



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

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

ឯកសារដើម
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TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

05 June 2013
Trial Day 188

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

The Accused: NUON Chea
KHIEU Samphan

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List of Speakers:

Language used unless specified otherwise in the transcript

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

1

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

2 (Court opens at 0833H)

3 MR. PRESIDENT:

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

5 For the proceeding this morning we will hear the testimony of a
6 witness, that is Mr. Sydney Schanberg via a video link from New
7 York, the United States. And for the afternoon session we will
8 hear the testimony of an expert – that is, TCE-12.

9 Ms. Se Kolvuthy, could report the attendance of the parties and
10 individuals to today's proceeding?

11 THE GREFFIER:

12 Mr. President, for today's proceedings all parties are present.

13 As for Nuon Chea, he is in the holding cell downstairs based on
14 the decision of the Trial Chamber in regards to his health.

15 For today's schedule we will hear the testimony of two experts.

16 In the morning it will be TCW-624 via video link from the United
17 States. This witness confirms to his best ability and knowledge
18 he has no relationship by blood or by law to any of the two
19 accused or any of the civil parties recognized in this case. This
20 witness will take an oath before the Court prior to giving the
21 testimony. The video link has been established and the witness is
22 ready to testify.

23 [08.35.58]

24 For this afternoon session, we will hear TCE-12. This expert
25 confirms to his best ability and knowledge he has no relationship

2

1 by blood or by law to any of the two accused or any of the civil
2 parties recognized in this case. This expert will take an oath
3 this morning.

4 We also have a reserve witness for today's proceeding - that is,
5 TCW-665.

6 Thank you.

7 MR. PRESIDENT:

8 Thank you, Ms. Se Kolvuthy.

9 Good morning, Mr. Sydney Schanberg.

10 MR. SCHANBERG:

11 This is Sydney Schanberg. Good morning to you.

12 QUESTIONING BY MR. PRESIDENT:

13 Q. Thank you, Mr. Schanberg. How old are you this year?

14 A. Pardon, can you repeat that?

15 [08.37.21]

16 Q. How old are you?

17 A. I'm 79 years old.

18 Q. Thank you. Where is your current residence?

19 A. My current residence is the town of New Paltz in upstate New
20 York.

21 Q. Thank you. And what is your current occupation?

22 A. Well I'm self-employed, I'm still writing articles and books
23 and - on various subjects.

24 Q. Thank you. Are you married? If so, what is your wife's name
25 and how many children do you have?

3

1 A. My wife's name is Jane, Jane Freiman, and I have two
2 daughters, Jessica and Rebecca, and three grand-children.

3 Q. Thank you. And what is your nationality?

4 A. I'm an American citizen.

5 [08.39.07]

6 Q. Thank you, Mr. Sydney Schanberg. As a witness to testify
7 before this Court, the Trial Chambers of the Extraordinary
8 Chambers in the Courts of Cambodia require you to make an oath or
9 take an affirmation based on your religion. Do you consent to it?

10 A. Yes, I prefer the affirmation, yes.

11 MR. PRESIDENT:

12 Thank you.

13 The Greffier, Miriam, could you please lead the witness to take
14 an oath based on his confirmation - affirmation.

15 THE GREFFIER:

16 Dear Mr. Witness, could you please repeat after me?

17 MR. SCHANBERG:

18 Yes.

19 THE GREFFIER:

20 I solemnly declare that I will speak the truth, the whole truth
21 and nothing but the truth.

22 [08.40.04]

23 MR. SCHANBERG:

24 I solemnly declare that I will tell the truth and nothing but the
25 truth.

1 MR. PRESIDENT:

2 Thank you. Mr. Sydney Schanberg, based on the report by the
3 greffier, that to your best knowledge, you have no relationship
4 by blood or by law to any of the civil parties in this case, nor
5 to any of the two accused, namely Nuon Chea and Khieu Samphan. Is
6 this information correct?

7 MR. SCHANBERG:

8 Yes, it is correct, Your Honour.

9 MR. PRESIDENT:

10 Thank you. We would like now to inform you of your rights and
11 obligation as a witness to testify before this Court.

12 [08.41.14]

13 As a witness before this Court you may refuse to respond to any
14 question or request for comments that would incriminate you; that
15 is your right against self-incrimination. And as a witness you
16 must testify and in your testimony you must respond to all the
17 questions put to you by the Judges of the Bench or the parties.
18 And you must tell the truth that you have heard, have recalled,
19 have experienced or observed personally of the events related to
20 the questions put to you.

21 Do you understand of your right and obligation as a witness?

22 MR. SCHANBERG:

23 Yes, thank you.

24 BY MR. PRESIDENT:

25 Q. Thank you. And Mr. Sydney Schanberg, have you been interviewed

5

1 by the Office of the Co-Investigating Judges in the past few
2 years?

3 [08.42.37]

4 MR. SCHANBERG:

5 A. Do you mean have I been interviewed by judges on your Court?

6 Q. Yes, that is correct, by the ECCC Judges. Have you been
7 interviewed?

8 A. No, not until now.

9 MR. PRESIDENT:

10 Thank you.

11 And we would like to inform Nuon Chea's Defence that for the
12 proceeding of hearing the testimony of this witness, the floor is
13 given to Nuon Chea's Defence first to question this witness and
14 the time allocation is for one session. And after that the floor
15 will be given to the Prosecution and the Lead Co-Lawyers.

16 You may proceed.

17 [08.43.47]

18 MR. KOPPE:

19 Mr. President, good morning, I think there's a misunderstanding.

20 We were under the impression that the Prosecution would start,

21 that's how it was notified to us. Confirmation of that fact I

22 received yesterday from the greffier. I saw my learned friend on

23 the other side nod, so it's also their impression that they will

24 start because this witness is also on the list of the

25 Prosecution. So that would be my suggestion to the Chamber.

6

1 (Judges deliberate)

2 MR. PRESIDENT:

3 If parties agree with the proceeding as you just suggested, then
4 the floor is given to the Prosecution to put the questions to
5 this witness before other parties. And for the Prosecution and
6 for the Lead Co-Lawyers, the combined time is two sessions.

7 [08.45.10]

8 QUESTIONING BY MR. VENG HUOT:

9 Good morning, Mr. President, and good morning, Your Honours and
10 good morning everyone in and around the courtroom.

11 Good morning, Mr. Schanberg. My name is Veng Huot and together
12 with my international colleague, that is Tarik Abdulhak, I will
13 be putting a number of questions to you on behalf of the Office
14 of the Co-Prosecutors. I will ask you about the evacuation of
15 Phnom Penh on the 17 April 1975 and my colleague will be asking
16 you about other events that you witnessed during the time.

17 I'm going to read to you a brief excerpt from your diary which
18 has been allocated document number E236/1/4/3.1, it is entitled
19 "Cambodia Diary, 1975. A Journalist's day by day notes on the
20 fall of Cambodia to the Khmer Rouge." The passage is at page 71
21 and the English ERN is 00898279 and it describes what you saw at
22 around 5 p.m. on 17 April 1975.

23 [08.47.01]

24 And I will first read it and then ask you a few questions. Quote:

25 "We head for the hotel and now we see for the first time clearly

7

1 the forced evacuation. Teams of insurgent soldiers waving pistols
2 and rifles, some shouting and some using bullhorns, were ordering
3 people to leave their homes instantly and head for the
4 countryside. People were told they would be given instructions
5 where to when they got out of the city. When a family moved
6 slowly for the insurgents' taste, the rebels fired shots in the
7 air to demonstrate they meant business. The streets were filling
8 with loaded rickshaws and cars and people on foot as the exodus
9 gathered momentum. And there were the thousands of wounded from
10 the hospitals, some limping, some on crutches including amputees
11 and some being pushed by relatives in barrels and wheelchairs and
12 on their very hospital beds with plasma bottles still attached to
13 their arms." End of quote.

14 Q. Here is my first question to you. Can you tell the Court first
15 where exactly did you see these people?

16 [08.49.24]

17 MR. SCHANBERG:

18 A. We - I saw them in several places in the city. The first was
19 at a hospital named The Preah Ket Mealea Hospital. The doctors
20 hadn't come in because of the Khmer Rouge invasion, but there
21 were nurses, but only nurses and there wasn't much medicine. And
22 people were bringing in wounded relatives and some of them were
23 dying on the tile floor and blood was dripping down the steps.
24 And when our little group came out of the hospital, we were
25 arrested and put in a tank-like truck and we were driven to a

8

1 place by the Mekong River where their officers were having lunch.
2 We came out of this vehicle and we were facing - as we came out,
3 we were facing men with guns at their hips pointed at us. But
4 your question goes to - we were not killed and that is another
5 story - but the question is if on the way we saw people leaving
6 and we saw people on - being pushed on beds and all kinds of
7 things with bottles of serum hanging from the bed and they were
8 all being forced out of the city.

9 [08.51.59]

10 And the avenue that we came out on was scattered with the shoes
11 and sandals that people had lost as they were forced to walk
12 quickly in these huge crowds. So I saw it in many parts of the
13 city.

14 Does that answer your question?

15 Q. Allow me to interrupt you, Mr. Schanberg, I have some more
16 questions for you due to the time limitation allocated to us.
17 I'd like now to ask you the question regarding your observation
18 of the events. How long did you observe this for?

19 A. I saw this for the rest of the day, which ended with my taking
20 refuge at the French Embassy along with a lot of other reporters
21 and ordinary Cambodians who came over the wall. But all through
22 the day you saw these crowds of people being taken - driven out
23 of the city, not driven in cars but driven like you drive cows,
24 and being told to hurry up and leave because the Americans were
25 going to come and bomb the city. So there was an air of panic and

1 fear.

2 [08.54.23]

3 Q. Thank you. Now I move on to my next question. Please make your
4 response brief.

5 You just told the Court the chaotic and suffering situation of
6 those who were evacuated and those who left the hospital and you
7 observed the event for the rest of the day. Can you tell the
8 Court approximately how many people did you see at the time?

9 A. Several hundred at a time, they filled the streets from one
10 side to the other from, you know, just - it was-

11 Q. Thank you. Upon seeing those people filling the street, were
12 they young or old and did they include men, women or children?

13 A. Yes, women, children, all kinds of people.

14 Q. Thank you. Were they - were the evacuees' civilians or were
15 they military or a mixture of both?

16 A. Most of them were civilians and some were men who had taken
17 off their uniforms and were being taken out of the city.

18 [08.56.35]

19 Q. Thank you. In the passage that I just read, you stated: "There
20 were teams of insurgents soldiers waving pistols and rifles and
21 shooting in the air." Could you describe how many teams you saw
22 and how many soldiers were in each team?

23 A. I saw them firing their rifles in the air in let's say two or
24 three places in the city. They were celebrating.

25 Q. In the same passage, can you describe what you meant by

10

1 "insurgents soldiers"? Which military group did they belong to?

2 A. As far as I could tell, all of them belonged to the Khmer
3 Rouge army and wore the uniforms of that army.

4 Q. Thank you. When people were forced to evacuate and filled the
5 road, did you notice whether there were any Khmer Rouge officers
6 present?

7 [08.58.46]

8 A. Yes, there were Khmer Rouge officers. When we were taken from
9 the hospital to that spot on the Mekong River, there was several
10 officers, lieutenants or captains, they didn't have their - they
11 didn't have - how should I put it, names on their uniforms, but
12 they were the officers.

13 Q. In the passage that I read, you say:

14 "There were thousands of people coming from the hospitals,
15 including amputees and some being pushed in barrels, wheelchairs
16 and hospital beds."

17 A. I saw all that.

18 Q. When you observed those people coming from the hospitals, did
19 you observe whether any medical assistance was being provided to
20 these evacuees?

21 [09.00.38]

22 A. I saw no medical care being given by any doctors or nurses.
23 And in one instance, they were told they were being taken to a
24 hospital on a road south of Phnom Penh. But I have visited that
25 hospital several times, it was a mental institution, only one

11

1 doctor and absolutely no modern ways to deal with wounds that
2 these people had, the victims that came out of the hospital. And
3 so that was - there was no - that hospital could not have handled
4 that group.

5 Q. When the Khmer Rouge were evacuating the Khmer Rouge out of
6 Phnom Penh, did they provide any transport, food or water to the
7 evacuees?

8 A. None. No food or water or any kind of aid that I saw. They
9 were just driving them out like cattle.

10 Q. Thank you. I move on to the next question. You observed the
11 hardship of evacuees, including the sick. From what you observed,
12 were any of the people permitted to stay if they were sick or too
13 weak to move?

14 A. No. No matter how sick they were, they were taken out of the
15 hospitals. The hospitals were empty.

16 [09.03.55]

17 Q. Do you know anything about what happened to those who were too
18 sick to continue their journey?

19 A. I can - I can only guess, but two weeks later when we were
20 being taken out of Phnom Penh, there were bodies along the roads
21 that they were forced to leave. And I'm assuming that some of
22 them were people who died on the way out of the city.

23 Q. I have only a few more questions for you. During this period,
24 as far as you could see and hear, did the Khmer Rouge give any
25 reason for the evacuation to the people who were being forced

12

1 out? Earlier on you said that the Khmer Rouge said that the
2 American bombardment was imminent. So could you please elaborate
3 on this point?

4 A. I heard about that from others who had witnessed it. I,
5 myself, never heard anybody say that the Americans were coming to
6 bomb and they weren't, it was not true.

7 [09.06.16]

8 Q. On this point I would like to ask you for a bit of
9 clarification. Concerning the statement that you say that it was
10 not true, was it what the people said that was not true or
11 because there was no American bombardment afterwards?

12 A. No, I mean - I'm saying that what the - what the people were
13 told was not true. And since I and many others stayed at the
14 French Embassy for two weeks, no bombing occurred.

15 Q. Thank you, Mr. Schanberg. I have one last question for you.
16 Following the 17 of April 1975 after one day of observation, on
17 the subsequent day did you go continue to see any evacuees
18 leaving the city in the days that followed?

19 A. No, I saw what might have been a few stragglers, but
20 essentially almost the entire population of over two million were
21 taken out of the city on that first day.

22 MR. VENG HUOT:

23 Thank you, Mr. Schanberg, for enlightening us. I do not have any
24 further questions for you but my esteemed colleague, Mr. Tarik
25 Abdulhak, will have a few more questions concerning the events

13

1 that relates to what I have asked you. Thank you, Mr. Schanberg.

2 [09.08.25]

3 MR. PRESIDENT:

4 Thank you. The International Co-Prosecutor, you may proceed.

5 QUESTIONING BY MR. ABDULHAK:

6 Good morning and I guess it's good evening where you are, Mr.

7 Schanberg. As you heard, my name is Tarik Abdulhak, I'm a member

8 of the Prosecution team and I'll be asking you some more

9 questions about the events in April 1975 that you witnessed in

10 and around Phnom Penh. If I can start just by revisiting some of

11 the statements you just made and see if we can elaborate on those

12 a little bit further. You just told my colleague that the claim

13 that American bombing was imminent was not true. And of course no

14 bombing occurred as you were able to witness.

15 Q. Can I ask you - going back in time perhaps a few days or a

16 couple of weeks before the fall of Phnom Penh as a journalist

17 covering the events in the country, did you come across any

18 reports or indications that an American bombing would follow in

19 the event of a fall of Phnom Penh?

20 [09.10.27]

21 MR. SCHANBERG:

22 A. I had no information indicating that the Americans were

23 planning a bombing. The American bombing, which began in 1970,

24 was cut off in 1973. I believe it was in July or August. And

25 there was no bombing after that, at least no bombing that I

14

1 observed or heard from other sources.

2 Q. Thank you. If I can move on to another issue you have
3 discussed with my colleague and this relates to the insurgent
4 forces that you saw firing guns into the air. You said that some
5 of the soldiers were celebrating, but also I just want to return
6 to the specific passage that was read and that indicates that
7 when a family moved too slowly for the insurgents' taste, the
8 rebels fired shots in the air to demonstrate they meant business.

9 A. Yes.

10 [09.12.05]

11 Q. Is that right? Were - fired shots in order to indicate to the
12 population that the Khmer Rouge meant business?

13 A. Yes, I saw that and it was - it was clear that they were
14 trying to get them out of their houses and get them on the road
15 quickly, and it worked.

16 Q. Thank you. We may well come back to some of these descriptions
17 as we go along. And before I leave for the moment the 17th of
18 April, if I can just touch on one more answer that you gave to my
19 colleague in relation to what you described as "One instance
20 where the patients were told they were being taken to a hospital
21 south of Phnom Penh." Am I correct in understanding that that was
22 one instance you heard? In other words, it wasn't - if I
23 understand correctly, it wasn't an organized effort for all
24 patients to be transported to a hospital?

25 [09.13.16]

15

1 A. No, not all people. But I remember seeing a report afterward
2 from an American who says he was there, who said that they were
3 taken there and that it was an active hospital. And I knew who
4 this man was and he was telling us that this was simply an
5 agrarian revolution and a new future for Cambodia. And I don't
6 know from what he wrote, if he ever paid any visit or even saw
7 that hospital at any time in his life. So I am - my comment was
8 that even if that string of people being driven into the south
9 could never have been handled by such a decrepit hospital which
10 was not there for those kinds of wounds.

11 Q. And did you see the injured, the sick people that were
12 evacuated from the hospitals, did you see them moving in other
13 directions apart from heading south?

14 A. Yes, all the directions out of the city. I forget - that may
15 have been Route 4, but that went south. The Route 5 was filled
16 and I saw those thousands and thousands of people going up Route
17 5 toward Siem Reap.

18 [09.15.21]

19 Q. Thank you. I'll leave these images for the moment. And by way
20 of setting a context to the rest of the events on and around the
21 17th of April, I'd like to ask you a short list of questions
22 about the situation in Phnom Penh in the weeks and months
23 preceding the fall of the city and I'm going to be referring
24 primarily to your diary from which my colleague read earlier.
25 So for the record, Your Honours, this is document E236/1/4/3.1,

16

1 it's only available in English at the moment. And I'm going to
2 look at pages 9 to 12, this starts at ERN 00898217. And I'll read
3 to you, Mr. Schanberg, so we're all looking at the same passages.
4 This is an entry dated the 21st of January and then it moves into
5 the 29th of January. You say the following - you're describing
6 river convoys delivering supplies into the city and you say the
7 following, quote:

8 "The supply convoy under cover of darkness moves into Cambodia
9 and starts up the river taking shore fire almost immediately. I
10 returned to Phnom Penh."

11 [09.17.10]

12 Now for the 29th of January:

13 "In my absence, supply ships from the convoy have begun hobbling
14 into Phnom Penh, two on January 23rd, three on January 26th and
15 one more on the 27th. A few more ships are struggling to make it
16 through. All arrived show rocket and shell damage. Moreover,
17 reports say at least two tankers were sunk or beached on the way
18 up and that other cargo vessels were forced to turn back to South
19 Vietnam."

20 On the following pages you also discussed these convoys. Can I
21 ask you first why - if you were able to observe this or collect
22 information on this - why were these convoys necessary?

23 A. Well they were necessary because the war had expanded very
24 quickly and people rushed to get into cities coming out of rural
25 areas, and there just wasn't enough rice and there weren't a lot

17

1 of other things available, fuel for cars, but food was the
2 missing need.

3 [09.18.57]

4 And at that time in January and all through the country until it
5 fell to the Khmer Rouge on April 17th, you would see on the roads
6 and in backyards children with red hair, children with bellies,
7 all of it meaning beriberi or some other form of starving. And
8 there was a great, great need for oil for example, to keep the
9 electricity on. And eventually they only had enough fuel at the
10 end to keep the lights on for maybe an hour or two wherever you
11 lived-

12 Q. Thank you, if I can interrupt there. In that passage that we
13 looked at, you said that the convoy took fire almost immediately
14 and that once arrived, the ships had rocket and shell damage.
15 Were you able to ascertain from your interviews and observations,
16 who it was that fired on these convoys?

17 A. All of the people who reported about it or interviewed about
18 it said it was the Khmer Rouge. It wasn't the Vietnamese and the
19 uniforms are different and I had no reason to doubt what they
20 were telling me.

21 [09.21.08]

22 Q. I'm just going to look at one other brief description of this
23 that you give. This is from a different document, it's one of the
24 documents that we sent you with the Court's permission, it's a
25 book called "The Killing Fields: The Facts Behind the Film". It

18

1 was first published in 1984 and the document number is E243.2.
2 And what I'm particularly interested in is a newspaper article
3 that is reproduced in this book. And if you look at that it is at
4 page 38, the article is entitled "Battle for Mekong River
5 Critical for Phnom Penh".

6 MR. ABDULHAK:

7 Mr. President, with your permission we can show that on the
8 screen.

9 MR. PRESIDENT:

10 You may proceed.

11 BY MR. ABDULHAK:

12 Q. Mr. Schanberg, the copy may not be very clear so I will read
13 the particular passages that we're interested in. This is at page
14 38 and the English ERN is 00862586, we don't have a Khmer or
15 French translation at the moment.

16 [09.22.36]

17 And as I said, it's entitled "Battle for Mekong River Critical
18 for Phnom Penh". It's a New York Times article dated the 9th of
19 February 1975 authored by you, so just a short passage of
20 interest, quote:

21 "The Cambodian insurgents by laying mines in the Mekong for the
22 first time and by digging in with heavy guns along the riverbanks
23 have sunk 19 supply vessels in the last 10 days. And for the
24 moment, have effectively halted the traffic on the river."

25 Is that right, Mr. Schanberg? And if you can expand on these

19

1 findings, that a total of 19 supply vessels had been sunk over a
2 10-day period, effectively halting traffic on the river.

3 MR. SCHANBERG:

4 A. Those – that information came from the few boats that got
5 through and their crew. And I had no reason to doubt it because
6 we knew from other sources how many had left Saigon and come up
7 the Mekong River – or tried to.

8 [09.24.16]

9 And the situation at that point was getting very grim and
10 eventually the Mekong was so blocked that no one would get on a
11 boat, no merchant marine or anybody would get on a boat to try to
12 reach Phnom Penh. And at the very end American planes – relief
13 planes – were dropping food and munitions from the sky in
14 airplanes. So the Mekong was a critical supply line and at that
15 point, the government – the Lon Nol government in Cambodia, could
16 not hold back the Khmer Rouge.

17 Q. Thank you very much. If I can ask you just as a follow-up to
18 that question with the convoys stopping and the airlift
19 beginning, during those months preceding the fall of the city, to
20 the best of your knowledge, were there any attempts being made by
21 the Khmer Rouge to facilitate or enable the delivery of
22 humanitarian aid into the city to relieve that sort of situation
23 that you've been describing?

24 [09.26.12]

25 A. No, it was quite the opposite. The Khmer Rouge from – we

1 learned from people in rural areas were always trying to get
2 people to join them. They were looking to build, you know, their
3 war machine and they had no instincts about bringing in food for
4 people who weren't part of their machine. I mean that's what I
5 found when I went out into the areas where they would appear at
6 night and at other times.

7 Q. Thank you. We'll get to those additional details in a moment.
8 Just another aspect as we move quickly through these weeks and
9 months preceding the fall of the city. So another aspect that is
10 of some interest is the shelling of the city that you describe in
11 your diary and also in other articles that you authored at the
12 time. There's quite a few examples, so I'm going to select
13 perhaps just one or two and see if you can expand on that for us.
14 On page 13 of the diary is an entry for the 6th of February and
15 this is English ERN 00898221. You say the following, quote:

16 "Just before 10:00 a.m. a rocket screams down loudly in the
17 centre of Phnom Penh. It explodes directly on a crowded school, a
18 private elementary school for well-to-do children. The scene is
19 another of the capital's continuing horror stories, mangled
20 children writhing in pools of blood on the classroom floor still
21 alive but probably not for long."

22 [09.28.45]

23 The next paragraph:

24 "At least 10 children are killed immediately and another 25 or 30
25 are wounded."

21

1 And I'll stop there. Can I ask you to describe for us whether
2 this was a frequent occurrence, the shelling of what appeared to
3 be civilian targets or civilian buildings in Phnom Penh in that
4 period, February, March, April '75?

5 A. Yes, these were Chinese made rockets. The Khmer Rouge used
6 them on make do pieces of wood together, they didn't have any
7 real way of - any real machine way to get them in the air. And
8 they would go into the air and any - they couldn't be directed in
9 any way to any particular target, so the weapon became a morale
10 killer and it just - it fell down here, there and everywhere.

11 [09.30.11]

12 In fact it - one of them came down just outside the hotel where I
13 stayed and it strewed shrapnel and other metal bits and people
14 lost their legs and a lot of them lost their lives. And it never
15 stopped, it never stopped, it didn't even - they were still -
16 they were shelling on the day when the American Embassy
17 evacuated.

18 Q. Thank you. And just continuing on from that and your
19 description of the shells that were being used, if I can go now
20 to page 20 of your diary, English ERN 00898228, where you are
21 describing events in early March leading up to the 5th of March,
22 a couple of passages here of interest. First, quote:

23 "A rocket lands on the capital's busiest downtown street in front
24 of the Monorom Hotel, five people are killed immediately and
25 eight others lie wounded. The street is strewn with bodies and

22

1 pieces of bodies. Such slaughter house spectacles have become
2 everyday scenes here brutalizing everyone's sensibilities."

3 [09.31.55]

4 A little bit further down on the same page under "March 5" you
5 say the following:

6 "Insurgents use artillery fire on the airport for the first time.
7 Until now they had used only their less accurate rockets."

8 Can I ask you to expand on, what you observed to be more accurate
9 artillery fire, that was being directed at the airport?

10 A. They were using mortars and-

11 MR. PRESIDENT:

12 Mr. Witness, please hold on. There is an objection by the
13 national defence counsel for Mr. Khieu Samphan. You may proceed.

14 MR. KONG SAM ONN:

15 Thank you, Mr. President. I would like to make my observation
16 regarding the method of putting questions to the witness by the
17 international prosecutor.

18 [09.33.09]

19 The time is - the session has been taken for more than one hour
20 and the questions put to this witness is out of the jurisdiction
21 of this Court. The questions focus mainly on the events prior to
22 1975; that is beyond the temporal jurisdiction of this Court. For
23 that reason, it doesn't carry much interest for this Court to
24 consider.

25 Thank you.

1 MR. ABDULHAK:

2 If I can respond, Mr. President. We submit this objection is
3 entirely unfounded, the Court has heard months of evidence on
4 events preceding the 17th of April 1975, most recently from the
5 expert witness Philip Short. These events are clearly relevant,
6 they establish a context and they assist in ascertaining the
7 truth with respect to the Khmer Rouge policies towards the people
8 in Phnom Penh.

9 [09.34.29]

10 But also, I would remind the Court, that both accused have
11 effectively argued that the evacuation of Phnom Penh was a
12 humanitarian effort, that it was entirely justified and no
13 unlawful. In that context, it is of direct relevance to look into
14 their disposition towards people in Phnom Penh and the suffering
15 that was being inflicted by people under their command in the
16 weeks and days preceding the fall of the city.

17 (Judges deliberate)

18 MR. PRESIDENT:

19 The Chamber dismisses the observation by the national counsel for
20 Khieu Samphan as we need to hear the evidence regarding the facts
21 before us for our consideration.

22 And Mr. Witness, if you still recall, please respond to the last
23 question put to you by the international prosecutor.

24 [09.36.36]

25 BY MR. ABDULHAK:

1 Q. Mr. Schanberg. Would you like me to repeat the question?

2 Simply, related to what you described as of March the 5th as the
3 use of more accurate artillery fire on the airport. I was asking
4 you to expand on that for us, if you could.

5 MR. SCHANBERG:

6 A. Well if they were getting closer and using more - let's say
7 more advanced weaponry, that would put - begin to put a cloud
8 over the use of the airport. And that was a place where sometimes
9 some supplies came in and so all - it would - it seemed that all
10 of the places that were - that Cambodia was connected to, the
11 things - where they bought things that they needed during this
12 attack was very significant because it was just another negative
13 event and it was continued to the end. Phnom Penh became, you
14 know, a prison. It had been - a million people lived in Phnom
15 Penh before the war and another million and more had come to
16 Phnom Penh, had fled the Khmer Rouge assault and they were now
17 prisoners.

18 [09.38.51]

19 Q. Thank you. Just one or two more questions before we leave this
20 period. Entry for March the 7th at page 23, English ERN 00898231,
21 and if I can ask you to be brief on this I'll read you the
22 passage and ask you to expand for us, quote:

23 "Shelling of the airport continues. Airlift supply planes, for
24 protection, are unloading deeper into the military section of the
25 airport. Shells fall only when these planes are on the ground,

25

1 which means the insurgents must have a forward observer."

2 If I understand that passage correctly, you seem to be suggesting
3 that the Khmer Rouge are targeting these supply planes when they
4 land. Am I correct in that? And if you could explain for us,
5 please.

6 Q. You are correct and-

7 [09.40.04]

8 MR. PRESIDENT:

9 Mr. Witness, please wait. Defence counsel for Nuon Chea, you may
10 proceed.

11 MR. KOPPE:

12 Thank you, Mr. President. I've been listening to the questions of
13 my learned friend for a while, but I feel it's now time to object
14 to his way of phrasing the questions. I know we are walking a
15 thin line but we must not forget that Mr. Schanberg is here
16 testifying as a witness. Now, of course Mr. Schanberg is also a
17 journalist and he has written books and articles on the subject,
18 but he's clearly not today here as an expert. So I think we
19 should limit ourselves, while questioning Mr. Schanberg, to the
20 things that he has seen or has observed himself, or if he has
21 written something, whether his sources are reliable, yes or no.
22 But to ask or to invite Mr. Schanberg to speculate about motives
23 of the Khmer Rouge or methods of the Khmer Rouge is beyond his
24 position here today as a witness. Mr. Schanberg is not like Mr.
25 Short an expert and we should not treat him in this way. So I

1 object to this particular questioning.

2 [09.41.37]

3 MR. ABDULHAK:

4 Your Honours, the question does not seek expert opinion, it
5 simply seeks to elicit more information on an observation that
6 the witness has already made. He observed that shells fell only
7 when the planes are on the ground, he drew a conclusion from
8 that. My learned friend is perfectly entitled to cross-examine on
9 this point, but it's not a valid objection. Mr. Schanberg is
10 entirely competent and it is within his knowledge to reach
11 conclusions on events that he is observing for a period that
12 lasted several weeks.

13 MR. KOPPE:

14 If I may briefly reply, Mr. President. Exactly, this is the
15 point. This witness is here not to give his conclusions, that is
16 something for an expert to do. So the word "conclusions" should
17 not even be coming of the mouth of this witness.

18 [09.42.27]

19 Actually, if you ask me, Mr. President, Your Honours, I wouldn't
20 have a problem with this witness testifying as an expert, but
21 then we should of course use the proper method. I think Mr.
22 Schanberg does indeed - or might indeed have the qualifications
23 to be an expert, but he isn't. So we should not ask him for any
24 conclusions, just the things that he has saw - has seen or has
25 heard. That should be in evidence.

1 (Judges deliberate)

2 MR. PRESIDENT:

3 I'd like to give the floor to Judge Cartwright to make
4 clarification and decision on the objection raised to the last
5 question by Nuon Chea's defence counsel.

6 Please take the floor, Judge Cartwright.

7 [09.46.08]

8 JUDGE CARTWRIGHT:

9 Thank you, President. The Chamber wishes to avoid any appearance
10 that this witness claims particular expertise. The Prosecutor is
11 invited to rephrase the question along the lines "You said this
12 in your diary; on what basis did you make that statement?" Along
13 those lines.

14 Thank you, Mr. Abdulhak.

15 BY MR. ABDULHAK:

16 Thank you, Your Honour.

17 Mr. Schanberg, as directed by the Chamber, we look at the passage

18 - I'll read it again so that we have it fresh in everybody's

19 mind, quote:

20 "Shelling of the airport continues. Airlift supply planes, for
21 protection, are unloading deeper into the military section of the
22 airport. Shells fall only when these planes are on the ground,
23 which means the insurgents must have a forward observer."

24 [09.47.16]

25 Q. So as directed by Your Honour, can I ask you what was the

1 basis for that view, that you expressed, that insurgents must
2 have had forward observers?

3 MR. SCHANBERG:

4 A. (Recording malfunction) - that using some kind of a telephone
5 or whatever, he is close to the-

6 Q. Can I interrupt you, I'm sorry, Mr. Schanberg. If you can
7 repeat your entire answer, we only just caught the last couple of
8 words. If I could please ask you to just repeat the entire
9 answer. Thank you.

10 A. I came to the - my conclusion that there was now an observer
11 close to the airport because in the past the shelling wasn't as
12 accurate. And it made sense that over several days that they were
13 getting - they were shooting closer and closer into these
14 delivery - supply delivery planes. And so if they didn't have an
15 observer, then they were simply becoming better shots from a
16 distance. And I don't think that changes the slaughter that takes
17 place and that I witnessed.

18 [09.49.15]

19 Q. Thank you. And my final question on that, what effect, if any,
20 did the shelling have on the capacity of the regime and its
21 supporters to deliver food and aid into the city?

22 A. It reduced the amount of supplies and as the insurgents - the
23 Khmer Rouge assault continued, less and less food and other
24 needs, fuel, was getting in. And that's all it was, it was like a
25 noose tightening around the city.

1 MR. PRESIDENT:

2 Defence counsel for Nuon Chea, you may proceed.

3 MR. KOPPE:

4 Thank you, Mr. President. I was too late objecting, the answer
5 came so quickly that - after the question. So I would like to
6 frame it in an observation and a request to the Chamber.

7 [09.50.41]

8 I think not only the Prosecutor should be instructed to phrase
9 his questions in such a way as you would do to a witness, I think
10 also the witness himself should be instructed by your Chamber to
11 answer questions only to the effect that what he has seen or what
12 he has heard. Although the question was framed according to your
13 instructions, nevertheless the witness answered as if he were an
14 expert. So I think there should be an extra instruction coming
15 from the Bench, from your Chamber, to the witness to refrain from
16 giving conclusions or to refrain from making broad sweeping
17 statements on the basis that - of the things that he has seen in
18 that particular period.

19 MR. ABDULHAK:

20 Your Honours, in response, my learned friend is entirely
21 mistaken. Every witness - every witness is entitled to give
22 evidence on what they observed, what they saw and ordinary people
23 are entitled to draw basic inferences on the events they
24 observed.

25 [09.51.58]

30

1 This is not expert testimony, it is testimony by an individual
2 who observed events for an extended period of time and is
3 providing both his direct observations of those events and then
4 his observations or inferences as to the consequences of those
5 events. All of that is within his knowledge, all of that he
6 witnessed personally, all of that he has written about and all of
7 that is already in evidence before Your Honours.

8 MR. KOPPE:

9 If I may quickly reply. The witness was offering testimony as to
10 the effect of specific Khmer Rouge conduct on the complete - on
11 the Lon Nol government or administration. That is not typically
12 what a witness could offer as a sort of reasonable inference from
13 what he has been testifying. Clearly this was a question to this
14 witness packaged as an expert. So it is allowed for witnesses in
15 a very - in a very limited way to come up with a conclusion, but
16 not in such a broad aspect of what a particular conduct had what
17 particular effect on the administration.

18 [09.53.21]

19 MR. ABDULHAK:

20 Your Honours, two points. I think the objection is entirely
21 unfounded and now is amounting to a delay of time. My friend
22 should be directed that replies are not permitted to objections,
23 we do not reply to objections and the same should apply to the
24 defence.

25 (Judges deliberate)

1 MR. PRESIDENT:

2 We would like to remind all the parties clearly that the person
3 appears before the Chamber is a witness or an expert or a civil
4 party. If the person is treated as a witness, then the questions
5 put to that person should be treated as a witness and the
6 questions should not try to elicit a conclusion from that
7 witness. And it is rather strange when the Prosecutor raised this
8 question. And of course there have been several objections so far
9 which have been ruled by the Chamber regarding this very point
10 and you should have been clear on that.

11 [09.54.49]

12 And we also informed the witness of his obligation and right. And
13 this morning we also stated that - and Mr. Sydney Schanberg as a
14 witness, allow me to remind you again, you must tell the truth
15 that you have heard, have recalled or have experienced or
16 observed directly. That is directly regarding the events put to
17 you in the question by Judges of the Bench or any other parties.
18 Now, let me resume.

19 BY MR. ABDULHAK:

20 Thank you, Mr. President, for those instructions.

21 Q. Mr. Schanberg, I'd like to move now to the events of the 17th
22 of April and we'll spend a bit of time on these events. If I can
23 start first, with your descriptions of the soldiers that you saw.
24 We have on the case file an article which was published in the
25 Chicago Tribune, this appears to be perhaps a republication of

1 one of your New York Times' articles, but I'll read it and then
2 you can tell us if this is - it is your observations.

3 [09.56.24]

4 This is document E3/3368, it is a May the 9th, 1975 article
5 entitled "Cambodians Flee Red Invaders, It's Clear Some Won't
6 Survive." Only a brief passage here is of interest and it reads
7 as follows:

8 "American officials had described the Communists as indecisive,
9 often ill-coordinated. But they turned out to be determined,
10 trained, tough and disciplined."

11 Skipping one paragraph, you say the following - or the article
12 says the following, quote:

13 "The troops we saw in the countryside and in Phnom Penh did
14 include women soldiers and the boy militia, some of whom seemed
15 no more than 10 years old, but all looked healthy, well
16 organized. They were heavily armed and well trained."

17 Can I ask you first, were these your observations of the Khmer
18 Rouge?

19 [09.57.43]

20 MR. SCHANBERG:

21 A. I came to those conclusions by mingling with these people on
22 the way out of Cambodia in the convoy. And we would stop - it
23 took three or four days and we would stop and some food would be
24 brought, and you could walk around, wash your face in the river
25 or something. And there was a lot to see and my eyesight was

33

1 quite clear and those words come from me as a result.

2 MR. ABDULHAK:

3 Thank you.

4 MR. PRESIDENT:

5 Thank you. The time is appropriate for a short break. We will
6 take a 20-minutes break and return at 20 past 10.00.

7 Mr. Schanberg, the Chamber will recess for 20 minutes. Maybe it's
8 late at night time for you over there, but we shall resume in 20
9 minutes.

10 Thank you.

11 (Court recesses from 0959H to 1022H)

12 MR. PRESIDENT:

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

14 Before I hand the floor to the Prosecution to put further
15 questions to Mr. Sydney Schanberg, we agree to the request by the
16 Prosecution for a further half a day to put questions to this
17 witness and the time will be allocated as follows: for the
18 Prosecution and the Lead Co-Lawyers, it will be for three
19 sessions, that is two sessions this morning and one session for
20 tomorrow morning. And the remaining one session will be given to
21 the Defence.

22 The floor is now given to the Prosecution to continue putting
23 further questions to Mr. Schanberg. You may proceed.

24 BY MR. ABDULHAK:

25 Thank you, Mr. President, we're grateful for the extra time.

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34

1 Q. Mr. Schanberg, I hope you can hear us, I think I heard your
2 voice-

3 [10.23.51]

4 MR. SCHANBERG:

5 A. Yes, I can.

6 Q. Thank you. If I can just continue on this topic we just
7 discussed about the discipline of Khmer Rouge soldiers and people
8 that you observed. We have a - on the case file a U.S. - a copy
9 of a U.S. cable which is essentially a summary of an article that
10 you wrote in September 1975. This is document E3/3355, E3/3355,
11 it's dated the - the press summary itself is dated 18th of
12 September 1975, I'm going to give the relevant ERNs and then I'll
13 read a brief passage to you. In Khmer this is found at 00740897
14 and the pages following, in French 00751938 and in English
15 00413800. It's essentially a United States State Department's
16 summary of an article that you - that is attributed to you and as
17 I said, it's dated 18th of September 1975. I'm only interested in
18 a brief - again, a brief passage here, quote:

19 "Notes little info available on Khmer Communist hierarchy. Says
20 KR soldiers, peasant boys but officers educated could speak
21 French." End of quote.

22 [10.26.12]

23 This is one of the documents of course that we sent you, Mr.
24 Schanberg. Is that an observation that you made in relation to
25 Khmer Rouge officers apparently being more educated and being

1 able to speak French?

2 A. Yes, it is, because – I mean I heard them speaking French when
3 we were in the embassy.

4 Q. Were there any other features of their behaviour or uniform or
5 their conduct that gave you the impression that they were
6 educated people?

7 A. Well I didn't have a lot of contact with them, but the contact
8 I did have made me think of them as well trained military
9 officers and the soldiers were not in the same category.

10 Q. Thank you. Just on that, we're not going to have a lot of time
11 to delve into the circumstances of your arrest, but one – and
12 you've already given a brief summary and the Court has heard
13 evidence from Mr. Rockoff about this incident – but one
14 particular aspect that I wish to explore with you further is when
15 you were at the river side and you were held there for a period
16 of time, did you observe officers and their behaviour there? Or
17 were there any officers?

18 [10.28.24]

19 A. Yes, the officers were having lunch and Dith Pran my assistant
20 and brother, he kept going up to these officers and saying that
21 we weren't Americans, that we were Canadians and we – that we're
22 here to record their victory. And then – he was speaking in Khmer
23 and told us most of this later. And then he also said to the
24 officers "On the radio this morning, one of your generals said
25 that the press could operate today and we will not harm them."

1 And so these officers having their lunch finally gave in because
2 Pran is very persuasive and said - Pran said "Let me go to the so
3 and so building where your headquarters - temporary headquarters
4 is now and let me go there with one of your officers and ask the
5 question that reporters - how are reporters to be treated." They
6 said "Yes."

7 [10.30.04]

8 So he got on - they got an officer on his motorcycle, Pran on the
9 back, they went to the building and it was something like 20
10 minutes later or 30 minutes later, Pran comes back and we're
11 freed. But the whole time we had guns pointed at us and all three
12 of us Rockoff, myself, Jon Swain, were certain that this was it.
13 And I mean - Pran is a very interesting subject and - but
14 probably not for this Tribunal. But he saved our lives and he was
15 a great man, he died a few years ago. He believed in peace and he
16 suffered badly under the Khmer Rouge-

17 Q. Thank you. I'm going to apologize to you for interrupting you,
18 I know it's important-

19 A. I've gone off - I've gone off track, but in any case it was
20 something that will stay with me all my life. And so that is
21 where I saw these men who finally listened to his plea and let us
22 go.

23 Q. Thank you. Just to explore very briefly aspects of that event,
24 as I said, we don't have a lot of time to explore it extensively
25 - only a couple of aspects or interests for present purposes.

1 [10.31.52]

2 In your diary you provide a detailed description of this, it
3 starts on page 68. There is one particular – again, one aspect of
4 the story, this is page 68, English ERN 00898276, where you
5 describe the conversation between Dith Pran and the soldiers that
6 had captured you, quote:

7 "The insurgents have told him to take off. 'We don't want you'
8 they said, 'We only want the big ones.' But Pran knew we would be
9 lost without him, so he talked his way onto the carrier, it was a
10 supreme act of courage and loyalty and it saved our lives."

11 Those words "We don't want you, we want only the big ones", how
12 did you hear those words? Were they conveyed to you by Dith Pran
13 or was it otherwise?

14 A. They were conveyed to me by Pran and he – and I can't think of
15 – he told me at the time the word – the Khmer word for "the big
16 boys", but I can't remember it now. And I watched it, Pran kept
17 arguing with them and it was an armoured personnel carrier they
18 were driving and I didn't know what he was arguing with them for.
19 Because they were holding guns to our heads and I thought my god,
20 you know, if he doesn't stop, you know, bothering them we're
21 going to get killed.

22 [10.33.55]

23 So eventually he got on with us and I asked him inside that
24 armoured personnel carrier, I said "Why, you know, why did you do
25 that?" And he said "I knew that without me you were going to get

1 killed."

2 Q. Thank you.

3 A. And that's all.

4 Q. Thank you. Did you ask him or was it at any point explained
5 what these words "the big ones" meant?

6 A. Well the big ones are - they probably thought we were all
7 Americans, their enemy.

8 Q. Thank you. Moving on to another aspect of the event where you
9 described two Cambodian men being pushed inside the carrier in
10 which you were detained, it's on the same page and you say:
11 "They are dressed in civilian clothes but it soon becomes clear
12 they are military men. One of them, a large fat man with a
13 moustache in a t-shirt and Levis reached behind me and tries to
14 shove his wallet in my back pocket. He explains in French that he
15 is an officer and must hide his identity."

16 [10.35.30]

17 Now, just because it's also a description of the same event, can
18 we take a look at page 64 of the "Killing Fields" book? And this
19 is at English ERN 00862598, so it's your page 64, Mr. Schanberg.

20 A. Yeah.

21 Q. I do apologize, this is actually at page 62, not 64; 62 for
22 this passage. You say the following, quote:

23 "They stopped once to pick up two men both in civilian clothes,
24 one of whom we knew as the Number Two in command of the small
25 Khmer Navy. The Khmer Rouge clearly knew who they were and I

1 thought to myself, these men are going to be executed."

2 Can I ask you - is that an accurate account of your knowledge at
3 the time, that one of the individuals was a deputy commander of
4 the Navy of the Khmer Republic?

5 [10.36.55]

6 A. Yes, I didn't know it right away; I knew it only after we were
7 released. And those two men were still under guard, they were not
8 released and I remember the whole thing vividly. He tried to give
9 me his wallet and I said in French - my very poor French, that
10 I'm in the same boat that he is and so giving it to me isn't
11 going to help. And we ended up stuffing it under a sandbag that
12 was on the floor of the armoured personnel carrier. And then when
13 we were released, they were sitting outside this - on the
14 sidewalk guarded by soldiers and I knew - we all knew that we
15 couldn't do anything for them. As I walked away I thought - yeah,
16 and that's what a lot of people take from wars, I'll never forget
17 that. We didn't do anything for them and we got out.

18 Q. Thank you.

19 A. And it probably has nothing to do with this - with your
20 question, but I - it was a powerful day.

21 Q. I am sure it was, Mr. Schanberg. Do you recall by any chance,
22 the name of this individual, the deputy commander of the Khmer
23 navy? And do you know anything as to what happened to him
24 afterwards?

25 [10.38.54]

1 A. I have no - I have no information of my own and all I could do
2 would be to guess.

3 Q. And that's fine, we'll stop there, we won't ask you to guess.
4 I'm going to move on now to the events that essentially followed
5 your release. But before I do that by way of context, I want to
6 ask you about a particular passage of your book where you
7 describe Lon Nol and his plans to flee Phnom Penh, this will be
8 relevant for the subsequent questions I'm going to ask you. It's
9 at page 22 of the diary and this is ERN 00898230, it's at page 22
10 of the diary. A very short passage, you say the following, quote
11 - and I should say it's dated the 5th of March this entry, quote:
12 "Rumours have crept up again that Lon Nol may soon go into exile,
13 he is one of the seven 'traitors' whom the insurgents have marked
14 for execution."

15 [10.40.39]

16 Can I ask you first what you knew about the - these seven
17 traitors and what was the source of that information, that they'd
18 been marked for execution?

19 A. Well the Khmer Rouge occasionally issued statements and they
20 had called them the "Seven Traitors" and they were to be - they
21 were to be killed and they kept repeating that. And not all of
22 them were killed because Lon Nol indeed did go and left the
23 country with his family and the million dollars that the American
24 government gave him, and he was living in Hawaii and died a few
25 years later. But it's - that's what that is all about.

41

1 Q. Thank you. If I could – if I could read to you a transcript of
2 a broadcast and see whether that corresponds with the description
3 you just gave us. This is document E3/117, it's a transcription
4 of a broadcast that is attributed to the voice of NUFC
5 (clandestine), dated the 26th of February 1975. It's one of the
6 documents that we sent you, Mr. Schanberg, in preparation for the
7 hearing. I'm going to give the ERNs first and then read two
8 excerpts. Khmer is at 00242308; French is at 00281432; and the
9 English is at 00166772.

10 [10.43.03]

11 MR. ABDULHAK:

12 Mr. President, with your permission we can also display that on
13 the screen for the public because we have it in the Khmer
14 language.

15 I will read it for you, Mr. Schanberg.

16 MR. PRESIDENT:

17 Yes, you may do so.

18 BY MR. ABDULHAK:

19 Thank you, Mr. President. If the AV Unit could assist us with
20 displaying the Khmer version.

21 Mr. Schanberg, it reads as follows:

22 "Title: Khieu Samphan chairs NUFC congress session. Communiqué
23 issued. Voice of NUFC (clandestine) in Cambodian to Cambodia,
24 11:30 GMT, 26 February 1975. "

25 [10.43.55]

1 I'm going to read two extracts both from the same page. First,
2 quote:

3 "On 24 and 25 February 1975, the Great National Congress held its
4 second session in an area of the liberated zone under the
5 chairmanship of Mr. Khieu Samphan, RGNUC Deputy Prime Minister,
6 Minister of National Defence and CPNLAF Commander In-Chief."

7 Then further down, paragraph - numbered paragraph 1, quote:

8 "Concerning the seven traitors in Phnom Penh, the National
9 Congress has decided as follows: traitors Lon Nol, Sirik Matak,
10 Son Ngoc Thanh, Cheng Heng, In Tam, Long Boret and Sosthène
11 Fernandez are the chieftains of the traitors and ring leaders of
12 the treacherous anti-national coup d'état which overthrew the
13 independence peace and neutrality of Cambodia."

14 Then skipping one sentence, quote:

15 "On behalf of the NUFC, RGNUC and CPNLAF, the National Congress
16 declares it's absolutely necessary to kill these seven traitors
17 for their treason against the Nation and their fascist corrupt
18 criminal acts, unprecedented in Cambodian history."

19 [10.45.28]

20 Q. Can I ask you first, are these the seven traitors that you
21 mentioned just a moment ago?

22 A. Yes.

23 Q. And is this a broadcast you heard at the time or is it
24 consistent with broadcasts you heard at the time?

25 A. I, myself, never heard - personally heard the broadcast, but

1 we saw these reports with those quotations more than once.

2 Q. Was the intended – apparently intended fate of these seven
3 traitors or this decision, was that something that you knew in
4 the months or weeks leading up to the 17th of April?

5 A. Yes, we – yes, and there was a lot of talk about it.

6 [10.46.33]

7 Q. Thank you. Now as I said, we're going to move to the events
8 that followed your arrest and the – particularly the treatment
9 that you describe in your diary of certain officials of the Khmer
10 Rouge Republic regime. First if I can look at page – this is at
11 pages 66 to 67 of your diary, ERN 00898274 to 5. There is a
12 broadcast that you describe and it is – you describe essentially
13 the interruption of the radio broadcast by a Communist spokesman
14 and you say the following:

15 "The broadcast was interrupted by a Communist spokesman who said
16 abruptly 'We did not come here to talk.' Later insurgent
17 broadcasts said 'We enter Phnom Penh not for negotiation but as
18 conquerors. We have completely defeated the clique of the traitor
19 Lon Nol. We therefore call on all commanders of the traitor units
20 to lay down arms and surrender. Any soldier who refuses shall be
21 severely punished.'"

22 And then the next broadcast you describe as follows, quote:

23 [10.48.22]

24 "Another message broadcast several times invited 'All ministers
25 and generals who have not run away to come and meet with us

1 immediately at the Ministry of Information to help formulate
2 measures to restore order.'" End of quote.

3 Can I ask you first, that broadcast in relation to all ministers
4 and generals being invited to go to the Ministry of Information,
5 is that something you heard yourself or is it something you heard
6 from other people?

7 A. I got that from a man who was - who I hired to listen to the
8 radio that day, while I was out on the streets. This was the day
9 when they came into the city, took the city. And he was a teacher
10 at the university and he took this quote down. And in fact it's
11 one of the last things he did, because he came back to our hotel
12 and when - just when we got back to the hotel and then cleared
13 out, and he had his family in the car, but he was carrying these
14 notes and wanted me to have them. And he was driving the car and
15 he passed it through the window and I knew that was a family that
16 wasn't really going to make it.

17 [10.50.17]

18 Q. Okay. I'm going to now move on to your description of what
19 happened, what you witnessed at the Ministry of Information. This
20 is at pages 69 and 70 of the diary and it continues on to 71 as
21 well, the ERN in English is 00898277 and the following two pages.
22 You say the following on page 69, quote:

23 "We head for the Information Ministry because of the earlier
24 broadcasts asking high officials of the old regime to report
25 there. When we arrive, about 50 prisoners are standing outside

1 the building which seems to be the insurgents' temporary
2 headquarters. Among the prisoners are Brigadier General Lon Non,
3 younger brother of Marshall Lon Nol, Brigadier General Chhim
4 Chuon who was close to the Marshall, other generals and cabinet
5 ministers are also there, very uneasy but trying to appear calm."
6 Now can I ask you first, what was it that - I'll start with a
7 different question. Were you able to personally recognize these
8 generals and cabinet ministers? Were these people that you knew
9 previously as people holding these positions in the Khmer
10 Republic regime?

11 [10.52.16]

12 A. Only a few of them did I actually, you know, have anything,
13 you know, any talks with and so forth. But they were clearly
14 frightened and I think most of them knew they were going to be
15 killed. And there were even some women brought - who were the
16 people in the local Red Cross, the Cambodian branch of the Red
17 Cross. And I don't know - I don't know who got killed, but - I
18 mean I know - I don't know if everybody got killed, but I know
19 that Lon Non - they announced they had killed. And Long Boret who
20 was the Prime Minister, he arrived and he had stayed in the
21 country and a lot of people had suggested he leave with his
22 family and he didn't, he said he couldn't and he was killed. And
23 I spoke with him at that building.

24 Q. And we'll come to that conversation in a moment. You describe
25 the rest of the scene and I'll read the passages so everybody is

1 aware of what is contained in the diary. On page - this will be
2 page 17, your version, Mr. Schanberg, quote:

3 [10.54.10]

4 "After a few minutes a man with a bullhorn lines up the prisoners
5 into three groups, military, government officials and civilians.
6 We, newsmen, are also lined up to one side. An officer - he
7 seemed important and was probably a leading general, though his
8 black pyjama uniform bore no markings and he declined to give his
9 name - stepped forward and made an extremely conciliatory speech
10 to the prisoners. He said that they were only seven traitors,
11 that other officials would be dealt with equitably and he asked
12 for their cooperation."

13 You then actually spoke to this military leader, according to the
14 diary. Can I ask you first, how many soldiers did you see
15 securing these three groups and dividing them up as you just
16 described in that diary I read?

17 A. There were about 10 to 15 troops all heavily armed. And they
18 kept circling these groups, crouching down and circling.

19 [10.55.37]

20 Q. Thank you. For the avoidance of doubt, were these Khmer Rouge
21 troops and was this a Khmer Rouge commander?

22 A. Yes.

23 Q. Thank you. You then describe a conversation this military
24 leader had with journalists and you say the following, quote:

25 "As the conversation continues, Lon Non slips forward and quietly

1 asks a French newsman to ask the insurgent leader if the
2 prisoners here today or other Cambodian officials can leave the
3 country if they wish to. A few moments later the newsman gets a
4 chance to ask the question, the military leader laughs softly 'It
5 will depend on the government' he says, 'They will make the
6 regulations.' He says he is only a military leader, adding that
7 some of the top political and governmental leaders are not far
8 from the city, but that they had let the military enter first to
9 organize things.'"

10 [10.57.06]

11 Is that an accurate summary of what happened, this statement that
12 was given by the military leader, that decisions will be made by
13 the government?

14 A. Yes, that is accurate. I was - once I got out of sight of that
15 building, I scribbled it all down.

16 Q. Thank you. The next event that happens is the arrival of Long
17 Boret and you describe it in the following terms, quote:

18 "While we talk, Long Boret arrives. His wife has driven him up in
19 their Mercedes. The first thing he does is walk over to one of
20 the ranking insurgent officers and grasps his hand for a long
21 time wordlessly. He was dressed in an aqua polo shirt and tan
22 trousers and he looked terrible. His eyes were puffed into slits,
23 perhaps he has been crying. He and Sirik Matak are the only two
24 of the seven traitors marked for execution who have not fled the
25 country. He had been articulate on the telephone last night. Now,

1 he's having difficulty speaking. I tried to ask him some
2 questions, but he can only mumble yes, no and thank you, so a
3 conversation is impossible."

4 [10.58.47]

5 Can you describe for us what else happened once he arrived and
6 greeted the Khmer Rouge officer and you attempted to have a
7 conversation with him? What happened to him next?

8 A. I can't - I can't say, they later announced that they had
9 executed him. But it was at that time after I had spoken to him
10 and told him how brave I thought he was and I began to feel
11 nervous, let's not get arrested again, went through my head. So
12 we left and went back to the hotel, grab some - our clothes and
13 some food we had saved, canned food, and went to the French
14 Embassy.

15 Q. Thank you. And we'll come to the French Embassy as well. You
16 say at the end of that passage where you describe these events on
17 page 71, quote: "As we leave the Information Ministry, the
18 prisoners are being taken inside the building; it is last we saw
19 of them."

20 Is that the same group of 50 people now - and does it now include
21 Lon Boret?

22 A. Yes.

23 [11.00.22]

24 Q. Were you able to observe what happened to his wife who had
25 driven him to this location?

1 A. A few days later she drove up to the gate of the French
2 Embassy and she asked to see a United Nations man who was inside
3 the enemy - inside the compound and he came to the door - to the
4 gate and she asked for asylum and that - the French had been told
5 by the Khmer Rouge before this that they could take no high grade
6 people and no important people, and if they did, others would
7 die. And Jean Dyrac the highest diplomat in the embassy at that
8 time told us all about this. In any case, the UN officer came
9 back from that conversation and was really broken because he knew
10 the Borets and he had to tell her that he couldn't help her and
11 she drove off.

12 Q. Thank you.

13 A. I honestly don't know what happened to her.

14 [11.02.07]

15 Q. Thank you. Now, before we leave these events at the Ministry
16 of Information, I wish to play you a short video clip which is
17 also on the case file, it's from a documentary called "Pol Pot:
18 The Killing Embrace".

19 MR. ABDULHAK:

20 Mr. President, the document number is E3/2355R and the ERNs are
21 V00172454. It's only a 40-second segment - video segment and it
22 has been already played in Court. With your permission, Mr.

23 President, I'd like to first play it in full, the 40 seconds, and
24 then we can look at particular specific images.

25 MR. PRESIDENT:

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1 You may proceed.

2 MR. ABDULHAK:

3 Now, Mr. Schanberg, it is a documentary so it has a voice over,
4 I'm going to ask you to ignore the voice over, it's not relevant
5 for our purposes. What is relevant is your evidence and the
6 images that are shown. So we will play the video first and see
7 whether it contains any images that you recognized.

8 [11.03.37]

9 If the AV Unit can play it now?

10 (Audio-visual presentation)

11 BY MR. ABDULHAK:

12 Thank you, Mr. President.

13 Q. Now, Mr. Schanberg, if you were able to see that - can I first
14 check, were you able to see that - those images clearly?

15 MR. SCHANBERG:

16 A. Yes.

17 Q. There was - in the final seconds of that video - there was a
18 panned shot from right to left which showed a number of people
19 standing. Is that a location that you can identify?

20 [11.05.11]

21 A. No, not really.

22 Q. I'm going to just show it to you on the screen and see if it
23 does refresh your memory. If it doesn't, we will move on quickly.

24 MR. ABDULHAK:

25 If I can ask the AV Unit to just play from the video again from

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1 second 36 to the end of the video, see if that - so that we can
2 just all see that again.

3 MR. PRESIDENT:

4 AV booth, please play the video clip as per the request by the
5 Prosecutor.

6 (Audio-visual presentation)

7 [11.06.17]

8 BY MR. ABDULHAK:

9 Q. That was a little bit later than we wished, but does it in any
10 way refresh your memory? Is it a gathering event you saw?

11 MR. SCHANBERG:

12 A. I, myself, didn't see such an event. But there really is only
13 one place to play tennis in Phnom Penh and that is the - I'm
14 trying to think of the name of the club - but foreigners and
15 well-to-do Cambodians would go there to have meals and to, you
16 know, use the pool and so forth.

17 Q. Thank you.

18 A. And so it - but I can't say that this is exactly where they
19 were, because I don't - you know, I can't be sure about it and I
20 don't really know about - there may have been many massacres in
21 the early days and in later days. But I don't know about this
22 one, so I think I should not answer.

23 Q. And that's helpful, thank you.

24 [11.07.38]

25 Now while we're dealing with the fate of the senior officials of

1 the Khmer Republic regime, I'd like to fast forward in time to
2 the 19th of April, an entry in your diary which is at page 82 and
3 you say the following - so at this stage you are in the French
4 Embassy of course, and you describe what you saw and heard,
5 quote:

6 "At about 4.30 p.m. a loud speaker truck passes the embassy two
7 or three times blaring the message 'There are still traitors and
8 super traitors in the city, we must look for them.' We think it's
9 ominous that they're doing this in front of the embassy."

10 And I'll stop there, I'll move on to page 85 and read another
11 passage which relates to the 20th of April, you say the
12 following, quote:

13 [11.09.13]

14 "Yet the Khmer Rouge do come for certain persons today, the high
15 officials who have been hiding here. At 2.30 p.m. in a dismal
16 drizzle, a squad of heavily armed soldiers pulls up to the gate
17 in a jeep and a sanitation truck. There was some talk with Dyrac
18 at the gate and then he goes inside. Within minutes the ones they
19 want start coming out, there are a dozen, including some women
20 and children. As Sirik Matak emerged from the embassy, he walked
21 erect to the gate. Frenchmen standing near him said 'The former
22 prime minister told the Khmer Rouge as they led him away, I'm not
23 afraid, I'm ready to account for my actions.' All the prisoners
24 in fact left the embassy in a reasonably dignified manner except
25 for Ung Boun Hor, the National Assembly President."

1 And then moving on to the next paragraph:

2 "The prisoners are put in the open back of the sanitation truck.

3 For several minutes they just sit huddled there in the rain, then

4 a few minutes passed 3.00 p.m. the truck and the jeep slowly pull

5 away from the embassy like a funeral cortege."

6 Were these events that you personally observed, the surrender of

7 Sirik Matak and Ung Boun Hor as well as other people?

8 [11.10.51]

9 A. Right, I witnessed it, yes. It was pretty hard to watch.

10 Q. You describe them as "the ones they want". Can you tell us why

11 you use those words?

12 A. The ones they want?

13 Q. Yes, you describe these people as "the ones they", as in the

14 Khmer Rouge, "want".

15 A. Well, I- it just comes from watching what took place. The

16 Khmer Rouge come and say, "you have people inside". And Dyrac

17 goes in and brings them out.

18 And so that was- I think that's where that sentence came from.

19 Those are the ones that they told Dyrac they wanted.

20 Dyrac talked about that, that night, later that - at night; came

21 into our building where we were staying and - I mean, there's the

22 press and a few other people, and told about how all Cambodians

23 without foreign papers must leave the embassy.

24 Dyrac himself had been a prisoner in World War II. He was a very

25 good man, and he said if and when we do such things, he talks

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1 about having to go to these people and tell them they have to
2 leave. And he says, "And when we do such things, we are no longer
3 human beings."

4 Q. Thank you. If I can now look at a document that we sent you a
5 copy of. It's a telegram from the French Embassy. It relates to
6 these events. This is document No. D199/26.2.199. It's a French
7 Embassy telegram dated 18 April 1975. It's a one-page document.
8 Mr. President, with your permission, I will read from the
9 telegram and see if the document can assist us.

10 [11.13.55]

11 MR. PRESIDENT:

12 You may proceed.

13 MR. ABDULHAK:

14 Thank you.

15 BY MR. ABDULHAK:

16 Q. Mr. Schanberg, as I said, it's dated the 18th of April 1975.
17 It's authored by Dyrac, signed by him, and it reads as follows:
18 "Subject: Political Asylum. I am referring to my telegrams number
19 586, 587, and 594. Following ultimatum from City Committee, I am
20 compelled in order to ensure the security of our compatriots to
21 include in the list of persons present at the embassy, 'Number 1:
22 Prince Sirik Matak and two of his officers. Number 2: Princess
23 Mom Manivong, of Lao origin, third wife of Prince Sihanouk, her
24 daughter, her son-in-law, and her grandchildren. Number 3: Mr.
25 Ung Boun Hor, President of National Assembly, and Number 4: Mr.

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1 Loeung Nal, Minister for Health.' Barring express and immediate
2 order from the Department requesting me to grant political
3 asylum, I will be compelled to turn these names in within 24
4 hours."

5 Mr. Schanberg, do you recognize any of these names apart from the
6 two individuals you've already mentioned?

7 [11.15.24]

8 A. Well, I know some of the family people's names, but I've never
9 met them. And my eyes really were on Sirik Matak. Because Sirik
10 Matak had, a few days earlier or maybe a day earlier, he had sent
11 a message to I forget if it was the President or Kissinger or I'm
12 not sure which of those, saying that 'you are abandoning us and
13 you said you would help us and you did not', and so forth and so
14 on. And he said he was staying in the country and he was going to
15 face his fate.

16 [11.16.28]

17 Q. Thank you.

18 A. And when he came out of the compound or the building, he stood
19 very tall. That's unusual for Cambodians. And he was stiff and
20 straight and determined to keep a straight face.

21 Q. Thank you. In the telegram, there is a reference from - to an
22 ultimatum from a City Committee. Can you help us with what that
23 may relate to? You also mentioned a committee in your diary. Do
24 you know anything about this body?

25 [11.17.16]

1 A. No. No I really don't.

2 Q. I'm going to show you, with the President's permission, a
3 photograph and see if you recognize individuals in that.

4 Mr. President, this is E190.1.307. It's a "Newsweek Magazine"
5 article dated the 19th of May 1975, and it is not authored by Mr.
6 Schanberg, but it includes references or summaries of his
7 descriptions of the events.

8 With your permission, I'll show a photograph from that article to
9 the Witness.

10 MR. PRESIDENT:

11 Please proceed.

12 MR. ABDULHAK:

13 Thank you.

14 BY MR. ABDULHAK:

15 Q. The photograph is really only relatively clear in the English
16 version, and that is at Khmer ERN - English ERN 00445261. And I'm
17 going to ask my assistant to display that on the screen for us,
18 with your permission, Mr. President.

19 [11.18.53]

20 Can I ask whether you have a copy before you, Mr. Schanberg?

21 MR. SCHANBERG:

22 A. Right. Yes.

23 Q. If you can just give us a moment to locate it here and display
24 it for the judges and everybody in the courtroom.

25 UNIDENTIFIED SPEAKER:

1 Yes, that's the picture.

2 MR. SCHANBERG:

3 Yes, yes. It's a famous picture. I never met the man.

4 [11.19.31]

5 BY MR. ABDULHAK:

6 Q. Okay, we have that image now ready to display, if the AV Unit
7 could assist us to show it on the screens for everybody in the
8 courtroom.

9 The caption says:

10 "No sanctuary. Ung Boun Hor is ousted by the French."

11 Can I ask you first whether you recognize that individual? Is
12 that Ung Boun Hor as far as you recall?

13 MR. SCHANBERG:

14 A. I've seen that picture. I did not see the event. Friends of
15 mine who had met him said that's who it was. And then there was a
16 story to go with it that he had a bunch of money in a suitcase,
17 etc., etc.

18 But I never saw this happen, and it's not- it's just not a piece
19 of the events that I paid attention to.

20 [11.20.45]

21 Q. Thank you. We'll move on from that particular photograph.

22 Dealing with these events, again removal of senior Khmer Republic
23 officials from the embassy, you provide further descriptions at
24 pages 95, 96 and 97, again in your diary. The English ERN is
25 00898303 and the following pages.

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1 You're describing here a conversation you had on the 23rd of
2 April with a Khmer-speaking French businessman who had attended
3 some of the negotiations with the Khmer Rouge or between the
4 Khmer Rouge and the Embassy officials. And these are some of the
5 things that he reported to you, quote:

6 "The Khmer Rouge say they are still cleaning out military people
7 from the old regime who have gone into hiding in the city, which
8 is why this zone is still under military and not political
9 control."

10 [11.22.10]

11 A little bit further down on the same page, you say, quote:

12 "He says we have lost a week toward our evacuation because of the
13 time it took to extract the big fish like Sirik Matak from the
14 embassy."

15 And a little bit again further down, three paragraphs down,
16 quote:

17 "He says the Khmer Rouge refer to the people still hiding in the
18 city as 'wild rats'. The Khmer Rouge are much less suspicious of
19 the embassy, he says, now that those hiding in the embassy have
20 been turned over."

21 Can you confirm for us that that was the information you
22 received, that- from this man, from the discussions he took part
23 in, that searches had continued for Khmer Republic officials?

24 [11.23.00]

25 A. Yes, that's exactly what he told me.

1 Q. And there's another quote or rather another passage on the
2 next page, quote:

3 "The Frenchman says that when the large main group of Cambodians
4 left the embassy two days ago, they were taken to the municipal
5 stadium where 'the important people were weeded out and taken
6 away in trucks and the others were then allowed to go up the
7 road.' He has the impression, which we all share, that the Khmer
8 Rouge had a very good network of informers and agents in the city
9 long before their victory."

10 Do you recall whether that description he gave about the weeding
11 out of important people from the trucks that had left the
12 embassy, do you recall if that's something that he had been told
13 or heard in the meetings?

14 [11.24.05]

15 A. I can't vouch for that because I really don't know if that
16 actually happened. And a lot of things, you know, probably did
17 happen in those early days, but I didn't know anything about
18 that.

19 And just as a, let's say, a guiding event, Pran and other
20 Cambodian stringers, photographers and so forth left the embassy
21 a day before the Sirik Matak scene. And they just wanted to get
22 out alone, and they didn't want to be in a big group, and that
23 was Pran's, you know, his sort of sensory organs being right
24 again.

25 I don't know how it relates to that, to what the businessman told

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1 me.

2 Q. Thank you. With respect to the departure of the other
3 Cambodian nationals from the compound, while we're discussing
4 that, I'll just read to you another brief passage from the book,
5 from the diary at pages 83 to 84; English ERN 00898291 to 2. This
6 is an April 20th entry, so it refers a little earlier in time.
7 And the reason I'm reading it here is it provides some context to
8 the departure of the Cambodians from the embassy, and you've
9 touched on this a little bit.

10 [11.26.22]

11 "At about 7.30 a.m., there is bad news. Members of the embassy
12 staff start moving around the compound telling Cambodians without
13 French papers that they must leave and join the trek into the
14 countryside. 'We'd like to help you but there is no way', one
15 Frenchman said to them. 'We can't take you to France. If you stay
16 here, there could be trouble.'"

17 Two paragraphs down, you say the following:

18 "A little later, we learned that the French advice to the
19 Cambodians was the result of new directives from the Khmer Rouge.
20 In their latest meetings, they had told the Consul Dyrac that
21 they no longer considered this an embassy but merely a
22 regroupment zone for foreigners, which ruled out the possibility
23 of asylum and made the Cambodians' departure essential."

24 [11.27.29]

25 Can you assist us with these developments with respect to the

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1 embassy being deemed a mere regroupment zone? What were you told
2 about that by Dyrac or others who had communicated with the Khmer
3 Rouge?

4 A. I think that the paragraph you just read were what we were
5 told about it.

6 Because Dyrac obviously felt terrible about it, but he had no
7 choice. And so he – and he didn't – his government didn't allow,
8 you know, allow him to give asylum. And the Khmer Rouge wouldn't
9 recognize him as having the right to do that also.

10 Q. And from what you were able to observe, with the exception of
11 those that were able to or that had foreign passports, did all
12 Cambodians leave the embassy in the following days?

13 A. Not exactly all but almost all. Some of them hung around and
14 thought that they might be able to hitch a ride on the convoy,
15 and they did with the help of François Bizot, an archaeologist
16 who had a big heart. And we loaded up the first convoy in the
17 dark, early morning. And so people couldn't tell colours of skin
18 and so forth and so on, and he helped people climb over the sides
19 of the truck instead of coming up the back. And I don't know how
20 many but he was another hero, and there were women and children
21 and – but I didn't know them all. There wasn't a lot of them as
22 far as I could tell.

23 [11.30.05]

24 Q. Thank you.

25 MR. ABDULHAK:

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1 Mr. President, I'm going to move on to a new topic. Is this a
2 good time to break?

3 MR. PRESIDENT:

4 Thank you.

5 The time is now appropriate for adjournment. The Chamber will
6 adjourn for lunch and we will resume at one.

7 And this afternoon, the Chamber will hear the testimony of an
8 expert, TCE-12. The expert will be questioned first by the Lead
9 Co-Lawyer for the civil parties before other parties.

10 As for the testimony of Mr. Sydney Schanberg, it is adjourned now
11 and his testimony will resume tomorrow at 8.30.

12 Mr. Schanberg, now your testimony is adjourned. However, we will
13 resume hearing your testimony tomorrow. Therefore, the Chamber
14 would like to invite you once again to testify tomorrow by video
15 conference. We will start at 8.30 in the morning, Cambodia time.

16 Mr. Schanberg, is that clear for you?

17 MR. SCHANBERG:

18 Yes, Your Honour, it's clear. I'll be there at 8.30.

19 MR. PRESIDENT:

20 Thank you, Mr. Schanberg.

21 The security guards are now instructed to bring Mr. Khieu Samphan
22 to the holding cell downstairs and have him returned to this
23 courtroom before 1.30 this afternoon.

24 (Court recesses from 1132H to 1333H)

25 MR. PRESIDENT:

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

2 For this afternoon session, as scheduled in our timetable, we
3 will hear the testimony of an expert -- that is, TCE-12.

4 Court Officer, could you invite the expert into the courtroom?

5 I notice the defence counsel, Victor Koppe, on his feet. You may
6 proceed.

7 MR. KOPPE:

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

9 Just for the record and some guidance from the Bench, we
10 requested the senior trial officer yesterday via email whether it
11 would be possible to have more time for our cross-examination
12 allocated.

13 [13.34.49]

14 Of course, the amount of time would depend on the answers of the
15 expert to questions of the civil parties and -- and the
16 Prosecution. However, we feel that taking into consideration
17 especially what the -- this expert has testified in Case 001 that
18 quite sweeping statements might come from this particular expert,
19 so the allocated time as of now, which is 20 minutes or half hour
20 or something like that, might be insufficient. So, if I may
21 suggest, let -- let's see how things go with the expert, but I
22 would like to have noted that we did file yesterday for an
23 extension of our allotted time of cross-examination.

24 MR. PRESIDENT:

25 Thank you, Counsel Koppe.

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1 And the International Lead Co-Lawyer for civil parties, you may
2 proceed.

3 [13.35.56]

4 MS. SIMONNEAU-FORT:

5 I would like to make a brief remark or two.

6 This expert testified in Case Number 001. I find that it is out
7 of place to say that this expert could make inappropriate
8 statements. We should make this clear up front and stop putting
9 words in the expert's mouth. I think this is completely out of
10 place and improper.

11 MR. PRESIDENT:

12 Thank you.

13 The Prosecution, you may proceed.

14 [13.36.35]

15 MR. DE WILDE D'ESTMAEL:

16 Thank you, Mr. President, and good afternoon, Judges.

17 Indeed, yesterday the defence of Nuon Chea made a request
18 regarding the time allotted to the different parties for the
19 examination of the expert. That email was sent by Ms. Katrina
20 Natale. On behalf of the civil parties, she stated that that
21 request was belated since it comes just on the eve of the
22 examination of the expert.

23 This witness testified in 2009. It is completely improper to ask
24 the Chamber to amend the schedule today. If the Chamber is of the
25 view that that request can be considered favourably, we would

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1 request that the Chamber should give the prosecutors the same
2 allowance of time. We think that this request is late and it
3 should not be entertained.

4 Thank you, Mr. President.

5 (Judges deliberate)

6 [13.40.05]

7 MR. PRESIDENT:

8 After having heard the request by the defence counsel for Nuon
9 Chea as -- as the -- the relevant parties, the Chamber will
10 discuss the issue and that is based on the nature of the
11 questions put to the expert by the Prosecution and the Lead
12 Co-Lawyers and the time will be considered in due course.
13 Court Officer, please invite the expert into the courtroom.

14 (Short pause)

15 (Mr. Chhim Sotheara enters courtroom)

16 [13.41.29]

17 QUESTIONING BY THE PRESIDENT:

18 Q. Good afternoon, Mr. Expert. Is your name Chhim Sotheara?

19 MR. CHHIM SOTHEARA:

20 A. Mr. President, Your Honours, yes, my name is Chhim Sotheara.

21 Q. Thank you, Mr. Chhim Sotheara.

22 And how old are you?

23 A. I am 45 years old.

24 Q. Where is your current address and occupation?

25 A. Currently, I live at number 2, Oknha Vaing Street, Phnom Penh

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1 Thmei, Sen Sok district; and I work as a medical expert and also
2 the Executive Director of TPO.

3 [13.42.45]

4 Q. Thank you.

5 As reported by the greffier this morning, to your best knowledge,
6 you are not connected by blood or by law to any of the civil
7 parties in this case, nor to any of the two accused; namely, Nuon
8 Chea and Khieu Samphan; is this correct?

9 A. Yes, it is.

10 Q. Thank you.

11 Also, as reported by the greffier, you already took an oath
12 before your appearance; is this correct?

13 A. Yes, it is.

14 MR. PRESIDENT:

15 Thank you.

16 We would like to inform the parties to the proceeding that for
17 the hearing of the testimony of this expert, the floor will be
18 given to the Lead Co-Lawyers for the civil parties first before
19 any other party, and the time allocation is 1 hour 40 minutes.

20 You may proceed.

21 [13.44.15]

22 QUESTIONING BY MR. PICH ANG:

23 Good afternoon, Mr. President, Your Honours, and good afternoon
24 everyone in and around the courtroom.

25 And good afternoon, Mr. Expert. I have some questions for you.

1 And upon my conclusion, Ms. Elizabeth Simonneau-Fort will take
2 the floor for the civil parties regarding your expertise.

3 Q. To start with, can you tell the Court about your qualification
4 in your expert area?

5 MR. CHHIM SOTHEARA:

6 A. Thank you, Mr. Co-Counsel.

7 I studied medicine at the medical university and I concluded it
8 in 1992. And in 1994, I continued my expertise in the field of
9 psychology at the Oslo University at -- in Norway and I concluded
10 my study in 1998. Later on, from 1999 to 2000, I continued my
11 master's degree at the University of New South Wales in Australia
12 and I obtained my master's degree in 2000.

13 Currently, I am undertaking my PhD degree in psychiatry at Monash
14 University in Australia and I am now in my final year.

15 [13.46.30]

16 Q. Thank you.

17 I'd like to briefly ask you about the history of your employment.

18 Can you tell the Chamber, in particular, your employment in
19 dealing with the victims of the Khmer Rouge regime? So first,
20 your general employment; and secondly, your employment in dealing
21 with the Khmer Rouge victims.

22 A. In the psychological area, I've been working for almost 19
23 years, so I am considered one of the 10 experts in Cambodia after
24 the Khmer Rouge regime.

25 I started working with the victims of the Khmer Rouge regime

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1 directly and, in particular, the victims of S-21 since 2005 or
2 2006 -- and 6 up to the present time.

3 [13.47.50]

4 Q. Besides the victims of S-21, have you worked with other
5 victims in the psychological area -- that is, in relation to the
6 victims of the Khmer Rouge regime?

7 A. My organization has been working with the victims of the Khmer
8 Rouge regime and we worked with several of them; they were the
9 victims of torture, of sexual rape. And myself and my TPO also
10 provide treatment to other victims or patients who were victims
11 and who were tortured or who were traumatized due to the result
12 of the regime.

13 Q. Do you or your organization work with the civil parties in
14 Case 002?

15 A. Yes, we do. We worked with civil parties in both Case 001 and
16 002.

17 Q. In relation to the general victims of the Khmer Rouge regime,
18 can you tell us the result of your work with them? What were the
19 impacts that they suffered under the Khmer Rouge regime?

20 [13.49.54]

21 A. I can say that the majority of the victims that we have worked
22 with or that we provided psychological expertise to were
23 traumatized.

24 From the outer appearance and without close consultation with
25 them, it seems that they are normal; however, upon deeper

1 consultation with them researching and consulting with them about
2 their backgrounds, their living conditions under the Khmer Rouge
3 regime, and their relatives, we learned that they were seriously
4 traumatized under the regime. And due to their difficult living
5 condition, it seems from the outside they were not traumatized as
6 they can continue working and earning their living, but as I
7 said, the majority of them were traumatized.

8 Q. Can you tell the Court the symptoms indicating that they were
9 traumatized?

10 A. Of course we have our methods for determining whether a person
11 is traumatized. For instance, in our area, we have a measure to
12 -- to test and to indicate the level of trauma; namely, that a
13 person has nightmares and the mental reaction can be a kind a
14 PTSD or the depression or anxiety or the paranoia and that
15 resulted from serious torture and sufferings inflicted upon them.

16 [13.52.33]

17 And the constant symptom was the -- the vivid imagination of what
18 happened.

19 And when there is any symptom which is -- there is -- even which
20 is similar to those events, that would trigger their feeling and
21 sometime they would have nightmare about being chased, about
22 being killed, or about the relatives that were killed or that
23 they lived through the difficult period or that they, themselves,
24 were tortured in different forms and some of them, in their
25 dream, were being put in a cage and that is the indication of

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1 trauma. And that could, in fact, reflect the -- what they
2 suffered under the Khmer Rouge regime.

3 Q. You indicate the four symptoms, the PTSD, trauma, and the
4 other two symptoms, and I am not an expert, so I cannot recall
5 the exact terms you used. Can you indicate to us the details of
6 each of the four symptoms that you stated?

7 [13.54.08]

8 A. Let me give an example of PTSD and trauma. PTSD is one of the
9 symptoms that a lot of experts' claims infected upon a lot of
10 victims in Cambodia.

11 Usually, in regards to PTSD, the victim would recall the events
12 that happened to them and the -- it seems that the event is
13 taking place vividly in front of their eyes, either during the
14 daytime or at night time through a nightmare.

15 And the second important symptom of PTSD is the avoidance -- that
16 is, they do not want to talk about what happened or go to the
17 location where they were mistreated or to talk about any events
18 that would trigger the events that happened to them in the past.

19 And the third main symptom, which is related to their bodies or
20 physical appearance, usually during the nightmare, they would
21 find it difficult to breathe; they would have a tremble in the
22 chest, or the body would tremble just upon a small sound or noise
23 and that they cannot sleep and they have a strained in their
24 muscles. All these symptoms indicate to PTSD.

25 [13.56.03]

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1 And I actually conducted a research because PTSD is a symptom
2 and, actually, this is determined by the Western experts in the
3 medical field, but for our country, there are some distinctions
4 due to our cultural differences. Let me give you an example. Our
5 people, they are kind of not outgoing people and they -- they
6 don't want to speak about any trauma and they are lacking in the
7 decision makings because of all the impacts that they suffered
8 under the regime.

9 And, of course, Cambodian people under the -- the Khmer Rouge
10 regime used to hear one of the well-used phrase -- that is, to
11 grow a cotton -- a kapok tree -- that is, to remain quiet or to
12 keep silent. So for them, they don't want to do anything or to
13 speak about it and for that reason, they lack of the personal
14 communication with other people and these are in addition to the
15 symptoms determined in the PTSD by the Western experts.

16 [13.57.35]

17 Also, we noticed the anxiety in them, the hopelessness due to the
18 great loss under the Khmer Rouge regime; for example, the loss of
19 their houses after they were evacuated from the city or from the
20 village and the loss of their relatives upon returning to their
21 village and they were not there.

22 So sometime they -- they would consider of committing suicide
23 because of all these factors.

24 Q. Can you elaborate a little bit further on the symptoms of
25 paranoia?

1 A. This is the least kind of the symptoms that we found. Some of
2 the victims and due to being tortured upon the allegation they
3 were spies, for example, and as it was compounded with the
4 torture they received in the detention centre, they were scared.
5 And they always have suspicions that they were being monitored or
6 followed or that a spy is monitoring or is striking him or her
7 down.

8 Q. After those victims experience the traumatic events under the
9 regime and what they experienced up to today, are they still
10 being traumatized by those events that happened during that
11 regime?

12 A. I don't really quite get your question. Could you please
13 clarify it?

14 [14.00.01]

15 Q. You stated that the victims of the Khmer Rouge regime were
16 traumatized. Since they were first traumatized and regarding
17 their current situation at the time, does your study indicate any
18 changes to their mental status; for example, is the symptom or is
19 the trauma symptom now reduced or it is the same?

20 A. Thank you for the clarification on the question.

21 Well, if the -- they -- they have not received any treatment or
22 they have not been counselled, then this symptom remains with
23 them. It would not reduce.

24 Generally, these people, in the course of everyday activity, they
25 operate like an average person, but if there is any event that

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1 triggers the previous traumatic experience they have gone
2 through, then they would be in a situation which we can
3 recognize.

4 [14.01.30]

5 But if they receive treatment, then they will -- they tend to get
6 better, but the treatment takes rather long time and I believe
7 that they need not only the psychological counselling, but also
8 the legal support as well as the livelihood restoration and other
9 programs, as well, in order to reintegrate them into the
10 mainstream living condition.

11 Q. I would like to look at the situation or condition of the
12 civil party in Case 002. Normally, the civil party and victims
13 have expressed their traumatic experience. Do you observe that
14 those who are in Case 002 had the same traumatic experience as
15 those you had worked with before?

16 MR. PRESIDENT:

17 Mr. Expert, please hold on.

18 Mr. Koppe, you may proceed.

19 [14.02.44]

20 MR. KOPPE:

21 Thank you, Mr. President.

22 I object to this question. I am not sure if this expert knows
23 what these civil parties have testified, what they have said, if
24 -- even if they are known by this expert, whether they have been
25 investigated by him, examined by him, so this expert cannot

1 possibly say anything relevant about the suffering of the civil
2 parties who have been appearing here this week and last week;
3 only if they are his patients, otherwise, he cannot say anything
4 sensibly.

5 MR. PICH ANG:

6 With your permission, Mr. President, I believe that the expert is
7 a professional person who have undertaken study, particularly, on
8 those who have gone through traumatic experience during the Khmer
9 Rouge period and, of course, the victims and the civil party in
10 Case 002 were the victims of this experience. And as a
11 professional in the field with expertise, I believe that he has
12 provided counseling; not only to his client in general, but also
13 the civil parties in Case 002. I believe that the questions put
14 to this witness now is appropriate.

15 [14.04.14]

16 And in addition, Mr. Chhim Sotheara is an expert in the field. He
17 has the expertise to assess the impacts on the mental health
18 status of the civil party.

19 I would like to seek leave from Mr. President to allow him to
20 respond.

21 MR. PRESIDENT:

22 Mr. Prosecutor, you may proceed.

23 MR. DE WILDE D'ESTMAEL:

24 Thank you, President.

25 Earlier on, I noted that the expert stated that not only had he

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1 worked with the civil parties who had been admitted into Case
2 002, but he had also worked with the civil parties admitted into
3 Case 002. This question is entirely justified because he has
4 stated, very clearly, that he has worked with civil parties. He
5 has not identified which ones, but he should be in a position to
6 speak on the results of his work with the civil parties.

7 [14.05.22]

8 MR. KOPPE:

9 If I may quickly reply, Mr. President, this is sensitive medical
10 information that at least we would like to know if there's a
11 waiver of these civil parties. I'm not quite sure if we are -- if
12 we should be discussing the medical history of the civil parties
13 who have been testifying.

14 (Judges deliberate)

15 [14.09.02]

16 MR. PRESIDENT:

17 I hand over the floor to Judge Silvia Cartwright to settle the
18 objection posed by the defence counsel for Mr. Nuon Chea
19 concerning the last question posed by the Lead Co-Lawyer for the
20 civil party.

21 Judge, please.

22 JUDGE CARTWRIGHT:

23 Yes, thank you, President.

24 The Lead Co-Lawyers should put to the expert some of the
25 experiences of trauma that the civil parties have described in

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1 the courtroom and ask his expert opinion on them. This means that
2 the objection is upheld because the expert -- you -- you have not
3 established whether the expert knows what specific trauma or
4 symptoms of trauma that the civil parties have described in court
5 and he certainly cannot refer to his own knowledge, at a
6 therapeutic level, of any individual civil party, so you will
7 have to describe and ask him if, in his expert opinion, this is a
8 symptom of the trauma that he has been describing or not.

9 [14.10.51]

10 Now, you don't need to go exhaustively through what the civil
11 parties have done, but just a few examples might -- might be of
12 assistance.

13 Have I made that clear enough for you?

14 BY MR. PICH ANG:

15 Thank you, Your Honour, for making this point clear for me.

16 As a matter of fact, my colleague, Madam Simonneau --

17 Simonneau-Fort will dwell on this issue in a specific manner;
18 that's why I raise this point now as a -- in a broad term, but
19 with your instruction, I would like to move to a more specific
20 point.

21 Q. Mr. Expert, have you assessed or followed the testimony of the
22 civil party who have been summoned to the Court to testify here
23 concerning their traumatic experience as well as their suffering?

24 Have you followed this line of testimony?

25 [14.12.34]

1 MR. CHHIM SOTHEARA:

2 A. I did not follow this testimony because over the last couple
3 of weeks, I was on my trip overseas; however, I actually have
4 consulted some civil parties in Case 002, as well, for example,
5 one lady who was tortured. To be more specific, she was rape --
6 raped during the Khmer Rouge period. She was raped and then she
7 was tortured, as well, and her dramatic experience was so painful
8 and she has hidden it with herself. She has never shared this
9 painful experience with anyone and that make it even more painful
10 for her, so it make it very difficult for her.

11 When she speaks out, she needs support -- psychological support,
12 with people around her. When she speaks it out, she try to recall
13 that painful experience, so she received the counselling from us.
14 Before she chose avoidance as her coping strategy.

15 [14.14.05]

16 She became despaired for her future. She was hopeless and she had
17 nightmares of what had happened in her life. She tried to avoid
18 everyone. She lived in fear and whenever she encounters something
19 or any event similar to what she had encountered, she was
20 terrified; for example, people wearing in black, people talking
21 loud for instance.

22 Q. Thank you, Mr. Expert, but I will -- I will dwell on each
23 individual case of the civil party later on, but for now, I can
24 bring up the experience of two civil party; one is Mr. Yim
25 Roumdoul and the other was the experience of Madam Seng Sivutha.

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1 Both of them were the victims during the regime.
2 They were both evacuated out of Phnom Penh and along the way they
3 encountered a lot of barbaric activities along the road. She was
4 forced to leave Phnom Penh. They were expelled from their house
5 and they were evicted from the place where they stayed when they
6 went along the ways and the situation that she encountered along
7 the way, for example, stepping on the corpses or she had to walk
8 non-stop and she had pains -- all the pains all over her legs and
9 other difficulties that they endured. Actually, I cannot
10 enumerate all the difficulties they encountered in details, but
11 at that time, both of them were around 9 or 11 years of age.

12 [14.16.00]

13 I would like to ask for your expert opinion concerning the
14 impacts on them at this age. What -- what would be the impacts on
15 these children and whether or not these impacts were far-reaching
16 for them in their later life?

17 MR. PRESIDENT:

18 Mr. Expert, please hold on.

19 Mr. Koppe, you may proceed.

20 MR. KOPPE:

21 Thank you, Mr. President.

22 I object to this question. It might be different if the civil --
23 if the Lead Co-Lawyer would describe the trauma experienced by
24 the particular civil party and then might ask the question
25 whether this trauma fits in his general practice or in his ideas

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1 as an expert, but to just state whatever the victim or the civil
2 party has overcome, that can impossibly lead to an expert answer
3 of this expert because, as we have seen, all reports show that
4 maybe 10 or 14 per cent of the people suffer from posttraumatic
5 stress syndrome and the rest of the people who suffered do not
6 have these effects.

7 [14.17.26]

8 So I think the Lead Co-Lawyer should describe the trauma and then
9 ask if this is a -- if this fits in a general pattern and not
10 describe whatever the specific civil party has endured.

11 MR. PICH ANG:

12 Hearing what Mr. Koppe has just said, it is something that I am
13 doing now.

14 MR. PRESIDENT:

15 The objection and the grounds for objection by the defence team
16 for Mr. Nuon Chea are founded and most appropriate; therefore,
17 the expert is instructed not to respond to the last question
18 posed by the Lead Co-Lawyer for the civil party.

19 [14.18.28]

20 And Counsel, please try to rephrase your question for the expert.
21 We wish to remind you that this expert was not in the public
22 gallery or he was not following the testimony as well as the
23 statement of suffering of the previous civil parties that the
24 Chamber has summoned them to testify before the Chamber in the
25 last few weeks or this -- this week.

1 So, you should take this factor into consideration; otherwise,
2 you may run the risk of losing the times that you should have
3 saved to ask the expert.

4 BY MR. PICH ANG:

5 Q. Based on your study on the symptoms or so of the victims, I
6 would like you to enlighten the Court about the psychological
7 impacts on the children.

8 MR. CHHIM SOTHEARA:

9 A. Thank you. In the evacuation, particularly, the evacuation
10 from their family residence, of course they would be affected
11 regardless of whether or not they are old or young, so this was a
12 traumatic experience as well.

13 [14.20.20]

14 And, of course, as children, they do not have sufficient coping
15 strategy with this traumatic experience because when they are
16 very young, they had to stay far away from the place that they
17 are familiar; then this experience was even more traumatic
18 because normally, when they stay in a place, they have some
19 attachments to the place and the people over there. So when they
20 are evacuated, they are detached from that attachment, so they
21 lose the opportunity to interact or to socialize with others.
22 When they are evacuated to a different place, an unknown
23 location, they have to encounter a lot of difficulties over
24 there; for example, they do not have proper shelter; they had to
25 work very hard over there; and when they became sick, they did

1 not receive proper treatments. So these are the psychological
2 impact that children would have.

3 [14.21.30]

4 And, as for children, through these traumatic experience, they
5 lose their future vision; in other words, their vision for the
6 future may be tarnished unlike people who are mature enough to
7 think of what will happen to them in the future.

8 Once again, to be more specific, children may be -- may lose the
9 sense of growth for the future and in the future, the
10 psychological impacts might be far-reaching; for example,
11 children might suffer from PTSD or they have behavioural problem,
12 for example, and they also have -- they -- they may have the
13 anti-social behaviour, may -- they may become aggressive, and
14 they may become sadist, for example.

15 At that times, they are -- they -- they were young; they were --
16 but now, they are parents in the family, so if they have
17 sustained this traumatic experience and they have psychological
18 problems -- when they were young they were put in the child unit
19 and they were subject to tortures and hard labours or so -- so
20 when they are raising their children, probably they tend to raise
21 their children in a more hostile manner. This may be the
22 consequence for the -- their children.

23 [14.23.13]

24 Q. How about children who became orphans; they lost their parents
25 and relatives, do you think that their psychological status would

1 be the same as those children you have just described?

2 A. Generally, the traumatic experience is quite similar from one
3 person to another, but for children who lost their parents, it's
4 even more severe because upon the return of -- when the Khmer
5 Rouge regime was over, they did not have anyone to rely on. They
6 did not have the social support.

7 Those who received social support during the Khmer Rouge period
8 or after the Khmer Rouge period, normally their psychological
9 status is better; better than those who did not have the family
10 and social support, so of course, in general, they are affected
11 by the traumatic event, but their condition is more severe than
12 those who have their family support.

13 [14.24.36]

14 Q. I raised this issue because there is one civil party. I would
15 like to know whether or not this particular civil party has a
16 feeling that he feel different from others; that he was an orphan
17 from a very young age and he look at everyone; they had their
18 parents, and can you draw the -- or can you enlighten the Court
19 as to what the -- what is the likely behaviour of -- of the
20 person of this kind?

21 A. Of course these people tend to regret about things in life and
22 they resent very easily for -- they feel they have resentment of
23 everything that happens in their life and normally these people
24 may suffer from a psychological problem which is normally known
25 as grief. This person is behaving like a grief-stricken person

1 who lost his loved one.

2 And recently, the centre against genocidal crimes in Berlin, they
3 conducted study on over 700 people. They suffer from grief.

4 Normally, they -- they are very resentful because they have lost
5 their parents. They are resentful because they have not received
6 sufficient support from the societal organizations and people
7 around them.

8 [14.26.21]

9 Q. I have only two more questions before I hand over to my
10 esteemed colleagues.

11 For those who have been evacuated and then resided in the
12 countryside and their children died one after another by various
13 reasons, whether it be disease or killing, so I would like to
14 know the -- the psychological impact of a mother as a consequence
15 of this traumatic event.

16 A. As I said earlier, concerning the loss -- people who lost
17 their loved ones may have a much more severe traumatic
18 experience. They -- in addition to losing the property and
19 belongings they had, they also lost their loved ones.

20 These have a very severe psychological impact because they lost
21 their loved ones, then this person tend to become very lonely and
22 he or she becomes despaired and he or she do not want to achieve
23 anything in life because they still have sentiment for the loved
24 ones who was gone. So this traumatic experience remains with the
25 victims.

1 [14.28.00]

2 Q. My last question for you: For the people who was forcibly
3 evacuated out of the city, when they arrived in the base -- in
4 the countryside, they were discriminated against. Treatment
5 against them was completely different from the Base People and
6 they were forced to work extremely hard over there, so I would
7 like to know the psychological impacts to the victims of this
8 kind.

9 A. As far as the psychological impact is concerned, during the
10 Khmer Rouge period virtually everyone was affected by this. At
11 that time, there was a segregation between New People and Old
12 People.

13 This was a circumstance that the New People were living in fear
14 because they had a feeling that they were classified as New
15 People and they were the target of surveillance. They were prone
16 to attack. They were prone to allegation by others and
17 implication by others, as well, so they had the sense of losing
18 their identity. And they were the people who were subject to
19 surveillance and implication and they were also subject to being
20 killed, as well, so they lost their identity.

21 [14.29.44]

22 And losing one's identity is a very severe, traumatic experience
23 because these people were considered detached from the mainstream
24 society; that they do not enjoy what they should have in society.

25 Q. Just -- just a follow-up to this. Is this your observation or

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1 it is your guesstimation (sic) of that concerning these impacts?

2 A. It is based on the experience and personally, I also lived
3 through the regime and I was also considered as a New Person and
4 that's the feeling that I have had and I believe the rest would
5 feel the same.

6 MR. PICH ANG:

7 Mr. President, I conclude my question session now and I would
8 like to hand the floor to my international colleague.

9 Thank you, Mr. President.

10 [14.30.50]

11 MR. PRESIDENT:

12 Yes, you may proceed, International Counsel.

13 QUESTIONING BY MS. SIMONNEAU-FORT:

14 Q. Thank you, Mr. President.

15 Good afternoon, Mr. Expert. I will put a few questions to you
16 relying on your professional practice and experience with
17 victims; not only with civil parties, but with victims, as well;
18 victims of Khmer Rouge you've been able to meet as patients.

19 As a follow-up question, I would like to revisit a term you and
20 my colleague used and the term is "baksbat"; can you tell us a
21 bit more about that term?

22 [14.31.50]

23 MR. CHHIM SOTHEARA:

24 A. Thank you for your question.

25 The word in Khmer which pronounced "baksbat", that is in --

1 literally means broken courage. In the dictionary of ^Samdech
2 Soung Chuon Nath (phonetic), it describes the -- identifies that
3 the word "baksbat" is the word coming from two separate words --
4 that is, the breaking part and the other part is the physical
5 aspect, so it's the -- the physical breakage.

6 And that definition also refers to the psychological impact of a
7 person and it means the --psychologically the person is damaged
8 or broken. However, the word "baksbat" in the scientific sense,
9 it -- it is more extensive than that. It refers to the suffering
10 received by the Cambodian people through the regime.

11 [14.33.22]

12 Q. Thank you. You have answered the next question I had for you
13 since you relate this syndrome to victims -- victims of the Khmer
14 Rouge regime.

15 May I now go a bit more into detail regarding follow-up. You have
16 stated that some victims do not wish to talk about events they
17 endured under the Khmer Rouge regime. Did you meet victims who
18 told you they didn't wish to talk about the crimes to their
19 children and if yes, why did they not want to talk to you about
20 them?

21 A. Thank you for your question.

22 More often than not, victims -- the trauma victims would possess
23 one of the symptoms -- that is, the -- the avoidance; that they
24 don't want to talk about what happened in the past or what they
25 endured because by recalling the event, they would feel the pain.

1 So by being avoidance, the person would be in a better status and
2 for that reason, they decline to touch upon the issue.

3 I'd like also to add that Cambodian people -- that is, the
4 majority of them, seems to fall into this avoidance symptom more
5 than the other people in the world -- that is, the post-war or
6 traumatic experience. So my general observation is that Cambodian
7 people avoid talking about the Khmer Rouge regime even within the
8 family circle.

9 [14.35.30]

10 And as for the victims, if I do not ask them, they would not tell
11 me about that. They find it difficult to -- to tell me and even
12 if -- when I ask the person, the person would take some time to
13 recollect himself or herself before he or she would tell me about
14 the experience.

15 Q. Thank you. At a deeper level, do you know whether some victims
16 did not want to talk, particularly, about the experiences to
17 their children and did they tell you why it was impossible for
18 them to talk to them about those experiences?

19 A. The facts that they don't want to describe the situation to
20 their children is that due to the traumatic experience, they try
21 not to describe the situation or the event. And in Cambodia, it
22 seems, there is a collective voice for them not to let them speak
23 about it and that happened throughout the country. In general, we
24 can observe that a lot of Cambodian people do not want to talk
25 about that.

1 And secondly, they may feel that they are not ready or to tell
2 them as they feel the -- the children -- their children are not
3 ready to hear about those events as they might have an impact
4 upon the children or that the children may not understand the --
5 the events and for that reason, they avoid retelling the story to
6 their children.

7 [14.37.51]

8 Q. Thank you. Still on this topic of parents who didn't want to
9 talk about their experiences, did you meet persons who told you
10 how they met the perpetrators of acts of violence and how they
11 did not want to meet those persons who committed those acts of
12 violence?

13 A. No, I have not met a victim who meets with a perpetrator;
14 however, I met a number of the victims who do not want to speak
15 about that due to the -- the symptoms that I talk about and due
16 to fear.

17 Q. Thank you. I would like to talk about the specific topic of
18 children who lived during the Khmer Rouge regime.

19 We heard testimonies of a number of persons and we also read the
20 statements of certain civil parties as well as applications. Did
21 you mean the patients who are victims of the Khmer Rouge and who
22 had been children during that era and who told you that the
23 denounced persons -- they had denounced their parents, or who
24 told you the Khmer Rouge asked them to denounce their parents?

25 [14.39.39]

1 A. Yes, I met a number of this kind of patients, in particular,
2 those who received the service from our TPO organization. They
3 were the children during the Khmer Rouge regime and now they are
4 parents of their children.

5 And, as I stated earlier regarding the broken courage or
6 "baksbat", when they experienced the traumatized experience, they
7 lost their courage. However, after receiving the -- the treatment
8 from our organization, they feel better; they relieve the fear
9 that they have held to it and that they became more confident and
10 that they -- they regain their hope.

11 Initially, they refuse to take our service offer, but later on,
12 they feel that it's -- it's a -- a benefit for them and that they
13 could actually stand before the events or could even come to
14 testify before the Court.

15 [14.41.16]

16 Q. Thank you. I would like to talk about disorders with specific
17 regard to children. Perhaps your professional experience would
18 enable you to say something on that subject.

19 Did you meet children from the Khmer Rouge era who told you about
20 the very fact that they were under the authorities of Angkar
21 instead of being under the authority of their children (sic) and
22 if yes, what did they tell you in that regard?

23 MR. PRESIDENT:

24 Expert, please wait.

25 The defence counsel for Nuon Chea, you may proceed.

1 MR. KOPPE:

2 Thank you, Mr. President.

3 I've been listening for a while to the questions of the Lead
4 Co-Lawyer and to be honest, although it's not my allotted time so
5 maybe I shouldn't object, but I really have no idea what the
6 relevance of these questions are.

7 [14.42.24]

8 Either the questions are directed to the expert witness in his
9 capacity as a treating psychiatrist or psychologist and he could
10 say something in general about the patients that he is treating
11 or he is asked questions as an expert, for instance, in respect
12 of the article that he wrote -- co-wrote in the "Journal of
13 Affective Disorders". Now, we have just questions about him
14 meeting people who may be victims or not; we have no idea about
15 representivity (sic), so I'm -- I'm happy to -- to listen to his
16 -- to -- to the testimony, but it's completely irrelevant.

17 [14.43.15]

18 MS. SIMONNEAU-FORT:

19 If I may respond, Mr. President?

20 I am surprised at this objection. I believe that an expert
21 appeared before this Chamber to testify not only to what he
22 wrote, but also to his or her professional practice and
23 experience.

24 This expert is here because he has met with a number of victims
25 of the Khmer Rouge and I believe he's entirely capable, based on

1 his professional practice, to testify. And it is more important
2 than his writings and none of those writings are in the Tribunal
3 interface today.

4 (Judges deliberate)

5 [14.45.53]

6 MR. PRESIDENT:

7 I'd like to give the floor to Judge Lavergne to clarify on the
8 objection raised by the international counsel for Nuon Chea on
9 the last question put to the expert by the International Lead
10 Co-Lawyer.

11 You may proceed, Judge Lavergne.

12 JUDGE LAVERGNE:

13 Yes, thank you, Mr. President.

14 Regarding the question of the civil party Lead Co-Lawyer, the
15 Chamber would like the Lead Co-Lawyer to be more specific in the
16 questions she puts to the expert with a view to assessing the
17 impact on victims.

18 [14.46.41]

19 And it is the -Nuon Chea's defence counsel will definitely have
20 the opportunity to put specific questions to the expert if they
21 so wish in order to assess the relevance of the testimony of this
22 expert.

23 BY MS. SIMONNEAU-FORT:

24 Thank you, Your Honour. I will try to comply with the Chamber's
25 instructions, but I'm relying on all what has already been

1 decided before this Chamber.

2 Q. We have heard persons before this Chamber who explained that
3 -- that parents who were separated from their children or
4 children were separated from parents by Angkar. Do you receive
5 any patients who were victims of the Khmer Rouge and who told you
6 that they were separated from their parents?

7 [14.47.58]

8 A. Allow me to say that there are several patients who were under
9 the care of Angkar and those who were separated from their family
10 and that they lived in a detention centre or lived in the
11 children's units, and they were indoctrinated with an ideology
12 which should not be at all used for the children.
13 They were told that they did not belong to the parents, but they
14 indeed belong to -- to Angkar and that, for that reason, they
15 should obey Angkar at all time. And some of them even reported to
16 Angkar about their parents and that's what we called Angkar
17 brainwashed those children.

18 MR. PRESIDENT:

19 Thank you, Mr. Expert, and the Lead Co-Lawyer for civil parties.

20 We will take 15 minutes break and return at five past 3.00.

21 Court Officer, could you assist the expert during the break and
22 have him returned to the courtroom at five past 3.00?

23 (Court recesses from 1449H to 1505H)

24 MR. PRESIDENT:

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

1 I give the floor back to the Lead Co-Lawyer for the civil party
2 to put the question to the expert. You have 25 minutes left.

3 BY MS. SIMONNEAU-FORT:

4 Thank you, Mr. President.

5 Q. Mr. Expert, I wish to open a new topic, that being forced
6 transfer. I shall ask you a few questions based on your
7 professional practice and your experience working with victims of
8 the Khmer Rouge; also, based on what has been said during the
9 hearings over recent months.

10 Could you please tell the Court, based on your professional
11 experience in your work with victims, elaborate for us the impact
12 of having left their homes, of the victims having left everything
13 they knew and owned; can you please tell us what the victims told
14 you about the impact on them as a result of leaving their homes,
15 leaving their memories, leaving their belongings, and leaving
16 everything that they knew?

17 [15.07.53]

18 MR. CHHIM SOTHEARA:

19 A. Thank you, Counsel.

20 As I have enlighten the Court earlier, when we live somewhere, we
21 have an attachment with that place, with the neighbourhood, with
22 the people whom you interact with, but then if there is anything
23 that forces people to leave their location, for example, the
24 evacuation during the Khmer Rouge period, then this attachment
25 was detached. In other words, we left our house and then we lose

1 security; our sense of security is diminished.

2 We lose the place where we worship. We lose the memory -- good

3 memory of the place. We feel rather insecure in terms of

4 spiritual as well as physical security and in addition, we would

5 feel the loss of the place which we are familiar, for example, we

6 lose the source of income. We lose the place where we have

7 acquainted with.

8 [15.09.30]

9 For example, the philosopher of India once said that a home is a

10 best school, so if someone is forced to leave their home, then it

11 means that they loses everything. They lose their contact, their

12 attachment with the -- with their family and their surroundings.

13 During the Khmer Rouge period when people were forcibly

14 evacuated, they were detached from their loved one; for example,

15 parents were separated from children. So in the course of

16 evacuation, it was not the evacuation of people per se that was

17 problematic, at that time, that causes traumatic experience, but

18 they were also torture and they were subject to hard labour,

19 including the living condition under constant threat. This was a

20 traumatic experience.

21 [15.10.37]

22 Once they were evacuated to any location, then they were

23 discriminated against and then the Khmer Rouge soldier at the

24 base had strict surveillance on them trying to find out their

25 family biography also, so they lived under constant threat and as

1 a consequence, that was a traumatic experience and they lived in
2 constant fears.

3 Some patients -- one of the patient that I have treated, when he
4 was moved to a new location, he had a lot of hardship. He had to
5 worship, but at that time, he did not even know which God he had
6 to worship. He did not know whether or not that place were a
7 sacred place for any religious belief because, at that time,
8 mosque or churches or pagodas were build, so the worship
9 traditions and religious ritual were destroyed and they had a
10 sense of disorientation of place and time, so it seems like the
11 person was living in a completely new environment where he had to
12 resocialize. This is something that affects the psychological
13 status of a person.

14 [15.12.35]

15 Q. Thank you, Mr. Expert.

16 During the forced transfer, many people described that they were
17 victims of very violent scenes. Based on what you have heard
18 during your work, can you tell us if any of your clients had
19 suffered from any form of psychological or mental disorder as a
20 result of having observed -- observed those violent scenes?

21 A. Well, the psychological disorder may be the direct result of
22 the direct encounterance (sic) of the traumatic event or by
23 witnessing the traumatic events or by just overheard the event.
24 These events may lead to a traumatic experience. Now, if the
25 person did not encounter this by himself, but the person witness

1 the traumatic event, then he -- his -- he also suffered
2 psychological disorder and some victims only overheard the
3 traumatic events, then he suffered this mental and psychological
4 disorder.

5 [15.14.04]

6 Q. Had you taken notice of this during your professional
7 practice?

8 A. Indeed, I have. They suffer psychological disorder concerning
9 this evacuation.

10 Q. Thank you.

11 Let us return to another topic that has been raised frequently by
12 the civil parties, that being the perpetual hunger and famine
13 that plagued the victims. Did you talk -- did you ever hear about
14 the victims talk about this permanent hunger? It's been raised by
15 others as well.

16 And can you please tell us what consequences this may have had on
17 the victims and on their thoughts?

18 MR. PRESIDENT:

19 Mr. Expert, please hold on.

20 Counsel, you may proceed.

21 [15.15.38]

22 MR. KOPPE:

23 Thank you, Mr. President.

24 Again, I object to the phraseology in the questions of the Lead
25 Co-Lawyer. Are we speaking about victims in general? Are we

1 speaking about patients in his practice? Are we speaking about
2 people who were subject of -- of a questionnaire used in this
3 article in the "Journal of Affective Disorders"?

4 We can't -- we cannot speak in general terms about victims. We
5 have to be very specific. Whether the expert now is speaking
6 while answering about the things that he has encountered in his
7 practice or whether it is something that he has encountered while
8 talking to people on the street or wherever.

9 MS. SIMONNEAU-FORT:

10 Mr. President, once again, I'm rather astonished by this type of
11 objection. I understand that my esteemed friend does not want to
12 hear the expert make his comments; however, I've been asking
13 several questions on the basis of his professional experience
14 with, very specifically, victims of the Khmer Rouge. I believe
15 that he's in a good position to talk about his experience in
16 working with Khmer rouge victims and not random people that he
17 meets in the street.

18 The comment just made is entirely out of place. I believe that
19 this should be -- should have been understood from the very
20 outset.

21 (Judges deliberate)

22 [15.19.48]

23 MR. PRESIDENT:

24 The Lead Co-Lawyer shall now proceed with her question.

25 And for Mr. Koppe, you will have the opportunity to ask for

1 clarification from the expert. If on any point you are not clear,
2 then you can always ask for clarification with the expert.

3 You may proceed, Counsel.

4 BY MS. SIMONNEAU-FORT:

5 Q. Thank you, Mr. Expert. Would you like me to repeat my question
6 for you?

7 MR. CHHIM SOTHEARA:

8 A. Yes. If you don't mind, please.

9 [15.20.34]

10 Q. I raised the fact that many victims had talked about their
11 permanent hunger and famine and how this hunger had dictated
12 their behaviour. Did you ever hear of any victims talk about
13 their hunger and their famine? And can you please tell the Court
14 if, in your professional opinion, bore an impact on their
15 behaviour or thought processes? And if so, what kind of effect
16 was there?

17 A. Thank you. The traumatic experience is an event that is so
18 overwhelmed that a person, himself, cannot cope. Now, this
19 traumatic experience has led to the change of behaviour and
20 thought process of the person. This also leads to the change of
21 his belief as well as his interaction with others around him. So,
22 if he is under a traumatic experience, for example, at that time,
23 they were under widespread hunger, then the -- the thought
24 process were bound to change. Now, he may -- he or she may forget
25 to comply with the moral obligation, for example, at that time.

1 [15.22.36]

2 And I remember during the Khmer Rouge regime the victims said
3 they could do whatever in order to find something to eat, so this
4 traumatic life experience had far-reaching impact and he or she
5 may change the behaviour. I cannot be precise whether or not this
6 impact has the impact until today or it has already been over.

7 Q. Thank you. In the interest of moving forward because time is
8 of the essence, I'll ask you to speak briefly.

9 You, yourself, talk about how frequently the victims spoke to you
10 about hunger. Can you please tell us to what extent they talked
11 to you about their hunger?

12 A. It was -- it was a common thing because people, at that time,
13 told us about the extreme hunger that they had to endure.

14 [15.24.07]

15 Q. I wish to ask you a question regarding children who described
16 to what extent it was difficult for them to see their parents
17 lose their strength, their energy, their courage; to see their
18 parents fall ill and suffer from hunger. Did you ever hear about
19 victims -- did you hear from victims who described to you that
20 and described to you how difficult it was for them to see their
21 parents change and deteriorate before their eyes?

22 A. Yes, I have heard from the victims, from the patients. They
23 have described the event. For example, they witnessed their
24 parents committing minor mistakes and then they were forbidden
25 from crying out, so they expressed their sorrowful -- sorrow for

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1 their parents.

2 This was another psychological pressure added up to their
3 existing pressure. As a result, they had tension; you know, the
4 mental strain, and they could almost -- they could hardly stand.

5 [15.25.45]

6 Q. Thank you.

7 Let us now turn to the community of Cambodians who are living
8 abroad. Have you ever had the opportunity to meet with victims
9 who survived the Khmer Rouge, who had lived during the regime,
10 who are victims of the Khmer Rouge, and who are now living
11 abroad?

12 A. Well, I have met through my internship when I was studying in
13 New South Wales University in Australia.

14 Q. Can you -- can you please tell us what kind of psychological
15 disorder these people suffered from?

16 A. For all of us, we generally think that Cambodian people who
17 have migrated to a third -- a country -- a second country like in
18 developed worlds, we probably think that their welfare and
19 well-being is much better than those who are staying back in the
20 country, but actually those people sustain their suffering like
21 Cambodian people back in Cambodia, too, because those people who
22 have come across the Khmer Rouge period, once again, they lost
23 the attachment. During that period, they had to endure a lot of
24 difficulties in life. So once again, the suffering still persists
25 with them.

1 [15.27.47]

2 Cambodian people who reside overseas now may find that they are
3 living in more secure place. They receive more social support
4 than those in Cambodia, but what they are lack of is the
5 attachment; attachment to their home country, attachment that
6 they had with Cambodia; for example, cultural relation and
7 attachments, the attachment to a religious institution or
8 buildings.

9 For example, in the place where they reside, they do not have a
10 place to worship according to their religious belief and over
11 there; they have difficulties in communicating with them because
12 of language barrier.

13 So there was study by Professor Hinton in the United States. It
14 finds that the lack of intercultural support, the symptom of
15 psychological disorder appears and the PTSD also is rising as
16 well as a consequence of the lack of support.

17 [15.28.55]

18 And in the course of my internship in Australia, I also noticed
19 that they also expressed their suffering and the psychiatrist or
20 the mental health counselor in Australia could not really help
21 them that much, but once they consulted with a Cambodian
22 counselor over there, they decided to return to Cambodia to
23 practice certain religious rituals. They organize certain
24 religious events for their lost parents and other relatives; then
25 the person got better because they believe that they have done

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1 something for them. Then when they return to Australia, these
2 people become more active.
3 So once again, those people who -- who go to live in a farther
4 place from their home country, they encounter some difficulties;
5 social barrier, language barrier, and so on. They tend to also
6 experience some difficulty.

7 Some -- a professor in the U.S. also finds that even those that
8 have live in the United States for 20 years, these people are
9 also subject to problems of PTSD as well as other psychological
10 disorder.

11 Q. Did you, yourself, have the possibility to identify perhaps
12 not in precise percentages, but at least have an idea of the
13 number of Cambodians living abroad who were once -- who were --
14 who are the Khmer Rouge victims and who are now afflicted with
15 some form of a psychological or mental disorder?

16 [15.30.59]

17 MR. PRESIDENT:

18 Expert, please wait.

19 Counsel Victor Koppe, you may proceed.

20 MR. KOPPE:

21 With all respect, Mr. President, what kind of question is that?
22 Do you have an idea about how many people -- I mean, this is an
23 expert. Let's at least ask him questions about scientific
24 research on this topic, but just broadly ask him what -- if he
25 has an idea. I mean -- really.

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1 BY MS. SIMONNEAU-FORT:

2 Q. I will reformulate my question.

3 In your capacity as an expert, did you have the opportunity to
4 assess the percentage of persons among Cambodian "émigrés" who
5 continued to suffer from posttraumatic stress disorder? If so,
6 can you please say something about it, please?

7 [15.32.20]

8 MR. CHHIM SOTHEARA:

9 A. I did not go and practice overseas or with the Khmer who lived
10 overseas but with the scientific studies of certain scholars who
11 dealt with the Cambodian people, and one of the studies by Grant
12 Marshall -- that is, after the 20-year period of settlement in
13 another country, the rate of PTSD remained at about 60 per cent
14 and the depression rate is about 50 per cent -- that is amongst
15 those -- the subjects of whom he studied -- that is about 1,000
16 of them.

17 MR. PRESIDENT:

18 Your time is up, Lead Co-Lawyer. The floor is now given to the
19 Prosecution.

20 MS. SIMONNEAU-FORT:

21 Mr. President, there were many interruptions in my questioning.
22 Please give me five minutes more and I will be done with my
23 examination.

24 [15.33.38]

25 MR. PRESIDENT:

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1 We will give you five more minutes, but in order not to be
2 interrupted or objected, please make your lines of questioning
3 properly so that you will not be objected by the other side. You
4 may proceed.

5 BY MS. SIMONNEAU-FORT:

6 Q. Mr. Expert, could you please tell us a word regarding victims
7 who may have talked to you about suffering stemming from the
8 prohibition from practising their religions that is based on your
9 experience? Can you say something about that?

10 MR. CHHIM SOTHEARA:

11 A. Yes, I heard about that. They -- in general, Cambodian people
12 when they first -- issues they would seek assistance, first in
13 the form of a religious belief, but they lacked that aspect under
14 the Khmer Rouge regime.

15 [15.35.05]

16 And for a regime that did not have sufficient medical health and
17 health assistance, they would only resort to religious belief,
18 but turning to such a belief under that regime or to a magic type
19 of belief, was not available under the regime so they lost that
20 aspect of assistance under the regime.

21 Q. Lastly, Mr. Expert, based on your experience with victims of
22 the Khmer Rouge you met, based on the grievances that they
23 expressed, can you tell us what the psychological needs are
24 today?

25 A. In order to treat the trauma, there are a number of factors.

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1 Firstly, it could be a medical treatment and a counselling
2 service. And, secondly, in relation to the needs, their needs, we
3 need to know what their needs are. In principle, the patient
4 needs harmony, needs justice and wants to know the truth, and
5 needs to be respected in terms of their identity, their culture,
6 and the increase in their economy. So if they could be afforded
7 with all these needs then their psychological trauma aspect would
8 be treated or cured.

9 [15.37.13]

10 In terms of service provided by TPO in Case 001, civil parties
11 wanted a justice besides the psychological assistance by TPO and
12 they wanted an opportunity to participate in the reparation and
13 to share their truthful experience and they want to be part of
14 the education to prevent such occurrence. And some also said that
15 it's kind of an obligation as a child who must pay respect to the
16 parents.

17 MS. SIMONNEAU-FORT:

18 Thank you, Mr. Expert.

19 I have no further questions for the expert, Mr. President.

20 MR. PRESIDENT:

21 The floor is now given to the prosecution to put questions to
22 this expert. You may proceed.

23 MR. DE WILDE D'ESTMAEL:

24 Thank you, Mr. President. Good afternoon to everyone. Good

25 afternoon, Mr. Expert. I have only 15 minutes for my examination

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1 and I have many questions. I will try to ask some of them and I
2 will request that you be as concise as possible. I am interested
3 in psychological and psychiatric examinations of victims that you
4 have treated during your long experience as a psychiatrist.

5 [15.39.19]

6 QUESTIONING BY MR. DE WILDE D'ESTMAEL:

7 Q. If I understood your testimony correctly, the reactivation of
8 souvenirs, the pain of civil parties can have negative,
9 short-term effects in terms of increasing suffering and anger,
10 but it may also have positive long-term effects if these people
11 are allowed to speak out. Did I understand your testimony
12 correctly?

13 [15.39.59]

14 MR. CHHIM SOTHEARA:

15 A. Thank you. And I'd like to focus on a study conducted by TPO
16 in Case 001. All of them showed their positive experience as they
17 were able to participate in providing their testimonies.

18 Initially, of course, it would trigger the memory that they could
19 not sleep and that they would feel the anxiety, but these kinds
20 of symptoms subsided upon the conclusion of their testimonies and
21 they felt that they were recognized by the Chamber that they were
22 given the opportunity to speak out and that the Chamber
23 recognized their suffering. That is the important aspect that
24 assisted them and that it will also help them in the future.

25 Q. Through such positive participation in the trial by civil

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1 parties, particularly those who are allowed to speak, would other
2 victims across the country identify with these participants and
3 in so doing feel represented by the civil parties, which means
4 that it would also be a step in the direction of healing for them
5 as well; the long journey to healing?

6 [15.41.52]

7 A. I think those people who participated in providing their
8 testimonies could be an example for those other victims. Some of
9 them, of course, would want to testify but they might be scared
10 or that could be due to other factors, as I said, the avoidance
11 factor. And upon seeing the appearance of civil parties, that
12 could trigger the change in their mind and that they may decide
13 at a later stage to testify and that is a positive thing and that
14 would lead to recovery and reconciliation.

15 Q. You have spoken at length about the syndrome of avoidance and
16 recoil on oneself and suppressing one's feelings regarding the
17 events that occurred during the Khmer Rouge era.

18 Regarding the symptoms related to this syndrome, do you have some
19 facts related to the Khmer Rouge regime? For instance, the
20 prohibition to express one's feelings, to mourn the dead, to
21 express one's opinions or the culture of secrecy among the Khmer
22 Rouge? Can these elements play a role in the syndrome that you
23 have just described?

24 [15.43.51]

25 A. In terms of avoidance, they would think there would be the

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1 opportunity for them to deal with the suffering and the fear, so
2 by being avoidance they would not face those two aspects and not
3 to speak about them.

4 Sometimes the events that took place under the Khmer Rouge regime
5 did not reflect through the symptom of avoidance, but when they
6 face a similar situation that would trigger such event and that
7 would lend to the symptoms of avoidance.

8 What happened during the Khmer Rouge regime is something that
9 happened and that was hidden and it was ready to pump out -- or
10 to jump out once it is triggered. So then we need to really focus
11 more on the aspect and to make sure whether it is the new event
12 that trigger the events that took place under the Khmer Rouge
13 regime.

14 [15.45.21]

15 Q. Thank you. Were there certain prevalent factors during the
16 Khmer Rouge regime that could aggravate the posttraumatic stress
17 disorder? Let me give you one example. For instance, failure to
18 understand the causes of the violence of the regime, the total
19 absence of political meaning in the acts of the regime have sense
20 of rationality, people dying for no reason, for instance.

21 Could all this have aggravated the sufferings of the syndrome
22 that the victims all suffered from? That is the post -traumatic
23 stress disorders the victims all suffered from.

24 A. Thank you for your questions. Beside the service of
25 psychological treatment and to meet the needs of the victims, it

1 is the sense of giving meaning to what happened under the Khmer
2 Rouge regime or to give the meaning to what happened in this
3 Court.

4 There is a study by Mr. Field on the psychological behaviour and
5 the feeling of taking revenge. Those people who have the
6 traumatic experience and want to seek revenge, that symptom is
7 linked to the fact that their sense of meaning is not that clear.
8 For example, when it comes to what this Court is doing or their
9 -- the meaning that they gave to the Court is wrong, incorrect.
10 The meaning that the person gave to "What happened under the
11 regime?" needs to be assisted somehow by other people and whether
12 their feeling can be reconciled or whether their feeling would
13 tempt them toward taking revenge.

14 [15.48.09]

15 Q. Thank you. I have three more questions to put to you.

16 Regarding persons who lost close relatives during the Khmer Rouge
17 regime, can they feel guilty vis-à-vis those who survived, do
18 they feel that? Do they feel guilty because they do not -- they
19 did not endure the fate of those who died during that period,
20 they did not endure the sufferings?

21 A. Yes, we did observe these symptoms for some of the patients. A
22 study conducted by the -- by an organization in Berlin regarding
23 the anti-torture aspect and which was conducted here in Phnom
24 Penh, some patients expressed their regret as they could not
25 defend or protect their relatives who died in the regime and

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1 usually they are connected to the immediate family members like
2 the children or the parents who died. Yes, there is a linkage.
3 [15.49.30]

4 Q. Thank you. What are the psychological risks and consequences
5 for civil parties, victims in general, of the denial of
6 responsibility on the part of the leaders of Democratic
7 Kampuchea? In other words, the fact that nobody is accepting
8 responsibility for what happened and are blaming the leaders who
9 are already dead or who are blaming the faceless Angkar.

10 A. Yes, as I just stated, one aspect of the treatment is to meet
11 the needs of the patients, and through our study of the civil
12 parties in Case 001, what they wanted is justice, and if what
13 happened to their relatives are revealed, and that would part of
14 the recovery mode for them.

15 Another study by Mr. Sonis in 2012 on the population, those who
16 feel that they received justice they would feel less traumatic
17 than the opposite group. So by getting justice it's an important
18 factor for them for future recovery.

19 [15.51.17]

20 Q. Does the denial of responsibility on the part of the leaders
21 be compensated by the possibility of them speaking during the
22 trial or the establishment of the facts and guilt during the
23 trial?

24 A. Yes, it is to a certain degree, but if there's a full recovery
25 from trauma I don't think it is not as easy as that. They would

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1 still have that kind of feeling in their mind if they are not
2 really clear on what actually happened and, of course, that would
3 continue to cause them this traumatic experience.

4 Q. This is my last question. From the standpoint of progress
5 towards healing on the part of the victims, how important is it
6 that the Khmer Rouge leaders be judged in this town by human
7 beings instead of being punished in the hereafter by their own
8 acts according to Buddhist beliefs?

9 MR. PRESIDENT:

10 Expert, please wait.

11 Counsel Victor Koppe, you may proceed.

12 [15.53.22]

13 MR. KOPPE:

14 Thank you, President. I hadn't realized that the expert is now
15 also an expert in religion and Buddhist religion. Maybe he is,
16 but so far we haven't established that, so I think this question
17 goes beyond the capacities of this expert.

18 MR. PRESIDENT:

19 Thank you, Counsel Koppe, and your objection is valid.

20 Expert, you are instructed not to respond to the last question
21 put to you by the prosecutor.

22 And the time is up for the prosecutor as well. The floor is now
23 given to Nuon Chea's defence.

24 MR. DE WILDE D'ESTMAEL:

25 Mr. President?

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1 MR. PRESIDENT:

2 The time is up for you. In fact, you said you will have only
3 three more questions but you asked four more questions, so the
4 floor is not given to you, and instead the floor is now given to
5 Nuon Chea's defence.

6 [15.54.38]

7 MR. DE WILDE D'ESTMAEL:

8 Mr. President, I just wanted to thank the expert for coming; that
9 is all.

10 MR. PRESIDENT:

11 Prosecutor, the time is up for you, so please be seated, and
12 Counsel Koppe you may proceed.

13 MR. KOPPE:

14 Thank you, Mr. President. I'm watching the clock, it's seven
15 minutes to 4.00. We had a long day today.

16 I had earlier raised the point of the Defence needing more time
17 to cross-examine this expert. Now we have been able to listen to
18 his answers this afternoon, so I can be more concrete and more
19 narrow in my request.

20 [15.55.25]

21 What my cross-examination in general terms would like to achieve
22 is that -- the establishment, first of all, whether the expert
23 might have, in fact, a bias against the Accused. In order to
24 establish that, whether it's the case yes or no, I need to ask
25 him questions about his ideas and notions about the Khmer Rouge

1 period and the Accused.

2 Secondly, I would like to establish whether this expert does, in
3 fact, have the academic qualifications to be called an expert.

4 Having heard his answers, having reviewed his curriculum vitae,
5 the Defence has serious doubts as to whether he might, in fact,
6 be called an expert. If he is, we should at least be able to
7 establish that and ask questions in that respect.

8 Thirdly, we would like to ask the expert questions about the
9 methodology used in his practice which led him to give his
10 answers that he has been giving this afternoon. Questions, for
11 instance, how many patients did he speak to, how many patients
12 does he have, how did he establish whether the patients that he
13 spoke to were, in fact, representative of victims; many questions
14 as concerns methodology of the answers that he's been giving.

15 [15.56.51]

16 Fourthly, I am puzzled I have to say. I have been reading with
17 great interest the articles and the publications put forward by
18 the civil parties. There are some very interesting things in
19 there, and I would like to ask the expert -- if he is an expert
20 indeed -- questions about that. As a matter of fact, he has
21 co-authored one of these articles and I feel that it is in the
22 interests of justice and the ascertaining of the truth if I'd be
23 able to ask him questions about the article that he has
24 co-authored, plus questions about the articles that he has just
25 mentioned which are also added to the case file if I might call

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1 it like this.

2 I might remember the Chamber that last week a request came from
3 the civil parties to have all these publications added to the
4 case file and sent, in fact, to the expert so that we could be
5 reading them beforehand and asking questions.

6 [15.57.54]

7 So I have been now using up my five minutes I think or my 10
8 minutes, but conclusion obviously is that we need much more time
9 to ask questions to Mr. Chhim Sotheara.

10 Quickly, responding already to an earlier point raised by the
11 prosecutor that we are too late in coming with this request, it
12 is true that we filed that -- we sent that email yesterday -- but
13 I think it is -- it was timely and maybe if we had -- what is it
14 -- 50 lawyers in our team, we could have done it a little earlier
15 than yesterday. But that doesn't change the fact that it is being
16 done timely.

17 And so I move to request the Chamber to postpone the testimony of
18 this expert to another day so as in order to give the Defence the
19 full rights of cross-examination which, under the fair trial
20 rights, are obviously one of the most important factors. Thank
21 you very much.

22 MR. PRESIDENT:

23 Counsel Koppe, can you tell us how much time you anticipate in
24 putting questions to this expert?

25 [15.59.20]

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1 MR. KOPPE:

2 Yes, Mr. President. We have indicated in our email that, of
3 course, depending on the answers being given by the expert, that
4 it might be a full day. However, on the other hand, I have also
5 established that a lot of answers that the expert has been giving
6 might not really lead to relevant evidence necessary for
7 ascertaining the truth. So it's -- I would say it depends on the
8 answers to our questions, but between half-a-day and a full day,
9 I would say.

10 MR. PRESIDENT:

11 What about Khieu Samphan's defence, can you tell us the time that
12 you anticipate?

13 MS. GUISSÉ:

14 Thank you, Mr. President, and good afternoon. As far as we are
15 concerned, in any case regarding all the issues raised by my
16 learned colleague, Koppe, we would need between -- we'd need
17 about 15 minutes.

18 MR. PRESIDENT:

19 Thank you.

20 How about Mr. Sotheara? Would you be available for the testimony
21 tomorrow either in the morning or in the afternoon?

22 [16.01.00]

23 MR. CHHIM SOTHEARA:

24 I would be busy in the morning, but I would be available in the
25 afternoon.

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1 MR. PRESIDENT:

2 Thank you.

3 Madam Counsel for the civil party, you may proceed.

4 MS. SIMONNEAU-FORT:

5 Yes, thank you, Mr. President. I would like to respond to the
6 arguments made by counsel for Nuon Chea, Mr. Koppe, who explains
7 that his objective is to establish some bias on the part of the
8 expert, and he also says that the expert is not competent.

9 Let me point out that since April 2011, this expert has been on
10 our list and he was scheduled to testify at least two weeks ago.

11 I believe my learned friend was aware of that and it is out of
12 the question to increase his time in light of the questions he
13 has because he had all the facts to appreciate the situation.

14 [16.02.10]

15 Regarding the issue that they had so many questions, I would say
16 that all of us have the same constraints. We have to cut down our
17 lists of questions and that is what we have done, and they should
18 do the same.

19 I would like to point out that counsel shouldn't talk about
20 questions or documents that are not on the interface because he
21 did not place them on the interface. He has the possibility to
22 ask questions but not on documents he did not place in the
23 interface.

24 And, lastly, let me point out that my learned friend has told us
25 he doesn't need - he doesn't have enough time and he needs extra

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1 time, whereas he knew well in advance that this expert was going
2 to appear and he did not make his request in time, so his request
3 should not be entertained.

4 [16.03.10]

5 MR. PRESIDENT:

6 Thank you.

7 Mr. Prosecutor, you may proceed.

8 MR. DE WILDE D'ESTMAEL:

9 Thank you, Mr. President. I, too, shall be very brief and simply
10 emphasize that the civil parties have conveyed to all parties the
11 table of information on victims' impact as a consequence of the
12 alleged crimes committed by the Khmer Rouge, and this dates back
13 to May 2013.

14 Your Chamber has also issued a subsequent calendar and schedule
15 based on that, and since yesterday we received a long email
16 contesting the time allocated.

17 The Defence could have done this on 3 May; the Defence could have
18 done this much earlier. And today it is making an entirely
19 excessive request to take up to half-a-day for questioning. This
20 is disproportionate, unreasonable.

21 [16.04.20]

22 The civil parties have been able to question the expert in the
23 time that they have been allotted. We have abided by all the
24 limits and restrictions. We have pointed to many studies, and
25 because of lack of time the Co-Prosecutors have been unable to

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1 address further studies.

2 Therefore, it is not justified to set aside time for the Defence,
3 time of up to half-a-day. This is completely excessive. It would
4 be reasonable to allot a further 30 minutes at most.

5 Thank you, Mr. President.

6 (Judges deliberate)

7 [16.14.15]

8 MR. PRESIDENT:

9 Thank you. After hearing the request made by the defence team for
10 Mr. Nuon Chea and the observation of other parties, the Chamber
11 has taken everything into consideration and the Chamber decides
12 to grant time for the two defence teams to put the questions to
13 the expert for the afternoon of tomorrow.

14 At the start of the hearing of the expert testimony, we will
15 grant the prosecutor additional 20 minutes at the beginning, if
16 you wish, to put the questions to the expert. And the remaining
17 time will be allotted to the two defence teams.

18 MR. DE WILDE D'ESTMAEL:

19 Mr. President, if that was a question then, indeed, the
20 Co-Prosecutors will use the 20 minutes that have been further
21 allotted.

22 [16.15.40]

23 MR. PRESIDENT:

24 Thank you.

25 I thank you, the expert. Your expert testimony has not yet been

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1 concluded. There has been many issues arising in the course of
2 your testimony this afternoon, and we appreciate that you avail
3 your time tomorrow afternoon to continue to testify before the
4 Chamber. The Chamber decides to hear your testimony tomorrow
5 afternoon starting from 1.30 in the afternoon. The Chamber
6 invites you to come to provide testimony in the afternoon.

7 [16.16.38]

8 The time is now appropriate for the day's adjournment. The
9 Chamber adjourns now and resumes tomorrow, the 6th of June 2013,
10 starting from 8.30 in the morning.

11 Tomorrow morning we will begin hearing the testimony of Mr.
12 Schanberg starting at 8.30 in the morning through videoconference
13 from the United States.

14 Court Officer, please assist the expert to return to his home or
15 to any direction he wishes to go and have him returned to this
16 courtroom tomorrow afternoon before 1.30.

17 Security guards are instructed to bring the co-accused, Mr. Nuon
18 Chea and Mr. Khieu Samphan, back to the detention facility and
19 have them returned to attend the proceedings tomorrow by 8.30 in
20 the morning. And as for Mr. Nuon Chea, he shall be brought to the
21 holding cell downstairs where audio-visual equipment is installed
22 for him to follow the proceedings remotely.

23 The Court is now adjourned.

24 (Court adjourns at 1618H)

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