



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

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ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

ឯកសារដើម
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TRANSCRIPT OF TRIAL PROCEEDINGS

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Case File N° 002/19-09-2007-ECCC/TC

5 November 2012

Trial Day 127

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

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List of Speakers:

Language used unless specified otherwise in the transcript

| Speaker | Language |
|-------------------------------------|-----------------|
| MR. KARNAVAS | English |
| MR. KONG SAM ONN | Khmer |
| JUDGE LAVERGNE | French |
| MR. LYSAK | English |
| MR. PAUW | English |
| MR. PICH ANG | Khmer |
| THE PRESIDENT (NIL NONN, Presiding) | Khmer |
| MS. SARKARATI | English |
| MR. SON ARUN | Khmer |
| MS. SONG CHORVOIN | Khmer |
| MR. SUM CHEA (TCW-690) | Khmer |
| MS. TY SRINNA | Khmer |

1

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

2 (Court opens at 0900H)

3 MR. PRESIDENT:

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

5 As scheduled, the Chamber will be hearing TCW-690.

6 Mr. Duch Phary is now invited to report on the presence or the
7 attendance - the parties who are attending the proceedings today.

8 THE GREFFIER:

9 Thank you, Mr. President.

10 All parties are present except Mr. Ieng Sary, who is absent due
11 to his health concerns. He is still being admitted to the
12 hospital but he has waived his right according to document E237.
13 He has waived his right to the testimonies of TCW-690 and civil
14 party TCCP-89.

15 [09.02.42]

16 The witness TCW-690 is currently present, awaiting call from the
17 Chamber. This witness has already emphasized that, according to
18 the witness's knowledge, the witness has no relationship or
19 related to any of the accused persons or the civil parties
20 admitted in this case file.

21 The witness has already taken an oath before the Iron Genie.

22 Counsel for Mr. Khieu Samphan will be arriving late.

23 Thank you, Mr. President.

24 MR. PRESIDENT:

25 Thank you, Mr. Duch Phary.

2

1 The Chamber wishes to inform the parties to the proceedings and
2 the public that the Chamber received request by Mr. Ieng Sary,
3 through his counsels, document E237, in which he has expressly
4 waived his right to the testimonies of the witness and six civil
5 parties, among whom TCW-690 is a witness. He has waived his right
6 to hear testimonies.

7 [09.04.16]

8 And, according to the medical report by the doctors, Mr. Ieng
9 Sary is currently being admitted to the Khmer-Soviet Friendship
10 Hospital, at the General Disease Section. Mr. Ieng Sary has some
11 health concerns and that - he is still in the hospital. He is
12 physically fit, somehow, and we continue to hear the testimony of
13 some witnesses and civil parties without the presence of Mr. Ieng
14 Sary. And this has been pursuant to the Internal Rule, the
15 Internal Rule which states that, in case the accused person is
16 not able to the proceed - to attend the proceedings, the Chamber
17 may proceed with the consent of the Accused who is absent.
18 Court officer is now instructed to call in TCW-690 into the
19 courtroom.

20 (Witness enters courtroom)

21 [09.06.56]

22 QUESTIONING BY THE PRESIDENT:

23 Q. Good morning, Mr. Witness. What is your name?

24 MR. SUM CHEA:

25 A. I am Sum Chea.

1 Q. Do you have any other names, for example aliases, apart from
2 Sum Chea?

3 A. No.

4 Q. Mr. Sum Chea, how old are you this year?

5 A. I am 59 years old.

6 Q. Mr. Sum Chea, where were you born?

7 A. I was born in Boeng Nay village, Boeng Nay commune, Prey Chhor
8 district.

9 Q. Where do you live?

10 [09.08.05]

11 A. I live in Veal village, Samraong Sangkat, and Prey Chhor
12 district of Kampong Cham.

13 Q. Mr. Sum Chea, what do you do for a living?

14 A. I am a rice farmer, a barber also.

15 Q. What's your father's name?

16 A. He is Voi Sum. My mother's name is Chim Sy.

17 Q. What is your wife's name? And how many children do you have?

18 A. My wife is Prak Sam At, and we don't have any children, but we
19 have an adopted child.

20 Q. Mr. Sum Chea, do you read and write Khmer?

21 A. Yes, I do, very little.

22 Q. Mr. Sum Chea, according to the report by the greffier of the
23 Trial Chamber, to the best of your knowledge, you are not related
24 to any of the civil parties or the accused persons before this
25 Chamber; is this statement correct?

4

1 A. Yes, it is.

2 [09.10.07]

3 Q. The greffier already reported to the Chamber that you – you
4 taken an oath already before you brought before the Chamber; is
5 that true?

6 A. Yes, it is.

7 Q. Thank you, Mr. Witness Sum Chea.

8 The Chamber wishes to inform you of your rights as a witness.

9 And before this Chamber, you can refuse to respond to any
10 questions or make any statements that are self-incriminating. In
11 other words, you shall enjoy the right against self-incrimination
12 of witnesses.

13 At the same time, as a witness, you shall respond to all the
14 questions put by parties to you and by the Judges of the Bench.
15 Indeed, you are to reject to respond to any questions that fall
16 within the category of Rule 28, as informed.

17 In your capacity as a witness, you shall talk only about the
18 truth, nothing but the truth.

19 [09.11.48]

20 Mr. Sum Chea, have you ever given any interviews to the
21 Co-Investigating Judges or officers from the Co-Investigating
22 Judges Office?

23 A. Yes, I have.

24 Q. How many interviews were conducted? And where did they happen?

25 A. There were two interviews.

5

1 Q. When were the interviews conducted?

2 A. I don't remember the exact date; it was about five years ago.

3 Q. Before you appear before this Chamber, were you read out any
4 of the records of the interviews you gave previously to you to
5 refresh your memory, or not?

6 A. Yes, I have. I have been read out the interviews.

7 Q. According to your best memory, were the accounts read out to
8 you consistent with those you gave to the Co-Investigating
9 Judges?

10 [09.13.41]

11 A. Yes. And I fully agree that they're consistent.

12 MR. PRESIDENT:

13 The Chamber wishes to inform the Prosecution that, during these
14 proceedings, the Chamber will hand over the floor to the
15 Prosecution to proceed with the questions before the other
16 parties. Both Co-Prosecutors and the civil party lawyers will
17 have half-day for putting questions to this witness, as we only
18 allocated full day for hearing the whole testimony for this
19 witness from all parties.

20 MS. SONG CHORVOIN:

21 Thank you, Mr. President and Your Honours. Very good morning, Mr.
22 Sum Chea.

23 Before I proceed to put questions to Mr. Sum Chea, with Mr.
24 President's leave, I would like to hand over the written record
25 of witness interview of Mr. Sum Chea, document D94/9, to be

6

1 handed over to Mr. Sum Chea. And I also request that the document
2 be put up on the screens.

3 [09.15.10]

4 MR. PRESIDENT:

5 We already asked him some questions, and he indicated that his
6 Khmer reading and writing is very little. We are afraid that
7 handing over the document to him would not do any good to him.
8 So the Chamber suggests that Co-Prosecutor proceeds with the
9 question without handing over the document to him.

10 [09.15.42]

11 And the reason we asked him about his background education,
12 whether he could read or write or not - because we would like to
13 make sure that parties could give him some documents to read. But
14 we learned from him that his Khmer reading and writing was very
15 minimal, so perhaps you should not need to hand the document to
16 him.

17 But the Chamber grants your second request. The document can now
18 be put up on the screens.

19 QUESTIONING BY MS. SONG CHORVOIN:

20 Thank you, Mr. President.

21 And good morning again, Mr. Sum Chea. I have a few questions to
22 pose to you.

23 Q. The first question is: When did you become a Khmer Rouge
24 soldier?

25 MR. SUM CHEA:

7

1 A. I was a Khmer Rouge soldier in 1972.

2 Q. What made you become Khmer Rouge soldier?

3 A. I joined the Khmer Rouge soldiers because of the former Prince
4 Norodom Sihanouk who appealed to his children to go the maquis
5 forest.

6 [09.17.25]

7 Q. Did you join the - di you become a soldier voluntarily or were
8 you forced to become a soldier?

9 A. I voluntarily joined the force.

10 Q. You said you worked as a soldier for the Khmer Rouge in 1972.

11 Can you please tell the Chamber, in which division were you
12 dispatched to?

13 A. I belonged to Division Number 1.

14 Q. Do you remember, in which location was your division located?

15 A. It was in Boeng Nay commune, Boeng Nay village, the same
16 location where I was born. And the head of the division was the
17 person by the name Voeung.

18 [09.18.49]

19 Q. Could you please tell the Chamber again who exactly Mr. Voeung
20 was?

21 A. Mr. Voeung was the chief of the division.

22 Q. How many soldiers were in Division Number 1?

23 A. At that time, the division was not properly organized, and
24 there were not a lot of soldiers being part of this division as
25 yet.

8

1 Q. Mr. Witness, I would like to refer to the written record of
2 witness interview you gave before the Co-Investigating Judges,
3 document D94/9. The ERN in Khmer is 00205057; English ERN
4 00223345; French ERN 00705376.

5 You were asked by the investigator where you were when Phnom Penh
6 was about to fall, and you said that your group of soldiers were
7 at Baset.

8 My question to you is: From when did your group start to attack
9 Baset?

10 [09.21.07]

11 A. I don't remember exactly when it was, but I agree that we were
12 at Baset.

13 Q. How long had you been in Baset before you proceeded to attack
14 Phnom Penh?

15 A. We had been there for about two months, and after we won the
16 battlefield in Baset and - we proceeded to attack Phnom Penh.

17 Q. You're saying 12 months or two months?

18 A. Indeed, it was two months.

19 Q. You said you then attacked Phnom Penh. Could you please tell
20 the Chamber how many people involved in attacking Phnom Penh and
21 from which direction was the attack taking place?

22 A. I don't remember how many divisions were engaged in attacking
23 Phnom Penh, but I'm sure that Division Number 1 was engaged in
24 this attack.

25 Q. How many soldiers in the division who were fully engaged in

1 the attack on Phnom Penh? And from which direction did the attack
2 occur?

3 A. We attacked Phnom Penh from the south or Baset.

4 Q. So is it correct to say that you attacked Phnom Penh from the
5 south of Baset?

6 [09.23.16]

7 A. Yes, it is.

8 Q. So, when you moved to the south of Baset to Phnom Penh, do you
9 still recall, on which route or direction did you come all the
10 way to Phnom Penh?

11 A. It was at night, and we moved to the location of Khmuonh and
12 Tralaok Bek (phonetic).

13 Q. On the same document, you said that you attacked Phnom Penh
14 through Khmuonh and Tralaok Bek (phonetic), and you also noted -
15 or you saw gangs scattered along the streets, people holding
16 white flags, and many people were walking around, filling the
17 streets. It seemed very confused at the time.

18 When you said that people were confused, were they soldiers - the
19 Lon Nol soldiers - or civilians?

20 A. I do not know who was who because I saw them when we were
21 driving; we were on a truck, and I could note that they were seen
22 waving white flags.

23 [09.25.04]

24 Q. Is it correct to say that these people who were waving white
25 flags were both civilians and former Lon Nol soldiers?

10

1 A. Yes, it is.

2 Q. When your division, Division Number 1, came to Phnom Penh, do
3 you remember; which date did you come to Phnom Penh along with
4 the division forces?

5 A. It was in 1975, although I don't remember the exact month or
6 date - days, rather.

7 Q. When the Khmer Rouge troops approached Phnom Penh immediately
8 in 1975, how did they treat the people who waved white flags?

9 A. Immediately upon arriving Phnom Penh, the Khmer Rouge soldiers
10 asked people to evacuate the city. They were told to leave the
11 city in three days, and the division soldiers had to do its best
12 to make sure that the city is emptied of the population.

13 Q. When the Khmer Rouge soldiers came to Phnom Penh, as you
14 indicated, they told people to evacuate Phnom Penh. Do you still
15 recollect from whom the orders came to evacuate the people?

16 [09.27.15]

17 MR. PRESIDENT:

18 Mr. Witness, could you please hold on?

19 International Co-Counsel for Mr. Nuon Chea, you may now proceed.

20 MR. PAUW:

21 Thank you, Mr. President. And good morning to everyone in and
22 around the courtroom.

23 I would object to these types of questions, in as far as the
24 prosecutor asked -- asks about the Khmer Rouge soldier and the
25 Khmer Rouge army in general.

11

1 It is well known that different soldiers operated under different
2 commands and under different orders, and the experiences of the
3 soldiers in a different unit and the civilians in the city
4 differed widely depending on where in the city these soldiers
5 operated and where the civilians were. So, I do not object to the
6 questions as such, but the prosecutor should specify that this
7 witness can only testify as to what he saw, and that concerns a
8 small segment of Division1 of the northern forces.

9 [09.28.22]

10 So, if a question is asked about the Khmer Rouge army or Khmer
11 Rouge soldiers in general, that will be too broad, too general,
12 and therefore I ask the prosecutor to specify the question and
13 specify as to what this witness saw and witnessed.

14 MS. SONG CHORVOIN:

15 Mr. President, the question I put is a follow-up question because
16 witness indicated that upon arriving in Phnom Penh, immediately,
17 Khmer Rouge soldiers asked the population to leave Phnom Penh,
18 and I was asking from whom the order was received.

19 MR. PRESIDENT:

20 Witness, you are now instructed to respond to the question.

21 MR. SUM CHEA:

22 A. We received order from a person by the name Hak, who was the
23 head of the battalion.

24 [09.29.44]

25 BY MS. SONG CHORVOIN:

12

1 Q. What did Mr. Hak tell you when you came to Phnom Penh?

2 MR. SUM CHEA:

3 A. No, Mr. Hak did not tell this personally to me; he talked in
4 general to the whole soldiers in the group so that the population
5 could be evacuated.

6 Q. When Hak talked about this to the soldiers in Division Number
7 1, what did he exactly say?

8 A. It was an order from him, an order to the soldiers to evacuate
9 the whole population of Phnom Penh and that the population had to
10 be moved out of Phnom Penh, and they could only be returned after
11 seven days so that the city could be cleaned.

12 Q. Are you aware from whom Mr. Hak received his order to evacuate
13 the population of Phnom Penh?

14 A. Hak was under the command of Voeung. Voeung was the commander
15 of the division, and Hak was the commander of the battalion. I
16 did not know as to who ordered Hak to carry out the activity.

17 [09.31.42]

18 Q. In the same record of interview, when the investigator asked
19 you the question - it is on the same ERN page but it is down
20 below what I asked you earlier on - what did they tell you if
21 people resisted leaving the city? And you responded that you had
22 to do whatever you could so as - so long as they left the city.
23 That was the order from Hak, who was the commander of battalion.
24 So, what do you mean by you could do whatever you could to ensure
25 that they left the city? Can you elaborate on this point?

1 A. People under the supervision of my battalion - my division did
2 not resist, but people in - under the supervision of other
3 division did resist, and people over there forced them to leave.

4 Q. So, is my understanding correct that "you had to do whatever
5 you could to ensure that they leave the city" simply means that
6 you could, for example, force them at gun point to ensure that
7 they leave the city? Is my understanding correct?

8 A. That is correct.

9 Q. Thank you.

10 [09.33.27]

11 Again in your statement with the investigator - ERN in Khmer,
12 00205057; English, 00223346; and French, 00705377 - when the
13 investigator asked you about other soldiers when - how about
14 other soldiers, when they were evacuating the people, how did
15 they treat the people, and you told the investigators that "other
16 soldiers pointed guns at them and frightened them with the - with
17 gunshot, and those who refused to leave, there were beatings and
18 mistreatment, and there were shootings and killings in the most
19 serious case.

20 So I would like to ask about the killing as well as the
21 mistreatment of soldiers from the Eastern Zone. Did they do that
22 to the civilians as well as the Lon Nol soldiers, including those
23 soldiers who had already surrendered?

24 A. When we got to Phnom Penh City, everything was confusing, the
25 situation was real chaotic; we did not know who was who - who

14

1 were the soldiers and who were civilians -- at that time. So what
2 we had to do at that time in our mission was to evacuate all
3 people out of the city.

4 [09.35.20]

5 Q. Can you expand on it -- a little bit on the mistreatment of
6 people? What did you witness at the time? How (sic) did they
7 actually do to the people?

8 A. Those who resisted, then there was another group, the groups
9 who were designated to force the people; they had to do -- they
10 had to resort to whatever means possible to ensure that they left
11 the city.

12 Q. So, what did they do really, at the time, to the people who
13 resisted leaving?

14 A. They had to resort to harsh measures so that people left the
15 city quickly. So, as a result, within five days, all people left
16 the city.

17 [09.36.23]

18 Q. In 1975, when your troops came to Phnom Penh, did you,
19 yourself, see the victims or the wounded, as well as the patients
20 in hospitals or along the streets?

21 A. At that time, people were living in a miserable condition, and
22 the situation was even worse in the hospital. And, of course, we
23 saw people carrying their kids along the street. And the
24 situation was real miserable. And there were patients who were
25 not properly treated in hospitals, and we saw people dying along

15

1 the streets.

2 Q. I move on to another part, in relation to the target of the

3 Khmer Rouge soldiers when they got to Phnom Penh.

4 So, your division was tasked to evacuate people out of the city.

5 And where were the -- where was the target of your division to

6 evacuate people? And where were -- those civilians were supposed

7 to move out to?

8 [09.37.55]

9 A. My division was tasked to evacuate people out of area around

10 Psar Thmei and Chrouy Changva and out to Kilometre 9. That was

11 the target of our task.

12 Q. Do you recall if -- you were ordered to evacuate people from

13 Psar Thmei - out of Psar Thmei, Chrouy Changva and along National

14 Road Number 9 - Kilometre Number 9; who did you receive the order

15 from?

16 A. I received the order in 1979, but I do not recall the exact

17 date - [correct interpreter] 1975.

18 Q. Who did you receive the order from?

19 A. I received direct order from Brother Hak. Brother Hak ordered

20 that we evacuated the people.

21 [09.39.19]

22 Q. Brother Hak told the soldiers in your troop to evacuate the

23 people. And do you know which target were the people supposed to

24 be evacuated to?

25 A. That, I do not know. We were supposed to evacuate people out

16

1 of Phnom Penh, but as for the exact or final target where the
2 people were supposed to be relocated, I did not know.

3 Q. In relation to the purge of Lon Nol soldiers, did you respond
4 to the question by the investigators? Do you recall when your
5 troops came to Phnom Penh, you were tasked to evacuate out of -
6 evacuate people out of the city. How many days did it take your
7 troops to evacuate all people out of the city?

8 A. It took us around five to six days, and the city was empty.

9 Q. In the record of the interview - the same record of interview
10 with the investigators - ERN in Khmer, 00205058; English,

11 00223346; French, 00705378 - then the investigator asked you:

12 "What did they do next, after people were evacuated out of Phnom
13 Penh City?"

14 [09.41.17]

15 And then you - your response: "After seven or eight days, they
16 set up loudspeakers and broadcast to the Lon Nol soldiers, saying
17 for anyone of whatever rank who had worked anywhere to go back to
18 their duty stations, although previously they had been only
19 ordinary subordinate soldiers, they said that they were captains
20 or majors. So they died. Some wanted to live and tried to hide
21 things, but they were arrested anyway, because they were - they
22 were searched and found out through their 'biographies'."

23 So, do you recall where exactly the Khmer Rouge soldiers who were
24 tricked to submit themselves and then, eventually, were killed?

25 A. Following the evacuation of the city, in various regiments as

17

1 well as divisions, they set up loudspeakers in order to
2 propagandize, to lure former Lon Nol soldiers to submit
3 themselves and to surrender. So, that was the trick that they
4 were plotted to do. And they asked them to come in and reveal
5 their former status, for example if they were captains or
6 soldiers of any rank. That's what they did at that time. And in
7 my division, we also did that.

8 [09.43.09]

9 Q. Do you recall who told you to do that?

10 A. I was told by the name of Koeun. Koeun was a person who was
11 very daring, and he ordered the smashing.

12 Q. Did Koeun tell you how the Lon Nol soldiers were to be killed
13 - I mean the means to be employed to kill Lon Nol soldiers who
14 surrendered?

15 A. He did not tell us specifically; he only asked us to lure
16 those who were the former Lon Nol soldiers to come in. And once
17 they came in, then they would be killed. That was what he told
18 us.

19 Q. This is going to be my last question for you: In the same
20 record of interview with the investigators of the OCIJ,
21 concerning the research through the network of Lon Nol soldiers,
22 do you know how they conduct the research. And if, for example,
23 they found the network of Lon Nol soldiers, how (sic) would they
24 do to those people who were allegedly in the network?

25 [09.45.21]

18

1 A. Actually, they put the loudspeakers and they would
2 propagandize along the street, and then those who pop up would be
3 instantly arrested and they would eventually be killed.

4 MS. SONG CHORVOIN:

5 Thank you for your questions (sic).

6 I – that is all for me, Mr. President. I thank you very much. And
7 I would like to hand over to my colleague.

8 QUESTIONING BY MR. LYSAK:

9 Good morning, Mr. President, members of the Bench, and good
10 morning, Mr. Sum Chea. My name is Dale Lysak. I'm one of the
11 prosecutors, and I will have a few questions for you today, also.

12 Q. I'd like to start by going back to the period prior to the
13 attack on Phnom Penh.

14 You told my colleague that you joined the Revolutionary Army in
15 1972 and were located at that time in Boeng Nay village and
16 commune. And you indicated that your group was in Baset two
17 months prior to the attack on Phnom Penh.

18 What I'd like to first ask you is: Were there other locations
19 where your unit was based between 1972 and the period – the
20 two-month period that you were at Baset? Can you tell us whether
21 your – whether your unit was located – engaged in combat at other
22 locations between 1972 and 1975?

23 [09.47.46]

24 MR. SUM CHEA:

25 A. I first joined the Revolutionary Army in Boeng Nay commune,

19

1 and at that time the troop was stationed over there as well. And
2 we did not have, you know, modern weaponry with us. There were
3 only conventional weapons at the time. And then we had to – we
4 had to fight our way from 1972, and we tried to approach Phnom
5 Penh until 1975.

6 Q. Do you remember any of the locations where you engaged in
7 combat between 1972 and 1975 as you progressed towards Phnom
8 Penh?

9 A. We engaged in combat in Kampong Cham, in Khvet, and then Skun,
10 and it was along the way to Thnal Kaeng, Preaek Kdam. And then we
11 got to Katha Bridge. We stationed there briefly, and then we
12 moved to Baset. But I do not recall the exact date when we
13 stationed at each location, but we fought along the way up to
14 Phnom Penh, and we once stationed in Baset.

15 [09.49.39]

16 Q. Thank you.

17 Can you tell us what your rank or position was in the Division 1
18 army during the period between 1972 and April 1975?

19 A. I did not hold any position.

20 Q. Were you a member of a particular squad or platoon? Do you –
21 do you have any recollection of the – of the unit – the name of
22 the unit that you served in between 1972 and 1975?

23 A. I do not recall, but I only recall that Bong Hak was the
24 commander of the – of the battalion at the time, and Brother
25 Voeung was the commander of the division – Division 1. But as for

1 others, I do not recall.

2 [09.51.20]

3 Q. You mentioned Kampong Cham as one of the areas that you
4 engaged in combat. Can you tell us when Kampong Cham provincial
5 town was liberated by Khmer Rouge forces?

6 A. No, I don't. And along the way, from 1972, we fought and
7 liberated Kampong Cham in 1972 or 1973, and then we continued to
8 progress along the road through 1973, 1974, all the way up to
9 Phnom Penh.

10 Q. Can you tell us what happened to the residents of Kampong Cham
11 provincial town after it was captured, or liberated, by Khmer
12 Rouge forces in 1972 or 1973?

13 A. That, I do not know because, as soldiers in the troops, we
14 were not allowed to walk freely out of the troop, so we did not
15 know the situation that was evolving at the time.

16 Q. Do you remember whether the residents of Kampong Cham were
17 allowed to stay in the town or whether they were required to
18 leave the city and move into the countryside?

19 A. That, I do not know either because we were in the frontline;
20 we had to be prepared for combat. So we were not even allowed to
21 visit our parents back home, we had to stay in our troops.

22 [09.54.05]

23 Q. Can you tell me whether your battalion or division
24 participated in the battle for Udong?

25 A. No.

21

1 Q. Now, my colleague asked you how many soldiers there were in
2 your division, and you indicated that when you first joined there
3 were not very many soldiers because the division had not been
4 fully formed yet.

5 [09.54.55]

6 What I would like to ask you is: By the time that you were
7 engaged in the attack on Phnom Penh in April 1975, how many
8 soldiers were there in Division 1 at that time?

9 A. That, I do not know either. The divisions were actually there,
10 and there were many squads under the supervision of the division,
11 and in each squad there were 12 soldiers each. But I do not
12 actually know how many squads in total there were under the
13 supervision of the division.

14 Q. Do you remember how many soldiers or how many squads there
15 were -- that were part of the battalion that was commanded by
16 Bong Hak?

17 A. That, I did not know either because - what I knew was that he
18 was the commander of the battalion. But, actually, what I could
19 say is that that was not the reflection of the battalion per se
20 because it was not a complete battalion, because there were only
21 few members in certain squads under the battalion's command. In
22 certain squads there were only two members left, in others there
23 were three, four. So I could say that it was not a complete
24 battalion by nature.

25 Q. Thank you; I appreciate you providing as much information as

22

1 you have on that.

2 [09.57.20]

3 I'd like to turn now to the - to the attack on Phnom Penh and the
4 evacuation of Phnom Penh. And you told my colleague that you
5 attacked Phnom Penh from Baset and came through the Khmuonh entry
6 point. For those of us who are not familiar with those locations,
7 can you describe for us where Baset and Khmuonh were located in
8 relation to Phnom Penh?

9 A. Baset is the safety belt of the city.

10 Once we conquered Baset, then we would head for Khmuonh as the
11 entry point. And Khmuonh was located west of Baset. It was
12 approximately 4, 5 kilometres away. That is my estimation of the
13 distance.

14 And when we got Khmuonh, then we had to progress past Tralaok Bek
15 (phonetic), and then we reached Tuol Kork, which was inside the
16 city of Phnom Penh.

17 Q. And do I understand correctly that Baset was - is located
18 north of Phnom Penh?

19 A. Yes, it is.

20 Q. In the period in which you were fighting your way towards
21 Phnom Penh, can you tell us what happened to Lon Nol - Lon Nol
22 soldiers who were captured by Khmer Rouge forces?

23 [09.59.43]

24 A. Nothing happened to them.

25 Q. Were there occasions when your battalion captured Lon Nol

1 soldiers prior to the attack on Phnom Penh?

2 A. In my group, there was no such assignment, but it happened to
3 other groups of soldiers who were tasked with telling the public
4 - telling the civilians, for example, about who would be allowed
5 to come and work by telling their backgrounds or ranks - like
6 that.

7 Q. I want to make sure that we're - you're - you understood the
8 question that I was trying to put to you. I'm talking about the
9 period prior to when you entered Phnom Penh. And if there were
10 situations where, during combat, you captured Lon Nol soldiers,
11 what was done with the soldiers who were captured?

12 A. When we approached Phnom Penh, we saw no Lon Nol soldier
13 because people already took off their uniforms. So we could not
14 identify who could have been soldiers. They were all civilians to
15 us. And only after the announcements were made through the
16 loudspeakers on the trucks that people could turn in themselves,
17 and then they managed to capture some soldiers.

18 [10.02.43]

19 Q. Okay. Thank you. We'll - I'll ask you some more questions
20 about the soldiers who were captured after the broadcast on the
21 loudspeakers later.

22 I want now to ask you some more questions related to the orders
23 that you received when you first arrived in Phnom Penh, from your
24 battalion commander.

25 And you've described to my colleague the order that you received

24

1 to use whatever it took to make the people leave, and I want to
2 turn back to a section of your OCIJ statement, which, for the
3 record, is D94/9, and the reference is at: Khmer, 00205057;
4 English, 00223346; and French, 00705377.

5 And if we could put – put the document on the screen, Mr.
6 President, with your leave?

7 [10.04.27]

8 MR. PRESIDENT:

9 You may proceed.

10 BY MR. LYSAK:

11 Mr. Witness, you told the OCIJ investigators following – quote:

12 "Other soldiers pointed their guns to frighten them. If the
13 people refused to leave, there were beatings and mistreatment.
14 There were shootings and killings. The East Zone army was the
15 harshest."

16 My question – first question for you is: Did you see shootings
17 and killings after you entered Phnom Penh?

18 A. In my unit, we did not mistreat people. People had been
19 evacuated easily, and we were stationed on the road leading to
20 the French Embassy. And, indeed, our group was located right at
21 the embassy. And people had been evacuated very easily under our
22 supervision.

23 But other people who resisted such evacuation ended up being
24 shot. And, indeed, the other groups shot and killed a few people
25 to scare the hell out of other people.

1 [10.06.15]

2 Q. Did you see these incidents in which other groups or units
3 shot and killed people?

4 A. I was told that other groups of soldiers mistreated the
5 people, but that didn't happen to us because the population under
6 our control at the location was very few, and we could move them
7 easily.

8 Q. Who was it that told you that other groups had engaged in
9 mistreatment, shootings, and killings?

10 A. It was Bong Hak, the head of the battalion. And he said that,
11 without mistreating some of the people, we would not manage to
12 empty the city with populations.

13 Q. And you also indicated in the statement I just read that "the
14 East Zone army was the harshest". Did you personally witness any
15 incidents involving East Zone soldiers, or is this something you
16 were told by someone else?

17 A. I was heard - I was told by others.

18 [10.08.35]

19 Q. And so our record is clear, can you tell us who it was that
20 told you that the East Zone army had engaged in harsh conduct?

21 A. People in the group who told me.

22 Q. Do you know whether any Khmer Rouge soldiers who engaged in
23 mistreatment, shootings, or killings during the evacuation of
24 Phnom Penh were disciplined for doing that?

25 A. No, I don't think so, because there was not a court of law at

1 that time.

2 Q. I'd now like to ask you about another part of your statement
3 to OCIJ.

4 You told the OCIJ investigators - and this reference is at Khmer
5 ERN 00205057; English ERN 00223346; and French, 00705377; and
6 this is in the same part of the statement that I just read - you
7 indicated - quote:

8 "...they had us tell the people to leave for only four or five days
9 so we could sweep out the Lon Nol soldiers, and we deceived them
10 by saying that soon the fighting would explode and everyone would
11 die." End of quote.

12 Was this part of the orders that you had received from your
13 battalion commander, Hak?

14 [10.12.00]

15 A. Yes, it is correct. We had to do whatever we could to make
16 sure the people left the city.

17 Q. Were you told by your battalion commander that the purpose of
18 the evacuation was "to sweep out Lon Nol soldiers"?

19 A. That's what the superior told us; they told us that we had to
20 evacuate the people.

21 Q. Was your battalion also instructed to deceive the residents of
22 Phnom Penh by telling them that the city was soon going to be
23 attacked?

24 A. Yes. That was part of their plan, to deceive people by saying
25 that soon the fighting would explode and everyone would die. By

1 doing so, they believed that people could leave the city quickly.

2 [10.13.54]

3 Q. And when you entered Phnom Penh, did you hear any Khmer Rouge
4 soldiers announcing on loudspeakers that the people had to leave
5 the city because Americans were going to bomb Phnom Penh?

6 A. Yes, I did. And that's part of their deceitful acts to trick
7 the people to leave Phnom Penh.

8 Q. Did the orders that your battalion receive require that all
9 residents of Phnom Penh be evacuated, including elderly people
10 and hospital patients?

11 A. Yes. The whole population of Phnom Penh had to be evacuated,
12 regardless of hospital patients, handicapped people or people
13 with disabilities, children, elderly people - they all had to be
14 evacuated to different directions. And you could imagine how the
15 situation would be during such a time when huge crowds were
16 moving out of the city to all directions.

17 [10.16.01]

18 Q. I want to read another part of your OCIJ statement and have -
19 ask a few follow-up questions. And the page references of the
20 section I'm going to read is: Khmer, 00205058; English ERN
21 00223346; and French ERN 00705377.

22 And, Mr. President, if we can put this section up on the screen,
23 with your leave?

24 MR. PRESIDENT:

25 You may proceed.

1 BY MR. LYSAK:

2 Q. Mr. Witness, in your OCIJ interview, you described the
3 evacuation of Phnom Penh as follows - quote:
4 "The state of the people then was pitiful. Some were crying.
5 Mothers were crying; children were crying. The suffering was
6 absolute. Some died in the big hospital (now Calmette Hospital).
7 They put patients in push carts. Some patients without relatives
8 just laid there and died at the hospital."

9 My first question to you is: Where was it that you saw patients
10 being evacuated "in push carts"?

11 [10.18.17]

12 MR. SUM CHEA:

13 A. It was at Calmette Hospital. I saw the children - the children
14 or loved ones had to push the carts, and I saw sick people walked
15 very difficult - with difficulties.

16 Q. You indicated a few moments ago that your unit was located
17 near the French Embassy. Can you tell us where the hospital was
18 located in relation to the French Embassy and the location of
19 your unit?

20 A. I was at the French Embassy, and Calmette Hospital is just a
21 stone's throw away from it.

22 Q. Did you or your group go into Calmette Hospital during the
23 evacuation?

24 A. Yes.

25 Q. And how many soldiers in total went into Calmette Hospital?

1 A. Only a few of us.

2 Q. What was your reason for going into the hospital?

3 [10.21.02]

4 A. We were tasked with guarding along the road all the way from
5 the Chrouy Changva Bridge, on Monivong, and we had to ensure that
6 people along this route evacuated the city quickly.

7 Q. Are you able to tell us how long it took for all the patients
8 to be evacuated out of the Calmette Hospital?

9 A. It took us five days before the whole population of Phnom Penh
10 was evacuated.

11 Q. Was your battalion provided with food or water to give to the
12 evacuees who were ordered to leave Phnom Penh?

13 A. No.

14 Q. Did your battalion receive any information from your commander
15 on where evacuees leaving the city could obtain food and water?

16 A. No. The soldiers themselves could not afford enough food to
17 eat, let alone the people.

18 [10.23.45]

19 Q. Is it fair to say, then, that the evacuees were left to their
20 own to fend for food, water, and other sustenance to stay alive
21 during the evacuation from Phnom Penh?

22 A. Yes, it is correct. Everyone had to be left to his or her own,
23 and there was no such policy as to providing any assistance to
24 any of them.

25 Q. I want to turn now to a subject that you discussed a little

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1 bit with my colleague, which was the effort made to locate and
2 identify Lon Nol soldiers during the evacuation of Phnom Penh.
3 And you've already described how broadcasts were made, attempting
4 to lure soldiers to surrender and reveal their status. Can you
5 clarify for us whether all-

6 Let me first, Mr. President -- perhaps I should read a section
7 from your interview. Let me first refer you to page, Khmer,
8 00205058; English ERN 00223346; and Khmer (sic) ERN 00 - I'm
9 sorry; Khmer ERN 00205058; and French ERN 00705378. And in this
10 part of your interview, you described how, "after seven or eight
11 days, they set up loudspeakers and broadcast to the Lon Nol
12 soldiers, saying" - quote - "for anyone of whatever rank who had
13 worked anywhere to go back to their duty stations". End of quote.
14 And then you continue on to say that these people died.

15 [10.26.48]

16 What I'd like to first ask you is to clarify whether all Lon Nol
17 soldiers who were identified were killed or whether it was only
18 former soldiers of a certain rank who were killed during this
19 period.

20 A. These broadcasts were for everyone, whatever rank he or she
21 had before.

22 Q. And, continuing on in the same part of your OCIJ statement
23 about the efforts to locate Lon Nol soldiers, you also stated -
24 quote: "Some wanted to live and tried to hide things, but they
25 were arrested anyway because they were researched and found out

31

1 through their 'biographies'." End of quote.

2 And my question to you is: How did you become aware that Lon Nol
3 soldiers were identified and arrested through their biographies?
4 [10.28.35]

5 A. This was done through the loudspeakers. People were told to
6 reveal their background - for example, what rank they held before
7 - that they could be offered the same titles when they joined the
8 Khmer Rouge.

9 Q. Thank you for clarifying that. Do you know whether all people
10 who were evacuated from Phnom Penh were required to provide
11 biographies?

12 A. No, I don't. I don't know what happened at the rear because I
13 knew only about what happened in the military. And I have no
14 knowledge of what happened concerning the Lon Nol soldiers.

15 Q. You also state in your OCIJ interview - and the reference
16 pages here are Khmer ERN 00205058; English, 00223346; and French,
17 00705378 - you state that Lon Nol soldiers who returned to their
18 duty stations after these broadcasts were taken away by trucks
19 "and killed west of Preaek Pnov" and that you were told this by a
20 fellow soldier who participated in the executions.

21 My first question is: Can you tell us where Preaek Pnov is
22 located?

23 [10.31.12]

24 A. I heard from others that they were brought to be killed in
25 west of Preaek Pnov, and I did not know its exact whereabouts,

1 but Koeun who – was the one who ordered.

2 Q. You indicated that the person who had participated in these
3 executions and told you about them was Koeun, a fellow soldier
4 from the same unit as you. Was it other soldiers from your
5 battalion who had conducted these executions?

6 A. There was only one person, by the name of Koeun. That was the
7 only person. He was the executioner.

8 Q. Do you know whether there were any other divisions who also
9 participated in this particular group of executions, or was it
10 just Koeun?

11 A. There were many others, but I do not know from which division
12 they came because Koeun brought along with him some 10 trucks
13 from different places, and then they put the people on trucks
14 from Skun and all the way to Preaek Kdam, so – that's what he
15 did.

16 [10.33.10]

17 Q. And can you tell us approximately when this occurred – how
18 long after the 17th of April 1975? How long after the time you
19 entered Phnom Penh was it when these executions took place?

20 A. It took about one day and one night. The soldiers were ordered
21 to leave from different directions, and the exit point was
22 through Preaek Kdam and other places. And if they were supposed
23 to go to the Eastern Zone, they would cross the river to the
24 other side, towards the eastern part of the country.

25 Q. I think perhaps my question may have not been well worded or

1 was lost in translation.

2 You've told us about an event in which Lon Nol soldiers were
3 taken by trucks and executed near Preaek Pnov. When was it that
4 this took place?

5 A. It was just four or five days after the liberation of Phnom
6 Penh, but I do not recall the exact date. But it was sometime in
7 1975 and it was just a few days after the liberation of Phnom
8 Penh.

9 [10.35.38]

10 MR. LYSAK:

11 Mr. President, I'd like now to read to the witness a OCIJ
12 statement from another former soldier from the same battalion as
13 the witness. This is document D166/117, an OCIJ interview that
14 was conducted on the 6th of March 2009.

15 I don't believe this individual has been proposed as a trial
16 witness by any party. Nevertheless, I will not identify his name
17 on the record.

18 [10.36.22]

19 And I guess -- since the witness cannot read, I'm not sure
20 whether I should just - normally, we give the witness a copy of
21 the statement so he can see who the - who the person is who's
22 providing the statement. Perhaps I could provide a copy to his
23 counsel, and he could inform the witness who the individual is
24 who provided the statement to OCIJ, and then I can read the part
25 of the statement that I would like to ask the witness about.

1 (Judges deliberate)

2 [10.37.21]

3 MR. PRESIDENT:

4 Counsel Michael Karnavas, you may proceed.

5 MR. KARNAVAS:

6 Good morning, Mr. President. Good morning, Your Honours, and good
7 morning to everyone in and around the courtroom. I certainly
8 don't object to the manner in which the Prosecution wishes to
9 proceed in this - with this matter.

10 However, last week, his counterpart was objecting on something
11 rather similar, and we seem to - one prosecutor comes in, wants
12 to use this technique; another prosecutor comes in, objects to
13 the Defence using the similar technique. It had to do with Philip
14 Short, I believe.

15 I just wish that we could have some clear guidance.

16 Again, I don't object; I think it's a proper way of approaching
17 the situation, just as my colleague from the Nuon Chea (sic) was
18 properly trying to present something from the - Philip Short's
19 book, but the prosecutor - his predecessor here, in Court, was
20 blocking.

21 [10.38.22]

22 And so the Prosecution can't have it both ways. They can't avail
23 themselves to one procedure and then, when we try to, somebody
24 else from their office coming in and trying to object to the
25 Defence. Thank you.

35

1 MR. LYSAK:

2 If I may briefly respond, if I recall correctly, I believe the
3 issue that counsel's referring to has to do with the fact that
4 Philip Short is intended to appear as a witness in this trial.

5 And that is not the situation with the witness statement that I'm
6 about to use. So, I think that that was the basis. This was an
7 issue that first arose in the document hearings, but I think that
8 is the particular issue that related to Philip Short, even though
9 I was not in Court on that - on that day.

10 [10.39.28]

11 MR. PRESIDENT:

12 You may proceed.

13 Court officer is instructed to obtain the document from the
14 Prosecution and present it to the duty counsel of the witness so
15 that he can advise the witness accordingly.

16 And please make sure that you do not reveal or disclose the names
17 or identities of the people in the document.

18 BY MR. LYSAK:

19 Q. The - Mr. Witness, the first thing I would like to direct you
20 to is, the individual in this statement states that he was in
21 Battalion 31 of Division 310 of the North Zone military and that
22 the name of his battalion commander was Hak. This reference
23 appears at: Khmer ERN 00287535; English, 00293364; and French,
24 00355872 through 355873.

25 Without saying the name of this person, can you tell us whether

36

1 you know and recall the person who provided the statement?

2 MR. SUM CHEA:

3 A. I do not know this person.

4 [10.41.41]

5 Q. The part of a statement that I wanted to ask you about appears
6 at Khmer ERN 00287536, French ERN 00355873, and English ERN
7 00293365. And this individual describes how he was injured on the
8 battlefield around the 16th of April 1975 and that, when he
9 returned to his unit in May 1975, then stationed at Wat Phnom, he
10 learned the following - quote:

11 "At that time in May 1975, I know there was an order from the
12 senior Son Sen, the supervisor, to arrest those who were
13 high-ranking civil servants of Lon Nol regime who denied leaving
14 Phnom Penh city, and the patients who were Lon Nol soldiers being
15 treated in Preah Ket Mealea Hospital. I protested and refused to
16 participate, but I knew about the happenings because I was the
17 chairman of Company 3 of Division 310. Those who joined in
18 arresting people told me directly that a great number of Lon Nol
19 officers and their servants were arrested from Phnom Penh and
20 killed and thrown into a well in Tuol Kork area." End of quote.

21 Can you tell us whether you also heard about these arrests and
22 executions of Lon Nol officials and soldiers?

23 [10.43.56]

24 MR. PRESIDENT:

25 Witness, please hold on.

1 International Counsel for Mr. Nuon Chea, you may proceed.

2 MR. PAUW:

3 Thank you, Mr. President. I am going to be somewhat echoing my
4 colleague Michael Karnavas because this is the issue that we had
5 at hand last week, when I was questioning a witness. It was Judge
6 Lavergne who took issue with the fact that I was putting an
7 excerpt to the witness that related to some events that the
8 witness had not necessarily experienced himself. This was
9 improper, Judge Lavergne ruled, because the witness had to be
10 asked open questions first as to his own experience, without
11 first being fed the information in somebody else's statement.
12 This is exactly the technique that the Prosecution objected to
13 last week.

14 [10.44.51]

15 Earlier today, we've heard a number of leading questions and we
16 have decided not to object, to not interrupt the flow of the
17 proceedings. But, like my colleague Michael Karnavas, I observe
18 that there seem to be different rules for the Prosecution and for
19 the Defence, and I suggest that you hold the Prosecution to the
20 same rules.

21 So the witness should be asked questions about his own experience
22 first. If he does not remember, perhaps his witness can - his
23 memory can be refreshed, but it should not go the other way, at
24 least if that is the rule that's applicable to the Defence.

25 [10.45.28]

1 MR. LYSAK:

2 If I may respond briefly, Mr. President, the issue is whether
3 there is as proper foundation to ask the witness about this -
4 this particular statement.

5 I would agree that in a situation -- if I were giving - reading a
6 statement to a witness that he had no connection to, there would
7 be an issue. However, the witness who provided this information
8 was from the same battalion, the battalion commanded by Hak that
9 this witness was in.

10 This witness has already testified to knowledge of Lon Nol
11 executions. I am asking him - showing him another account of Lon
12 Nol executions, from someone who was in the same battalion as
13 this witness, and asking him whether he has - whether he has
14 information about this incident also. So I think it's a
15 completely different situation than what counsel is referring to.

16 MR. PRESIDENT:

17 International Counsel for Mr. Nuon Chea, do you have any
18 different matter? Otherwise, we will rule on this particular
19 issue, because parties are not granted leave to reply to a
20 response.

21 [10.47.10]

22 MR. PAUW:

23 I will abide by your ruling, and I hope for a correct decision.

24 (Judges deliberate)

25 [10.52.04]

1 MR. PRESIDENT:

2 The Chamber rules that the witness needs not respond to the
3 question.

4 The Chamber bases its ruling on document E1/59, page 30. Parties
5 are not allowed to extract portions of the statement or document
6 concerning another potential witness to put the question to the
7 witness at question. However, the Chamber may – the parties may
8 ask a general question. And this has already been ruled upon by
9 the Chamber so far, and parties should be reminded of this
10 ruling.

11 In addition, the Chamber advises the Prosecution that you should
12 not put any statement by other potential witnesses to be – who
13 may be summoned to testify before the Chamber, for example Mr.
14 Philip Short, who is a potential witness before this Chamber. And
15 the Chamber has already set out the schedule for the summons of
16 those potential witnesses; that's why the Chamber relies on its
17 ruling made on the 17 of May 2012.

18 Mr. Prosecutor, if you have any other questions you may put the
19 question to the witness at – in question, but please do not rely
20 your question on the statement of other potential witnesses to
21 put to the – to put to the witness.

22 And, Judge Jean-Marc Lavergne, you may clarify this issue if you
23 are of the opinion that the ruling rendered by the Chamber may
24 give rise to the issue to be discussed now. You may proceed, Your
25 Honour.

40

1 [10.54.51]

2 JUDGE LAVERGNE:

3 Thank you, Mr. President.

4 Today's situation may be slightly different to the one that gave
5 rise to a decision by the Chamber last week.

6 Last week, a reference was made to an opinion by a historical
7 expert who might have been likely to appear before this Chamber,
8 and it seemed inappropriate to refer to that opinion or analysis.
9 Now, today, a question was raised by the Prosecution, in which
10 they referred to an event that belonged to the realm of hearsay.
11 So we're not talking about a historical analysis, but more a
12 reference to an event, and a better way, perhaps, for the
13 Prosecution to put the question might have been a more general
14 approach, asking the witness about his general, personal
15 awareness of the particular event.

16 [10.56.17]

17 MR. PRESIDENT:

18 Mr. Prosecutor, please hold on.

19 The International Defence Counsel for Mr. Nuon Chea, you may
20 proceed.

21 MR. PAUW:

22 Not to complicate matters but to perhaps get some guidance here
23 -- and the issue that I was referring to was not the instance
24 where I was referring to Pol Pot - to Philip Short's expert
25 testimony. The instance that I was referring to was where I was

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1 referring to Mr. Heng Samrin's testimony. I put that to the
2 witness, and that was objected to. So that was not an expert
3 witness, it was a testimony that came from another normal
4 individual that cannot be considered an expert.

5 So, the ruling, as of yet, remains unclear, at least to the
6 Defence.

7 MR. PRESIDENT:

8 Mr. Prosecutor, you can now put your question to the witness.

9 Please repeat your last question. Do you still intend to ask that
10 last question to the witness before--

11 [10.57.40]

12 MR. LYSAK:

13 Mr. President, I would - I would ask a different question, based
14 on the Court's ruling here today. So, if the Court wishes to
15 break at this point, I have probably another 10 minutes of
16 questioning--

17 MR. PRESIDENT:

18 Thank you.

19 The time is now appropriate for the adjournment. We will adjourn
20 now and resume at 15 to 11.00. Court officer is instructed -- 15
21 past 11.00.

22 And court officer is instructed to facilitate the rest for the
23 witness and his duty counsel and have him back at 15 past 11.00.

24 (Court recesses from 1058H to 1123H)

25 MR. PRESIDENT:

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

2 We continue to hear testimonies by the witness. The questions
3 continue to be put by the prosecutor.

4 You may now proceed.

5 BY MR. LYSAK:

6 Thank you, Mr. President. Mr. Witness, I have just a couple more
7 questions for you before I turn it over to the civil parties.

8 Q. You've described for us, earlier this morning, executions of
9 Lon Nol soldiers that took place at Preaek Pnov. Were you also
10 aware of any executions of Lon Nol soldiers or officials that
11 took place in Tuol Kork?

12 MR. SUM CHEA:

13 A. Yes, I am, but there were only Lon Nol soldiers, not
14 officials.

15 Q. Q. Can you tell us what it is - what took place or what you
16 recall in relation to executions of Lon Nol soldiers in Tuol
17 Kork?

18 [11.25.24]

19 A. These people were killed after the radio broadcast on
20 loudspeakers and when they were tricked to reveal their
21 identities.

22 Q. The last area that I would like to ask you about concerns your
23 battalion commander, Bong Hak.

24 And I'm going to refer you to your OCIJ interview. The reference
25 is at: Khmer, 00205058; English, 00223347; and French, 00705379.

1 And in this part of your interview, you indicate that Hak later
2 "rose to [the] regiment [level], in charge of aircraft at
3 Pochentong" and that after that he was one of the military
4 leaders who were purged.

5 Can you tell us when it was that Bong Hak was promoted to a
6 regiment level in charge of aircraft at Pochentong Airport?

7 A. I heard from members of my unit that he rose to the regiment
8 level in charge of the air force at Pochentong.

9 Q. Do you know whether this was a position in a different
10 division than yours?

11 A. No, I'm afraid not. I don't know what happened to him because,
12 when he rose to that level, he has been separated from our unit,
13 and I did not know what he did there.

14 [11.28.08]

15 MR. LYSAK:

16 Mr. President, I would note for the record that the OCP "Revised
17 S-21 Prisoner List", which is document E3/342, includes a Yang
18 Hak, who is identified as a "Member of Division 310 (Hiding in
19 Unit 502)" and is number 11868 on that list.

20 I have no further questions for you. Thank you, Mr. Witness, for
21 answering our questions today.

22 And I would turn over to the civil parties at this time, Mr.
23 President.

24 MR. PRESIDENT:

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

1 MR. PAUW:

2 Thank you, Mr. President. I will be brief to not take away time
3 from the civil parties, but I do object to this OCP tactic that
4 they use repeatedly, which is to, after their questioning, to
5 read out the "S-21 Prisoner List" into the record.

6 [11.29.26]

7 I do not object at all to them doing so, but they should do so at
8 the end of the testimony of this witness and when all the parties
9 have had a chance to question the witness.

10 It is clear to any witness that being mentioned on an S-21
11 prisoner list has some importance, and witnesses are in this way
12 fed information that they do not have prior to their testimony.
13 So I would request the OCP to, if they want to read these
14 prisoner lists into the record, to wait with doing so until the
15 witness has ended his testimony, and preferably until he has left
16 the courtroom. That is our position.

17 [11.30.12]

18 MR. LYSAK:

19 Mr. President, I - if the Trial Chamber wants us to proceed in
20 that manner and provides us the floor when other parties are
21 done, I'm happy to do that, but we do not have the floor at the
22 end of witness questioning, so this is our last opportunity to
23 put things on the record relating to the testimony of this
24 witness. But I am happy to proceed in that manner if the Court
25 would rather have us make statements after the questioning by all

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1 the witnesses - questioning by all the parties - excuse me.

2 (Judges deliberate)

3 [11.32.52]

4 MR. PRESIDENT:

5 The Chamber allows the Co-Prosecutor to do as what they have just
6 done and that -- no other time would be allocated for the
7 prosecutors to do so.

8 And parties should have already raised such issue in advance, and
9 that -- the floor would then be given to the parties to have a
10 few words concerning such objection.

11 And it is appropriate that such statement or the reference to the
12 document is made during the time allocated to the party who had
13 the floor.

14 The Chamber would like to now give the floor to the civil parties
15 to proceed putting questions to the witness if they would wish to
16 do so.

17 MR. PICH ANG:

18 Thank you, Mr. President and Your Honours. I would like to hand
19 over to Counsel Ty Srinna and Nushin Sarkarati to proceed with
20 the questioning to this witness.

21 [11.34.13]

22 MR. PRESIDENT:

23 You may proceed, Counsels.

24 QUESTIONING BY MS. TY SRINNA:

25 Good morning, Mr. President. Good morning to you, Your Honours,

1 and very good morning to Mr. Witness. I have a few questions to
2 put to you, and I hope you would cooperate to respond to all the
3 questions.

4 Q. I would like to go back a little bit in time to the events
5 that happened before 1975. I would like you to tell the Chamber
6 concerning what you remembered during those times.

7 When you were a soldier at - in the jungle, how many divisions
8 were there when you joined the army?

9 MR. SUM CHEA:

10 A. I'm afraid I don't know how many divisions there were.

11 Q. Are you aware of the communication between one division to
12 another?

13 A. No, I'm not. I believe that the senior leaders - or the
14 leaders of the division could have been in contact, but ordinary
15 soldier like me would not be informed.

16 [11.35.47]

17 Q. Did you receive military trainings on how to attack the
18 enemies or capture Phnom Penh in particular?

19 A. Yes, I was trained. Before we were recruited - or for the
20 purpose of recruiting more soldiers, trainings were offered.

21 Q. Could you tell the Court, please, how the trainings were
22 conducted?

23 A. People were informed, for example, with regard to the
24 suffering they had - resulted from the American bombardments. So
25 they made people feel the suffer (sic), and they joined the army.

1 Q. Who actually incited or really provoked the spirit of
2 suffering so that people could join the army?

3 A. Those people were Ta Voeung and the other village chiefs. They
4 could tell us that the Americans bombed our homes and burned them
5 down completely, so on and so forth.

6 Q. Were there meetings convened in small groups of soldiers like
7 yours?

8 A. We were all offered the trainings.

9 [11.38.05]

10 Q. Were you also trained on how to identify the target of the
11 enemies?

12 A. The idea was to make sure we felt the pain, the suffering and
13 that we treated enemy – people who caused this suffering our
14 enemies, like the Americans.

15 Q. Apart from treating Americans as the enemy, were the Lon Nol
16 group regarded as such?

17 A. Lon Nol soldiers and their accomplices were entirely regarded
18 as the enemies, no doubt.

19 Q. Did you ever see any leaders coming to your area?

20 A. I saw a few of them but I do not know them. These people could
21 come to the location to propagandize, to make sure their message
22 was communicated to the people there.

23 Q. Did you ever hear any broadcast or announcement made by these
24 people concerning the titles of Pol Pot, Ieng Sary, Khieu
25 Samphan, and Nuon Chea?

1 A. No, I have not heard anything about them. I heard about then
2 Prince Norodom Sihanouk, who appealed to the people to go to the
3 maquis jungle - forest.

4 Q. I would like now to proceed to the year of 1975. However,
5 before 1975, I may have a few questions whether you had any
6 meetings in which plan to attack Phnom Penh was instructed.

7 [11.41.13]

8 A. Yes, there was such a meeting, the meeting in which
9 instructions on how to attack the tactical line of the city, like
10 at Baset.

11 Q. Who conducted the meeting at that time?

12 A. It was Bong Hak.

13 Q. When Mr. Hak led the meeting in which the instruction was
14 rendered, did you observe that it was his entire intention to
15 capture Phnom Penh, or did he receive orders from Upper Echelon
16 to capture the city?

17 A. I believe that he received orders from the higher up because,
18 as the chief of the battalion, he had no authority to make such a
19 decision. So the decision could have been rendered from higher
20 above, and that - he would just pass it on to the lower levels.

21 [11.42.45]

22 Q. What did he tell his subordinates concerning the plan or the
23 instruction rendered from his upper echelon? Do you still recall
24 the wording he could have used in such meeting to his
25 subordinates?

1 A. So far as I remember, he asked us to be well trained so that
2 we could capture Baset. If we won the Baset victory - battle,
3 then we would proceed to liberate or capture Phnom Penh easily.

4 Q. When you approached Phnom Penh, did your groups see any Lon
5 Nol soldiers? If you did, what was your reaction towards these
6 people?

7 A. Upon arriving -- the city, we had not seen any of the Lon Nol
8 soldiers; we only saw civilians, people who were wearing civilian
9 clothing, and we saw weapons scattered, left unattended on the
10 roadsides.

11 Q. This morning, you testified before the Chamber -- before the
12 Co-Investigators that, upon arriving Phnom Penh, people had to be
13 evacuated and the announcements could be heard on loudspeakers.
14 Apart from announcing the evacuation plan through loudspeakers,
15 were there any other means used at that time to make sure the
16 city is emptied of the population?

17 [11.45.05]

18 A. No. I believe that there were only loudspeaker announcements
19 and that people would be asked to leave the city for a few days -
20 three to seven days. Otherwise, they would be bombed and die. So,
21 people were terrified and left.

22 Q. Were there any instructions to provide assistance to people
23 who are - who were evacuating the city at that time?

24 A. People were not assisted. The assistance we gave to them was
25 purely the announcement that was made to let them leave the city

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1 all together, with the whole family members, the hospital
2 patients, and sick and elderly people, including children. Some
3 people had to be on the push carts, where they were pushed on the
4 move.

5 [11.46.30]

6 Q. Were Khmer Rouge soldiers deployed at all directions to make
7 sure that people could not enter or return to the city after
8 being evacuated?

9 A. There were soldiers, groups of soldiers - like groups of three
10 soldiers who were deployed protect the city and to make sure that
11 people could not re-enter the city. And it was the - it was true
12 that people could never come back to the city after leaving it.

13 Q. Were there any checkpoints installed to - for this purpose? If
14 you -- if there were, could you recall where were - these posts
15 could have been located?

16 A. Some posts were seen at the Chrouy Changva Bridge and Psar
17 Thmei. These are the two locations I remember that the points -
18 checkpoints were installed.

19 Q. Do you remember the purpose of having the checkpoints
20 installed in these locations?

21 A. The checkpoints were mainly installed to make sure that the
22 former Lon Nol soldiers were checked, and we had no problem with
23 the civilians because they had been moved outside of the city
24 easily.

25 [11.48.42]

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1 Q. You just indicated before the – the Co-Prosecutors that your
2 group was stationed at the French Embassy. Can you describe to
3 the Court, please, what happened at the vicinity?

4 A. When we were at the French Embassy, I saw no "barang". The
5 embassy was empty and quiet, and there were only soldiers there.

6 Q. Did you see whether civilians or embassy staff members could
7 have been taking refuge in the embassy compound?

8 A. No, there was none of civilian. The whole city was quiet and
9 emptied. There was no one, no civilian.

10 [11.50.04]

11 Q. This morning, you indicated that, when you arrived – Phnom
12 Penh, you already saw people being evacuated. Did you see monks
13 were being evacuated among the civilians at that time?

14 A. I don't remember seeing any of the monks. I don't – I didn't
15 see this in my location. Perhaps they could have been seen
16 elsewhere, but I don't know.

17 Q. This morning, I heard you indicated that "that's what happened
18 during the Khmer Rouge time". Could you please be more precise –
19 what you meant by "that's what" – "that's the situation during
20 the Khmer Rouge time"? What would you like to say about that?

21 A. I don't think I remember that statement.

22 Q. If you may, you may have some time to recollect what you said
23 this morning, please.

24 Concerning the capture of Phnom Penh and that – the city is
25 emptied, where were you at that time?

1 A. I was at the French Embassy before being transferred to Tuol
2 Sangkea, where I had to clear the bushes to farm the rice season
3 farming - or rice. I had to clear the small trees. And the
4 soldiers were used like cattle to clear the small bushes to pave
5 way for farm land.

6 [11.52.45]

7 Q. At that time, were you aware of the plan to rebuild the city?
8 If so, what was such plan like?

9 A. There was no such plan to rebuild the city. I noted that some
10 coconut trees could have been planted along the roadsides, and
11 coconut trees were the only main trees to be planted to beautify
12 the city at that time.

13 Q. I would like to pose some questions concerning the political
14 situation after the victory -- after the Khmer Rouge won the
15 victory over Phnom Penh and the country.

16 After such a victory, were you called to attend any meeting where
17 celebration of the victory could have been conducted? Did you
18 ever attend such celebration - event of the celebration?

19 A. There were meetings where we were called to attend and we
20 would be lectured on how to help rebuild the country by working
21 very hard to build the canals, the dams, dykes. And we were
22 disarmed; we were treated like ordinary civilians and were asked
23 to do farming.

24 [11.54.54]

25 Q. Were you familiar or aware that at that time the leaders of

1 the country were already appointed and pronounced?

2 A. At a later date, we were informed of who could have been the
3 leaders. Before, the only leader we knew was the then Prince
4 Norodom Sihanouk, but later on we were informed that, during the
5 meeting at the stadium, about the Secretary of the Party and who
6 would be the top leaders at that time. The meeting was conducted
7 at the Olympic Stadium, and we could see that all soldiers were
8 attending that event, all soldiers from across the country, and I
9 could see that people were on their feet when Pol Pot was in the
10 centre of the stage. I heard the name of Pol Pot was being
11 mentioned, although I could not see his face very clearly. They
12 started the event by reading the historical background - for
13 example, the day when the meeting started at the railway station,
14 and so on and so forth - and they also told us that we could
15 really access to the whole recording through the tape if we would
16 like to do so.

17 [11.56.34]

18 Q. Do you still remember when exactly that event was conducted -
19 the meeting was convened?

20 A. It was in 1975. I don't remember the exact day or month.

21 Q. After noting that Pol Pot was the leader of the country - or I
22 may put it this way, rather: At that time, did you see any other
23 leaders -- remarkable leaders of the Khmer Rouge attending the
24 meeting?

25 A. I don't know any of them. I only knew the leaders of the

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1 regiment or the division; I never knew the senior leaders of the
2 Khmer Rouge.

3 Q. Thank you, Mr. Witness.

4 I would like to proceed to other questions, and I may go back a
5 little bit to the evacuation time.

6 You said that people had been evacuated for three to five days.

7 According to your observation and experience, were you aware of
8 any such broadcast or announcement that people would be allowed
9 to re-enter Phnom Penh after they were evacuated?

10 [11.58.44]

11 A. Politically, it was the political message that people had to
12 be evacuated out of the city, and there was no such message as
13 they would be allowed to return.

14 Q. I have final three questions.

15 First, about the money circulation, did you remember when exactly
16 money was no longer circulated?

17 A. I heard through the broadcast or announcement that money was
18 no longer circulated.

19 Q. When exactly was such announcement made?

20 A. (Microphone not activated)

21 MR. PRESIDENT:

22 Mr. Witness, could you please hold on until you see the red light
23 on the mic before you proceed to respond?

24 You may now proceed.

25 MR. SUM CHEA:

1 A. We heard about this through grapevine, that money no longer
2 circulated.

3 [12.00.19]

4 BY MS. TY SRINNA:

5 Q. At Baset -- after the victory by the CPK, were you resent to
6 Baset location?

7 MR. SUM CHEA:

8 A. Yes, I was, but to be sent there as a canal worker, like - to
9 build canal and do farming rather than a soldier.

10 Q. So, who sent you there?

11 A. I don't know who sent us, but soldiers could be escorting us
12 to the place where we did farming.

13 Q. Can you please tell the Chamber your impression concerning the
14 food condition and living condition of the people at that
15 location?

16 A. People suffered a great deal. Every member of the family who
17 was mature enough to be put to work then had to work to carry
18 dirt, to build canals, dams; and everyone could not be spared
19 from this hard work.

20 [12.02.15]

21 MS. TY SRINNA:

22 I thank you very much, Mr. Witness, for your responses. I have no
23 further questions to put to you, and I would like to cede over to
24 - the floor to my colleague.

25 MR. PRESIDENT:

1 You have 10 more minutes to proceed, Counsel.

2 You may proceed.

3 QUESTIONING BY MS. SARKARATI:

4 Thank you, Mr. President and Your Honours. Good morning, Mr. Sum
5 Chea. I only have a few more questions for you.

6 Q. I want to ask you some more questions about the treatment of
7 civilians during the evacuation.

8 Now, when you were told to evacuate people out of Phnom Penh, did
9 you receive any instructions on how to treat people that were too
10 old or too sick to leave the city?

11 MR. SUM CHEA:

12 A. As I said earlier on, there was no such instruction to assist
13 people. What they had to do is to make sure that the city was
14 emptied of population. That's all.

15 Q. Thank you. And you said that you entered Calmette Hospital
16 during the evacuation. What happened to the people that were
17 severely ill in the hospital and required continuous medical
18 assistance? How were they evacuated from the hospital?

19 A. I don't believe that there was such a care or service
20 available to care for the sick people or elderly people. People
21 only paid attention to making sure that everyone was being moved
22 out of the city, and there was no such luxury like asking for
23 permission to be still admitted to the hospital until they got
24 cured before they could leave. I don't think it was the case.

25 [12.05.02]

1 Q. And was any medication transported out of the hospital, along
2 with the evacuees?

3 A. There were some medics who could be seen going to some
4 hospitals to collect some of the medicines, and they could make
5 the most of the available medicines at that time.

6 Q. Were these medics working for the Khmer Rouge forces at the
7 time?

8 A. Yes, they were. These medics were also treating the Khmer
9 Rouge soldiers.

10 Q. And was the hospital used for any military purpose during the
11 evacuation?

12 A. The hospital, known in Khmer as "Peth Thom", was used for that
13 purpose.

14 Q. And what was it used for, exactly?

15 A. I never been to that hospital during that time, but people
16 were offered some medicines. There was no such IV fluid.

17 [12.07.38]

18 Q. Thank you.

19 Well, I'd like to ask you a bit about the methods used for
20 evacuation.

21 Did you see any Khmer Rouge forces enter people's homes to look
22 for civilians?

23 A. No, I didn't. After five days, the city was emptied, and no
24 people could be seen hiding in their apartments or houses;
25 everyone had gone.

1 Q. Okay, thank you.

2 So, you said earlier that some soldiers resorted to harsh
3 measures in order to evacuate the city. Did you witness any women
4 get attacked during the evacuation?

5 A. No, I didn't see any women being mistreated. That happened in
6 my area, because my people would just ask civilians to leave the
7 city, and we kept telling them that they had to move quickly or
8 they would be bombarded by the aerial bombardments.

9 Q. And did you hear of any sexual assaults against women during
10 the evacuation?

11 A. No, I didn't. I had no knowledge of this.

12 [12.10.01]

13 Q. Thank you, Mr. Witness.

14 I just have a couple more questions. These are in regard to the
15 Lon Nol soldiers that you encountered during the evacuation.
16 Were any of these Lon Nol soldiers armed when you entered the
17 city?

18 A. No, they weren't.

19 Q. Did you face any sort of armed resistance when you were
20 evacuating Phnom Penh?

21 A. No, we didn't.

22 Q. And did you witness any of the Lon Nol soldiers surrender?

23 A. Upon arriving -- Phnom Penh, we seen people raising white
24 flag; everyone was seen waving white flags. It was difficult for
25 us to identify whether any one of the civilian could have been

1 soldiers, because there was no sign that they were soldiers
2 because we treated the people who were waving white flags as
3 people who were defeated already and surrendered.

4 [12.11.43]

5 Q. And after you made the announcements – after you had entered
6 the city and made announcement for Lon Nol soldiers to come
7 forward, did you see any of those soldiers come forward?

8 A. No, I didn't. The announcements were made on loudspeakers by
9 other units other than mine. And Koeun, who knew about this came
10 to tell me about this information. In particular, he would talk
11 to me about some former Lon Nol soldiers or – who did not tell
12 the truth; they exaggerated the information, for example by
13 telling the people who had to made the announcements through the
14 loudspeakers that they were holding higher ranks during the old
15 days so that – they believed that they could be offered such a
16 higher status. And later on, although they did not tell the
17 truth, they were found out to – all the detail and -- through the
18 research of the biographies, and everyone ended up being killed.

19 [12.13.20]

20 MS. SARKARATI:

21 Thank you, Mr. Sum Chea. I have no further questions.

22 MR. PRESIDENT:

23 Thank you, Counsels. Thank you, Mr. Witness.

24 It is now appropriate time for lunch adjournment. The Chamber
25 will adjourn for now, and the next session will be resumed by

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1 1.30.

2 Court officer is now instructed to assist the witness and his
3 duty counsel during the adjournment and have them returned to the
4 courtroom by 1.30 p.m.

5 Counsel for Mr. Nuon Chea, you're on your feet. You may now
6 proceed.

7 MR. PAUW:

8 Thank you, Mr. President. Our client, Mr. Nuon Chea, would like
9 to follow this afternoon's proceedings from his holding cell, as
10 he is suffering from a backache and a general lack of
11 concentration.

12 And we have already submitted the waiver.

13 [12.14.26]

14 MR. PRESIDENT:

15 The Chamber notes the request made by Mr. Nuon Chea, through his
16 counsel, in which Mr. Nuon Chea has asked that the Chamber allow
17 him to observe the proceedings from his holding cell, due to the
18 fact that he cannot remain seated for a long time in the
19 courtroom. And counsel for Mr. Nuon Chea made it clear already
20 that his waiver would then be produced in due course.

21 The Chamber therefore grants such request. Mr. Nuon Chea is now
22 allowed to observe the proceedings from his holding cell for the
23 remainder of the day.

24 The Chamber would like counsels for Mr. Nuon Chea to submit the
25 waiver signed or given thumbprint by Mr. Nuon Chea as soon as

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1 possible.

2 AV Unit is now instructed to ensure that the AV equipment is
3 connected to his holding cell so that he can observe the
4 proceedings from there for this remainder of the day.

5 Security personnel are now instructed to bring Mr. Nuon Chea and
6 Khieu Samphan to their respective holding cell and have Mr. Khieu
7 Samphan returned to the courtroom when the next session resumes,
8 by 1.30 p.m.

9 The Court is adjourned.

10 THE GREFFIER:

11 (No interpretation)

12 (Court recesses from 1216H to 1334H)

13 MR. PRESIDENT:

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

15 Mr. Duch Phary, you may now proceed.

16 THE GREFFIER:

17 Mr. President, civil party TCCP-89 that has been summoned by the
18 Chamber as a reserve civil party is now present at the waiting
19 room.

20 Mr. Ieng Sary, according to document E237, has also waived his
21 right to the testimony of this civil party as well.

22 Thank you, Mr. President.

23 [13.36.13]

24 MR. PRESIDENT:

25 Thank you, Mr. Duch Phary.

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1 I would like to know whether fellow Judges of the Bench wish to
2 put any questions to the witness.

3 Judge Lavergne, you may now proceed.

4 QUESTIONING BY JUDGE LAVERGNE:

5 Thank you very much, Mr. President. I do have a few questions,
6 but I shall endeavour to be very swift.

7 Q. Mr. Witness, you stated this morning that prior to the fall of
8 Phnom Penh you were stationed with your unit in the area called
9 Baset. Do you know if artillery was used to drop bombs on Phnom
10 Penh, leaving from Baset?

11 MR. SUM CHEA:

12 A. Yes, there were some firing or mortar shell at that time, but
13 the shell were - landed only at the 100 houses location.

14 [13.37.52]

15 Q. I am afraid we haven't been able to grasp the entirety of your
16 answer, sir, so can you just tell us how bombs were dropped on
17 Phnom Penh? Were there very specific strategic targets, or was
18 Phnom Penh targeted in an indeterminate manner?

19 A. I have no knowledge whether bombs were dropped at - on Phnom
20 Penh because we were foot soldiers and I did not know about this.

21 Q. Let us return to what you testified before the Court this
22 morning with respect to some of the tactics employed to reveal
23 former Lon Nol soldiers.

24 You stated that speakers were used to send out messages to former
25 soldiers. Did you know where those speakers came from? Were they

1 provided from the division? Or where exactly did such equipment
2 come from?

3 A. I'm afraid I don't know. I only heard from people in Koeun's
4 group that the loudspeakers were used to broadcast their
5 announcements.

6 [13.39.44]

7 Q. However, within your unit or within your division, did you
8 witness previous use of the loudspeakers?

9 A. No, I didn't. I had never seen them being used in the unit
10 before.

11 Q. Were the loudspeakers used to broadcast messages intended for
12 the general civilian population? Were they used in order to
13 convey the message to civilians to leave Phnom Penh?

14 A. Yes, it is correct.

15 Q. You also stated that former soldiers were gathered together
16 and taken away. And unless I'm mistaken, you stated that they
17 were gathered by lorry; is this accurate?

18 A. I'm afraid I do not quite catch your question. Are you
19 referring to the Lon Nol soldiers or other soldiers?

20 Q. Indeed -- pardon me -- I am referring to the former soldiers
21 who served under the Lon Nol regime, and who were revealed as
22 such or who surrendered, and who were then gathered in order to
23 be executed. Were those former soldiers transported by lorry?

24 A. Yes, they were.

25 [13.42.06]

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1 Q. And do you know where those trucks -- or lorries -- came from?

2 Did they come from the divisions or did they come from elsewhere?

3 A. They came from the military, from the Lon Nol soldiers.

4 Q. Therefore, it was equipment that once belonged to the Lon Nol

5 army, the same trucks that were used to transport former Lon Nol

6 soldiers; is this correct?

7 A. Yes, it is, Your Honour.

8 Q. When you were posted in Baset, did you hear any radio

9 broadcast and did you hear any messages released by the FUNK?

10 A. No. I did not listen to any of the radio broadcasts and I did

11 not even possess a radio nor the battery for such radio.

12 Q. At the time, did you hear about a list of seven "super

13 traitors"?

14 A. No, I didn't.

15 [13.44.02]

16 Q. You told the Court that you entered Phnom Penh. I would like

17 to know whether you arrived in Phnom Penh in the immediate wake

18 of the fight. At what point, exactly, did you enter Phnom Penh?

19 A. At that time, every soldier at each unit came to Phnom Penh

20 simultaneously, so it doesn't mean that one unit came to Phnom

21 Penh first and the other came later. So, everyone came to Phnom

22 Penh all at the same time. They communicated through radio

23 communication.

24 Q. This morning, you described the division in which your -- the

25 zone under which your division was located, and in fact, it was a

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1 very vast area; it extended from the Central Market to the Chrouy
2 Changva Bridge, and encompassing Tuol Kork. How did you know that
3 the zone fell under the auspices of your particular division? Did
4 you patrol the area? How did you acquire this piece of knowledge?

5 A. Bong Hak, the head of the battalion, asked us to stand guard
6 from -- on the stretch of road from Psar Thmei to Kilo Number 9.
7 [13.46.18]

8 Q. Just to make sure that things are abundantly clear, where
9 exactly is Kilometre 9 located? Is it on the same road on which
10 Calmette Hospital is located?

11 A. That location is to the north of the Chrouy Changva Bridge. It
12 is on National Road Number 1 - or, rather, Number 5.

13 Q. It is a point that is within close proximity of Preaek Pnov;
14 it's on National Road 5 leading to Kampong Chhnang. Is that
15 correct?

16 A. Yes, it is.

17 Q. And you, sir, at that time, were you stationed there exactly?
18 And can you please tell the Court what your role was?

19 A. I had no role in particular. I was just assigned to station
20 there.

21 Q. Therefore, you undertook duty at Preaek Pnov or the Central
22 Market. Or was there an exact location that you were responsible
23 for patrolling?

24 A. I was stationed right across from the Calmette Hospital. Other
25 members of the group would be assigned to cover other stretch - a

1 part of the road.

2 [13.48.50]

3 Q. You talked about the ill who were in the Calmette Hospital and
4 the conditions in which they were evacuated. Did you see any
5 doctors or medical professionals there? Did you witness the
6 instruction of having the doctors evacuated from Calmette
7 Hospital?

8 A. At that time, doctors or medical staff had already abandoned
9 the patients. And when the sick people, hospital patients were
10 being evacuated, there were no doctors.

11 Q. How did you know that? Did you personally enter the hospital
12 to verify that there was no longer anyone at Calmette Hospital?

13 A. Yes, I did enter the hospital to learn that there was no
14 people, and there was no doctor. And patients had been evacuated
15 in just two days, and the hospital was emptied after two days.

16 Q. Did you have the opportunity to visit other public buildings?
17 Did you have the opportunity to enter the premises of any of the
18 ministries, administrations? Do you know what happened at the
19 National Bank of Cambodia?

20 [13.51.02]

21 A. No, I didn't; I was not allowed to walk freely or contact any
22 other members other than people in the unit. At that time, the
23 regulation was so strict.

24 Q. During the time that you were patrolling the roads, did you
25 see any foreigners? Were there any specific instructions that

1 pertained particularly to foreigners?

2 A. I saw a Filipino at a location, the building that was now
3 already demolished. I saw some Filipinos there, but a few days
4 later they were no longer to be seen there again.

5 Q. And do you know what happened to those Philippine nationals?

6 A. I do not know what happened to them. I asked some people about
7 this, I asked them where these Filipinos could have been taken
8 to, but the response was that they did not know.

9 [13.53.10]

10 Q. Mr. Witness, when you were assigned across from Calmette
11 Hospital, not far from the Embassy of France, are you telling me
12 that you never saw one single foreigner?

13 A. During that time, there was no foreigner; there was no
14 newspaper. So I saw none of them.

15 Q. And within the embassy compound, you didn't see anyone --
16 there was no one? Are you certain of this?

17 A. Yes, I am certain. There was no one -- no Cambodian, no French
18 national at the U.S. (sic) Embassy. Knowing this, we then put
19 some soldiers to be stationed in the complex.

20 Q. I'm not sure if we've misunderstood each other. You just
21 referred to the American Embassy. I wasn't referring to the U.S.
22 Embassy. I'm talking about the Embassy of France. At the time and
23 at present, the French Embassy is located near Calmette Hospital.
24 Are we referring to the same building, sir?

25 A. Indeed, I was talking about the French Embassy, not the U.S.

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1 Embassy. And there was no one in the compound -- no diplomats, no
2 other staff member, nothing.

3 [13.55.28]

4 Q. When did you begin your duty patrolling the area around the
5 Embassy of France? Was it right after the fighting or some time
6 after your entry into Phnom Penh?

7 A. Since I had been in Phnom Penh, I had to stand guard at all
8 times, and that was the policy of the Khmer Rouge, that soldiers
9 had to be vigilant and stand guard, be on duty at all time.

10 Q. Therefore, you were permanently assigned in front of the
11 Embassy of France. Is that correct?

12 A. Yes, it is.

13 JUDGE LAVERGNE:

14 Very well. I have no further questions to ask this witness.

15 Thank you.

16 MR. PRESIDENT:

17 Thank you very much, Judge Lavergne.

18 [13.56.52]

19 We would like now to hand over to counsels for Mr. Nuon Chea to
20 put some questions to the witness if they would like to do so.

21 QUESTIONING BY MR. SON ARUN:

22 Good afternoon, Mr. President. Good afternoon, Your Honours. Good
23 afternoon, everyone. I am Mr. Son Arun, representing Nuon Chea
24 along with my colleague on the right-hand side. Very good
25 afternoon, Mr. Sum Chea.

1 Q. First of all, allow me to put about five questions or so to
2 you.

3 First, when you became a soldier in 1972, as you said -- and in
4 the document -- at that time you were about 18 years of age. Is
5 that correct?

6 MR. SUM CHEA:

7 A. Yes, it is.

8 Q. When you joined the army, did you do so by -- through the
9 appeal by Prince Norodom Sihanouk, as you indicated? Is that
10 correct?

11 [13.58.30]

12 A. Yes, it is.

13 Q. When you became the soldier, you wholeheartedly and
14 voluntarily became the soldier of then Prince Norodom Sihanouk
15 and that you had no knowledge of the Khmer Rouge. Is that
16 correct?

17 A. Yes, it is.

18 Q. As a soldier of then Prince Norodom Sihanouk in 1972,
19 voluntarily, indeed, without any force, coercive measure -- and
20 you also stated that you had no radio to listen to radio
21 broadcasts. Could you tell the Chamber, please, how you obtained
22 information concerning the appeal to go to the maquis forest or
23 jungle?

24 A. Indeed, after Phnom Penh was captured, I had no access to
25 radio, but before that, when I was still in the forest, I had

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1 access to radio broadcasts and radio and I heard the appeal by
2 the former prince.

3 Q. So, at that time, do I understand correctly that you had the
4 radio to listen to the appeal broadcast on radio?

5 From the time when you became the soldier of the former prince,
6 how long had you been a soldier before you became soldier for the
7 Khmer Rouge?

8 A. It was not until 1980 when I returned home.

9 [14.01.21]

10 Q. As a soldier, were you a file and rank soldier or did you held
11 any function or rank?

12 A. I was an ordinary soldier.

13 Q. (Microphone not activated)

14 THE INTERPRETER:

15 Counsel's mic is not activated.

16 MR. PRESIDENT:

17 Counsel, make sure your mic is activated.

18 BY MR. SON ARUN:

19 My apologies.

20 Q. As a soldier, you could have engaged in combat. Have you ever
21 been promoted to any particular rank during this period?

22 MR. SUM CHEA:

23 A. I had never been promoted because I was not a kind of person
24 who was brave enough to be promoted.

25 [14.02.51]

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1 Q. Up until 1975 and then all along to 1979 -- and then, after
2 that, you left the army. I would like to know -- can you tell the
3 Court whether or not you had ever been promoted to any position
4 in command during the entire period of your service in the
5 military?

6 A. None.

7 Q. If you did not hold any position in the military or I can say,
8 in general, that you were a rank and file soldier, so you were
9 just an ordinary military man. And this morning you told the
10 Court that you were in one of the squads with 11 other members,
11 and you also told the Court this morning that you were not
12 allowed to walk freely; you had to be on duty and you had to stay
13 within your squad.

14 According to this statement, you indicated that only the soldiers
15 from the Eastern Zone who -- were very harsh and they also killed
16 people who denied leaving Phnom Penh city. Did you witness the
17 killing by soldiers from the Eastern side by your eyes -- by your
18 own eyes or you simply overheard it from others?

19 [14.04.57]

20 A. I only hear it from others, from comrades in my squad who told
21 me that soldiers killed people who denied leaving Phnom Penh
22 city. That's what I heard from them.

23 Q. So you heard from others. Can you be more specific? Did you
24 hear from your team members who were in your squad or did you
25 hear from other people?

1 A. (Microphone not activated)

2 MR. PRESIDENT:

3 Please wait until the mic is on before you respond, Witness.

4 MR. SUM CHEA:

5 A. Yes, I heard from my teammates who were in my squad.

6 [14.05.55]

7 BY MR. SON ARUN:

8 Q. You were one of the members in the squad. And you told the
9 Court that your -- as -- in your capacity as a soldier, you were
10 not allowed to walk freely. And I assumed that other team members
11 were also restricted from walking freely outside of the team. So
12 how did they learn about that information?

13 MR. SUM CHEA:

14 A. It was only for those who were assigned to be on duty to stand
15 guard certain places. Then they learned that information.

16 Q. According to your testimony earlier this morning, you told the
17 Court that when you were progressing to Phnom Penh, each squad
18 were assigned to seize or conquer certain locations.

19 So my question to you is: Why certain people knew that there were
20 killings by other groups of soldiers? Were they allowed to walk
21 to other places and you, yourself, or your team were not allowed
22 to walk? Can you please elaborate on this point?

23 A. Those who were assigned to stand guard in certain places, they
24 learned that information and they were the ones who told me about
25 the killing.

1 [14.07.42]

2 Q. So, is my understanding correct that you were at least allowed
3 to walk from your location to Calmette Hospital? Is my
4 understanding correct?

5 A. No, I was not allowed, but we were only allowed to go to
6 Calmette Hospital when we had to change our work shift. For
7 example, if we had to change every three hours, then it was at
8 that time that we were supposed to go to Calmette Hospital.

9 Q. Since this morning until now, you have mentioned repeatedly
10 about a man by the name of Koeun. Who is Koeun?

11 A. Koeun was a former commander of a regiment, but later on he
12 was demoted to an ordinary soldier. He is dead, actually, now,
13 but he was the one who was quite known to other people that he
14 was a daring man.

15 [14.09.21]

16 Q. You have told the Court that Koeun was the one who assigned to
17 arrest the former soldiers of Lon Nol regime, and those soldiers
18 who were arrested were eventually killed in somewhere west of
19 Preaek Pnov. You have told the Court about this chain of events,
20 so we would like to ask you to enlighten the Court as to who
21 Koeun really was -- whether or not he was in the position of
22 command or he was only an ordinary rank and file soldier. And why
23 was he vested with power to arrest soldiers and kill them?

24 A. Koeun was a very fierce and harsh guy. He was the one who
25 implemented the order straight away, without hesitation, so he

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1 was the one who was assigned to carry out that task.

2 Q. I know that Koeun was the person who implemented the order
3 without hesitation and I know that he was the one who lured other
4 soldiers to reveal their identities, and then, eventually, they
5 were arrested and killed west of Preaek Pnov. And I would like to
6 know what position he held at the time, and why did he have power
7 to kill people. And why did you know that he was the person who
8 was responsible for the killing? Because you said you were not
9 allowed to go freely. And how did you know that?

10 [14.11.24]

11 A. In my squad, we were broken into small groups of three and we
12 had to change our work shift regularly. So, when we were on the
13 shift, we heard the loudspeaker -- announcement from the
14 loudspeaker, and Koeun -- Koeun was the one who was mentioned.

15 Q. I would like to ask for clarification. You said that Koeun was
16 the former commander of a regiment and then he were later on
17 demoted to a soldier -- an ordinary soldier, at the same level as
18 yours, and he was supposed to be stationed in certain location
19 and he was not allowed to walk freely.

20 But my question to you is why Koeun was aware of the execution of
21 the former soldiers from Lon Nol regime.

22 [14.12.28]

23 MR. PRESIDENT:

24 Counsel, I think you may have misunderstood the facts. You
25 probably confused the name -- the individuals. The person by the

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1 name of Koeun who had committed a moral wrongdoing and he were --
2 he was demoted, and there was another Koeun who was a former
3 regiment commander.

4 And you have to revisit these facts again and you have to make
5 sure that you understand the fact very clearly. Otherwise, the
6 witness is confused and he cannot provide you accurate
7 information. If you go and visit the document again, that is not
8 the fact at issue. So you may revisit this fact. Otherwise, we
9 will be all confused, and it will not be useful in ascertaining
10 the truth.

11 So you should put the question that is relevant to the facts.
12 Otherwise, the probative value of your -- of the statement may
13 not be of any weight.

14 BY MR. SON ARUN:

15 Thank you, Mr. President, for your guidance.

16 (Short pause)

17 [14.14.27]

18 Q. I would like to move on to my next question. You joined the
19 military force supporting Samdech Norodom Sihanouk in 1972, and
20 when you fought your way to Phnom Penh, you eventually conquered
21 the Lon Nol government and soldiers. Upon the victory, did you
22 know whether or not the leaders came to Phnom Penh all together?

23 MR. SUM CHEA:

24 A. Samdech Sihanouk came to Phnom Penh a few months after the
25 liberation of Phnom Penh.

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1 Q. Before the attack on Phnom Penh, the commanders in each
2 division -- for example, you were subordinate to Division 1 and
3 you were also in a squad of 12 members. Before you attacked Phnom
4 Penh, did the commanders train the soldiers in various squads,
5 for example as to what they were supposed to do once they
6 conquered Phnom Penh?

7 A. We were not instructed or told anything at all. What we -- the
8 only instruction we received was to fight our way to Phnom Penh
9 and conquer it, and then it was only after we conquered Phnom
10 Penh the -- were we told to evacuate people.

11 [14.17.07]

12 MR. SON ARUN:

13 Thank you, Mr. Witness. I thank you very much for answering my
14 questions.

15 And thank you, Mr. President, for the opportunity to put the
16 questions to the witness.

17 And I would like to hand over to my colleague.

18 QUESTIONING BY MR. PAUW:

19 Thank you, Mr. Son Arun, for giving me the floor. And good
20 afternoon to you, Mr. Sum Chea. My name is Jasper Pauw. I'm the
21 international counsel for Nuon Chea. I will try to speak slowly
22 for the benefit of the translators, but if my questions are
23 unclear to you, please do ask for clarification.

24 Q. My first question relates to a topic that you have spoken
25 about briefly, and that's the bombardment by the Americans.

1 You have stated that the bombardments forced you into the
2 Movement, but you have not spoken much about the bombardments
3 themselves. Can you tell us, Mr. Sum Chea, did you, yourself,
4 witness American bombardments in the early 1970s?

5 [14.18.48]

6 MR. SUM CHEA:

7 A. Yes, the bombardment was everywhere; it was a carpet
8 bombardment and houses were destroyed. And the reason why there
9 were sentiment for Norodom Sihanouk, it was because of the
10 bombardment; it was the motivation for other soldiers to join his
11 group.

12 Q. And did you see one bombardment or did you see several
13 bombardments over time?

14 A. I saw it every day. I saw it -- the aerial bombardments every
15 day. It was not for other provinces, but I could say for the
16 province where I resided; it was in Kampong Cham province, and
17 they bombarded every day.

18 [14.20.06]

19 Q. And were any of your relatives or friends killed during those
20 bombardments?

21 A. Fortunately, none. Only one of my brothers who -- was
22 executed. He had worked for Samdech Sihanouk as a soldier for 18
23 years, but when he returned home -- 18 months rather. And when he
24 returned home, he was arrested and killed; and he was my elder
25 brother.

1 Q. And you've stated that you saw these bombardments day after
2 day, and you have stated that these were carpet bombardments. Can
3 you tell us a little bit more about the damage they caused -- the
4 material damage, the physical damage?

5 A. It was very destructive; up to around 20 houses in my village
6 alone were burned down. And as for pagodas, they were targets of
7 the attacks, as well, and they were all destroyed.

8 Q. And did you see rice fields destroyed by these bombardments?

9 A. Yes. Yes, I saw that. So long as there were bushes or forests
10 which were suspected of anything, then they would bombard the
11 area. But now all the holes on the ground were filled.

12 [14.22.37]

13 Q. And you spoke about your brother that was executed. Could you
14 tell us who was responsible for that, as far as you know?

15 A. I do not know who actually ordered the arrest and execution of
16 him and his family because I was on -- in my duty, at that time,
17 as a soldier, so I -- when I returned home, I learned that he had
18 been -- he and his family had been arrested and killed.

19 I was engaged in the combat. I was not allowed to return home at
20 that time, and we were fighting with the risk of our life, but
21 never, ever had we ever been allowed to return home during that
22 period.

23 Q. Thank you.

24 And I would like to move on now to the moment that you entered
25 Phnom Penh.

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1 And you have described for us how your division occupied the area
2 from Psar Thmei, to Tuol Kork, to the Chrouy Changva Bridge, all
3 the way up to Kilometre 9.

4 [14.24.08]

5 And, Mr. President, with your permission, I would like to show
6 the witness a map on the screen, and it's a map of Phnom Penh,
7 the city. The document number is D108/50/1.2. And I realize that
8 the witness has indicated his reading is poor, but we also have,
9 for convenience, listed the Khmer names on the map. And if we can
10 show that on the screen, at least, it might help your Chamber and
11 the people in the audience to understand which area of the city
12 we are speaking of.

13 So, with your permission, I would like to show the map of Phnom
14 Penh with the names in Khmer, as I just read out. Is that
15 possible?

16 MR. PRESIDENT:

17 You may proceed.

18 MR. PAUW:

19 So, Mr. Witness, I hope you can see on the screen the map as it's
20 being projected.

21 I also have a hard copy for the witness if that might make it
22 easier for him to look at the map. Can I provide the witness with
23 a hard copy?

24 [14.25.48]

25 MR. PRESIDENT:

1 You may proceed.

2 Court officer is instructed to obtain the hard copy document from
3 the counsel and hand it over to the witness.

4 BY MR. PAUW:

5 I'll give the witness a minute to study the map.

6 (Short pause)

7 Q. So, my first question, Mr. Sum Chea, is simple. Is this
8 indeed, roughly, the area that your division was supposed to
9 guard?

10 (Short pause)

11 [14.27.20]

12 Sorry, I will repeat the question; I see you were still reading.

13 Mr. Witness -- Mr. Sum Chea, is this indeed the area that your
14 division was supposed to guard -- so the area between Psar Thmei,
15 Tuol Kork, Kilometre Number 9, and the Chrouy Changva Bridge?

16 MR. SUM CHEA:

17 A. That is correct.

18 Q. And I see on the map the Psar Thmei indicated. As far as you
19 are aware, did your division go any further south than Psar Thmei
20 during the evacuation of Phnom Penh?

21 A. No, we did not because we had to operate within the boundary
22 we were supposed to do. That was the responsibility of other
23 divisions.

24 Q. And another structure we can see on the map is Wat Phnom. Can
25 you tell us if your division was responsible for guarding Wat

1 Phnom?

2 A. Yes, we did -- we did guard area around Wat Phnom.

3 Q. Thank you. I will get back to this topic later, but for now I
4 will move on, so the map could be removed from the screen if
5 that's -- if it makes things more clear.

6 [14.29.54]

7 Mr. Sum Chea, earlier today, you stated that when you arrived at
8 the Calmette Hospital -- that the doctors and the medical staff
9 had already abandoned the patients.

10 My first question is: Do you know when the doctors and the
11 medical staff had abandoned the patients?

12 A. It was during the day when we engaged in the fighting. And by
13 the time we approached the hospital, it was already abandoned;
14 there were only helpless patients inside.

15 Q. So, did you witness the doctors leaving the hospital or did
16 you simply see that there were no doctors in the hospital when
17 you arrived?

18 A. By the time we entered the hospital, we had seen no doctor at
19 all -- only patients -- and we were tasked with guarding the
20 compound. And people were seen moving out of the city. It was a
21 chaotic situation. No doctor would remain at the compound.

22 Q. And do you know the reason why the doctors and medical staff
23 had abandoned the patients and left the hospital?

24 A. They were afraid of the gunshots or the fighting. And I think
25 the doctors themselves were also scared.

1 [14.32.38]

2 MR. PAUW:

3 Mr. President, with your leave, I would like to read to the
4 witness an excerpt from the book "Cambodia 1975/1982" by Michael
5 Vickery. The document number is D222/1.17, and the Khmer ERN is
6 -- oh no, the English ERN -- it is only in English -- is
7 00396998. And it relates to this issue.

8 So, with your permission, I would read to the witness this
9 excerpt for him to respond to.

10 MR. PRESIDENT:

11 International Co-Prosecutor, you may proceed.

12 MR. LYSAK:

13 I must note, Mr. President, that counsel was on his feet this
14 morning, preventing us from using statements such as this -- in
15 fact, statements much more directly within the knowledge of the
16 witness.

17 So, unless he can -- our position is that in order to use
18 documents like this, there has to be a demonstration that they
19 are directly within the knowledge of the witness. Unless he can
20 demonstrate that and unless he can satisfy the requirements that
21 he was imposing on us this morning -- he's going to need to do
22 that, in our view, in order to be able to properly use this
23 document.

24 [14.34.29]

25 MR. PAUW:

1 It is very straightforward, Mr. President. I have imposed no such
2 conditions on the Prosecution. My objection, if you want to read
3 it back into the -- in the transcript, was that the Prosecution
4 has to first lay a foundation, first has to ask an open question.
5 The Prosecution did not do that; it went straight to the
6 document.

7 I asked an open question. I asked the witness: Do you know why
8 the doctors abandoned the hospital? Witness has provided an
9 answer. Now it is time for me to confront him with information
10 contained in a book by a Cambodia scholar. In response to that,
11 the witness can either acknowledge that he is familiar with such
12 information or can contradict such a thing.

13 But, again, the proper procedure -- and that was the basis for my
14 objection this morning -- is first ask open questions, then go to
15 the underlying documents.

16 We do not object to using documents or statements, ever -- or let
17 me not phrase it in such an absolute sense -- Nuon Chea team has
18 always said that documents and statements should be allowed to
19 use. The only thing I objected to was the proper modality to do
20 so.

21 So, with your permission, I would like to read to the witness
22 this excerpt from Michael Vickery's book.

23 (Judges deliberate)

24 [14.39.08]

25 MR. PRESIDENT:

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1 The Chamber wishes to hand over to Judge Lavergne to respond to
2 the request made by counsel for Mr. Nuon Chea concerning the way
3 the current question being put. Judge Lavergne, you may proceed.

4 JUDGE LAVERGNE:

5 Thank you, Mr. President.

6 The Chamber needs to be consistent with itself and previously
7 rendered decisions.

8 And there is not any particular interest here in quoting the book
9 of Michael Vickery to substantiate the question. I think you can
10 use the substance of the information contained in Michael
11 Vickery's book, but Michael Vickery himself is not a witness to
12 these facts; he was not present in Phnom Penh at the time, and I
13 don't really see the interest of drawing on this kind of
14 reference.

15 So you are authorized to ask open questions to the witness and as
16 was the case this morning for the Prosecution, but there is no
17 reason that you should be authorized to expressly quote, in
18 detail, that book by Michael Vickery.

19 Thank you.

20 [14.40.44]

21 MR. PAUW:

22 Thank you for that clarification, but it hasn't become much
23 clearer to us by now, what the standards are for using these
24 documents.

25 I realize that Michael Vickery was not in Phnom Penh at the time,

1 but the same goes for, let's say, David Chandler, Philip Short,
2 and all these other witnesses that will be heard by the Trial
3 Chamber. They're considered to be experts, they have made
4 findings, and that information is either correct or incorrect,
5 and that's exactly what the Defence is trying to do, to verify
6 whether those experts' opinions and whether those scholarly
7 treatises are based on fact or are indeed entirely incorrect.
8 So, we simply do not understand which expert writings we can use,
9 and which expert writings we cannot use, and why not.
10 And as to following your own rulings, for example, Philip Short
11 has been quoted by the Prosecution in questions, has been quoted
12 by the prosecutor that is sitting here today, has been quoted by
13 Mr. Abdulhak, and has been quoted by Mr. Smith - so, these
14 writings have been used by all the parties.

15 [14.42.18]

16 And our simple purpose is to verify what the truth is, and these
17 writings can assist the Chamber in that.
18 So, I don't want to sound too much like posing obstacles that are
19 not there, but what is the interest in verifying this information
20 that is contained in these writings with this witness who was
21 there at the time? He can give us his opinion.
22 So, is it possible for the Chamber to formulate a coherent ruling
23 on which expert statements and writings can be used and which
24 statements by, for example, witnesses -- random witnesses can be
25 used? Because we are in the dark and we simply cannot prepare an

1 effective line of questioning in this manner. So is it possible
2 for the Chamber to formulate a coherent line on these issues?

3 MR. PRESIDENT:

4 International Co-Prosecutor, you may now proceed.

5 [14.43.26]

6 MR. LYSAK:

7 Just a couple of points, Your Honour.

8 Counsel only seems to have a problem with the Court's rules when
9 it's his turn to ask questions; he did not seem to have a problem
10 with the Court's rules when he was making objections this
11 morning.

12 Let me make something clear, in terms of our position. We used
13 Philip Short's book when he was quoting statements from
14 interviews he had done of Phy Phuon, when Phy Phuon was
15 testifying. Clearly, that's a clear situation where information
16 in the book is not Philip Short's opinions, but is his recording
17 of a statement from the witness who's on the stand.

18 There are a lot of situations where there is clearly a legitimate
19 foundations to use it, but the Court has made clear -- and what
20 counsel is just pretending to ignore is that witnesses should not
21 be confronted with opinions of experts.

22 [14.44.32]

23 Now, if the section of Mr. Vickery's book that counsel wishes to
24 use is an interview of this witness or even a witness interview
25 of someone who was in this witness's battalion, we would have no

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1 objection because he would be being confronted with factual
2 information from a witness that was in – within his area of
3 knowledge. I suspect that is not the case. I suspect counsel
4 simply wishes to read Mr. Vickery's opinion or conclusions and
5 bounce them off the witness, and I think the Court has made clear
6 that that's inappropriate.

7 So I think that when counsel feigns a lack of understanding of
8 why he's being prevented from doing this, I think he's very well
9 -- of why he's not being allowed to use Michael Vickery's book.

10 MR. PRESIDENT:

11 The Chamber has already ruled upon this.

12 Counsel, you are now instructed to continue putting questions to
13 the witness.

14 [14.45.56]

15 BY MR. PAUW:

16 Thank you, Mr. President. I will continue.

17 Q. And, Mr. Witness -- Mr. Sum Chea, you have stated before the
18 OCIJ and also today that you had heard stories that the East Zone
19 army was the harshest, and you also explained that you had been
20 told about this by people from your group. Did the people from
21 your group tell you in which sense the Eastern Zone forces were
22 the harshest? What did they do? Did they give examples when they
23 told the stories?

24 MR. SUM CHEA:

25 A. The policy was harsh and was about making sure that the

1 population had to be evacuated from the city.

2 Q. As far as you are aware, during your time in Phnom Penh, did
3 you ever see the Eastern Zone forces in Phnom Penh?

4 A. The East Zone people were covering the stretches of road from
5 Psar Thmei to the north direction, the road that links Psar Thmei
6 to the North, and the other -- the Southwest would be covering
7 the western part of the city, somewhere near Pochentong Airport.

8 [14.48.11]

9 Q. And how do you know that that was the division of the city?

10 A. The city was divided according to different zones. For
11 example, Voeung would be in charge of one section of the city,
12 while the other sections would be then managed by other
13 representatives of different zones.

14 Q. And you just mentioned that the Eastern Zone forces occupied a
15 stretch of Phnom Penh starting from Psar Thmei. How do you know
16 that the Eastern Zone forces were occupying that stretch of the
17 city?

18 A. The area was divided. Of course, from Psar Thmei to the South
19 would be managed by the Eastern Zone troops, when the Southwest
20 troop or zone would be covering from Psar Thmei to the West.

21 [14.50.06]

22 Q. I will try to ask the question in a different way. Did you
23 personally ever see soldiers from the East Zone?

24 A. No, I didn't. People in my unit said that people who were
25 stationed to the south of Psar Thmei were those from the Eastern

1 Zone.

2 Q. And do you know whether the soldiers from the Eastern Zone
3 dressed in the same way as the other Khmer Rouge soldiers, or did
4 they have a different outfit?

5 A. They wore the same clothes, the black shirt and trousers.

6 Q. And you have stated that your forces were also stationed
7 around Wat Phnom. Do you know whether there were also Eastern
8 Zone forces around Wat Phnom?

9 A. No. From Psar Thmei to the riverfront was occupied by people
10 from the North.

11 MR. PAUW:

12 Mr. President, I can continue, but -- I look at the clock --
13 would it now be an appropriate time to have a short break?

14 [14.52.41]

15 MR. PRESIDENT:

16 Thank you, Counsel.

17 Yes, indeed, it is now appropriate moment for the adjournment. We
18 will adjourn for 20 minutes. The next session will be resumed by
19 10 past 3.00.

20 Court officer is now instructed to assist the witness and his
21 duty counsel during the recess and have them returned to the
22 courtroom by 10 past 3.00.

23 The Court is adjourned.

24 THE GREFFIER:

25 (No interpretation)

1 (Court recesses from 1453H to 1511H)

2 MR. PRESIDENT:

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

4 Before I hand over the floor to the defence team for Mr. Nuon

5 Chea to continue his line of questioning, the Chamber wishes to

6 enquire the other defence teams whether or not you have already

7 discussed with each other in relation to the time allocation for

8 questioning. Can you please advise the Court?

9 Mr. Jasper Pauw, have you consulted with the other two defence

10 teams in relation to the questions and time allocation to put

11 questions to the witness at question?

12 MR. PAUW:

13 Thank you, Mr. President. Indeed, I have. The last information I

14 have is that the Ieng Sary team would need no more than 10

15 minutes and the Khieu Samphan team would need no time. I am

16 looking at my colleagues -- is that an accurate statement?

17 So, I think and I hope that we can finish the witness today.

18 MR. PRESIDENT:

19 Thank you.

20 How about the defence team for Mr. Ieng Sary? Do you have any

21 observation to make in relation to the time allocation?

22 [15.13.12]

23 MR. KARNAVAS:

24 Thank you, Mr. President. I think 10 minutes would be enough --

25 10 minutes for today.

1 MR. PRESIDENT:

2 Thank you.

3 How about the defence team for Mr. Khieu Samphan?

4 MR. KONG SAM ONN:

5 Mr. President -- thank you, Mr. President, but our team does not
6 have any questions to put to this witness.

7 MR. PRESIDENT:

8 Thank you.

9 Counsel Jasper Pauw, you may continue your line of questioning
10 now.

11 [15.13.45]

12 BY MR. PAUW:

13 Thank you, Mr. President.

14 Q. Mr. Sum Chea, you have already testified today that you were
15 not allowed to walk freely or contact anyone else other than the
16 people in your unit and you mentioned that there were strict
17 regulations. Do you know what would happen to soldiers if they
18 would try to enter areas of Phnom Penh that were occupied by the
19 other zones -- in your case, the Eastern Zone or the
20 South-western Zone?

21 MR. SUM CHEA:

22 A. At the time, those who dared do that, they would run the risk
23 of mysterious disappearance. They want the soldiers within the
24 same side. They would not allow -- would not be allowed to go to
25 other places arbitrarily.

1 Q. And did you ever hear about fights that took place between
2 soldiers from the different zones?

3 A. No, I didn't. I never heard of the soldiers in the same side
4 fighting against each other.

5 Q. And did -- no, let me rephrase that question. Did your unit
6 ever encounter soldiers from the other zones that tried to enter
7 into the area that you were guarding?

8 A. I do not really understand the question.

9 [15.16.32]

10 Q. I will try to rephrase. Just now you stated that soldiers that
11 would cross into the other zones would run the risk of
12 disappearing.

13 My question to you is: Did your unit ever encounter soldiers of
14 the other zones -- the East Zone, the Southwest Zone -- that were
15 -- that had entered the area that you were guarding?

16 A. No. I never saw any clash of the soldiers, but there was a
17 general instruction of prohibition of crossing from one section
18 or one zone to another zone. That was the prohibition handed down
19 at that time.

20 MR. PAUW:

21 Mr. President, I would like to read to the witness an excerpt
22 from the document E3/1568. It is a statement by Mr. Heng Samrin
23 given in the interview with Ben Kiernan. And the English ERN is
24 00651879, Khmer ERN is 00713947, and French ERN is 00743351. And
25 it deals with this issue.

1 [15.18.33]

2 MR. PRESIDENT:

3 This issue has already been ruled upon by the Chamber.

4 Parties are not granted leave to extract a portion of the
5 interview by another witness to put to the witness at issue, but
6 you can ask the witness of his personal experience with which he
7 has come across, and then the witness has the prerogative to make
8 any statement in relation to that question.

9 And this issue has already been ruled upon, and it is
10 repetitious, and it is not subject to any overrule.

11 MR. PAUW:

12 Mr. President, I think this is a different situation because this
13 is not a witness that has been heard by the OCIJ; it is a
14 statement that is contained in the document upon which the
15 Prosecution wants to rely as evidence. I simply want to confront
16 this witness with this piece of evidence. It is purely a
17 straightforward impeachment technique, and this witness can
18 testify to this excerpt. So the rule that you refer to does not
19 seem to apply.

20 [15.19.58]

21 MR. PRESIDENT:

22 The issue was ruled upon on the 25th of October 2012. You may
23 refer to this particular ruling in the transcript on this same
24 issue.

25 So you are not granted leave to proceed in this manner. You may

1 not extract the testimony of any other witnesses to put the
2 question to the witness at issue.

3 MR. PAUW:

4 Mr. President, I hate to belabour the point, but the problem is
5 that we risk our opportunity to question this witness if this
6 issue is not resolved.

7 I also remember a ruling by Judge Cartwright several months ago,
8 in which she stated that it is indeed appropriate to quote from
9 witnesses' testimony, as long as you remain -- or one remains
10 anonymous, as long as the name of the witness is not revealed.

11 That is valid when it goes to OCIJ witnesses.

12 This witness, as far as we know, will never be called before the
13 Trial Chamber. This might of course change, and then, perhaps,
14 different rules would apply.

15 [15.21.17]

16 But in the past, the OCP and the Defence have quoted from
17 statements by witnesses. So I think our question would be: What
18 has changed?

19 And this particular witness contradicts -- Mr. Heng Samrin's
20 statement contradicts, on important parts, the statement by this
21 witness. We cannot effectively impeach or question this witness
22 if we cannot use statements like these that are simply part of
23 the body of evidence before your Chamber.

24 MR. PRESIDENT:

25 International Prosecutor, you may proceed.

1 MR. LYSAK:

2 Just quickly, the Court has made clear that counsel can ask
3 questions relating to the underlying content of that. Whatever
4 Heng Samrin may have said or not said does not impeach this
5 witness. That is simply a false proposition.

6 [15.22.25]

7 You are -- the Court has made very clear that you are entitled to
8 ask about the substance of the matter, but unless there is a
9 direct connection to this witness, that is what -- and our
10 position was -- I read through the transcript from the other day;
11 we made very clear our objection to the use of this document is
12 unless you establish a direct nexus to the witness. It's hard to
13 conceive how that could be, given Heng Samrin's position in the
14 East Zone.

15 So, I think it's incorrect to assert also that the Prosecution --
16 the Prosecution has offered to agree to the admission of this
17 document. You, the Nuon Chea defence, have objected to the
18 admission of this document. We've offered to resolve the issue by
19 agreeing to that, and you have not taken us up on that. So, to
20 suggest that we would use this document for any purpose is
21 incorrect.

22 And the position we made very clear is that you need to show a
23 nexus to this witness in order to use a document like this.

24 [15.23.51]

25 MR. PAUW:

1 Very briefly, Mr. President, in order to show a nexus, I will
2 have to read the parts of the document that I want to read to
3 show that Mr. Heng Samrin is testifying as to issues that this
4 witness testifies to. So, we cannot have this debate in the
5 abstract.

6 If we need to go in closed session, outside of the presence of
7 the witness, that is perhaps necessary, but we submit that Heng
8 Samrin's testimony is relevant in light of the testimony of this
9 witness.

10 (Judges deliberate)

11 [15.26.57]

12 MR. PRESIDENT:

13 Counsel Jasper Pauw, the Chamber has ruled so far that the
14 counsel must not extract any portion of the witness interview of
15 other witnesses as the basis to the put the questions to the
16 witness before the Chamber. But by reading the -- those witness
17 statements, you can get the overview of the information and then
18 you can put a general question to the witness.

19 MR. PAUW:

20 Thank you, Mr. President.

21 I understand that I cannot quote from the statement by Mr. Heng
22 Samrin. I will move on to a related topic and I will try to
23 paraphrase. I guess that's the order that I'm under.

24 BY MR. PAUW:

25 Q. It's a new topic, but related.

1 [15.28.37]

2 So, Mr. Sum Chea, you have stated that the Eastern Zone forces
3 were the harshest. Other sources would state that the Eastern
4 Zone forces were generally much better behaved and much better
5 organized. Did you ever hear statements to that extent, that the
6 Eastern Zone forces were much better behaved and much more
7 organized?

8 MR. SUM CHEA:

9 A. I overheard from others that the Eastern forces were strong,
10 but actually it was not necessarily true. Forces from the
11 Northern Zone were also strong -- and from other zones as well,
12 they were equally strong, but the only difference is that people
13 employed different means and methods in order to evacuate people
14 out of the city. For example, soldiers and forces from the
15 Northern Zone would employ a much softer approach to evacuate
16 people out of the city, as opposed to forces from the Eastern
17 Zone.

18 [15.30.27]

19 Q. I'm not sure that I understood your last answer, so I will ask
20 one follow-up question. Was it your understanding that the
21 Northern Zone forces were less harsh than the Eastern Zone
22 forces?

23 A. I'm afraid I don't get your question.

24 MR. PRESIDENT:

25 Counsel, please repeat -- or rephrase your question.

1 And please be reminded that you should try not to make this
2 witness speculate when responding to your question.

3 BY MR. PAUW:

4 Q. Mr. Witness, I will try to repeat in a slightly more
5 straightforward fashion. Was it your understanding that the
6 Northern Zone forces were less harsh than the Eastern Zone
7 forces?

8 MR. SUM CHEA:

9 A. These forces were firm, but gentle and ethical.

10 [15.32.36]

11 Q. And when you speak about "these forces", you speak about the
12 Northern Zone forces; is that correct?

13 A. Yes, it is.

14 Q. But it is also correct that you never entered into the Eastern
15 Zone area, the zone – the zone that was controlled by the Eastern
16 Zone forces; is that correct?

17 A. Yes, it is.

18 Q. Is it also correct that everything you know about the conduct
19 of the Eastern Zone forces is based on hearsay -- because you
20 heard other people talk about it?

21 A. Yes, it is correct. I heard this only from people within my
22 squad.

23 Q. Is any of the people that told you about the Eastern Zone's
24 behaviour still alive?

25 A. They all died.

1 [15.34.41]

2 Q. I move on to a next topic, and that's loudspeakers that you
3 spoke about. And according to your statement before the OCIJ,
4 those loudspeakers were set up seven days after the liberation of
5 Phnom Penh; is that correct? Were they set up seven days after
6 the liberation of Phnom Penh?

7 A. I don't know about this. In my unit, there was no such
8 loudspeaker. Which loudspeakers are you referring to now?

9 Q. Just to be clear, I will read from your OCIJ statements. And
10 it's on English ERN 00223346 and Khmer ERN 00205058.

11 And the question is: "Afterwards, what else did they do, after
12 the people were gone from the city?"

13 And your answer is: "After seven or eight days, they set up
14 loudspeakers and broadcast to the Lon Nol soldiers, saying for
15 anyone of whatever rank who had worked anywhere to go back to
16 their duty stations although previously they had been only
17 ordinary subordinate soldiers..." End of quote.

18 So, Mr. Witness, you state that they set up loudspeakers after
19 seven or eight days; that's your testimony before the OCIJ. Was
20 that a correct statement, that they set up these loudspeakers
21 after seven or eight days?

22 [15.37.09]

23 A. Yes, it was Koeun who talked about this and who said out loud
24 on the loudspeakers, telling other people to come forward to work
25 in Phnom Penh.

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1 Q. And to be clear, did you personally ever hear any of the
2 broadcasts? Did you hear any of the transmissions over these
3 loudspeakers?

4 A. No, I didn't.

5 Q. So you only know about it because Koeun told you about them;
6 is that correct?

7 A. Yes.

8 Q. And to get back to the other question I asked, you stated
9 before the OCIJ that these loudspeakers were set up after seven
10 or eight days after the liberation of Phnom Penh. Was that a
11 correct statement? Were they, indeed, set up seven to eight days
12 after the liberation of Phnom Penh?

13 [15.38.52]

14 A. I don't know. And I did not hear the radio broadcasts on the
15 loudspeakers, I only heard through Koeun, who told me about
16 messages were broadcast on radios, and I -- on loudspeakers,
17 rather, and I did not remember having heard any such
18 announcements on loudspeakers in Phnom Penh when I was there. And
19 I did not hear any such thing on loudspeakers during those days.
20 And I also heard just from Koeun concerning the radio - the
21 transmission through loudspeakers that people were arrested along
22 the road, so I had - I have no idea -- knowledge of this.

23 Q. Thank you for clarifying that because, if one were to read
24 just your answer that you gave to the OCIJ, it would seem that
25 you were actually present and heard those loudspeakers being

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1 used.

2 But the question remains: Why did you testify to the OCIJ that
3 they set up these loudspeakers after seven or eight days? Can you
4 give us an explanation for your testimony before the OCIJ that
5 these loudspeakers were set up after seven or eight days?

6 A. I heard from Koeun that he would be going out with the
7 loudspeakers to try to appeal to people to come forward. I never
8 saw loudspeakers being set up. I never saw any trucks loading
9 people with loudspeakers. I only heard what being said about the
10 loudspeakers through Koeun.

11 [15.41.36]

12 Q. Thank you, that is clear. As far as you know, when these
13 loudspeakers were deployed seven or eight days after the
14 liberation of Phnom Penh, were there still Lon Nol soldiers in
15 the city? Were they still in, hiding perhaps?

16 A. As I stated this morning, there was none of them. Phnom Penh
17 was cleared -- no civilian, no soldier, no single soul.

18 Q. Thank you.

19 Then I will move to my almost last topic, and that is the
20 following. Did you ever hear people talk about a radio broadcast
21 that had been distributed two days before the liberation of Phnom
22 Penh, and that radio broadcast ordered all military surgeons, and
23 physicians, and medical students to report to the Medical
24 Reception Centre at the Olympic Sports Stadium? Did you ever hear
25 of such a broadcast?

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1 A. No, I didn't, but I heard broadcasts in the form of songs.
2 Songs played on air, and every morning I would hear the songs.
3 [15.43.59]

4 Q. Thank you.

5 I sincerely hope I do not violate the Court's ruling here, but I
6 will try to paraphrase, as I've understood your instructions to
7 be, Mr. President.

8 Mr. Heng Samrin has testified about the Eastern Zone forces in
9 Phnom Penh. And, according to him, the uniforms of the Eastern
10 Zone forces were distinct; they were khaki or camouflage
11 uniforms, as opposed to the black uniforms by -- that were worn
12 by the other Khmer Rouge soldiers.

13 Did you ever see soldiers in Phnom Penh that were wearing
14 different outfits such as khaki uniforms or camouflage uniforms?

15 A. At the beginning, people wore only black clothes, but after
16 capturing any kind of enemy's barracks, then people could -- the
17 soldiers could make use of the war spoils like uniforms of the
18 enemy and they could wear them whatever they liked.

19 [15.46.02]

20 Q. Thank you. And, also according to Mr. Heng Samrin, the Eastern
21 Zone forces did occupy an area also up to Wat Phnom, which would
22 contradict your earlier statement that it was only the Northern
23 forces guarding that area. Does that refresh your memory? Is it
24 possible that you saw Eastern Zone forces around Wat Phnom?

25 A. No, I didn't, not at all, because the head of the division,

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1 Mr. Voeung, was at that location, and the East Zone people were
2 there, so I couldn't see them.

3 Hak, the head of the battalion, talked to us about how the city
4 was classified into sections where different groups of soldiers
5 would be tasked with protecting each respective section.

6 Q. You have stated -- you have talked about this a little bit,
7 but could you tell us a little bit more about what Hak told you
8 about the division of the city?

9 A. Hak was the head of the battalion; he was not the commander of
10 division. You can imagine how many divisions there were in each
11 zone, because I can see that only for the North Zone, there were
12 at least three to four divisions of soldiers already.

13 [15.48.40]

14 Q. And do you know how many divisions the other zones had?

15 A. I don't know, but there must be at least three divisions. It's
16 my estimation because I could see that at least there were a few
17 -- three to four divisions from each zone conquering Phnom Penh
18 at that time.

19 MR. PAUW:

20 Thank you, Mr. Sum Chea. For now, those are all my questions.

21 I think it's also an appropriate moment to set the record
22 straight on something I said two weeks ago.

23 I claimed in Court that Heng Samrin had been a division commander
24 during the evacuation of Phnom Penh. I must say that the more
25 accurate title is, according to himself, Deputy President of the

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1 Front Committee of Region 25, and this front committee would
2 later be called Division 1 of the Eastern Zone. So it would be
3 more accurate to describe Heng Samrin as the deputy division
4 commander, and only after the evacuation of Phnom Penh did he
5 become Division Commander and Deputy Chief of Staff of the East
6 Zone forces and a member of the zone committee.

7 [15.50.18]

8 And this can be found, just for the record, in document E3/1568,
9 English ERN 00651878, and Khmer ERN 00713945. And the English ERN
10 for the second portion is 00651886, and the Khmer ERN is
11 00743358.

12 And my apologies for that oversight, but that statement -- that
13 interview by Ben Kiernan is not always easy to digest, in terms
14 of chronology.

15 Of course, it remains a fact that we submit that Mr. Heng Samrin
16 would have been an exceptional witness to testify on the
17 conditions during the evacuation on Phnom Penh in that zone that
18 was occupied by the Eastern forces. We've seen it again today,
19 this witness simply does not know. What went on in the Eastern
20 Zone was a general prohibition of crossing into other zones; he
21 was not allowed to walk freely and he was confined to his small
22 location -- his limited location near Calmette Hospital and the
23 French Embassy. So, that's for the record.

24 [15.51.34]

25 And on behalf of my colleague, Mr. Son Arun, and myself, I thank

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1 you very much for coming today, Mr. Sum Chea.

2 I believe that Mr. Karnavas has a few more follow-up questions.

3 MR. PRESIDENT:

4 Counsel for Mr. Ieng Sary, you may now proceed to put questions
5 to the witness.

6 QUESTIONING BY MR. KARNAVAS:

7 Thank you, Mr. President. Good afternoon, everyone in and around
8 the courtroom. Good afternoon, sir. Along with Mr. Ang Udom, I
9 represent Mr. Ieng Sary. I have a few questions.

10 Q. First of all, this morning you indicated to the President --
11 when he asked you how many statements you gave, you indicated
12 "two". We only see one. Only one was presented to you by the
13 Prosecution. It was in fact referenced as only one. Can you
14 please tell us when you had the second interview?

15 [15.52.55]

16 MR. SUM CHEA:

17 A. I'm afraid I don't remember the date of that interview.

18 Q. All right. Let's see if we can work together and figure this
19 out.

20 The folks that interviewed you that one time when we don't have
21 the statement, do you recall where they were from?

22 A. During the first interview there was some kind of document,
23 but during the second session I did not receive any document. And
24 there was - there were some American people who came to interview
25 me at Kampong Chhnang. They waited for me there.

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1 Q. All right. And were those people the same people that came
2 back to interview you the second time -- or from the same
3 organization?

4 (Short pause)

5 [15.54.31]

6 MR. KARNAVAS:

7 There's no need for the lawyer to--

8 MR. PRESIDENT:

9 Witness, please wait until you understand the question before you
10 proceed to respond to it. If you do not understand the question,
11 ask counsel to repeat.

12 You are not allowed to consult with your duty counsel during the
13 time of questioning, unless your response may lead to the
14 nature of self-incrimination.

15 So, please be very careful and listen to the question.

16 I believe that witness appears to have forgotten your current
17 question. Could you repeat it?

18 BY MR. KARNAVAS:

19 Gladly, Mr. President.

20 Q. Witness, you've told us that during the first interview
21 someone or some people came -- one may have been an American --
22 showing you documents and asking questions. Were they the same
23 people that came the second time when they interviewed you?

24 [15.55.53]

25 MR. SUM CHEA:

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1 A. They were different people.

2 Q. Thank you. Now, were they from the same organization -- that
3 is, from this tribunal -- that came and visited you in Kampong
4 Chhnang?

5 A. I was told that the documents were brought from this Court.
6 And with that document -- that's why the American knew where I
7 live and found me.

8 Q. All right. And could you please tell us -- could you please
9 tell us whether they identified themselves? Did they introduce
10 themselves as to what -- where they come from, what the purpose
11 of the interview was?

12 A. I was only told that they were from the Khmer Rouge tribunal.
13 And, again, later on I was met by an American, and they also
14 brought along my document.

15 Q. Thank you. Now, sir, could you please tell us how long that
16 interview took place?

17 I see there's an objection; I'm sure it'll be interesting.

18 [15.57.38]

19 MR. PRESIDENT:

20 Witness, please hold on.

21 Counsel for the civil parties, you may proceed.

22 MS. TY SRINNA:

23 Thank you, Mr. President and Your Honours. I would like to make
24 some observations concerning the approach in putting questions to
25 the witness.

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1 I have noted that the questions are not within the facts at
2 issue. The questions could have been relevant to the facts listed
3 in the Closing Order or the segment of Case File 002/01. In the
4 contrary, Mr. Karnavas was putting questions concerning the
5 procedures in investigation.

6 So may he be advised to be straightforward to the facts at issue
7 rather than to that particular area?

8 [15.58.38]

9 MR. KARNAVAS:

10 Allow me, Mr. President, to respond--

11 MR. PRESIDENT:

12 Counsel Karnavas, could you please hold on? Because Co-Prosecutor
13 is on his feet.

14 He may proceed.

15 So, it is too bad that only when another person was on her feet
16 and that -- the counsel would proceed to also maybe lodge an
17 objection. However, you may proceed.

18 MR. LYSAK:

19 Thank you, Mr. President. I'll be brief.

20 Our position is that the Defence should have a limited scope to
21 ask questions on this issue. My only objection is that counsel
22 should be very clear as to which interviews he's - he's asking
23 about. He should -- I think it's still unclear which -- whether
24 it was the first or second interview -- was the interview that
25 was recorded and I think his questions are somewhat confusing at

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1 this point because he has yet to really clarify that.

2 But if he proceeds in that manner, we do not have any objection
3 to him asking questions on this issue.

4 [15.59.51]

5 MR. KARNAVAS:

6 Thank you, Mr. President. If I may respond, first of all, I'll
7 make sure that I'm abundantly clear as to which statement I'm
8 referring to.

9 Second of all, let me address the civil party lawyer who stood
10 up.

11 First of all, it was you, Mr. President, that elicited from the
12 gentleman that he gave two statements. It was the prosecutor, the
13 national prosecutor, who stood up and only showed one statement.

14 In our disclosure material, we only have one statement.

15 We've heard testimony from the witness throughout the day, where
16 essentially the witness has come full circle, more or less
17 admitting that what he's saying is pure hearsay – that,
18 virtually, he witnessed very little, if any.

19 [16.00.33]

20 Now, I am entitled to explore this. Why? Because it goes to his
21 credibility and goes to the weight that you wish to give his
22 testimony.

23 Now, if the gentleman -- if the gentleman was interviewed first
24 by investigators of the Office of the Co-Investigating Judges
25 without being tape-recorded, without being mentioned anywhere in

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1 their summary and also produced documents and showed the
2 documents to the witness and went over those documents with the
3 witness, might it have been a way of coaching the witness,
4 refreshing the witness, creating a memory in the witness? Might
5 that, in any way, taint his entire testimony, let alone the
6 process itself, which is -- and I'm not going -- and I know that
7 under the French system this would be called a nullity -- I'm
8 going for that. What I'm talking about is an inappropriate manner
9 in which an investigation took place with this gentleman, which
10 may have tainted its testimony.

11 And I should be -- I'm in -- within my rights to question on this
12 because, after all, it was you, Mr. President, who asked the
13 witness how many times he was interviewed.

14 [16.01.41]

15 And we are very grateful -- very grateful -- for you asking the
16 question and extremely grateful for the gentleman being honest
17 with us. And I'm also grateful to the prosecutor, who recognizes
18 the merit of my questioning, albeit he seems to be rather
19 confused as to where I'm going. And I'm going to clarify as to
20 which statement I'm referring to and when the documents were
21 shown to him.

22 Thank you.

23 MR. PRESIDENT:

24 Counsel Karnavas, please repeat your question.

25 And, indeed, questions are aimed at -- or were meant to ask a

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1 witness for some responses for different purposes.

2 [16.02.43]

3 The Chamber allows counsel to proceed with the questions first,
4 and the questions should be precise, for example about the
5 interview. For example, if the interviews were conducted two
6 times, then you would ask the witness when was the first
7 interview conducted, and when was the second one conducted, and
8 who interviewed him on the first interview, and second, and,
9 third, and fourth because-- please be more gentle and be precise
10 to this kind of question because the witness already indicated
11 that he reads and writes Khmer very little.

12 BY MR. KARNAVAS:

13 Thank you for your guidance, Mr. President.

14 Q. Witness, if we can focus now on the two interviews, do you
15 recall whether it was the first interview or the second interview
16 when you were recorded?

17 MR. SUM CHEA:

18 A. It was during the first interview.

19 Q. All right. And when was it that documents were shown to you,
20 the first interview or the second interview?

21 [16.04.12]

22 A. It was in the first interview.

23 Q. How long did the interviews last -- the first one and then the
24 second one?

25 A. The first interview lasted for approximately half an hour, and

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1 the questions that they put in relation to the - one document,
2 that document belonged to me.

3 But in the second interview, it lasted for approximately 10
4 minutes, but they did ask me about different subject matter.

5 Q. Now, let's focus a little bit on your testimony here today.

6 And I want to clarify one point that was raised earlier. Do you
7 recall when exactly you went to the French Embassy after the fall
8 of Phnom Penh? What date was that?

9 A. It was in 1975. We entered Phnom Penh in 1975, and my unit was
10 stationed there.

11 [16.05.38]

12 Q. How many days after the fall of Phnom Penh were you stationed
13 there -- first day, second day, third day? Can you please tell
14 us?

15 A. It was around the third day, and then our group was stationed
16 there.

17 Q. All right. Now -- and it's your testimony, by -- that by the
18 third day, by the time you got there, the entire embassy was
19 empty -- that's your testimony, from your recollection; is that
20 correct?

21 A. Yes, it is.

22 Q. And it was on the third day that you actually went into the
23 embassy to check it out to make sure nobody was there. Is that
24 your testimony?

25 A. Yes, it is.

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1 Q. All right.

2 Now, we're going to switch to something else because you talked a
3 lot about killings. Can you please tell us how many times were
4 you involved in killing Lon Nol soldiers that had waved the white
5 flag or had surrendered?

6 [16.07.27]

7 A. No, we never killed anyone, but Koeun who -- was the one who
8 actually announced through loudspeaker that the Lon Nol soldiers
9 surrendered and submitted to us, and then they were eventually
10 killed.

11 Q. And how many times did you witness the killings of the Lon Nol
12 soldiers that had given up?

13 A. I never witnessed the killings, but I only heard it from
14 Koeun. Koeun was in a unit attached to my unit, as well.

15 Q. All right. So, he told you, but you didn't see it. That's your
16 testimony?

17 A. Yes, it is.

18 Q. And so, much of what you told us today is based on what others
19 told you, and not what you actually saw or participated in. Is
20 that your testimony?

21 [16.08.53]

22 A. Yes, it is.

23 MR. PRESIDENT:

24 Witness, please hold on.

25 The Prosecutor, you may proceed.

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1 MR. LYSAK:

2 I don't -- my objection is just to the extent that Mr. Karnavas
3 is slightly overstating. To the extent he's referring to the
4 issue related to the executions of Lon Nol soldiers, the witness
5 has been clear since the start that was based on information from
6 Koeun. To the extent he's trying now to extend that all of the
7 witness's testimony, he's being argumentative and misstating the
8 evidence.

9 MR. KARNAVAS:

10 Mr. President, I believe we have an answer from the witness. We
11 do have a confirmation that he was at the French Embassy three
12 days after Phnom Penh fell, and to his observations -- personal
13 observations, personal activity -- there was no one there. So,
14 that, we have a confirmation.

15 [16.09.56]

16 As to everything else, it would appear that the gentleman has
17 indicated that he heard but didn't participate and didn't
18 actually see. And with that, I think there's no further need for
19 me to question gentleman.

20 I wish to thank him and wish him a good journey back home.

21 Thank you very much, Mr. President.

22 MR. PRESIDENT:

23 Thank you.

24 How about the defence team for Mr. Khieu Samphan? You stated
25 earlier that you did not intend to put any questions to the

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1 witness. Do you have anything to make?

2 MR. KONG SAM ONN:

3 Thank you, Mr. President. We do not have questions.

4 [16.10.41]

5 MR. PRESIDENT:

6 Thank you.

7 Mr. Sum Chea, your testimony has come to an end now, and you may
8 now be released. You can go back home or to any destination you
9 wish to go.

10 And the Chamber wishes to thank you very much for spending your
11 valuable time to provide testimony before the Chamber for the
12 whole day. And I know that you have made every effort to respond
13 to all the questions posed by all the parties involved. And your
14 testimony, it will significantly contribute to ascertaining the
15 truth in the case.

16 And we wish you the best of luck and a safe journey back home.

17 Security--

18 Court officer is instructed to coordinate with the WESU unit to
19 facilitate the return of the witness to his home. And please also
20 arrange the transport back home for TCCP-89 as well and have him
21 back to this courtroom before 9 o'clock tomorrow morning.

22 [16.12.03]

23 And the time is now appropriate for the day's adjournment, and
24 the Chamber will resume tomorrow, on the 6th of November 2012.

25 And tomorrow the Chamber will hear the testimony of TCCP-89, and

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1 the first party to put the questions to the civil party is the
2 civil party lawyers.

3 Security guards are now instructed to bring the co-accused to the
4 detention facility of the ECCC and have them back to this
5 courtroom before 9.00.

6 The Court is now adjourned.

7 (Court adjourns at 1612H)

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