosecutor to
20 present their documents. I think in those rulings the reminding
21 have complete content for your understanding.

22 [09.47.40]

23 MR. IANUZZI:

24 Thank you, Mr. President. Again, I was -- it seems to be me who
25 wasn't clear.

22

1 My -- I understand -- I understand that the Accused will be given
2 an opportunity to make comments on documents if they so choose.
3 My question this morning was -- I apologize for grasping my neck
4 like this -- my question this morning was: Will counsel on this
5 side of the stage be forbidden from raising objections as my
6 colleague just tried to do, unless our clients avail themselves
7 of that opportunity? That's the way I understood your ruling.
8 Does that make sense? Is that clear? Is my question clear? That's
9 how I understood your ruling, Mr. President. That's why I'm on my
10 feet.

11 (Judges deliberate)

12 [09.52.27]

13 MR. PRESIDENT:

14 The defence counsel for Mr. Nuon Chea, please stand up.
15 The Trial Chamber reminds you that the defence counsel, including
16 the defence team, has the right to make comment or to make
17 objection to the documents presented by the other parties before
18 the Trial Chamber. However, you should not address the Court at
19 this time; you should wait until the other party has completed
20 their presentation and you should wait until your turn comes so
21 that you can make your comments, including the Accused -- he can
22 make comments.

23 [09.53.27]

24 In our experience, during our address to the Court -- and we ask
25 the Accused, but there is no reaction from the defence team in

1 relation to the right to remain silent of your client. That is
2 why in the proceedings we instructed that, in the case the
3 defence team wished to make any contest or -- contest or
4 complaint, you can be on your feet to make the comment on the
5 presentation by the other party. So both sides can do so.
6 And on the other hand, the defence team -- when you present your
7 documents, the other party may have the right to make comments,
8 but not during the presentation of the parties -- of document.
9 And today you may have the floor to present your documents or
10 evidence in defence of your client under the law and you may
11 respond or comment to the document presented by the other
12 parties.

13 MS. SIMONNEAU-FORT:

14 Thank you, Mr. President. I will try to press on with my
15 presentation of documents.

16 We're talking of document E3/122. The ERN is 00613205 in French,
17 and 00347039 in Khmer, 00000929 and 0930 in English. Mr. Khieu
18 Samphan states the following:

19 [09.55.41]

20 "I acknowledge that at the time we made many errors. But at the
21 same time we also did many good things for our country. In this
22 regard, to be correct, we should talk both good and bad of that
23 regime. Stop talking about killings, which is only one side of
24 the coin. If you want your country to gain independence and
25 freedom, you have to sacrifice something for your country. People

1 should not have so much freedom. Political leaders have to
2 practise radical policy. If we did not proceed in that manner we
3 would have been dependent on the Vietnamese in all areas and in
4 all matters." End of quote.

5 In the same document, it is Mr. Nuon Chea who is then
6 interviewed, and he states the following. The ERN in French is
7 00613208; Khmer, 00347042 to 43; English, 00000932. This is what
8 Mr. Nuon Chea states:

9 [09.57.02]

10 "When I was in power, politics was good, but comrades and our
11 civil servants were not good. We did not have good bridges to
12 convey our good policies to the people, and that is the reason
13 why we failed, and that is the reason why we did not obtain our
14 objectives." End of quote.

15 The next -- the next -- the following question was posed:

16 "What measures did you take against comrades who were not good?"

17 Response: "I educated them. I corrected them. That was an
18 extremely difficult task."

19 Question: "What did you do precisely?"

20 "I educated them and I corrected them. I did not allow them to
21 continue carrying out their duties."

22 And further down in the same document -- the ERN in French is
23 00613210; Khmer, 00347046; and in English, 00000933 -- Mr. Nuon
24 Chea says the following: "In the final analysis, my plans failed,
25 which led to the weakening of my regime. Ultimately, I had to

1 capitulate." End of quote.

2 [09.58.23]

3 Let me now present a second document, and it is the transcript of
4 an interview of Mr. Khieu Samphan by the "Voice of America" on
5 the 14th of November 2007, and the number is E3/204. In this
6 transcript of a radio interview, Mr. Khieu Samphan states the
7 following -- and the French ERN is 00656178; Khmer, 00424211; and
8 in English it is 00680033 -- and I quote:

9 "Well, regarding work, that is what happened before. And as time
10 went on, since 1975, Mr. Ieng Sary has been in charge of Foreign
11 Affairs in Democratic Kampuchea, and his responsibilities with
12 regard to Foreign Affairs -- he also discharged those functions
13 in the Party and the State. I, for my part, was Chairman of the
14 State Presidium and worked in Office 870. As you can see, in that
15 Office 870, my role was very specific."

16 [09.59.55]

17 And on the following page -- ERN 00656179 in French; in Khmer,
18 00424212; and in English, 00680034 -- Mr. Khieu Samphan adds --
19 and I quote:

20 "In this regard, I would like to tell you something. I have
21 already told you, haven't I, that Mr. Ieng Sary was in charge of
22 Foreign Affairs. As for me, I was in charge of my duties. As I
23 pointed out earlier, I was officially head of State. However, my
24 complete and daily duties were carried out in Office 870. Now,
25 regarding Office 870, as I pointed out to you, I pointed out what

26

1 the principles were, didn't I?" End of quote.

2 I would now like to present a number of documents that have to do
3 with the position of certain intellectuals and diplomats who were
4 members of the structure prior to the 17th of April 1975. And
5 while examining these documents, I would like to see what became
6 of those persons in the structures following the 17th of April
7 1975.

8 I am referring to a document, D22/289. It is a civil party
9 application by Mr. Chau Khim. I will not read out an excerpt of
10 this statement by a civil party. By the way, I waived voluntarily
11 my right--

12 MR. PRESIDENT:

13 Defence Counsel for Mr. Ieng Sary, you may proceed.

14 [10.02.08]

15 MR. ANG UDOM:

16 Mr. President, Your Honours, the Prosecutors, and colleagues, I
17 would like to come back to a number of points I addressed the
18 Court yesterday.

19 A while ago, the President just made the ruling: all documents
20 indicated as E3 can be used or read before the Court, and there
21 should be no objection. But the documents listed in the Lead Co
22 Lawyers for civil party -- but those documents bear no E3
23 document, so, based on this ruling, this document cannot be read.
24 Number 2, the President has just indicated that the defence teams
25 can make objection after the party have completed their reading,

27

1 but my request yesterday was a request that not allow the party
2 to read. So, if the document has been read, the reading has been
3 completed, so how can we make our objection? Because those
4 documents has been read. Can we remove all the sound from the
5 system? Because it was read and they were been heard.

6 [10.03.48]

7 MR. PRESIDENT:

8 The Chamber has decided and made a ruling on your request
9 yesterday, so the Trial Chamber will not consider your request as
10 -- a second time.

11 And the Lead Co Lawyer for the civil party can proceed with her
12 presentation of the document based on the ruling yesterday by the
13 Trial Chamber. Counsel, you may proceed.

14 MR. IANUZZI:

15 Excuse me, Your Honour, I'm on my feet.

16 MR. PRESIDENT:

17 You are not granted leave to proceed with your objection.

18 And I would now give the floor to the Lead Co-Lawyer for the
19 civil party. You may continue.

20 MR. IANUZZI:

21 Why not? Why am I not--

22 MR. PRESIDENT:

23 You may now proceed.

24 [10.04.43]

25 MR. IANUZZI:

1 (Microphone not activated)

2 MR. PRESIDENT:

3 You're not allowed to proceed.

4 Lead Co Lawyer, you may proceed.

5 This issue was ruled upon by the Chamber yesterday, and this is
6 not subject to be discussed now.

7 MS. SIMONNEAU-FORT:

8 Thank you very much, Mr. President. I shall attempt to continue.

9 I was dealing with D22/289. It has not yet been attributed an E
10 number. This is indeed a civil party application. Once again, I
11 will not be reading any passages from this application.

12 Yesterday, I had withdrawn the written record of witness
13 interview of the elder brother of Mr. Chau Seng, as I indicated
14 yesterday.

15 [10.05.50]

16 I wish also to present D22/289.21. This is an annex of an
17 interview with the brother of Mr. Chau Seng. I submit this
18 document only to indicate that it contains an interview of Mr.
19 Chau Seng with the newspaper "L'Humanité". It is a Communist
20 French publication. He speaks on behalf of the United Front of
21 Kampuchea. He speaks as a representative of the FUNK Office.
22 I'll move on to an additional annex, which is attached to a civil
23 party application--

24 MR. PRESIDENT:

25 Is there any issue, Defence Counsel?

1 MR. KONG SAM ONN:

2 (Microphone not activated)

3 MR. PRESIDENT:

4 Please activate your mic.

5 [10.07.01]

6 MR. KONG SAM ONN:

7 The document being presented by the Lead Co-Lawyer now is in
8 French. I was wondering whether or not the Khmer version of the
9 document is available. If so, please have it projected on the
10 screen.

11 MR. PRESIDENT:

12 Lead Co-Lawyer; please advise the Chamber and parties whether or
13 not the document's available in at least two languages.

14 MS. SIMONNEAU-FORT:

15 The civil parties have made a request for a translation of all
16 civil party applications and their attachments. They have been
17 submitted to the ITU. Now, for reasons that are entirely
18 understandable, and stemming from the availability of resources,
19 this particular document is only available, for the time being,
20 in French. This is exactly why I shall not be reading into the
21 record any quotes or passages from these documents, so long as
22 the translations are not yet available.

23 (Judges deliberate)

24 [10.08.50]

25 MR. PRESIDENT:

1 Lead Co Lawyer, you may continue.

2 MS. SIMONNEAU-FORT:

3 Thank you indeed, Mr. President. I wish now to move on to
4 D22/289.1 (sic). French ERN numbers are 00481462 to 00481463;
5 English ERNs are 00806052; ERN in Khmer, 00797532 to 33.

6 This is a letter that Mr. Chau Seng wrote to his wife in December
7 1975. It was a letter sent from Peking. He writes:

8 "My Beloved Wife,

9 "After a much needed siesta, in view of the incorrect schedules
10 in France, we went to welcome the first group of Cambodians
11 (approximately 40 [persons]) who are due to return to Phnom Penh
12 along with us.

13 "[...] The conference shall last until the end of the month.

14 Ambassadors shall be returning to their posts, and we will get a
15 better view of the situation.

16 "[...] Maintain your revolutionary optimism. Remain positive
17 because you will see that everything will be fine."

18 [10.10.43]

19 MR. PRESIDENT:

20 There is no translation because you seem to speak too fast, and I
21 would like to ask you to repeat what you have just said, at least
22 in the last few sentences.

23 MS. SIMONNEAU-FORT:

24 Yes, of course, Mr. President. I shall repeat the middle
25 paragraph of the letter. This gentleman writes: "The conference

31

1 shall last until the end of the month. Ambassadors are expected
2 to return to their stations, and we will have a better picture
3 then."

4 He writes further on in the letter, on the same ERN pages that I
5 identified: "Always carry the spirit of revolutionary optimism;
6 it takes care of many things. You must be optimistic and positive
7 because, as you will see, everything will be fine for us and for
8 everyone!"

9 I wish now to present a document that is classified under
10 D22/289.14. This document is a partial list of Cambodians who
11 were repatriated from foreign countries and sent back to
12 Democratic Kampuchea between 1975 and 1976. This is only a
13 partial list. That was compiled by the Documentation Centre of
14 Cambodia. I simply want to make mention of this document and
15 inform you that it is comprised of some 232 names.

16 [10.12.56]

17 I see that my esteemed colleague is on his feet.

18 MR. VERCKEN:

19 Yes, very quickly, Mr. President. I do not see the link between
20 the subject of the current hearing and the presentation of the
21 documents that are being presented by my learned friend.

22 Perhaps she can elucidate this Chamber and tell us exactly how
23 these documents are related to the framework that you have
24 defined as the subject of this hearing.

25 MS. SIMONNEAU-FORT:

1 As I stated earlier, these are directly relevant to the central
2 structures and pertain to those who worked within the structures
3 before 1975 as well as after April 1975. These individuals have
4 resided at Boeng Trabek, which is an area covered by the Closing
5 Order and which is part of the structure that we are concerned
6 with.

7 May I please continue, Mr. President?

8 MR. VERCKEN:

9 Not only are we uncertain as to whether or not these individuals
10 worked within the administration, but as far as I'm concerned, my
11 learned friend is seeking to satiate some unknown desire to
12 achieve something else, and that is lost on me.

13 [10.14.45]

14 I don't understand the relevance of the lists that have just been
15 quoted or the documents that are purportedly relevant to
16 administrative structures. I simply do not understand my learned
17 colleague's explanations.

18 MR. PRESIDENT:

19 International Lead Co-Lawyer, you may continue your presentation.

20 MS. SIMONNEAU-FORT:

21 Thank you very much, President.

22 I wish now to refer to Mr. Ouk Ket, who served as an ambassador
23 prior to 1975 and who returned to Democratic Kampuchea following
24 1975.

25 Now, without quoting any passages, I would simply refer to the

1 civil party statement of his wife, classified under D22/44.

2 [10.14.50]

3 Once again, I will not be seeking the submission of the civil --

4 or the written record of witness interview, but I would simply

5 point out that D22/44.11 contains a letter from the Khmer Embassy

6 in Beijing requesting Mr. Ouk Ket to come back.

7 The ERN French numbers are 00338993; ERN in Khmer are 00281227;

8 in English they are 00326564. This is a letter addressed to a

9 certain number of ambassadors in 1977. It reads as follows:

10 "To the Beloved Comrade in charge of the Embassy of Democratic

11 Kampuchea in Senegal,

12 "In accordance with the instructions from Ministry of Foreign

13 Affairs of Democratic Kampuchea, I wish to provide you the

14 following information:

15 "[...] Ministry has decided that Comrade must return to the

16 country. You must prepare your travel upon receipt of this

17 letter.

18 "2. As for Comrade's wife, request that she wait for you. You may

19 have her stay with her parents.

20 "3. As for the Embassy premises, we have requested the Chinese

21 Embassy to assist in maintaining and supervising the property for

22 us. Comrade, request further to inform the Chinese Embassy.

23 "4. The government invites you back to the country for education

24 and study in order to achieve tasks."

25 [10.18.11]

1 I now refer to D22/44.13. This is also listed under Annex 13. It
2 is a list of prisoners who were executed on the 9th of December
3 1977. The French ERN numbers are 00339169; French – or, rather,
4 Khmer ERN numbers are 00281230; ERN in English are 00328268. We
5 find Mr. Ouk Ket's name under Listing 33.

6 To conclude this subject, I also wish to refer to D22/289.17.

7 This is a list of Cambodian nationals living abroad and who were
8 executed at Tuol Sleng between April 1975 to January 1979. It is
9 attached to the civil party application, and is also contained in
10 the book of Mr. Ong Thong Hoeung.

11 I shall conclude this presentation of documents with the final
12 document, E3/200. This document was referred to by Madam
13 Prosecutor yesterday. It is a transcript of a speech delivered by
14 Mr. Khieu Samphan during a commemorative meeting to celebrate the
15 capture of Phnom Penh by the Khmer Rouge.

16 [10.20.30]

17 I shall end my presentation of documents by quoting Mr. Khieu
18 Samphan, who speaks in his capacity as President of the State
19 Presidium of Democratic Kampuchea, and he talks about the
20 previous years. The passage can be found on French ERN pages
21 00612165, on Khmer page 00292804, and on English ERN page
22 S00004164. Mr. Khieu Samphan states the following-- (No
23 interpretation)

24 MR. IANUZZI:

25 Excuse me, we're not getting the translation, Mr. President.

1 We're not getting the English translation. I apologize for
2 interrupting.

3 MR. PRESIDENT:

4 Court officer is instructed to contact the interpretation booth.

5 (Short pause, technical problem)

6 [10.23.11]

7 Counsel, you may proceed, but you are reminded to slow down a
8 bit, because when you are reading from the written materials, the
9 interpreters have to locate the document.

10 MS. SIMONNEAU-FORT:

11 Yes, of course, Mr. President. I convey my apologies.

12 "Today, after having driven out all American Imperialists and
13 their lackeys, our workers, our peasants, and our Revolutionary
14 Army have become the indisputable masters of our country and
15 administration. During the past two years, under the correct and
16 clear-sighted leadership of our revolutionary organization, our
17 workers, peasants, and Revolutionary Army have scored many other
18 great achievements, especially those which clearly attest to our
19 great capability, both in the field of defending our country and
20 administration and in the domain of comprehensive national
21 rehabilitation and reconstruction based on the principles of
22 independence and self-reliance."

23 [10.24.58]

24 On the following page, Mr. Khieu Samphan talks about enemies.

25 However, I will not repeat that particular passage that was

1 already presented by the prosecutor.

2 That, Mr. President, brings me to the conclusion of my
3 presentation. I thank you.

4 MR. PRESIDENT:

5 Thank you.

6 The time is now appropriate for an adjournment. We will adjourn
7 now until 10 to 11.00.

8 THE GREFFIER:

9 (No interpretation)

10 (Court recesses from 1025H to 1054H)

11 MR. PRESIDENT:

12 Please be seated. The Trial Chamber is back in session.

13 And next the floor is given to the defence team for Mr. Nuon Chea
14 so that they can present the document before the Trial Chamber.

15 Counsel, hold on.

16 (Judges deliberate)

17 [10.56.02]

18 International Defence Counsel for Mr. Nuon Chea, the Chamber
19 would like to inform you that the request to submit document
20 E119.1.3 (sic) -- we're not yet decided to make a decision on
21 summoning the witness to testify. So, regarding this expert
22 witness, the Trial Chamber will consider and make decision in due
23 course.

24 And document E/9 (sic), books by Philip Short, the Trial Chamber
25 plans to summon him to testify next year, and this document - the

1 Trial Chamber does not allow - now allow you to present this
2 document at this time. So, we should wait until the completion of
3 this witness, and then we can move on.

4 MR. IANUZZI:

5 Thank you, Mr. President. I have been trying, upon very good
6 advice, to be as amable as possible. However, this is the very
7 first time I've ever heard this. Such conditions were never
8 placed on these documents. We were told we could present any
9 document we felt was relevant to this stage of the proceedings.
10 So, to be told now, at 11 a.m., two minutes before I'm about to
11 begin my presentation - which, I might add, centred on those very
12 two documents you just mentioned - I find that remarkable -
13 remarkable, to say the least. And I'll leave it at that.

14 [10.58.02]

15 What - where are you coming from, Mr. President? Why weren't
16 these indications given to the parties ages ago? This is exactly
17 what I meant--

18 MR. PRESIDENT:

19 The Trial Chamber advised you earlier and also mentioned the
20 ground that you would hold the two documents for the moment.
21 The reason is that we - we will not repeat the ground. And the
22 opportunity to present documents -- the Trial Chamber will give
23 you another opportunity, especially on the schedule to hear the
24 witness who will come to testify on the document, in case of Mr.
25 Philip Short.

1 And Mr. Stephen Heder has not been yet decided on summoning him
2 to come to testify. However, the Trial Chamber will give
3 opportunity to the parties to present the documents in relation
4 to their books, or their essays, or their documents in an
5 appropriate time.

6 MR. IANUZZI:

7 Thank you, Mr. President. I obviously have a few questions about
8 that.

9 [10.59.33]

10 First of all, I would just like to state - for the record, I
11 would like to make my record. There were three documents that I
12 intended to discuss today: E - I repeat that - E190.1.398; E -
13 and again I repeat that - E3/1568; and E3/9. So, those documents
14 all have E numbers; they've all been on this Trial Chamber's case
15 file for a long time - for a long time.

16 And the indications that you made today are being made, as I've
17 said, for the very first time today, at 11 a.m., the second -
18 excuse me, the third day of the document hearing. I find this
19 practice strange. I find it to our detriment. We have spent
20 considerable amount of time preparing for the hearing based on
21 your--

22 [11.00.40]

23 MR. PRESIDENT:

24 I now hand over to Judge Jean-Marc Lavergne to clarify this.

25 JUDGE LAVERGNE:

1 Counsel Ianuzzi, the Trial Chamber does not wish to counter your
2 rights to admit documents that you deem relevant. We are simply
3 saying that this is not the juncture at which you are permitted
4 to do so.

5 The Judges are responsible for the conduct of these proceedings.
6 We have decided that when the experts shall provide testimony, a
7 decision will have been issued with respect to the appearance of
8 Mr. Stephen Heder.

9 I believe that it is inopportune on your part to make such
10 comments.

11 Thank you.

12 MR. IANUZZI:

13 Thank you, Judge Lavergne.

14 [11.01.42]

15 So, if we could just continue this conversation for a moment,
16 just so I have it clearly in my mind, what you're telling me is
17 that the Philip Short document cannot be discussed now; it can be
18 discussed if and when Philip Short appears before the Chamber. Do
19 I have that correct?

20 Okay. Thank you.

21 The next document is a document in - sorry.

22 (Short pause)

23 My second document - my second document is an interview conducted
24 by Ben Kiernan with Chea Sim and Heng Samrin. Am I to understand
25 that that document cannot be discussed unless and until Ben

40

1 Kiernan appears for testimony? Or may I – may I go ahead with
2 that document, E3/1568?

3 Judge Cartwright, I'm just trying to get some clarification. I –
4 really, honestly, that's all.

5 JUDGE LAVERGNE:

6 Counsel Ianuzzi, the Trial Chamber has referred to two documents.
7 The first is the publication written by Mr. Philip Short. Mr.
8 Philip Short is amongst the – an expert who is supposed to be
9 heard shortly, presumably at the start of next year. Therefore,
10 you will have the opportunity to present these documents during
11 the summoning-- or the appearance of Mr. Philip Short.

12 [11.03.17]

13 The second document that we are concerned with is a Stephen Heder
14 publication. He is also on the witness list, and no decision has
15 been taken. Those are the only two sole documents that we have
16 referred to, and there is no objection for you to present those
17 documents during the future hearings. You may only present
18 documents that are relevant to the current proceedings.

19 MR. IANUZZI:

20 Thank you again, Judge Lavergne. I think we're almost there.

21 I have one more question, and this relates to the Heder document.

22 Am I to understand what you've just said to mean that if Mr.

23 Heder does not appear as a witness before this Chamber, then

24 there will be no discussion of his document? I see heads are

25 nodding in agreement or shaking in the opposite (unintelligible).

41

1 Is that correct? I can only -- we, the Nuon Chea defence team,
2 can only make use of this particular article if Stephen Heder
3 appears before the Chamber.

4 JUDGE LAVERGNE:

5 No.

6 MR. IANUZZI:

7 No, no, okay. Then, obviously, I need further clarification.

8 Thank you.

9 [11.04.40]

10 JUDGE LAVERGNE:

11 Very well. With respect to documents written by Mr. Stephen
12 Heder, now, either Stephen Heder is summoned before this Chamber,
13 then the documents can be entertained; and if the Chamber does
14 not hear that expert, then there will be another opportunity to
15 contemplate whether or not those documents will be admitted. I
16 hope that things are crystal clear, Counsel.

17 MR. IANUZZI:

18 Indeed, they are now crystal clear. Thank you.

19 Well, then, my presentation, as it were, will be very brief. I
20 have one document to present to the Chamber today.

21 And before I begin, I would like to make some general comments --
22 some general comments to frame the issue, to sort of set the
23 stage, as I believe Mr. Raynor said the other day. So, before I
24 begin, I would just like to reiterate our position -- reiterate
25 our position -- now a well-established one, I would say --

1 regarding the scope of these proceedings.

2 [11.05.56]

3 And we do accept, as we must -- we do accept that much of the
4 proceedings in Case 002 as it's currently constituted relate to
5 matters not directly relevant to the factual allegations with
6 respect to the first two movements of the population and the
7 recently added crime site of Tuol Po Chrey.

8 And we further understand -- we further understand that the
9 rationale for this is to lay a foundation, as it were, for future
10 truncated trials in Case 002 -- within Case 002 -- at least,
11 that's the theory.

12 And I just wanted to say, on that point, we register our full
13 agreement with what Mr. Cayley said on that issue the last time
14 he was in Court, that that will never, ever happen. But I will
15 not belabour that point today.

16 Again, as to the alleged CPK administrative and related
17 structures, we should focus, then -- we really should focus on
18 the time periods that are relevant to the underlying factual
19 allegations. So, of course, CPK administrative structures are
20 relevant, obviously, that's true, but those structures are
21 relevant within the period -- and possibly shortly before and
22 shortly after the period -- the factual period that you,
23 yourselves, have set as the basis of this trial. And I'm
24 referring, obviously, to the first two population movements and
25 the newly added -- the newly added crime base at Tuol Po Chrey.

1 So I'd just like to say that.

2 [11.07.36]

3 I was going to make some comments about -- some introductory
4 comments about the length of the documents I was going to submit.
5 Obviously, that's - that's not necessary now. I'm not permitted
6 to deal with those documents today. I understand I may be able to
7 do that at a later stage. So I will just say that with respect to
8 the single document that I will be presenting, I urge Your
9 Honours to read the entire document, obviously, not just the
10 portions that I'm quoting from. And that, of course, is for the
11 sake of completeness.

12 So I will turn now to this document. And again, for the record,
13 this is E3/1568 and that is a written record of a series of
14 interviews conducted by Ben Kiernan with two individuals, Chea
15 Sim and Heng Samrin. There are two brief portions of that
16 document that I would like to read out. And I will begin and I
17 will do this very, very slowly because I did not provide copies
18 of these documents in advance - or, excuse me, I didn't pin point
19 in advance for the sake of the translators, so I will go very
20 slowly.

21 [11.08.45]

22 I'm now referring to ERN English, 00651878, and that's through
23 0065187 - 80 -- excuse me, 80; the Khmer - the corresponding
24 Khmer ERNs for that portion, 00713945 through 48; and the
25 corresponding French, 00743349 through 51. And so just let me

44

1 begin again at English 00651878. I'm at the bottom of the page,
2 and this is a portion of the interview with Mr. Heng Samrin: "At
3 that time -- at that time--" Excuse me.
4 "At that time I was still with Son Sen. And Son Sen had meetings,
5 divided us into groups. I took part in activities with Son Sen.
6 Then, after three months in Phnom Penh here following liberation,
7 I was sent back to the East. Then, after I got back to the East,
8 Division 1 was totally destroyed and" -- this is in parentheses,
9 I'm not sure what that means, what the author intended that to
10 mean; in parentheses -- "(its personnel) arrested. If I was still
11 in that division, I don't know what would have become of me. And
12 it was this 1st Division that Pol Pot praised highly in the
13 fighting."
14 That is the division that Heng Samrin was part of.
15 [11.10.34]
16 "There was only this division that [far hard] -- fought hard,"
17 excuse me, "and drove deeply [unclear] in the highway 1 Region
18 and along the Mekong River [unclear] right to the boarder and was
19 very active. The liberation of Neak Loeung involved this
20 division, and my" -- "my" referring to Heng Samrin -- "126th
21 regiment fought, liberate Neak Loeung from East and West and on
22 the water to liberate it on the 1st of April 1975. It was me" --
23 Heng Samrin -- "who liberated Neak Loeung from the East and the
24 West. Then I was ordered" - excuse me - "to send my troops to go
25 and fight into Phnom Penh, but fighting into Phnom Penh did not

1 involve strong fighting, the [unclear Khmer words] (Lon Nol
2 soldiers) rallied to us and let the troops go through at that
3 time.

4 "On 17 April at 9 a.m., I arrived at the Independence Monument.
5 After liberation there was a division of responsibility among
6 three divisions from the East. There was my 1st Division, my
7 younger brother's 2nd Division, and Chhieu" -- C-h-h-i-e-u -
8 "Chhieu's 3rd Division, who fought up to Chrouy Changva with the
9 marines. The 2nd Division fought its way up to opposite [unclear
10 Khmer words], and this 1st Division along Highway 1 and the road
11 from Takhmau into Phnom Penh. There were the three thrusts from
12 the East."

13 [11.12.27]

14 Moving on -- and I'm now on 00651880, and that's the same range
15 I've already read out -- quoting again: "Then, after staying
16 three months, they had my division leave, the division command to
17 Chbar Ampov and the troops to Preaek Aeng."

18 Skipping a bit -- I'm still on that same page:

19 "In that three months, I" -- this is still Heng Samrin -- "I did
20 a lot of work. Immediately after liberation, there was a meeting
21 in order to receive the plan distributed [unclear Khmer words]
22 from the Centre... it was for the whole country, not just one
23 division. It included both military and civil (officials). At
24 that time, all zones from throughout the country came to the
25 meeting to receive the plan from the Centre, Pol Pot. It was on

1 20 May, which he have fixed as the Day of Hatred, the day the Pol
2 Pot plan was fixed to distribute generally to implement the
3 political plan inside and outside the country as the time Pol Pot
4 announced it, so we took 20 May as the Day of Hatred, as his
5 [unclear]."

6 [11.13.44]

7 One more passage from this series of interviews, and then I'll be
8 quite finished. This is English - it's the same document --
9 E3/1568, English ERN 00651884, Khmer ERN 00713955, French ERN
10 00743356. And again, for the record, this is that very same
11 interview with Ben Kiernan and Mr. Heng Samrin, and at this stage
12 they're discussing a meeting, a meeting that apparently took
13 place in Phnom Penh on the 20th of May 1975. I'm quoting now:
14 "They didn't say 'kill' (the Lon Nol leaders). They said [unclear
15 Khmer words]. Don't allow them to remain in the framework. It
16 doesn't mean 'smash'. Nuon Chea used this phrase - [phrase]."
17 Excuse me.

18 "'Komtec' -- and that is an English transliteration of a Khmer
19 word, I assume - 'Komtec" means 'kill', but they used a general
20 word, 'komchat'." Again, I assume, a transliteration of a Khmer
21 word into English. "Nuon Chea talked of wiping out markets, not
22 allowing money. If there were markets and money, there was
23 property. The important heavy pressure was against property. If
24 there was money there were markets, and if there were markets
25 there would be people with money, and these people would have

1 property. So they wanted to wipe out property. Not allow private
2 property to exist."

3 [11.15.28]

4 So, again, perhaps just to emphasize, let me rephrase that
5 "komtec" means kill, but they used a general word, "komchat". And
6 I assume - I hope everyone on the stage and, perhaps, people who
7 have been following the trial will immediately be reminded of an
8 exchange between my colleague, Mr. Pauw, and expert witness David
9 Chandler on this very point. So, this is something that,
10 obviously, has come up already. It's an important issue, from our
11 perspective.

12 And it's the last thing that I will quote, I believe; I have
13 nothing more there.

14 Just a few general comments, then, to wrap up -- just a few
15 general comments. And I will refrain -- I will absolutely refrain
16 from characterizing the bits of evidence that I've just read, but
17 I would like to say very briefly -- and this goes to the limits
18 of the OCIJ's investigation -- I was not in a position today to
19 draw from the trove of material which -- as I'm listening to
20 myself, I realize now this is going to make very little sense,
21 since I was not allowed to quote from the other two documents.
22 The point I wanted to make - the point I intended to make with
23 the two documents that I was not allowed to quote from was that
24 there was a great deal - a great deal, according to two experts
25 -- an incredible deal of autonomy at the mid and lower levels -

1 the mid and lower--

2 I see my friend is on his feet; I'm going to stop talking now.

3 [11.17.05]

4 MR. PRESIDENT:

5 Prosecutor, you may proceed.

6 MR. RAYNOR:

7 Mr. President, we've taken a fairly relaxed approach to this
8 document presentation generally, but when my learned friend is
9 seeking to explain the relevance of points raised in documents
10 that are not before the Chamber, it's really, simply, just trying
11 to get the content of those two documents before the Chamber in
12 circumstances where you've ruled that they're not relevant and
13 admissible at this stage. So, let's not have points coming
14 through the back door, please.

15 [11.17.50]

16 MR. IANUZZI:

17 I will follow the lead of my friend from yesterday and take the
18 point as well noted. I'm certainly glad that he articulated at
19 least what I was trying to do -- what I had hoped to do during
20 this document hearing -- during this document hearing on CPK
21 structures. However, I will have to do that at a later stage, as
22 I understand it - at a later stage.

23 So, just coming to my last point -- and this clearly relates to
24 the discussion that we've been having -- it's very important for
25 us - it's very important for us, for our outstanding witness

1 requests - and, as Judge Lavergne noted, one of those includes
2 the request to hear Mr. Stephen Heder. Of course, it also - it
3 also includes a request to hear Mr. Heng Samrin.
4 Now, there's been a certain exchange between the Chamber and our
5 side about what's happening. It's quite unclear to us; we haven't
6 received any reasons. It seems that a lot of our witnesses have
7 been rejected -- it certainly seems to us that many of our
8 witnesses have been rejected. We haven't received any reasoned
9 ruling on that issue, and I just assume that it's perhaps
10 forthcoming. It's - it's been quite a long time now.

11 [11.19.03]

12 What I would like to note - and, Mr. President, before you tell
13 me to put it writing, I would just like to emphasize that a
14 written motion is indeed on its way -- a written motion from our
15 team -- and I'm simply highlighting this issue for the benefit of
16 the public, many of whom, as I'm sure you know - I'm sure you
17 know -- do not read Court filings or have access to the Internet.
18 So, again, let me just say that there are many witnesses that we
19 would like to hear in this - in this trial, and we've made the
20 request, and we've made it many times, and we've made it in
21 writing, and we've given reasoned-

22 MR. PRESIDENT:

23 You understand that the Trial Chamber gave you the opportunity to
24 present the documents relevant to the facts on the structure of
25 CPK. You use your right beyond the scope of the proceeding

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1 decided by the Trial Chamber. The Trial Chamber will not allow
2 you to go ahead with this kind of statement.

3 Your request and other requests to the Trial Chamber – the Trial
4 Chamber will consider and rule on that in due course. And the
5 Internal Rules does not specify the time period for the Trial
6 Chamber to make any ruling on this case. So the Trial Chamber
7 will consider the request in due course, based on your request
8 and other parties' request. And those requests were decided and
9 ruled upon since 2011 until now.

10 The Trial Chamber hopes that the defence team follow the schedule
11 and the framework for each segment of the hearing.

12 [11.21.31]

13 MR. IANUZZI:

14 Thank you, Mr. President. As I said, we are working on that
15 written motion and we will file that in due course.

16 I would just like to say for the record that I do not agree that
17 you gave me the opportunity to discuss the communication
18 structure and the administrative structure. I told you a week ago
19 – I told Your Chamber a week ago that I intended to use those
20 documents; and, again, you didn't tell me until today that I
21 wouldn't be allowed. I'll leave it at that.

22 And, again, in terms of going off script -- I know this Chamber
23 likes to follow a script, I know this Chamber would prefer to
24 have a trial by script, a short trial of sorts, but that's just
25 not how things work. Issues come up-

1 MR. PRESIDENT:

2 It seems that you conclude you don't have any other document to
3 present before the Chamber. So, if you don't have any other
4 document, the Trial Chamber will not allow you to make any
5 further statement on that.

6 [11.22.38]

7 MR. IANUZZI:

8 Thank you, Mr. President. I have just one (recording malfunction)
9 to say, just to conclude--

10 MR. PRESIDENT:

11 Your presentation of document has been completed. So, you need to
12 present documents if you have.

13 MR. IANUZZI:

14 We have a client in this courtroom, as I'm sure you're aware. Mr.
15 Nuon Chea is our client. And what I wanted to say - what I wanted
16 to say - my last point was that, based on what's transpired, he
17 will not be taking you up on your offer to comment on documents.
18 So, thank you very much. That's all I have to say, in fact.

19 [11.23.40]

20 MR. PRESIDENT:

21 The Trial Chamber reminds you that the right to make comment or
22 respond to the document presented by the parties, including the
23 defence team for the two Accused -- the Accused indicated that
24 they remain - they reserve the right to remain silent on the 10
25 of October 2012.

1 And the Trial Chamber always gives an opportunity to make comment
2 by the Accused on the documents presented before the Chamber, and
3 the Accused can raise his hand to make an address to the Court,
4 but in relation or in response to the documents presented by the
5 parties only.

6 MR. IANUZZI:

7 Thank you, Mr. President.

8 I have one new matter – one incredibly new matter. I was – I was
9 just informed – I was just informed that the OCP, on the 10th of
10 October, was permitted to make some use of a Steve Heder
11 document. I will check the transcripts and confirm that and I
12 will get back to your Chamber.

13 [11.25.26]

14 If that is in fact the case -- and I'm just putting it as a
15 possibility, at the moment I don't have my notes in front of me
16 -- if that is in fact the case, if the OCP was in fact allowed to
17 make some use of material generated by Mr. Steve Heder -- and I'm
18 not saying conclusively they have, I will get back to you -- but
19 if that is the case, then I will strenuously object to my
20 treatment today in Court. And I will get back to you on that.

21 And Mr. Nuon Chea? Nothing from our client, he has confirmed; no
22 comments.

23 Thank you.

24 MR. PRESIDENT:

25 The Trial Chamber will not consider your assumption. And we

1 indicate that we will give you an opportunity at any time to
2 present the document before the Trial Chamber. And the Chamber
3 does not prohibit you from doing so, because the two expert
4 witnesses will be summoned to testify in the proceeding in the
5 future, especially in Case 002/01.

6 MR. IANUZZI:

7 Thank you.

8 If you would perhaps consult page 16 of the draft trial
9 transcript from 10 October, you may find an answer there. Thank
10 you very much.

11 (Judges deliberate)

12 [11.27.50]

13 MR. PRESIDENT:

14 Judge Cartwright, you may proceed.

15 JUDGE CARTWRIGHT:

16 Thank you, President.

17 Mr. Prosecutor, there has been a reference – an oblique reference
18 to a document involving the potential witness Steve Heder. Do you
19 know to what document that reference was? And if so, could you
20 give it to the Trial Chamber -- the reference now to the Trial
21 Chamber so that it can consider this matter over the lunch
22 adjournment?

23 MR. RAYNOR:

24 Your Honour, can I say that I'm actually at the draft
25 transcripts, at the moment, for that date, the 16th of October.

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1 I'll just be checking that page reference to page 16. And can I
2 revert back to you as soon as I've got that document, please?

3 JUDGE CARTWRIGHT:

4 Yes, I - that would be helpful. Thank you.

5 MR. IANUZZI:

6 I've got a bit more information. I believe it's documents E3/27--
7 [11.29.02]

8 JUDGE CARTWRIGHT:

9 It's - it's all right, thank you. The prosecutor will inform us.

10 MR. IANUZZI:

11 Thank you. Thank you.

12 JUDGE CARTWRIGHT:

13 Thank you very much for being so very extendedly helpful.

14 MR. PRESIDENT:

15 Next, I now hand over to the defence team for Mr. Ieng Sary to
16 put the documents before the Chamber in relation to the
17 administrative structure of the Democratic Kampuchea. You may
18 proceed.

19 MR. ANG UDOM:

20 Good morning, Mr. President. Good morning, Your Honours, and good
21 morning to everyone. The defence team for Mr. Ieng Sary does not
22 have any particular document to put before the Chamber, but we
23 have a few observations to make at this stage of the proceeding.
24 I am wondering whether or not I will be granted leave to make
25 this observation now or anytime during the proceedings. Please

1 advise.

2 [11.30.10]

3 MR. PRESIDENT:

4 You may proceed. You may make any observation in response to the
5 documents presented by other parties before the Chamber.

6 And you have to be specific when you make such an observation.

7 Particularly, you have to make mention, as clearly as possible,
8 the document number and references. You're not allowed to make a
9 general observation.

10 MR. ANG UDOM:

11 Thank you, Mr. President, for the advice.

12 I still have some issues which I need clarification. I actually
13 need the clarification from the Prosecution. And listened to his
14 clarification, and following the explanation -- clarification by
15 the Prosecution, I do not have any comment.

16 (Short pause)

17 [11.31.38]

18 MR. PRESIDENT:

19 How about the defence team for Mr. Khieu Samphan? Do you have
20 anything to say, particularly if you have any documents you want
21 to put before the Chamber? If you do, please proceed.

22 MR. VERCKEN:

23 Thank you, Mr. President. In fact, I want to place myself in the
24 shoes of the members of the public here present who must be
25 wondering what is happening, what we are talking about.

1 The problem, as far as Mr. Khieu Samphan's defence is concerned,
2 is that for the past two days we have been expelled from the
3 proceedings. In fact, Mr. President, what we have before us over
4 the past two days has been a press conference, and that is why
5 the defence for Khieu Samphan refuses to participate in this
6 press conference.

7 We were informed by an announcement before these two days of
8 hearings that the proceedings will not focus on the admissibility
9 of documents that will be presented by the parties, and even less
10 so on their probative value. That is what we were told. And this
11 is how the previous hearing unfolded.

12 [11.33.15]

13 A while ago, Mr. President, you stated that parties could react
14 to documents.

15 MR. PICH ANG:

16 (No interpretation)

17 MR. VERCKEN:

18 Perhaps my learned friend would like to make a submission, but I
19 haven't completed my submissions, Mr. President. May I be allowed
20 to do so?

21 Mr. President, you pointed out a while ago that we could react to
22 the documents, but the problem we face is that we could not react
23 in a split second to dozens and dozens of documents presented by
24 the parties in what we consider as a press conference. And we
25 were told previously that we would not be allowed to react, and

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1 we were also told in advance that we would not have to discuss
2 the admissibility of documents or their probative value.
3 That said and in that regard, even though a few minutes ago, Mr.
4 President – and this is how we understood your statement – you
5 amended rules governing these hearings, we were not prepared for
6 that, and so we were not expecting to be asked to react to
7 documents presented by the parties.

8 You must have observed, by the way, that over the past two days
9 of hearings the only reactions that came from our side were
10 purely technical, when the prosecutor used general terms to
11 describe documents that they used, whereas the terms of those
12 documents were more specific.

13 [11.35.12]

14 Now, the defence for Khieu Samphan does not intend to participate
15 any further in such a press conference, because we are not in a
16 trial, we are in a process in which the rights of the Accused are
17 not respected. And so we do not intend to participate therein.

18 MR. PRESIDENT:

19 The National Lead Co-Lawyer for the civil parties, you may
20 proceed.

21 MR. PICH ANG:

22 Good morning, Mr. President. Good morning, Your Honours and
23 everyone. I am afraid that my intervention now might be belated.

24 MR. PRESIDENT:

25 Well, since it is belated, it is not appropriate. Then you do not

1 have to proceed.

2 MR. PICH ANG:

3 (No interpretation)

4 MR. PRESIDENT:

5 You are not granted the floor to make this observation.

6 And, International Counsel for Nuon Chea, you are not granted
7 permission to make these observations because the matter has
8 already been dealt with.

9 How about the National Lead Co-Lawyer for the civil party?

10 [11.36.26]

11 MR. PICH ANG:

12 (No interpretation)

13 MR. IANUZZI:

14 Why not? Why not? There's a new matter on the floor.

15 MR. PRESIDENT:

16 Your time was up. So, the parties have already exchanged their
17 observations already, so you are not granted the floor to discuss
18 this matter anymore, because we allotted the time for you, so you
19 have already finished your part in putting the document before
20 the Chamber.

21 I now give the floor to the National Lead Co-Lawyer for the civil
22 party. You may proceed.

23 Now the National Lead Co-Lawyer for the civil parties -- and he
24 mentioned that he was - it was rather late for him to make this
25 submission, and I mentioned that if it was too late, then he need

1 not make any observation. But if he had anything to say, you may
2 proceed.

3 [11.37.41]

4 MR. PICH ANG:

5 Even if -- it is belated but it is very crucial for members of
6 the public at large. The purpose of the last two days hearing is
7 that, first, we want to put the documents before the Chamber, and
8 those documents are evidentiary documents which - which are very
9 important. They contain substantive information for members of
10 the public and in the future they may become in the public
11 domain. So we will have to make it clear; we cannot say that the
12 last two days hearing is not of use.

13 And I would also like to respond to the observation made by the
14 defence team for Mr. Ieng Sary. He were, of course, granted leave
15 by the Chamber to make specific comment on certain documents
16 presented by other parties.

17 And Mr. Vercken mentioned that the observation had to be in a
18 general nature simply because there were dozens and dozens of
19 documents, and he could not delve on this - any particular topic,
20 and he amounted the last two-day hearing was a mere press
21 conference. I did not actually intend to interrupt, but I simply
22 find that the intervention by Mr. Vercken was not appropriate.

23 [11.39.31]

24 MR. PRESIDENT:

25 Is there any issue for the international defence counsel for Mr.

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1 Nuon Chea?

2 MR. IANUZZI:

3 Thank you, Mr. President. I apologize for speaking without my
4 microphone, but I was just trying to make the point that my
5 colleague, Mr. Vercken, raised a new issue, and that issue was
6 whether or not parties would be able to object to the documents,
7 and I completely agree.

8 This morning is the very first time anyone on this stage heard
9 that from you, Mr. President. It was never communicated to the
10 parties. Had it been communicated to the parties, obviously -
11 obviously - all of us on this side of the stage would have made
12 objections, would have made substantive comments, would have
13 responded, reacted -- done something in response to what
14 happened. What was communicated to us was a document
15 presentation.

16 And I think my friend's use of the word "press conference" is
17 quite accurate. It was simply to show document, without comment,
18 without debate. That was what we were told.

19 [11.40.35]

20 So, for you, Mr. President, to tell us this morning -- again, at
21 a very late hour -- that all of a sudden it's an adversarial
22 hearing, I find it remarkable - remarkable. You are a remarkable
23 Presiding Judge - truly.

24 (Judges deliberate)

25 [11.43.20]

1 MR. PRESIDENT:

2 I hand over to Judge Silvia Cartwright. You may proceed, Your
3 Honour.

4 JUDGE CARTWRIGHT:

5 Yes. Thank you, President.

6 The Chamber is going to deliberate on the recent comments made by
7 counsel for Nuon Chea and give it its - its response after the
8 lunch adjournment.

9 In the meantime, Mr. Prosecutor, do you have the reference,
10 please?

11 MR. RAYNOR:

12 Your Honour, 10th of October, the prosecutors placed before the
13 Court two English summaries of "Revolutionary Flags". They made
14 it plain, when doing so - they made it plain, when doing so, that
15 these were English summaries that the Prosecution thought had
16 been prepared either by Stephen Heder or Professor Ben Kiernan.
17 So, those were the references to Mr. Heder that day.

18 [11.44.20]

19 The document numbers for those two issues of "Revolutionary Flag"
20 are E3/724 and E3/731. Can I say that, whilst we're dealing with
21 Stephen Heder and Your Honours' earlier ruling in relation to
22 documents authored by Stephen Heder for the purposes of the
23 document presentation hearing, there's an obvious difference
24 between a record of an interview taken down by Mr. Heder and a
25 document such as "Revolutionary Flag", which we believe the

1 summary of which came from Stephen Heder.

2 Can I say, whilst on my feet, please, Your Honour, that the
3 Prosecution would have had comments to make about Mr. Vercken's
4 summary of this hearing. A document hearing is putting evidence
5 before a Court; it's not a press conference. And he might well
6 dwell upon a particular moment from a previous, very famous,
7 international court trial, when an English judge called Richard
8 May was dealing with the former President of Serbia, Mr.
9 Milosevic, and made it absolutely plain that the purpose of
10 counsel in these trials is not, to use an English phrase, to
11 showboat. The purpose of this document hearing was to put
12 admissible, relevant documents before the Trial Chamber that Your
13 Honours had not seen before.

14 [11.45.54]

15 I find it sad that defence counsel feel, in response to that
16 legitimate, legal exercise, the need to showboat and preen their
17 feathers. Perhaps it's time for defence counsel to put their
18 peacock feathers in and for us all to concentrate on the
19 evidence.

20 MR. VERCKEN:

21 May I say a very brief word without engaging in any polemics, Mr.
22 President?

23 Without engaging in any controversies, I would like to respond to
24 the last statement by the prosecutor and I would like to assert
25 here that the Chamber -- or Ms. Lamb, who represents the Chamber

1 -- told us during our consultations prior to the hearings -- we
2 were told that the documents presentation hearing neither had to
3 do with the submission of documents nor the discussion of the
4 probative value of those documents. We were told that the
5 documents presentation hearing was aimed at enabling the public
6 to take stock of the documents, most of which already have
7 reference numbers, which you are aware of, Mr. President. The
8 purpose of this hearing was to enable the Cambodian public to
9 better understand the documents used before the Chamber.

10 [11.47.42]

11 Today, in - in a very oblivious manner, my learned friend of the
12 civil parties said: "That is not at all the case; in fact, what
13 has occurred before the public over the past two days has been
14 proceedings, judicial proceedings."

15 May I - and I have adhered to what the Senior Legal Officer
16 announced, and we're not talking of proceedings or adversarial
17 debates, insofar as we're not discussing the validation of
18 documents with E3 reference numbers, nor the probative value of
19 those documents. In that regard, I think the discussion was
20 closed, unless you clarify the matter, Mr. President, and put an
21 end to any further misunderstandings.

22 MR. PRESIDENT:

23 Counsel Ang Udom, you may proceed. You have already heard the
24 comment made by the Prosecution.

25 MR. ANG UDOM:

1 Mr. President, I know that the hearing that has been conducted
2 since the 10th of October was, according to the letter by the
3 Senior Legal Officer, not the hearing about the possibility of
4 rejection or admission of certain documents; it was a mere
5 documental - a mere hearing to listen to the various documents to
6 be put before the Chamber, the documents that have not been put
7 before the witnesses who have come to testify in this Court
8 before.

9 [11.49.52]

10 And just now the President made it clear that for the document
11 written by two experts, Mr. Philip Short and Mr. Stephen Heder --
12 should not now be appropriate to put before the Chamber, since
13 the Chamber has not yet determined whether or not these two
14 experts are to be called to testify before this Court. That is
15 the first thing.

16 But my question was that on the 10th of October, the Prosecution
17 put a document written by Mr. Stephen Heder. That was the
18 interview with Mr. Ieng Sary. And he read out a portion of this
19 interview with Mr. Ieng Sary out in the open Court. I was
20 wondering why he was allowed to do that, and I don't know whether
21 or not there was an opportunity for us to object such a document
22 and reading.

23 And, yes, now the Prosecution also made it clear in the Court
24 that they refer only to the "Revolutionary Flags", but to me, it
25 was not confined to the "Revolutionary Flags"; there were

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1 statements and interviews written by the two experts, as well.

2 And you also mentioned that those documents were accorded the E3
3 classification.

4 So, my question is: When the Lead Co-Lawyer for the civil party,
5 particularly the International Lead Co-Lawyer, who mentioned
6 certain documents that were not accorded the E3 classification
7 yet, but those documents were allowed to read in open Court --
8 and I was wondering why there were such a controversy in the
9 presentation of the document. I do need the clarification from
10 the Chamber. And, if my understanding is incorrect, please advise
11 me.

12 [11.52.01]

13 I don't know whether or not the documents that are being put
14 before the Chamber are not subject to a rejection. I would like
15 to know whether or not the hearing here is all about the
16 presentation of the documents, and parties are not allowed to
17 object against the presentation of the documents. And I wonder
18 why certain documents are allowed to read out and others are not.

19 MR. PRESIDENT:

20 The Chamber has made it clear already in relation to the two
21 documents, and Judge Jean-Marc Lavergne also clarified the issue.
22 And as for the document in relation to the application to join as
23 a civil party, the Chamber has admitted, and there was subject to
24 adversarial hearing, as well. And you may have already been well
25 aware that there have been more than 4,000 applicants to join as

1 the civil parties.

2 And we have classified certain documents with the E3
3 classification. And as for -- the annexes to those documents may
4 be used in certain cases, particularly the document relating to
5 the application to join as the civil parties.

6 [11.53.32]

7 And I divide it into precise two points, one relating to the
8 experts and the other relating to the documents that parties are
9 supposed to put before the Chamber. And parties are allowed to
10 put this document at appropriate time in the proceeding. That is
11 meant to facilitate the flow of the hearing.

12 And on a separate issue, party ask us -- and if they wish to make
13 observation on certain documents presented, they can do so, but
14 they are not going to discuss the probative value and weight of
15 those documents. The parties were not supposed to assess the
16 probative value or weight of the evidence because this is not at
17 the closing stage of the proceedings.

18 Counsel, you may proceed.

19 MR. ANG UDOM:

20 Thank you, Mr. President. I would like to clarify the title of
21 the document that the Prosecution put before the Chamber in
22 relation to the interview by Mr. Stephen Heder. It's document
23 E3/89.

24 And just now I heard from the President very clearly, but I have
25 to double check with that. This is the hearing to present

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1 documents; it is not the hearing to admit or reject any
2 documents. And, if you do not mind, please clarify this.

3 [11.55.33]

4 MR. PRESIDENT:

5 It is true; we have not rejected any document presented by the
6 parties, but the Chamber asks us to defer two documents. The
7 documents relating to the witness who may be subject to be
8 summoned by the Chamber, we have to take into consideration the
9 circumstances involved with the summoning of those two experts.

10 And Mr. Philip Short has already been summoned, but due to his
11 busy schedule, we defer his testimony to early 2013.

12 And as for the other expert, we have advised the parties that he
13 is under the consideration by the Chamber -- whether or not to
14 summon him to testify. And Judge Jean-Marc Lavergne has already
15 clarified that very precisely and he also asked the parties to
16 profer the Chamber with documents as well, at appropriate times,
17 when we hear - we may hear this testimony, sometime in 2013.

18 [11.56.55]

19 The - Mr. Prosecutor, do you have any issue to raise? Otherwise,
20 the time is also appropriate now for a break.

21 MR. RAYNOR:

22 No. Thank you, Mr. President.

23 MR. PRESIDENT:

24 Counsel, you may proceed.

25 MR. IANUZZI:

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1 Thank you, Mr. President. Just two points today, before we sit
2 down.

3 I take Mr. Raynor's point, that there's a difference between an
4 article authored by an expert and an interview conducted by an
5 expert. The point I was trying to make – the point I was trying
6 to make is that we would have all done well to have been notified
7 in advance of the parameters.

8 And the difference that I – that I accept, it's not a fatal
9 difference. There are still potential issues with an interview
10 conducted by a person who is not an OCIJ investigator, if that is
11 in fact the rationale for not hearing or for not discussing a
12 report prepared by an expert. If the rationale for not discussing
13 a report prepared by an expert is that he's not here, then that
14 same rationale should apply to interviews conducted by that
15 expert who was not a judicial officer at the time of conducting
16 interviews.

17 [11.58.18]

18 I hope I'm making myself clear.

19 I do take Mr. Raynor's point, but it was not the point that I was
20 trying to make. It was not the point that I was trying to make.

21 If we're to be prohibited from discussing documents, we should be
22 told that in advance and we should be given reasons as to why
23 we're prohibited so we understand it, so it's clear for the
24 record, so we can make appropriate motions and/or appeals. That's
25 my complaint. That is my complaint.

1 And, of course, my final application for the morning is that Mr.
2 Nuon Chea be permitted to spend the afternoon in the holding
3 cell. He's suffering from a headache, a backache, and a general
4 lack of concentration. I may do well to retire to the holding
5 cell myself. Enjoy your lunch, everyone.

6 MR. PRESIDENT:

7 The time is now appropriate for lunch break. The Chamber will
8 adjourn now until 1.30 this afternoon.

9 This afternoon, the Chamber will hear the testimony of one civil
10 party.

11 And the Chamber notes the request by Mr. Nuon Chea, through his
12 defence counsel, to follow the proceeding remotely, through
13 audio-visual means, for the remainder of today's proceedings, due
14 to his health concerns.

15 The Chamber grants the request of Mr. Nuon Chea. He may follow
16 the proceeding from the holding cell downstairs through
17 audio-visual means for the remainder of today's proceedings.

18 [12.00.05]

19 Mr. Nuon Chea has expressly waived his right not to be present
20 directly in this courtroom. The Chamber requires that the defence
21 team for Mr. Nuon Chea to submit to the Chamber immediately the
22 waiver with the thumbprint of signature of the accused Nuon Chea.
23 AV booth are instructed to link the audio-visual means to the
24 holding cell downstairs, where Mr. Nuon Chea can follow the
25 proceeding remotely for the remainder of today's proceedings.

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1 Security guards are instructed to bring the co-accused Mr. Nuon
2 Chea and Khieu Samphan to the holding cell downstairs. Mr. Nuon
3 Chea is to remain in the holding cell for the remainder of
4 today's proceedings, and Mr. Khieu Samphan is to be brought to
5 this courtroom before 1.30 this afternoon. The Court is now
6 adjourned.

7 (Court recesses from 1201H to 1344H)

8 MR. PRESIDENT:

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

10 As I advised the parties and members of the public this morning,
11 that -- this afternoon the Chamber will hear the testimony of one
12 of the civil parties, TCCP-169.

13 And before I call in this civil party, the Chamber wishes to
14 pronounce two rulings.

15 And, in this respect, I hand over to Judge Jean-Marc Lavergne to
16 pronounce the ruling on two issues:

17 1) The presentation of the documents by David -- by Heder, Mr.
18 Heder; and

19 2) The warning of the Chamber against the international defence
20 lawyer for Mr. Nuon Chea, Mr. Andrew Ianuzzi.

21 [13.46.22]

22 JUDGE LAVERGNE:

23 Thank you very much, Mr. President.

24 First and foremost, with respect to the observations made by the
25 defence lawyers with respect to the presentation made by the

1 office of the Co-Prosecutors of an interview involving the
2 accused Mr. Ieng Sary conducted by Mr. Steve Heder, upon
3 verification, the Trial Chamber acknowledges that, in effect,
4 document E3/89 is indeed the said interview that was used by the
5 International Co-Prosecutor during the hearing of the 10th of
6 October.

7 Nevertheless, the Chamber does not intend to amend its decision
8 to postpone the presentation of Nuon Chea's document
9 presentations of the written documents authored by Mr. Steve
10 Heder until the Chamber decides that the concerned person shall
11 be summoned to testify.

12 [13.47.34]

13 The Chamber intends to clarify that such postponement is entirely
14 consistent with the good administration of justice and that it
15 serves to avert repetitious arguments before this Chamber and
16 does not in any way curtail or have a detrimental effect on the
17 rights of the Defence to refer to such documents at an
18 appropriate time.

19 With respect to the second oral decision of this Chamber,
20 concerning Counsel Andrew Ianuzzi, sir, would you kindly rise?
21 Over the course of this morning's hearing, Counsel Ianuzzi,
22 international counsel for the defence of the accused person Nuon
23 Chea, proceeded once again to make several and various comments
24 with the view to contest or criticize the decisions that had just
25 been issued by the Chamber with respect to the conduct of

1 proceedings. On many occasions, counsel had been forewarned that
2 such behaviour and such comments were inappropriate and that he
3 was no longer authorized to continue.

4 [13.49.01]

5 In addition to these comments, he addressed the President in a
6 repeated manner by qualifying the President of this Chamber as a
7 "remarkable" Judge. The manner in which such comments were
8 uttered and the tone with which counsel delivered such comments
9 and addressed the President leaves no doubt of the discourteous
10 and disrespectful nature of his comments and is entirely
11 insulting towards the President and, indeed, the entire
12 composition of this Chamber.

13 Because of the entirely inappropriate and unacceptable behaviour
14 of the lawyer, the Chamber solemnly and hereby warns Counsel
15 Ianuzzi that, pursuant to Rule 38 of the Internal Rules with
16 respect to misconduct of a lawyer, continuance of such behaviour
17 may lead to refusal of his participation in the Chamber and a
18 refusal to be given audience.

19 Thank you.

20 MR. PRESIDENT:

21 Court officer is instructed to usher in the civil party,
22 TCCP-169, to -- into the courtroom.

23 (Witness enters courtroom)

24 [13.51.45]

25 QUESTIONING BY THE PRESIDENT:

1 Good afternoon, Civil Party.

2 Q. What is your name?

3 MS. YIM SOVANN:

4 A. Good afternoon, Mr. President. My name is Yim Sovann.

5 Q. Thank you. Can you tell the Court when you were born?

6 A. I was born on the 5th of October 1960.

7 Q. Where were you born?

8 A. I was born in Preah Traeng village, Setbou commune, S'ang

9 district, Kandal province.

10 Q. Thank you. Where is your current address?

11 A. My present address is at house number 20, Village 4, Street

12 136, in Sangkat Phsar Kandal, Phnom Penh.

13 Q. What is your occupation?

14 A. I stay at home.

15 [13.53.34]

16 Q. What is your father's name?

17 A. My father's name is Touch Sum and my mother's name is Touch

18 Ly.

19 Q. How about your husband? What is his name? And how many

20 children do you have?

21 A. My husband's name is Kem Leang, and I have three children.

22 Q. From the 17 of April 1975 to the 6th of January 1979, where

23 did you reside and what did you do?

24 A. From 1975 through 1979, I was a farmer and I was labelled at

25 the 17 April People. And I lived in Phnom Penh.

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1 Q. Now, how about the period between the 17 of April 1975 through
2 1979? Where did you reside and what did you do?

3 [13.55.12]

4 A. From the 17 of April 1975 until the 6th of January 1979, I
5 left Phnom Penh and I resided in Pouthi Ban commune, S'ang
6 district, Kandal province, and then I left Pouthi Ban commune and
7 I went to live in Kandieng district, Pursat province. And in 1979
8 I returned to Phnom Penh.

9 MR. PRESIDENT:

10 In your capacity as the civil party, you may express the
11 sufferings and the harms you have sustained materially and
12 psychologically, which may be the direct injury sustained from
13 the crimes committed during the period of the Democratic
14 Kampuchea. And you have been accorded status as the civil party,
15 and this is the time when you can express yourself in support of
16 the prosecution of the crimes committed by the alleged Accused,
17 namely Mr. Nuon Chea, Khieu Samphan, and Ieng Sary. So, it is the
18 opportunity for you to express your suffering.

19 And, Prosecutors, please be advised that in accordance with Rule
20 91bis, you will be given the floor first to put question to the
21 civil party because the prosecutor were the moving party. As for
22 the civil party lawyers, you will be given half a day to put the
23 questions to the civil party.

24 I note the defence counsel is on his feet. You may proceed.

25 [13.57.42]

1 MR. IANUZZI:

2 Thank you, Mr. President. Good afternoon, everyone. I just have a
3 very brief comment to make about what you've just said, and
4 please do not take this, in any way, as a criticism.

5 I heard you say "crimes--"

6 MR. PRESIDENT:

7 This is not the right time for you to raise any comment because
8 your time has not yet come, and now it is the turn of the
9 Prosecution to put the questions.

10 So, Mr. Prosecutor, you may proceed.

11 You are not granted the floor to raise this observation because
12 the proceeding we are conducting now is the testimony of the
13 civil party, and now it is the turn of the Prosecution. You may
14 proceed.

15 MR. IANUZZI:

16 I don't want to ask any questions, Your Honour. I do not want to
17 ask any questions. I want to simply make a comment about what
18 you've just said. So I think -- really, I think this is the
19 appropriate time.

20 [13.58.42]

21 MR. PRESIDENT:

22 You are not allowed to have the floor, because I am conducting
23 the hearing now, and we are hearing the testimony of the Civil
24 Party Yim Sovann, and now it is the turn of the prosecutor. The
25 prosecutor is the party given the floor first to put questions to

1 the said civil party.

2 International Lead Co-Lawyer for the civil party, you may
3 proceed.

4 MS. SIMONNEAU-FORT:

5 Yes, Mr. President. I crave you indulgence. We and the
6 Prosecution have decided to adopt a working method that took into
7 account the instructions of the Chamber and we have decided that
8 the civil parties would start the examination of the civil party,
9 followed by the prosecutor.

10 Is it possible to proceed in this manner, since we had receive
11 instruction from you regarding this matter?

12 (Judges deliberate)

13 [14.00.30]

14 MR. PRESIDENT:

15 You may proceed. The Lead Co-Lawyer for the civil parties may
16 proceed with the questioning of the civil party.

17 MS. SIMONNEAU-FORT:

18 Mr. President, as usual, may I inform you that the examination of
19 the civil party will be by Mr. Sam Sokong and myself.

20 MR. PRESIDENT:

21 Counsel, you may proceed.

22 QUESTIONING BY MR. SAM SOKONG:

23 Good afternoon, Mr. President, Your Honours, and good afternoon,
24 Civil Party Yim Sovann.

25 Q. I have a number of questions to ask you that -- I would like

1 to divide it into three parts. The first part, I would like to
2 ask you what happened before 1975.

3 [14.01.52]

4 My first question for you is: Before 1975, where did you live?

5 MS. YIM SOVANN:

6 A. Before 1975, I lived in Preaek Traeng, S'ang district of
7 Kandal province.

8 Q. At your location in Kandal town, what was the situation there
9 then?

10 A. In my district, it was very hard. There were -- Khmer Rouge
11 soldier and Lon Nol soldiers were at war in the battlefield. And
12 I fled to Phnom Penh in 1972 and I continued to stay in Phnom
13 Penh until 1975. And my family status and condition were also the
14 same, and we were in a medium situation.

15 Q. When you moved to Phnom Penh in 1972, were you a student or
16 were you doing any job by that time?

17 A. When I moved in Phnom Penh in 1972, I was not a student
18 because I could not afford to go to school. I have a lot of
19 difficulty then.

20 Q. Question to you is that, when you arrived in Phnom Penh, you
21 lived in Phnom Penh. So, can you tell the Court, what was Phnom
22 Penh like at that time?

23 [14.04.28]

24 A. When I was there, my uncle, my aunty in Banteay Sloek -- it
25 was called "Intendance" (phonetic) -- and another barrack, it was

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1 called Q.G. I was there for about a few months, and then the
2 Khmer Rouge soldier assault the barrack, and Phsar Daeum Kor was
3 on fire, and I moved then to Olympic Stadium under the support by
4 CARE, the organization to provide food for the refugees at the
5 time.

6 Q. You said that there was fighting. So, who were the parties to
7 the fighting?

8 A. During the night, I do not know where the shelling were coming
9 from, but they were targeted at Lon Nol's residence. They start
10 from 9 o'clock p.m. until 12 o'clock, midnight. I was very scary
11 (sic), very terrified and Phsar Daeum Kor -- Daeum Kor Market was
12 on fire.

13 Q. What did you see at the hospital or in the street? Were there
14 any sick people, or the corpse, or any people get injured?

15 A. Yes. At the hospitals, there were the injured people and
16 corpse all over the hospitals.

17 Q. Before 1975, meaning that -- before the 17th of April 1975,
18 what did (sic) your father's business or job?

19 [14.07.12]

20 A. I know that my father was a spy. Only people in my family
21 would know that. He was also a farmer from the people from
22 outside.

23 Q. Now, I am moving to part number 2. I would like to ask you
24 certain questions regarding the fourth evacuation.

25 My first question for you is that, when the Khmer Rouge soldiers

1 arrived in Phnom Penh, did you see the situation in Phnom Penh?
2 Were there any still fighting between the Khmer Rouge soldiers
3 and the Lon Nol soldiers?

4 A. On the 17 of April 1975, the Khmer Rouge soldiers arrived in
5 Phnom Penh. The Lon Nol soldiers and the Khmer Rouge soldiers
6 were not in fighting because the Lon Nol soldiers were defeated
7 and surrendered. But the Khmer Rouge soldiers violated the
8 soldiers of the Lon Nol and the people. I was terrified.

9 [14.08.57]

10 Q. You said that in 1975, on the 17 April, there was no fighting
11 because Lon Nol soldier was -- surrendered. In this surrender,
12 were -- the Lon Nol soldiers were treated well or were they
13 tortured or executed?

14 A. I witnessed those events in front of Preah Puth Pagoda. I was
15 young. I took my sister to find my uncle because he was a soldier
16 and he was defeated from Kab Srov Dam. I saw those Khmer Rouge
17 soldiers and I was wondering why they were in black uniform, in
18 short hair, and they were fully armed, and I saw the tank, and I
19 saw them beating people with a gun -- with a rifle. I don't know
20 why they violated the soldiers and also the 17 April People. I
21 don't know why they hate us as the 17 April People, why they
22 consider us as the sworn enemy of them.

23 Q. On the 17 of April 1975, in your family and including
24 yourself, was there anyone came over to your house to ask you to
25 leave your house?

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1 [14.11.17]

2 A. I don't know who they were, I just heard that they called
3 themselves "Comrade Brother, Comrade Brother" and they came from
4 the different direction.

5 And my father tried not to leave. It was in the evening -- in the
6 afternoon, about 3 o'clock. My father refused to leave, and I
7 observed that, and they came with rifle and some dry rice and
8 they told my father, "You must leave; if you don't do so, the
9 Americans will drop the bomb on Phnom Penh". And my father rushed
10 to pack the bag, and to collect some rice, and try to move out
11 from my place, and it was very miserable to leave.

12 Q. Can you tell the Court that -- you say there were -- different
13 groups came over to your house. So, what are they, in different
14 uniform or -- can you describe to the Court?

15 A. I don't know who were they, but they were all in black
16 uniform.

17 Q. When you saw them in black uniform, were they armed at the
18 time?

19 A. Yes, they were armed, including men and women with the red
20 scarf, and they were fully armed. I don't know those groups
21 belong to what command, or division, or whatever.

22 Q. When they arrived at your house and you saw that they were
23 fully armed, what -- did they told you to leave Phnom Penh,
24 especially to leave away from your house?

25 [14.14.03]

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1 A. They told us that the Upper Angkar asks us to leave. We asked
2 them, "Where can we go?" And they told us to - "Go to your home
3 village for just three days; if you decide to stay, the Americans
4 may drop the bombs and kill you". And we asked them, "Where are
5 you from?", and they refused to give us any response.

6 Q. Other than your family members and you, yourself, what
7 happened to other Phnom Penh residents? Were -- they faced the
8 same situation like yours?

9 A. In general, the 17 April People were in the same situation as
10 they were living there in Phnom Penh.

11 Q. When the Khmer Rouge soldiers told you to leave your house,
12 did they leave you enough time - how many hours -- so that you
13 can pack your luggage or prepare to leave?

14 A. They gave us only 15 minutes. If we refuse to leave, they will
15 enforce their measure.

16 I saw, in Ou Ruessei Market, one of the houses was locked when I
17 returned from the market. When they knocked the door and the door
18 was not open, and -- they shot the lock, and when the people came
19 out, they shot the people to death, and I ran away from the
20 scene.

21 [14.16.35]

22 Q. When you left your residence, your house, did you witness
23 anything at the hospital, including the sickness (sic), were also
24 evacuated out of the hospital?

25 A. Yes, I saw, at Borei Keila Hospital, the wounded soldiers were

1 there, and the Khmer Rouge soldiers were there, pushed them to
2 drop them from the bed, and some of the wounded people were taken
3 away with their relatives, whereas the others were left there
4 with no relative, were left behind to be death (sic) in the
5 hospital.

6 Q. In that hospital, can you tell the Court where it was?

7 A. That hospital, during the Lon Nol regime, it was in Borei
8 Keila Complex. It was one of the military hospitals in Borei
9 Keila. It belonged to Lon Nol army. I don't know the name, but I
10 just know it was in Borei Keila Complex.

11 [14.18.28]

12 Q. When you were evacuated and also your family members left your
13 house, where did you leave? And what is your direction at that
14 time?

15 A. On 17 of April 1975, at about 3 p.m., I and my family members
16 left alongside Phsar Depou Market, and we went toward Stueng Mean
17 Chey, and we were blocked, and then we turn to Ou Baek K'am, and
18 then we try to see my uncle who was in the military unit there,
19 and I found no-one there, but what I saw -- were corpses over
20 there. And my father decided to continue toward Pochentong
21 Airport on the road. And I saw corpses of soldiers along the
22 road. I was very traumatized. I didn't see my uncle then.
23 So, when we there at Pochentong and we went over and reached So
24 Khuon (phonetic) Pagoda and we try to stay there for about four
25 to five days. And then the Khmer Rouge soldiers tell us -- told

1 us to move on, and we ask, "Where should we go?", and they told
2 us that, "Wherever you want to go, you can do that".

3 [14.20.42]

4 We tried to go to our birthplace, but we were prohibited because
5 Road Number 3 was blocked and also Number 4 -- Road Number 4 is
6 blocked, and there were a flood of people full of the street.
7 People died along the street; sometimes there were a kind of
8 stampede where people died. I saw people use the car to move out,
9 but there were too many people, and the Khmer Rouge soldiers
10 grabbed the driver from the car and then shot him to death. And
11 the people was very terrified and ran away, and some people get
12 lost and family members also lost. What we can do is just to keep
13 the small children in our chest and then we try to continue our
14 journey along National Road Number 3 for five to six days until
15 we reach Steung Kampong Tuol, and we stay there for a while.

16 [14.22.25]

17 Q. Talking about your travel of your family and other people --
18 people from Phnom Penh, where you and where they are travel? Were
19 there any transport provided for that evacuation?

20 A. The people had to use the means of transport -- for example,
21 car. Sometimes they were running out of gas. They tried to use it
22 to push it and load it with some stuff. People had to carry stuff
23 on the shoulder and on the head. I saw many things.

24 Q. For your family, were there any difficulties for your travel
25 from one place to another place until you reach the destination?

1 A. My family and other 17 April People were exposed to the same
2 difficulty. We were horrified. There's no money, no food, no
3 water along the road.

4 Q. A while ago, you said that there were many, many people on the
5 road, and there was also stampede, and there were the sick
6 people, and also people died during those evacuations. Were (sic)
7 the sick people get any treatment from the Khmer Rouge soldier or
8 the Khmer Rouge during your trip?

9 [14.25.09]

10 A. No, there was none.

11 Q. Based on your observation when you were travelling on the
12 road, you saw the corpses. Were those corpses civilian corpses or
13 military corpses of the Lon Nol soldiers?

14 A. I saw those corpses along the road at the airport. They were
15 in uniform -- military uniform, and I didn't dare to go close
16 because I was scary (sic) and I tried to stay away from that.

17 Q. When you saw corpses along the road and also the wounded
18 people, did you witness anyone prepare any funeral or bury any
19 corpse at all?

20 A. No, not at all. When I was evacuated along the road, there was
21 no funeral of any kind under Khmer tradition.

22 Q. If those corpses were not collected or were not kept in the
23 right order, were they scattered everywhere or they were piled up
24 in such a condition?

25 [14.27.32]

1 A. I found the corpses were scattered everywhere. No-one take
2 care of the corpse or organize any funeral at all.

3 Q. You said that those corpses were scattered everywhere and you
4 said that at the time there were too many people and very crowded
5 on the road. Were the corpses stepped on by the people and ran
6 over by any vehicle?

7 A. No, the corpses were not on the road, they were in the ditch
8 or on the roadside. I saw one person was shot to death when he
9 was in a car, when the car was pushing by other people, and then
10 the Khmer Rouge soldier just picking him up and shot him to death
11 on the roadside.

12 Q. You and your family, when you were evacuated from Phnom Penh,
13 can you go to the destination you wished to go?

14 A. We wished to go to Setbou village of S'ang district, but we
15 could not go there. We went to another district.

16 [14.29.52]

17 Q. When you arrived, your destination, as prepared by other
18 people, were there any arrangements for you to stay and live
19 there?

20 A. No, there were no arrangements or organization at all, so we
21 just been there and had to live there.

22 Q. When you lived there, what was the condition of your living at
23 that place?

24 A. As I am one of the 17 April Persons, I arrived later than
25 other people. I went to Kaoh Thum district in S'ang, so I was one

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1 of the last to arrive. I stayed in Sampan Leu Pagoda. I spent
2 there for one night. I heard people say that when you are there,
3 Angkar are there to receive you, and they told me that they cook
4 the rice mixed with corn and they are -- they were ready for you.
5 When I saw the rice cooked mixed with the corn, I was crying, and
6 my father told me that he want to try to cross the river to
7 another side of the river to find his friend, and then we crossed
8 the river to stay in Pouthi Ban village.

9 [14.32.03]

10 And then the Base People there, even though my uncle's friends
11 try to cause trouble to us, they try to ask from us clothing --
12 any valuables they want - they wanted. They feel -- disliked us.
13 They search us for anything of value and they express hatred
14 against us. And they made us to work without providing any tools
15 and they blame us for being 17 April People, for being bad
16 people. I don't understand why they considered us like this. I
17 tried to work until I felt sick, and when I felt sick, they
18 forced me to lie down in the sun and they insulted me by saying I
19 am -- have a kind of ideological fever -- it's not a real fever.

20 Q. My last question to you in relation to your eviction out of
21 Phnom Penh and you got to Kaoh Thum and you said that you lost
22 your parents then. Do you know why your parents were executed?

23 [14.34.19]

24 A. I'm sorry; I do not understand your question. Can you please
25 repeat it?

1 Q. When you were being evicted out of Phnom Penh, according to
2 your earlier statement, you said that you were evicted to stay at
3 Phum Kuon (phonetic) and Kay Rong village and pagodas, and then,
4 finally, you reached Kaoh Thum district. Along the long journey
5 on foot, were there any members of your family died along the
6 way?

7 A. When I reached Kay Rong Pagoda, we stayed there for three
8 days, and then we were moved again out of the place. And we
9 actually intended to go back to our home town but we were not
10 allowed to go, so we continue our journey to Samraong Yaong. Then
11 we moved on from Samraong Yaong to -- further to another place I
12 cannot recall.

13 [14.35.34]

14 So, we had to travel on foot the whole day and we could not reach
15 that destination, and we were too exhausted at that time. And
16 then people took us by an ox-cart, and my father told people who
17 came to take us that we could no longer walk on foot because my
18 younger brothers and sister were too exhausted already. So my
19 father took the watch off his hand and then gave it to them, and
20 they took us all the way to Preaek Ambel. And then they would not
21 - they did not allow us to go to the direction we wanted to go,
22 actually, but we had to beg them to let us go.

23 And then we met the Khmer Rouge soldiers. They ordered that we
24 stay there on a short period of time, and then we will move again
25 to Sampan to -- on a boat, and then we reach another bank of the

1 river.

2 But on this journey, none of our family members died.

3 Q. This is my last of the last questions. When you eventually
4 reached the destination you were supposed to go, did the Khmer
5 Rouge soldiers convene you and your families to a meeting where
6 your family's biographies were taken?

7 [14.37.39]

8 A. When we reached Pouthi Ban commune, we met people who order
9 that we prepared our biographies. We attended a meeting, and in
10 -- following the meeting, they told us to submit our biographies,
11 and then we were made to work immediately. They made us work in
12 the field immediately after that.

13 MR. SAM SOKONG:

14 Mr. President, that is all for me, for the civil party, but I
15 would like to hand over to my esteemed colleague. But before I
16 finish, I would like to thank the civil party, Ms. Yim Sovann,
17 for answering my questions.

18 MR. PRESIDENT:

19 Thank you.

20 The time is now appropriate for an adjournment. The Chamber will
21 adjourn now until 3 o'clock this afternoon.

22 But before we adjourn, the Chamber wishes to advise the
23 Co-Prosecutors as well as the Civil Party Lead Co-Lawyer that you
24 have only one more hour to go, so please consult with one another
25 as to the time allocation between your two teams. Thank you.

1 The Court is now adjourned.

2 THE GREFFIER:

3 (No interpretation)

4 (Court recesses from 1439H to 1500H)

5 MR. PRESIDENT:

6 Please be seated. The Trial Chamber is back in session.

7 And the floor is now given to the Lead Co-Lawyer for civil
8 parties so that you can put questions to the civil party here.

9 You may now proceed.

10 MS. SIMONNEAU-FORT:

11 Yes, Mr. President, thank you.

12 I have heard that we must complete before 4 p.m. We started
13 rather belatedly this afternoon; I crave the Court's indulgence
14 to grant us a bit more time than the time allotted to us, since
15 we started rather late. I will try to proceed rapidly.

16 QUESTIONING BY MS. SIMONNEAU-FORT:

17 Good afternoon again, Madam.

18 Q. I would like us to revisit some of the questions that were put
19 to you on the first part after Phnom Penh. I'd also like to talk
20 about your departure from Phnom Penh.

21 Please tell us how many brothers and sisters you had at the time
22 of your departure from Phnom Penh.

23 MS. YIM SOVANN:

24 A. I have three younger brothers -- I'm sorry, I have two younger
25 brothers, two sisters. When it was in 1975, I have another

1 younger brother.

2 [15.02.48]

3 Q. Thank you. You made mention of persons who came to your home
4 and who were dressed in black clothing. Were they soldiers?

5 A. Yes. Those who told us to leave Phnom Penh, they were in black
6 uniform with a red scarf around their necks. I know they were the
7 Khmer Rouge soldiers, but I do not know which unit were they
8 from.

9 Q. It is not necessary for you to specify that. Please tell us,
10 how old were they? Were they rather young or rather old?

11 A. Some of them were rather old, some of them rather young, but I
12 cannot tell you the exact age of those people.

13 Q. When you were told to leave your home, what were you
14 authorized to take along with you?

15 A. They told us to leave and that we do not need to take more
16 property with -- because you were required to leave only for
17 three days to avoid the bombardment from American.

18 Q. When your father refused to leave, did the Khmer Rouge
19 soldiers threaten your father?

20 [15.05.19]

21 A. When my father refused to leave and he asked those comrades to
22 delay his journey and -- they told him that you have to leave
23 because the Upper Angkar needs you to leave; if you decide not to
24 do so, they will enforce a measure against you, and we have no
25 choice. As we receive a severe threat, we had to prepare and pack

1 our things and leave.

2 Q. Did they tell you what measures they were going to take
3 against you?

4 A. The Khmer Rouge soldier told us that if you decide not to
5 leave, you will be shot to death. We were accused of being
6 enemies, for being Lon Nol soldier or the enemy, and we had to
7 leave.

8 We wished to go back to our home village, but we could not do
9 that. So, if you want to proceed one direction, they detour us to
10 do - to go in a different direction.

11 Q. And your neighbours, those who were on the same street with
12 you or in your neighbourhood, did they leave in the same manner
13 as yourself?

14 [15.07.19]

15 A. My uncles and auntie were also evacuated and they were
16 evacuated to the vicinity of my area, but later we were
17 separated, we get lost. We do not know where they were.

18 Q. How about others who were not members of your family who lived
19 on your street and in your neighbourhood? Did they have to leave
20 as well?

21 A. Yes. When the Khmer Rouge arrived at any place or location,
22 those places or locations was evacuated, and the people in the
23 town were all evacuated. So, my family was the one who left
24 behind the other.

25 Q. Madam, did you have the means to drink water during your

1 journey from Phnom Penh to wherever you had to go?

2 A. During that evacuation, we did not have water to drink. When I
3 was in Vihear Khuon (phonetic) Pagoda, we had to drink water from
4 the pond, but there was a little water, we had to use it -- very
5 limited water.

6 [15.09.44]

7 Q. A while ago, you made mention of the sick, and you answered a
8 question put to you by my learned colleague, and you said that no
9 care was provided for the sick when you left Phnom Penh. Did they
10 take care of the elderly?

11 A. The sick and the elderly people were not treated by any Khmer
12 Rouge at all during the 17 April 1975, so they had to leave on
13 their own. Anyone who can leave, it's okay for them to leave. If
14 you could not, you had to enjoy the fate as you were.

15 Q. How about women who were pregnant?

16 A. I do not know. I did not pay any attention to this matter
17 because there were too many people; I could not identify a
18 pregnant woman. So, I was not interested in notice that.

19 [15.11.20]

20 Q. What happened if you could not help the elderly, the sick,
21 people who were tired? What did such people do?

22 A. I don't know about that because my family requested other
23 people to transport some of my luggage and stuff.

24 Q. Madam, you left Phnom Penh in an initial trip. Can you list
25 the places you went through until you got to Po village at a

1 point in time?

2 A. From the beginning, I passed Depou Market, and then I pass
3 Stueng Mean Chey, and then Ou Baek K'am Barak, and then Wat
4 Vihear Khuon (phonetic) Pagoda, and then I continued to Steung
5 Kampong Tuol, and then Wat Tuek Thla.

6 And I have to follow my father and -- to Chrey Pnov (phonetic)
7 Mountain, along National Road Number 3, and I stay at Kay Rong
8 Pagoda. And then we went to Samraong Yaong, and then we arrived
9 Prey Lvea.

10 The whole night -- after the whole night, we arrived Stueng
11 district, and then we arrive Preaek Ambel, and then we arrive
12 Sampan Pagoda, and then Pouthi Ban Pagoda. It is called Village
13 Number 5, Kaoh Thum district, Kandal province.

14 Q. How long was that after that first trip, Madam?

15 [15.14.03]

16 A. I do not remember the duration because when I arrived Vihear
17 Khuon Pagoda, it was late in the evening. I stayed there for
18 about five to six days, and then we continue to Tuek Thla Pagoda
19 and Steung Kampong Tuol for about a week, and then we just try to
20 continue our journey after we were forced to do so. We spent
21 about one month to reach Pouthi Ban, Village Number 5.

22 Q. Thank you. For how long were you at that village, Village
23 Number 5?

24 A. I stayed in Commune Number 5 of Pouthi Ban village (sic). It
25 was about early 1976. It was from April -- early May until early

1 1976, and we were then evacuated from Pouthi Ban to Pursat
2 province, in Kandieng district, in the cooperative named Kbal
3 Chheu Puk.

4 [15.15.54]

5 Q. Madam, I would like us to dwell on Village Number 5, where you
6 stayed from May to early -- that is, May 1976 to November 1976 --
7 that's six months. You stated that you stayed in that village and
8 you were referred to as the 17 April People and you were called
9 "bad people". How were those people called -- those people in the
10 village -- when you arrived?

11 A. As we were the 17 April People, we're the people evacuated
12 from Phnom Penh, and the villagers at that village were called
13 the Base People. I just learned that the people there was called
14 the Base People in S'ang, Preaek Touch.

15 Q. Thank you. Were the 17 April People treated differently from
16 the Base People? And if yes, can you please give us some examples
17 to illustrate that point?

18 A. As far as I understand, the 17 April People were considered as
19 enemies of the Khmer Rouge, and the Base People were the people
20 of the Revolution. And the 17 April People were considered as
21 enemies, feudalists, capitalists. I didn't understand then why we
22 were treated in this manner. We were not capitalists or
23 feudalists; we were also poor people in Cambodia. I didn't
24 understand at that time.

25 [15.18.20]

1 Q. And did you have to travel (sic) more than the Base People in
2 that village? And did you receive less food than the Base People?

3 A. Yes. For the 17 April People, we have to look for food on our
4 own and we didn't have enough to eat. The Base People have -- had
5 enough to eat because they have rice store -- in the storage for
6 themselves.

7 Q. And when you arrived at the village, did you remain with your
8 parents or were you separated from your family?

9 A. At the beginning, we were living together.

10 [15.19.52]

11 Q. Were you told to work in a particular unit?

12 A. Later, I was assigned to work in a female unit and I was not
13 allowed to come back home. It was a special unit. I don't
14 understand what it was, but I was in a female unit at that time.

15 Q. Thank you. Did your younger siblings receive any education or
16 schooling during the time that you lived in that village?

17 A. No, there was no education. I saw people called the 18 April
18 People -- or 17, but the 17 April People got no chance to go to
19 school.

20 Q. Did you receive a political education?

21 A. There were self-criticism meetings. I was criticized at all
22 time for being lazy in doing the work -- the labour work. Most of
23 the time, they criticized the 17 April People. I don't know why
24 they tried to cause a lot of trouble to the 17 April People. I
25 don't understand about that.

1 [15.22.14]

2 Q. Earlier you said that your younger brother was born in 1975.

3 Are you able to tell us where and when, exactly, your younger
4 brother was born?

5 A. No, I don't remember, but I know he was born late 1974 (sic).

6 It was -- we were evacuated to Pursat province.

7 Q. I would just seek one clarification, Madam. I've heard that he
8 was born in 1974, following your fleeing from -- from Pursat,
9 rather. So, was he born in 1974 or in 1975?

10 A. It was late 1975 because I was second evacuation to Pursat, my
11 youngest brother was very young. He was born in late 1975.

12 Q. Thank you very much. And during the time of his birth, was
13 your mother cared for by a doctor?

14 A. I saw a female medic, also a military, who was a village
15 midwife, but I didn't see any medicine given to my mother, but I
16 saw a village midwife to do the job to help my mother with that.

17 [15.24.31]

18 Q. How old was the military midwife?

19 A. She was about 20 years old or more. She looked rather young,
20 but she was about in the late 20.

21 Q. Thank you.

22 In the same village where you resided for approximately six
23 months, did you observe any arrests being made in Village Number
24 5?

25 A. I don't know about that because I was living in a different

1 location.

2 Q. Mr. President, with your leave, I wish to read a passage from
3 the written record of witness interview made before the
4 Co-Investigating Judges. It is document D246/4, French ERN
5 00544455 (sic); in English, 00379313; and in Khmer, 003724 (sic).

6 Mr. President, do I have your leave to quote from the document?
7 [15.26.28]

8 Madam Yim Sovann, may I just remind you of what you told the
9 Co-Investigating Judge -- Judges when you were interviewed by
10 them?

11 The question put to you was: "Did you see the Khmer Rouge
12 mistreat or abuse anyone during the six months that you were
13 there?"

14 You answered: "In the village, there was a security centre which
15 was called 'Centre 15'. I do not recall where exactly it was
16 located, whether or not it was in Village Number 1 or Number 2,
17 since my house was located next to the river. And I saw people
18 being transported; their hands were tied behind their backs. They
19 were taken to the security centre."

20 You were then asked the following question: "What happened to the
21 people who were taken to the security centre?"

22 You answered -- and I quote: "These people were accused of being
23 'enemy elements' and taken to the security centre. They had no
24 hope for survival. People who were taken there always
25 disappeared."

1 [15.27.42]

2 You were then asked: "Did you ever witness an execution of a
3 prisoner during the six months in [Pouthi Ban]?"

4 You answered: "No, never, I just saw people being taken to the
5 security centre."

6 Madam, do you hereby confirm what you stated before the
7 Co-Investigating Judges?

8 A. I saw that, but in Village Number 5 I'm not quite sure who the
9 victim was. But my house was at the riverbank, and I saw people
10 were tied up and taken away. I saw people being transported by
11 boat from the other village. And the place called "Munti" 15, I
12 just saw that "Munti" 15, but I never witnessed any execution
13 because I passed by the Office 15. I saw the office, but not
14 witness any execution.

15 [15.29.05]

16 Q. Thank you. You remained in the village for six months and then
17 you left. Can you please provide us the reasons why you had to
18 leave the village?

19 A. At the time, they evicted us. And, actually, we wanted to ask
20 them to stay behind, but they told us that we were not allowed.

21 If we wanted to stay, we would be asked to stay in Office 15 --
22 Security Office 15, so we had to move in line with the Party's
23 direction. So our entire family decided to leave.

24 And at that time I was in the female unit and I was told by my --
25 by people around me, particularly the leader of my unit, that

1 this was the second wave of evacuation from this place and I told
2 my team leader -- my unit leader that I would leave. Even if I
3 were asked to stay, I would not stay; I would have to move on.
4 And then, at that time, they sent a boat to take us across the
5 river to the other side of the riverbank. And then we saw a truck
6 over there, but they did not take us immediately when we reached
7 the other side of the riverbank; we had to wait for a few more
8 days. And I met a friend of my father's, who told us that we must
9 not stay in that place; we had to move to Pursat province
10 because, in Pursat province, there were plenty food over there;
11 if we stayed here, we would die eventually. So, at that time, we
12 decided to leave for Pursat province. So we got on the truck and
13 we were driven past S'ang, Ta Khmau, Wat Sleng, and finally we
14 reached the railway station, and we had to wait over there, at
15 the railway station.

16 [15.31.45]

17 Q. Were you given any reasons for which you had to leave and why
18 there was a second wave of evacuations that was discussed by your
19 leader?

20 A. That, I did not know the reason. They only told us that there
21 would be the second wave of evacuation of the 17 April People,
22 and I did not understand the motive of the order. They labelled
23 us as the "17 April"; probably they could have considered us as
24 the enemy of the Khmer Rouge soldiers. Actually, they did not
25 only consider the soldiers of the former regime as the enemy of

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1 the Khmer Rouge, but they also considered the 17 April People as
2 the enemies of them, as well.

3 Q. Do I understand correctly, Madam? Are you saying that only the
4 April 17 People were forced to transfer?

5 A. That is correct.

6 Q. And during the second journey, did you receive medication,
7 care, water, provisions, food?

8 A. I stayed at Sampan Leu Pagoda, and they gave us 3 kilograms of
9 rice per family. We were given this rice when we got on the
10 truck. And then, at the railway station, we stayed outdoors,
11 waiting for the train to arrive. And while we were waiting, we
12 were not given any water to drink; we had to drink from the pond.
13 And then, when we got on the train, we were given one loaf of
14 bread, and that was it.

15 [15.34.26]

16 Q. You stated that your younger brother was born at the end of
17 1975 and that he was only about three months old when you left.
18 Did he receive any special care? Was any special care dispensed
19 to mothers and, particularly, young children?

20 A. My mother took care of him, but my mother did not have enough
21 breast milk to feed him because she was skinny and too exhausted
22 at that time. Nobody took care of the baby and her, and she had
23 to live her life all on her own at that time.

24 Q. Did you have the opportunity to buy sustenance, medication, or
25 milk during either first or second journeys?

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1 A. No, no, not at all. At that time, money was abolished.
2 Following the 17 of April 1975, currency was abolished, so we
3 could not buy anything.

4 [15.36.03]

5 Q. Were you able to exchange goods?

6 A. No, we did not barter anything. With the second wave of
7 evacuation of the 17 April 19 -- we did not exchange any goods.
8 Some families had hidden some things with them, so they could
9 feed themselves along the way, but as for my family, we had
10 nothing left with us; we were barehanded.

11 Q. Madam, I wish now to discuss the second location where you
12 lived up until the end of -- the end of the Khmer Rouge regime,
13 which is the following cooperative; I believe it's called Kbal
14 Nuk Chuk (sic) -- and please pardon my pronunciation.

15 Now, in that cooperative, were your siblings placed within
16 special units?

17 A. I was evicted and I stay in one cooperative in 9 (sic)
18 Commune, Pursat province, in Kbal Chheu Puk cooperative. When I
19 stayed there for about four -- three or four months, then they
20 separated my siblings. My younger brother was separated and he
21 was attached to a child mobile unit. And I, myself, was
22 separated, but I did not join the special unit. And my father was
23 also split from us, so he joined another unit.

24 [15.38.22]

25 Q. Thank you. And what were the living conditions like for the

1 April 17 People who were transferred to that particular
2 cooperative? What were the lodgings like? And how often were they
3 fed?

4 A. In Kbal Chheu Puk Cooperative, they built small huts for the
5 New People and we were given a room -- small room each. But my
6 father told me that even if we were not given rice to eat, so
7 long as we live close to the river stream, then we could find
8 something to eat, so life would not be as miserable as when we
9 were living in Kaoh Thum district.

10 Q. Thank you.

11 I wish now to talk about your father and your sister. What
12 happened to your father in that cooperative?

13 [15.39.45]

14 A. In that cooperative -- it was in 1978. It was toward the end
15 of 1978, but at that time, to my recollection, it was the time
16 when we transplanted rice and seedling. And at that time, one
17 night, my father was asked to mine the rice field because they
18 told him that there would be enemy penetrating. So they asked my
19 father to wait and stay in one of the dining halls. And there was
20 a cook by the name of Oeun (phonetic) who killed the cook unit at
21 that time. So, early in the morning, my father told me that Koeun
22 attacked his unit head, and then he had to send him to the
23 hospital -- cooperative hospital.

24 And then another village head by the name of Rith went to visit
25 Koeun at the hospital and he asked why he had hidden enemy within

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1 his work, and he told the village head that we did not hide any
2 enemies behind. And they keep accusing him that he had hidden the
3 enemies and he threatened him of being taken away. So he ask and
4 beg him, and everyone was accusing him of hiding the enemy.
5 So, one day, I went along with my father to meet with them, and
6 then my father was in a very sad and depressed mood, and it was
7 the day when they arrested my father. At that time, they did not
8 tell my father to go to the rice field.

9 [15.42.00]

10 And then, later during the day, I had my lunch, and then I
11 returned back to meet my father. But then, on the way, I met two
12 militiamen, and they were walking from somewhere. And then I was
13 very horrified. I saw my -- I saw Mr. (sic) Vuthy, who told me
14 that my father had been tied to the -- to the - to a bed. And
15 then I was very horrified and I knew that my father had been
16 killed. And I burst into tears. But then my villagers told me
17 that I must not cry; if I cried, I would be accused of being
18 traitor. And then I asked him, "Comrade, whether or not I could
19 ask something; if you accuse me of being the enemy--" Rather, my
20 -- Loeung (phonetic) told my -- told me that my father had asked
21 the militiamen to forgive his family members, including myself as
22 well, even if he was killed. So, they tied my father, and then
23 they frog-marched my father away with his hands tied to his back,
24 and he was imprison at Office 07, and they accused my father of
25 being an enemy. At that time, that -- I was crying very hard, I

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1 could not do anything to help.

2 [15.44.20]

3 Q. Madam, you stated that your father was led somewhere and then
4 executed. How, exactly, were you able to know that he was
5 executed?

6 A. They took my father to Banteay Yuon, where the office --
7 Security Office 07 was located, and it was the prison centre. And
8 I had my sister -- my brother's friends who were working over
9 there. Actually, my brother did not see the scene of the
10 execution, but another friend of my sister saw that. That night,
11 according to her, my father was executed.

12 There was an old man, a Chinese old man; he had a watch. Then a
13 militiaman asked the watch. And then I was wondering why, at that
14 time, corruption was also -- also took place.

15 And later on I asked people time and again why they arrested and
16 executed my father. They accused my father and others as the
17 enemy. But why certain people were released and my father was
18 executed? Then they told me that he was -- the gentleman, the
19 Chinese man was the former airport director in Siem Reap and he
20 had the Mido-made watch and he give it to the militiaman; then he
21 was released.

22 [15.46.24]

23 Q. Thank you, Madam. Were you able to recover the corpse of your
24 father and organize a proper burial -- funeral ceremony?

25 A. At 07 Security Office, we're strictly guarded, and nobody

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1 could approach this place without any permission or authority.
2 So, at that time, we could not imagine celebrating any religious
3 ceremony to mourn the passing of our relatives. We could not do
4 anything about it.

5 Q. Thank you, Madam.

6 Can you please tell this Court exactly what happened to your
7 younger sister? And this will bring me to an end with my more
8 difficult questions.

9 A. As for my younger sister, she was in the children unit
10 attached to Security Office 07. It was the – both security office
11 and the child unit. And at that time the children working over
12 there were given only two ladles of gruel; they were not given
13 enough food to eat, and they simply picked the rice that were not
14 yet ripe -- but because they were too hungry, they pick the rice
15 from the rice corn, and they were accused of being enemy, and
16 they were taken away.

17 [15.48.35]

18 And he -- as for my mother, she had the ring, and they wanted to
19 ask for the ring from my mother. Otherwise, my sister would be
20 taken away and killed. And that man who threatened to execute my
21 sister was the former teacher of mine.

22 Q. And what happened afterwards, Madam?

23 A. My mother refused to give the ring to them, so they escorted
24 -- they frog-marched my sister to Security Office 07 and then
25 they were -- she were transfer to Security Office 08, and then

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1 she disappear from that time onward. We never see her return.

2 MS. SIMONNEAU-FORT:

3 Madam, thank you very much for all of those answers.

4 I would now hand the floor over to the Co-Prosecutors, who may
5 have supplementary questions.

6 But just before concluding, Mr. President, I wish to inform Your
7 Honours that Madam Yim Sovann wishes to talk about her suffering
8 at the end of -- at the conclusion of the line of questions that
9 will be put to her. And we have prepared a written document that
10 she may refer to for her ease and comfort.

11 Mr. President, do we have your authorization to proceed in such a
12 manner? I believe that this was done during Case 001.

13 (Judges deliberate)

14 [15.51.00]

15 MR. PRESIDENT:

16 Yes, you may proceed.

17 MS. SIMONNEAU-FORT:

18 I believe the civil party wishes to make a statement at the
19 conclusion of all of the questions to be put to her by all
20 parties.

21 Madam, I wish to thank you for all of the answers that you have
22 provided to us today. Thank you very much.

23 MR. PRESIDENT:

24 Thank you.

25 I now hand over to the Prosecution. You may proceed, Mr.

1 Prosecutor.

2 QUESTIONING BY MR. RAYNOR:

3 Mr. President, thank you.

4 [15.51.48]

5 Q. Madam Yim Sovann, I'd like to take you, please, to your
6 earlier statement to the Investigating Judges in this case, and
7 the relevant page is the page that has already been quoted. And,
8 Madam Sovann, you were talking about the time when you were at
9 Pouthi Ban commune and you stated that you remained in Pouthi Ban
10 for six months, from May to November 1975; is that correct,
11 please?

12 MS. YIM SOVANN:

13 A. Yes, that is correct.

14 Q. You also said in the same statement that your family was given
15 a hut to stay in and that this hut was located near the river; is
16 that correct?

17 A. That is correct. It is adjacent to the river.

18 Q. Did you know at that time of an island called Kaoh Kor?

19 A. Yes. Kaoh Kor was a village close to my hometown. Kaoh Kor was
20 in the upper part of my home village; it was some 30 kilometres
21 away from me. And then, later on, I learned from others that Kaoh
22 Kor was the execution site.

23 [15.53.40]

24 Q. When you were living by the river in the hut, you said that
25 you saw people being transported by boat to the security centre;

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1 is that correct?

2 A. Yes, that's correct, I did see it. I did see they transport
3 people by boat to the security centre.

4 Q. How many times -- how many times, approximately, did you see
5 people being transported by boat in this fashion?

6 A. I saw it only once.

7 Q. Can you give an estimate, please, as to how many people were
8 on the boat that you saw?

9 A. There were about five to six people.

10 [15.55.00]

11 Q. Were the five to six people you saw on the boat moving freely
12 around the boat or not?

13 A. No, they were all tied; their hands were tied to the back. And
14 at that time I knew for myself that they -- those people would --
15 must have been accused of being the enemies; that's why their
16 hands were tied to their back.

17 Q. This period is from May to November of 1975. You said in your
18 evidence that, as far as you were concerned, the Khmer Rouge
19 considered the 17th of April People to be enemy; is that correct?

20 A. Yes, that is correct.

21 Q. And that, as far as you were concerned, former soldiers from
22 the Lon Nol regime were also considered as enemy; is that
23 correct?

24 A. Yes, that is correct.

25 [15.56.31]

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1 Q. At this time that you were making these observations of these
2 people with their hands tied behind their backs, did you think
3 there were any other classes or people of enemy, apart from the
4 17th of April and the former Lon Nol soldiers?

5 A. I think that from 1975 to late 1976, those who were tied with
6 their hands behind their backs were either the 17 April People or
7 the Lon Nol soldiers because they were considered enemies.

8 Q. In relation to the people that you saw, you said, in relation
9 to the security centre: "People who were taken there always
10 disappeared."

11 Is that correct?

12 A. Those who were taken to Security Office 15 disappeared; they
13 never returned.

14 Q. And so I have it correctly that Security Office Number 15 was
15 an office that you actually -- was an office that you saw with
16 your own eyes; is that correct?

17 A. Yes, that's correct. It was Village 1 and 2, where we went to
18 harvest crops over there, so we walked past these two villages,
19 back and forth, when we were staying there before we were
20 re-evicted to Pursat province. The security centre was located in
21 either Village 1 or 2; I do not recall.

22 [15.58.55]

23 Q. You've spoken already about your father's connection with
24 Security Centre 7. And I'm moving now on to the time that you
25 were at the second cooperative Kbal Chheu Puk. Now, in relation

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1 to that security centre -- and I'm referring to your OCIJ
2 statement now, and it's page English ERN 00379315; Khmer,
3 00373426; and Khmer, 00373426.

4 You said this about Security Centre 7 -- and I quote:

5 "Those who were at Security Centre 7 were under close
6 surveillance, but still allowed to work. They would be watched
7 closely, and if they committed some other offences, then they
8 would be sent to Security Centre 8. At Security Centre 8, the
9 treatment was miserable for the prisoners; they were handcuffed,
10 shackled, and severely tortured."

11 Is that correct?

12 A. Yes, that was -- that is correct. At Security Centre 07,
13 sometimes, the people who steal something to eat were arrested
14 for re-education. If people get improved, they were released; if
15 they could not do so, they were sent to Security Centre 08.
16 Security Centre 07 was in a pagoda, and 07 (sic) was in a
17 village.

18 [16.01.20]

19 Q. I'm still referring to the same page of your OCIJ statement
20 and I'm -- it's where you're talking about Security Centre 8. And
21 the question was about 500 prisoners being killed at that centre,
22 and your reply was -- and I quote: "I saw people who were
23 evacuated from the East Zone of Svay Rieng province being tied in
24 a line and taken to Security Centre 8 to be executed."

25 Is that correct?

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1 A. Yes, that is correct. At the time -- it was right before the
2 liberation by the Vietnamese troop -- the people were sent from
3 Svay Rieng province to Kandieng Cooperative. One day -- I was
4 doing the harvesting -- I saw people from the Eastern Zone were
5 tied up with both hands behind their backs and transported along
6 the rice paddy. And I saw one of the old woman and - "How old are
7 you, Auntie?" And she told me that she was very thirsty and she
8 was from Svay Rieng. And two of the militiamen forced her to go
9 as fast as she could. And I realized that those people were sent
10 to Security Centre Number 8. And for -- those who were rather
11 young were tied up, and tied up in a line, and sent to Security
12 Number 8. I saw it with my own eyes.

13 [16.03.33]

14 MR. PRESIDENT:

15 Mr. Prosecutor, how much time do you need to put question to the
16 civil party?

17 MR. RAYNOR:

18 Like another three minutes, please, Mr. President.

19 MR. PRESIDENT:

20 The International Defence Counsel for Mr. Nuon Chea, you can
21 proceed.

22 MR. IANUZZI:

23 Thank you, Mr. President. I'm sorry to interrupt the examination.
24 I just wanted to clarify whether or not the Prosecution is going
25 to remain with this area, because as far as I can tell from this

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1 witness's statements to the OCIJ and her testimony today, it
2 seems to me that we're in areas of the past -- of 1978. I think
3 we've moved into 1978.

4 [16.04.32]

5 And if that is in fact the case, it would be my submission that
6 whatever happened at any crime base in 1978 is outside the
7 temporal -- not jurisdiction, the temporal -- the temporal areas
8 that this Court is meant to be covering in terms of fact-based,
9 crime-based witnesses. We are meant to be focusing on, as I said
10 this morning, population movement 1 and 2 and the new security
11 centre that has recently been added by the Chamber. So, if we're
12 into '78 -- that's our position -- this is irrelevant for this
13 trial.

14 Thank you.

15 MR. PRESIDENT:

16 Thank you for your remarks to the Trial Chamber.

17 And, Mr. Prosecutor, could you please try to stay within the
18 temporal framework regarding this trial segment, regarding forced
19 transfer number 1 and number 2? And you seem to move beyond that,
20 especially the facts in Pursat; it's related only to Tuol Po
21 Chrey.

22 Mr. Prosecutor, you may proceed.

23 [16.06.04]

24 MR. RAYNOR:

25 Can I say I understand the objection and, indeed, the ruling that

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1 you've given, Mr. President? The purpose for covering that
2 briefly, and only in the terms of the witness's statement, was
3 given the evidence that she had told the Court about her father
4 in that security centre. But I'm going to move on.

5 BY MR. RAYNOR:

6 Q. Madam Yim Sovann, the commune that you were in at this time,
7 Kbal Chheu Puk -- did you hear, in the time that you were at this
8 commune, of a place called Tuol Po Chrey?

9 MS. YIM SOVANN:

10 A. The commune of Tuol Po Chrey, I used to walk and pass by the
11 place. It was the place for execution of the Lon Nol soldier. I
12 heard from the villagers that this was the place that they killed
13 the Lon Nol soldiers. I was sitting for a while and to collect
14 the thatch, and when I heard that, I have to move out from the
15 site. Yes, it is correct.

16 [16.07.45]

17 Q. When you were receiving this information about Tuol Po Chrey,
18 were you actually in that village when you were being told that
19 information?

20 A. When I was there to collect the thatch in late 1976, early
21 1977, I walked from Kbal Chheu Puk village, and then I went Kaoh
22 Kor, and then Pho village -- Phum Pho village. At the beginning,
23 I did not remember, but I asked the villagers in Pursat, and they
24 told me that it was the execution site. And in late 1976 and
25 early 1977, we would walk by the area to collect the thatch to

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1 prepare for the roof -- the hut.

2 Q. I just want to be clear -- when you were collecting the
3 thatch, was Tuol Po Chrey, as far as you were aware, an existing
4 execution site at that time?

5 [16.09.28]

6 A. It was the execution site for Lon Nol soldiers. Because I
7 heard from the Khmer Rouge soldiers that any soldier of the
8 former regime were needed to work for the new regime, and those
9 victims followed their instructions and they were loaded into a
10 truck and sent to that area for execution.

11 The killing was happening during April of 1975. It took about a
12 half month, as I heard from the villagers then.

13 Q. So, when you were at that location, did you see any signs of
14 the execution having place -- taking place? What I mean is burial
15 sites, gravesites, or any other indications that the executions
16 had taken place.

17 A. I didn't see any scar (phonetic), but the hill that I saw, it
18 was covered up -- it's the earth cover up in a place. So, I was
19 travelling in a long distance, and I sit in a place, and I met
20 the people from Kbal Chheu Puk Cooperative, and they told me that
21 their relatives were killed there. That -- that's all I heard
22 from them.

23 [16.11.42]

24 Q. And when we talk about the execution site, was this open land
25 or were there any buildings of any description there?

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1 A. It was an open field. It was close to Tonle Sap. It was a big
2 field of land next to the inundated forest.

3 Q. And in the discussions that you had with other people, were
4 you given any indication as to the numbers of Lon Nol soldiers
5 who had been executed there?

6 A. They did not indicate any number; they just told me that they
7 saw a truckload of people were sent there. No exact figure was
8 given to me. And they said it's not only Lon Nol soldiers; they
9 were included -- the civil servants from the former regime were
10 all gathered and sent to that site for execution.

11 MR. RAYNOR:

12 Madam Yim Sovann, thank you very much for asking (sic) my
13 questions.

14 Mr. President, I apologize if I went over the three minutes
15 indicated. Thank you.

16 MR. PRESIDENT:

17 Thank you, Mr. Prosecutor.

18 [16.13.38]

19 I saw you are on your feet, Counsel. Do you have anything to
20 address to the Court?

21 MR. IANUZZI:

22 I do, Your Honour. I have two very brief points.

23 The first one, perhaps in the interests of the civil party, we
24 have no questions from the Nuon Chea defence team. I'm informed
25 from my colleagues on this side of the stage that they have no

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1 questions. They will confirm that if necessary. Perhaps the civil
2 party could be sent home for the weekend. I don't mean to tell
3 you what to do, Mr. President, but--

4 (Judges deliberate)

5 [16.14.50]

6 MR. PRESIDENT:

7 Thank you for your information.

8 Do you have anything to address to the Court?

9 MR. IANUZZI:

10 Well, I -- as a matter of fact, I do. It was that point I was
11 trying to raise earlier. I'm happy to do that on Monday morning;
12 it is quarter past 4.00.

13 I believe Judge Cartwright's asking you what is the subject
14 matter. The subject matter is the issue of your initial comments,
15 the introductory comments that you made to this civil party. And
16 I'm -- I raise the issue because I assume you're going to be
17 making similar comments to other witnesses.

18 Now, you will correct me if I'm wrong -- you will correct me if
19 I'm wrong -- what I have in my notes is that you referred to
20 "crimes committed by alleged accused". So, the problem I have
21 with that is -- and this is not a personal attack, Mr. President,
22 Judge Cartwright is motioning--

23 (Judges deliberate)

24 [16.16.06]

25 MR. PRESIDENT:

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1 Could you please give the subject you would like to address to
2 the Court? So what is your topic that you want to -- you wish to
3 address to the Court? So I keep reminding you on this matter. Is
4 it a problem that you don't understand? Or you would like the
5 Trial Chamber to give you another clarification? Or what kind of
6 topics you would like to talk? So, to avoid any statement from
7 you that may insult the proceedings or criticize the President
8 for not being reasonable to stop you.

9 MR. IANUZZI:

10 Mr. President, first of all, I do not intend to insult the
11 proceedings. I apologize if it is now presumed that everything I
12 say is insulting.

13 I have a very brief application -- a very brief application --
14 with respect to something that you said just before this civil
15 party -- again, her testimony.

16 [16.17.29]

17 And, again, let me just try and be very clear -- I'll speak very
18 slowly. I heard you say, when you were explaining to this civil
19 party what was going to be taking place today -- you said and
20 this -- again, please correct me if I'm wrong -- this is what I
21 wrote down in my notes: "crimes committed by alleged accused".
22 So, the issue -- the problem that I have with that is the lack of
23 a qualification in front of the word "crimes". You should have
24 said, in my view -- in my view -- any maybe you did, and then you
25 will correct me if I'm wrong -- you should have said "alleged

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1 crimes committed by alleged accused".

2 And just let me explain this to the public. We do not take for
3 granted that base crimes, crimes at the base level, were
4 committed. Those -- that is still an open question. That is still
5 an open question. Whether crimes were committed is an open
6 question, and whether anyone is responsible for those crimes is
7 an open question. So, that was my complaint.

8 And it's -- quite frankly, it's linked to something else -- and
9 I'm referring very quickly to document E163/5, and that is a
10 "Notification of Decision on Co-Prosecutors' Request to Include
11 Additional Crime Sites within the Scope of Trial in Case 002/01".
12 And this is with respect to the addition of the "killings at Tuol
13 Po Chrey" -- again, "killings" not qualified in any sense --
14 "killings that occurred between 1976 and 1977" and "killings at
15 Tuol Po Chrey which immediately followed".

16 [16.19.09]

17 Now, this may seem like a minor point -- this may seem like a
18 minor point -- and I'm not trying to be -- how shall I say it?
19 Well, I'm not trying to be annoying in any way. I'm trying to
20 make it very clear -- very clear -- for everyone's sake, for the
21 public's sake, that we need to speak in the language of
22 allegations, accusations, and that goes for base crimes, just as
23 it does for levels of responsibility with respect to these
24 individuals who are sitting behind me -- well, there's only one
25 here right now. But I hope I'm making my point and I hope I'm not

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1 being offensive in any way.

2 I think it's very important that a judicial chamber, a chamber
3 composed of judges, really focuses on the proper language so as
4 not to give the impression to the public that any of you up there
5 have already decided that crimes were committed, killings
6 occurred. Those are open questions.

7 I think I've made my point; I hope I have. And that's all I have
8 for today. Thank you.

9 MR. PRESIDENT:

10 Thank you.

11 [16.20.26]

12 National Defence Counsel for Mr. Ieng Sary, you may proceed.

13 MR. ANG UDOM:

14 Your Honours, we support the request by Andrew Ianuzzi.

15 Until now, after the questioning by the civil party lawyer and
16 the prosecutor, we don't have any question to put to this civil
17 party. We reserve our right to ask questions if we found that the
18 Judges ask questions that related to our case, and then we can
19 decide to ask questions.

20 MR. PRESIDENT:

21 I need to hear from the defence counsel for Mr. Khieu Samphan. Do
22 you have any remark to make to the Court now?

23 MR. KONG SAM ONN:

24 Thank you, Mr. President. We don't have any question to ask this
25 civil party.

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1 [16.21.38]

2 MR. PRESIDENT:

3 Counsel, you may proceed.

4 MS. SIMONNEAU-FORT:

5 Thank you, Mr. President. I have a remark to make.

6 Whatever may be the merits of my learned friend's comments, this
7 is not the time to make remarks. The witness is still here with
8 us, and her testimony is very difficult, very important. I think
9 these discussions could take place on another occasion,
10 particularly since we are beyond the time. It is rather late in
11 the day. There will be time for us to reflect on these matters.
12 And in that case, the witness should come on Monday rather than
13 have her present her final statement at this point in time.

14 MR. PRESIDENT:

15 Thank you.

16 [16.22.58]

17 To indicate well about your rights as civil party, you can
18 express your sufferings -- miserable suffering that she suffered,
19 moral damage, material damage, as direct suffering from the
20 crimes occurred, and the suffering remain until today that she
21 apply to act as civil party in relation to the crimes charge Mr.
22 Ieng Sary, Khieu Samphan, and Nuon Chea and the crimes occur
23 during the DK period, in the Case File 002/1, especially in the
24 facts of transfer phase 1 and phase 2, from April 1975 until
25 1977. You have to express your suffering within this period of

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1 time. This is for the civil party we have today.

2 And as for other civil parties, we include the -- the killing
3 site Tuol Po Chrey. So, the civil party who has suffering or
4 damages with Tuol Po Chrey, they can express suffering in
5 relation to that killing site, especially to the loss of their
6 relatives at the killing site of Tuol Po Chrey.

7 [16.25.25]

8 And it is now appropriate to adjourn the hearing for today. And
9 the hearing will resume on Monday the 22nd of October, from 9
10 o'clock, and we will hear civil party TCCP-25.

11 And, Madam Yim Sovann, your hearing regarding your testimony is
12 concluded, but the Court allows you to express your suffering.
13 But the time today is not allowed, and the Trial Chamber invites
14 you to come again on Monday so that you can express your
15 suffering at the beginning of the hearing on Monday.

16 The Court Officer, please cooperate with the WESU to take the
17 civil party to her residence and bring her back on Monday the
18 22nd, before 9 a.m. in the morning.

19 And the security guard is instructed to bring the Accused back to
20 the detention facility and bring them back on Monday of next
21 week, before 9 o'clock.

22 The Court is adjourned.

23 (Court adjourns at 1627H)

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