



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

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

ឯកសារដើម
ORIGINAL/ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ (Date): 09-Jul-2013, 10:14
CMS/CFO: Sann Rada

TRANSCRIPT OF TRIAL PROCEEDINGS
PUBLIC
Case File N° 002/19-09-2007-ECCC/TC

02 July 2013
Trial Day 203

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

The Accused: NUON Chea
KHIEU Samphan

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MR. KOPPE	English
MR. LEV LAM (TCW-386)	Khmer
MR. LYSAK	English
MR. MAM RITHEA	Khmer
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. SENG BUNKHEANG	Khmer
MS. SIMONNEAU-FORT	French
MR. SON ARUN	Khmer
MR. VERCKEN	French
MS. YE	English

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

2 (Court opens at 0901H)

3 MR. PRESIDENT:

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

5 During today's session and as scheduled, the Chamber is hearing
6 the testimony of TCW-386.

7 Mr. Duch Phary, can you report to the Chamber the current status
8 of the parties to the proceedings and parties concerned?

9 [09.02.28]

10 THE GREFFIER:

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

13 On the side note, Nuon Chea is present in the holding cell
14 downstairs. It is pursuant to the decision of the Trial Chamber
15 concerning his health.

16 The National Lead Co-Lawyer for civil parties is absent due to
17 his personal business.

18 As reported by the President, today we will hear the testimony of
19 witness TCW-386. This witness has Mam Rithea as a duty counsel.

20 We also have a reserve witness - that is, TCW-689. This reserve
21 witness already took an oath this morning.

22 [09.03.41]

23 The witness also confirmed that the witness has no relationship
24 with any of the two Accused, Nuon Chea or Khieu Samphan, by blood
25 or by law, and to the best knowledge, this witness has no

2

1 relationship with any of the civil parties recognized in this
2 case.

3 Thank you, Mr. President.

4 MR. PRESIDENT:

5 Thank you.

6 Court Officer, could you invite the witness and the duty counsel
7 into the courtroom?

8 (Witness Lev Lam enters the courtroom)

9 [09.07.02]

10 QUESTIONING BY THE PRESIDENT:

11 Good morning, Mr. Witness.

12 Q. What is your name?

13 MR. LEV LAM:

14 A. My name is Lev Lam. I am from Kampong Chhnang.

15 Q. Thank you. How old you Mr. Lev Lam?

16 A. I am 58 years old.

17 Q. Where is your current address?

18 A. I live in Chrak Sangkae village, Svay Chuk commune, Sameakki

19 Mean Chey district, Kampong Chhnang province.

20 Q. What is your current occupation?

21 A. I am a rice farmer.

22 [09.08.18]

23 Q. What is your father's name?

24 A. My father's name is Pring Lev.

25 Q. And your mother's name?

1 A. Her name is Nuon Sem.

2 Q. And your wife's name? And how many children do you have?

3 A. My wife's name is Nou Rem, and we have 10 children.

4 Q. Thank you.

5 And, Mr. Lev Lam, as reported by the greffier, to the best of
6 your knowledge, you have no relationship by blood or by law to
7 any of the civil parties in this case nor to any of the two
8 Accused – that is, Nuon Chea and Khieu Samphan – and that you
9 already took an oath. Is this information correct?

10 A. Yes, I already took an oath.

11 [09.09.47]

12 Q. Are you related by blood or by law to any of the civil parties
13 or any of the two Accused, Nuon Chea and Khieu Samphan?

14 A. I am not related to any of them. I do not know them.

15 Q. Thank you.

16 We would like now to inform you of your right and obligation
17 before this Chamber.

18 Mr. Lev Lam, as a witness appearing before this Chamber, you may
19 refuse to respond to any question or request for comments or
20 assertions from you that could incriminate yourself. That is your
21 right against self-incrimination. And in order to help you in
22 this process, we grant you a duty counsel – that is in
23 collaboration with WESU – so that you can seek consultation with
24 this duty counsel for any question that you think might
25 incriminate you. And, of course, it is solely upon you to respond

4

1 or decline to respond to the question.

2 [09.11.26]

3 And now, on the obligation, as a witness, to appear before this
4 Chamber, you must respond to all the questions put to you by any
5 of the parties or any Judge of the Bench and you must tell the
6 truth that you have heard, have recalled, experienced or observed
7 directly in relation to any event put to you through the
8 questions by the parties or the Bench. Do you understand your
9 right and obligation as a witness appearing before this Chamber?

10 A. I do not understand it, Mr. President.

11 Q. Once again, you have the right not to respond to any question
12 that could incriminate you. And if you think it is this kind of
13 question, you may consult with the duty counsel, and then it is
14 up to you to respond or not to respond to this kind of question.
15 And you have the obligation to respond to all the questions put
16 to you by the parties or the Bench, except in the case that you
17 may think your response could incriminate you. And you must only
18 tell the truth that you have heard, have recalled, or
19 experienced, or observed directly regarding an event that is put
20 to you through the questions by the party or the Bench. Do you
21 understand that?

22 [09.13.23]

23 A. Yes, I understand now. And I will only respond based on what I
24 have experienced, have observed or recalled.

25 Q. Thank you.

5

1 Mr. Lev Lam, during the last few years have you been interviewed
2 by investigators of the Office of the Co-Investigating Judges?
3 And if so, how many times, when, and where?

4 A. I gave an interview at my house in July, I think, but I can't
5 recall either exactly. I was interviewed once.

6 Q. Was it at your house in Chrak Sangkae, in Svay Chuk, Sameakki
7 Mean Chey?

8 A. Yes, that is correct.

9 Q. Can you recall the year – the year of your interview?

10 A. It was in 2008.

11 Q. Thank you, Mr. Lev Lam. And before you appear before this
12 Chamber, have you read, reviewed or listened to the written
13 record of your interview with investigators at your house in
14 2008, in order to refresh your memory?

15 [09.15.31]

16 A. I was interviewed, and the counsel who – assisted me in
17 reading the written record, but I could not read it fully and I
18 was assisted by the counsel.

19 Q. To your best knowledge, do you think the written record of the
20 interview actually reflects your responses during your interview
21 with the investigators of the Office of the Co-Investigating
22 Judges in 2008?

23 A. Yes, the written record is similar to what I told them, but
24 there is one point in the written (sic) of the interview which is
25 incorrect, and I need to clarify that.

6

1 MR. PRESIDENT:

2 Thank you.

3 During the questioning of this witness, the Prosecution is given
4 the floor first. The Prosecution and the Lead Co-Lawyers for
5 civil parties is allocated half a day for questioning this
6 witness.

7 You may proceed.

8 [09.17.13]

9 MR. LYSAK:

10 Thank you, Mr. President. Good morning, Your Honours, counsel,
11 parties.

12 Mr. President, if I may start by presenting to the witness a copy
13 of his OCIJ interview, document D125/68, with your leave, if I
14 could have this submitted to the witness?

15 MR. PRESIDENT:

16 Yes, you may do so.

17 Court Officer, could you deliver the document from the
18 Prosecution for the witness examination?

19 [09.18.19]

20 QUESTIONING BY MR. LYSAK:

21 Good morning, Mr. Lev Lam. My name is Dale Lysak. I am one of the
22 international prosecutors and I will have some questions for you
23 this morning.

24 Q. I wanted to follow-up first on something that you just
25 mentioned to the President, which is, you indicated that there

7

1 was one part of your interview that you wish to correct. Could
2 you tell us what part of the interview it is that you wish to
3 correct at this time?

4 MR. LEV LAM:

5 A. I want to correct one point that I walked near the Damrei Srot
6 prison and I saw they buried the dead bodies. And in the written
7 record it stated that I saw the event twice, but in fact, I only
8 witnessed it once.

9 Q. Thank you, Mr. Witness. We'll get to the events that you may
10 be referring to in a little while.

11 Let me start with a few questions regarding the period prior to
12 April 1975.

13 [09.20.00]

14 In your first answer in your interview with OCIJ, document
15 D125/68, you stated as follows - quote:

16 "In 1972, I worked as a militia man in Svay Chuk commune, Kampong
17 Tralach Leu district, alias District 12. I worked as a militia
18 man from 1972 to 1975. I demobilized in mid-1975 and returned to
19 a mobile commune unit."

20 The district that you indicate that you worked as a commune
21 militia man was called Kampong Tralach Leu district, or District
22 12, in 1975. Is this same district that is currently named
23 Sameakki Mean Chey district?

24 A. Kampong Tralach Leu district is the same as the Sameakki Mean
25 Chey district. Previously it was known as Kampong Tralach Leu,

8

1 and the current name is Sameakki Mean Chey district.

2 Q. Thank you. Can you briefly describe for the Court the work or
3 tasks that you were assigned to do as a commune militia man in
4 Svay Chuk commune from 1972 to - up to April 1975?

5 A. From 1972, I joined the militia. I did not do much except
6 engage in rice farming and plantation, especially plantation of
7 potato, and I climbed the palm tree, as well. And that last until
8 1975.

9 [09.22.34]

10 Q. Did you ever engage in any combat with Lon Nol forces in the
11 1972 to '75 period?

12 A. No, I did not engage in any combat. I was assigned to engage
13 in the production at the rear.

14 Q. And were you located in a certain area of the commune? Can you
15 tell us what village you were based in?

16 A. At that time, I stationed to the south of Chrak Sangkae
17 village. It was about 300 metres from the village.

18 Q. Who was the superior to whom you reported in the Svay Chuk
19 commune militia?

20 A. At that time, the chief was Sron and Nan.

21 Q. What were the positions that were held by Sron and Nan?

22 A. Nan was chief of the Svay Chuk Cheung commune and Sron was the
23 district committee.

24 Q. Before we get to the events of 17 April, 1975, I have a few
25 more questions about the Kampong Tralach Leu district, that area,

1 and its history.

2 My first question, were you aware of the capture of Udong town by
3 the Khmer Rouge in 1974?

4 A. I knew that people were evacuated after Phnom Penh fell, but I
5 was at the rear at the time.

6 [09.25.49]

7 Q. Now, before we get to Phnom Penh, I had – my question related
8 to Udong provincial town – Udong town. Do you recall or were you
9 aware of the capture of Udong by the Khmer Rouge?

10 A. I knew about that, but it was – actually, Udong was located in
11 Kampong Speu, and Longveaek site was relocated – was located in
12 Kampong Chhnang. And I knew about the situation that happened in
13 Kampong Chhnang, but not in Kampong Speu.

14 Q. A few questions about your district.

15 Was there another commune in Kampong Tralach Leu district called
16 Peam commune?

17 A. I never heard of a Peam commune.

18 MR. SENG BUNKHEANG:

19 Mr. President, I think the pronunciation is a little bit off for
20 my international colleague. In fact it – he refers to the Peam
21 commune.

22 [09.27.40]

23 MR. LEV LAM:

24 A. Peam commune was adjacent to Svay Chuk commune. Yes, I know
25 that commune.

10

1 BY MR. LYSAK:

2 Q. And when you say it was adjacent, was it directly to the west
3 of Svay Chuk commune?

4 A. Yes, it was located to the west of Svay Chuk, but it was
5 adjacent to it.

6 Q. Mr. Witness, there has been evidence in this trial that a
7 number of the top Khmer Rouge leaders had offices in the area of
8 Peam commune during the 1972 to April 1975 period, and I would
9 like to ask you a few questions about that now.

10 In a statement he gave in this trial on the 22nd of November 2011
11 - this is a reference, Your Honours, to E1/14.1, at approximately
12 14h54min35s - Nuon Chea stated - quote:

13 "To ensure an effective and ultimate success with the attack to
14 liberate Phnom Penh, Pol Pot, the Party Secretary, had to move to
15 a base, in Boeng Ta Long, the south part of Chrak Sdech village,
16 Peam commune, Kampong Tralach district."

17 [09.29.43]

18 And perhaps, Mr. President, to help the witness with the names -
19 because I want to ask him about these locations - if I may
20 provide to the witness the excerpt that I read from so that he
21 can see the Khmer names of the locations that I just provided,
22 with your leave.

23 MR. PRESIDENT:

24 You may proceed, indeed.

25 And court officer is now directed to bring this document to the

11

1 witness for examination.

2 BY MR. LYSAK:

3 Q. Mr. Witness, if you look at the part where I put the green a
4 posted marker, you will see the statement from Nuon Chea in which
5 he identified a base that had been established by Pol Pot in a
6 place described as Chrak Sdach village, in Peam commune.

7 My question to you is: Do you know this location?

8 [09.30.59]

9 MR. LEV LAM:

10 A. I do not know this location. I think I was at too low rank to
11 know anything about this. Only the senior people or leaders could
12 have known this location.

13 Q. And aside from the office - Pol Pot office - do you know this
14 village, a Chrak Sdach village? Is this a location that you're
15 familiar with?

16 A. I know Chrak Sdach village.

17 Q. In the same part of the statement by Nuon Chea I've just read
18 to you, he continued as follows - quote:

19 "When the Revolutionary Army was nearing Phnom Penh, Pol Pot
20 moved to Krang Doung commune, also known as B-5, which was
21 adjacent to Peam commune, Kampong Tralach district, in Chan Ty
22 (phonetic) village."

23 My question to you is not whether you know of the B-5 office, but
24 do you know the village, the location that is described by Nuon
25 Chea here, Krang Doung and Chan Ty (phonetic) village?

12

1 [09.32.47]

2 MR. PRESIDENT:

3 Witness, could you please hold on?

4 And, Counsel for Mr. Nuon Chea, you may now proceed first.

5 MR. SON ARUN:

6 Good morning, Mr. President and Your Honours.

7 May I ask that Mr. Co-Prosecutor gives the document – the
8 relevant document he's citing from to the counsels for Mr. Nuon
9 Chea?

10 And I think it is not fair to only deliver this document to the
11 witness for examination when we are not provided such a copy.

12 MR. LYSAK:

13 Mr. President, it's a transcript from this trial that is
14 available to counsel. It's the same – for your information, it's
15 the same cite as I mentioned before, E1/14.1, the trial
16 transcript from 22 November 2011, at – the time is 14.54.35.

17 May I proceed, Mr. President?

18 [09.34.12]

19 MR. PRESIDENT:

20 You may, please.

21 BY MR. LYSAK:

22 Q. So, my question to you, Mr. Lev Lam, is not whether you knew
23 of the B-5 office, but whether you can help us whether you're
24 familiar with the location that's described here, a village named
25 Chan Ty (phonetic) village and a possibly a commune named Krang

1 Doung?

2 [09.34.46]

3 MR. LEV LAM:

4 A. I know Krang Doung village - because I used to be there on
5 several occasions - and Peam commune. Yes, I know this place. I
6 know Chrak Sdach, I know Krang Doung village.

7 Q. Mr. Khieu Samphan, in this trial, has stated - and this is a
8 reference from document E3/27, E3/27, at Khmer, 00156614; English
9 00156743; and French, 00156666. Khieu Samphan has stated that he
10 and a number of other leaders such as Nuon Chea were based at Pol
11 Pot's headquarters in the period leading up to 17 April 1975.
12 My question to you is: Did you ever hear, during that time, that
13 there were leaders - top leaders of the Khmer Rouge, such as Pol
14 Pot, Nuon Chea and Khieu Samphan, who were in Peam commune in
15 that period?

16 [09.36.40]

17 A. I have heard of them, but I never met them or saw them in
18 person.

19 MR. LYSAK:

20 And one more reference before we get to the events of 17 April.
21 In a testimony that was given by Duch in this trial on the 20th
22 of March 2012 - and the reference here is E1/51.1, E1/51.1, the
23 trial transcript for 20 March 2012, at approximately 9h20min2s-
24 And again, Mr. President, with your leave, if I may present this
25 excerpt to the witness as - so that he can see the specific

14

1 location that I want to ask him about?

2 MR. PRESIDENT:

3 You may proceed.

4 BY MR. LYSAK:

5 Q. Mr. Witness, in the document that's just been handed to you,
6 again at the section marked by a green marker, Duch identified
7 the initial location of the headquarters of the Special Zone, the
8 office Vorn Vet in 1973 as being in Krang Beng village, Peam
9 commune, Kampong Tralach Leu district. Did you know a village in
10 Peam commune called Krang Beng?

11 [09.39.03]

12 MR. LEV LAM:

13 A. Yes, I know this place, Krang Beng village.

14 Q. Did you know that there was a Special Zone office or
15 headquarters located at that village in the 1973 time period?

16 A. No, I did not know that location, the military location. I
17 only know that village, but not that particular location.

18 Q. And did you know who Vorn Vet was in the period from 1972 to
19 April 1975?

20 A. No, I didn't. I was in the commune and did not go to that area
21 to get to know this person.

22 Q. Let me now turn to the events of 17 April 1975 and the
23 ensuing weeks.

24 First, can you tell us where you were located on the 17th of
25 April 1975?

15

1 A. In 1975, I was still at the office where I would climb the
2 palm trees to pick up some palm juice and I was still working
3 there.

4 [09.41.19]

5 Q. And is this the location that you mentioned to us earlier that
6 was 300 metres south of Chrak Sangkae village?

7 A. Yes, it is correct.

8 Q. Did you witness evacuees from Phnom Penh arrive in your
9 commune in the days after 17 April 1975?

10 A. Yes, I did. I saw evacuees were mainly from Kampong Chhnang
11 than from Phnom Penh.

12 Q. When did these people start arriving in your commune; how long
13 after the 17th of April?

14 A. About a week after that period I saw them coming to my area.

15 Q. Can you estimate, approximately, how many people or how many
16 families you observed who were sent to Svay Chuk commune?

17 A. There were about 200 families; some still alive, some had
18 disappeared.

19 [09.43.40]

20 Q. Okay, we'll get to the issue of disappearances in a little
21 while.

22 When the evacuees arrived in your commune, where did they stay?

23 A. These evacuees were placed in Chrak Sangkae village.

24 Q. Was there a particular building that was used to hold the
25 evacuees; was there a temple or was there some other buildings

16

1 that were used for the evacuees that arrived?

2 A. These evacuees were not placed in any proper shelters. They
3 were made to live in the – under the houses of the villagers or
4 took refuge under the shade of some trees.

5 Q. I thank you for that response.

6 When the 17 April evacuees arrived in your commune, were they
7 required to provide their biographies?

8 A. I learned that – yes, they were. Their biographies were asked
9 to produce by a person by the name of Sron. Sron would like the
10 17 April People to make their biographies. But the Base People
11 would not be required to produce such biographies.

12 [09.46.19]

13 Q. The person that you just identified who instructed that
14 biographies were to be obtained, Sron, was this the same person
15 you identified earlier as a member of the district committee?

16 A. Yes, this is the same person.

17 Q. I'd like now to read to you a part of your interview with
18 OCIJ. This is document D125/68 at Khmer ERN 00201484 through 85;
19 English, 00274647; and French, 00338364. And you made the
20 following statement at this part of your interview – quote:

21 "Immediately after 17 April, I was still a militia man and was
22 working with Nan. After receiving an instruction from" –

23 MR. PRESIDENT:

24 Mr. Co-prosecutor, could you please hold on. Counsel Koppe is on
25 his feet, he may proceed.

17

1 [09.48.09]

2 MR. KOPPE:

3 Thank you, Mr. President, good morning.

4 I object to the prosecutor reading this specific passage. Of
5 course, I'm still aware of your ruling on issues relating to
6 reading specific passages from OCIJ statements. I am objecting
7 also for appeal reasons of course, but particularly also I'm
8 objecting because this passage is an important passage when it
9 comes to the policy that the Prosecution is trying to establish.
10 In other words, in your terms, Mr. President, Your Honours, we
11 have reached a very sensitive moment already early in the
12 questioning of this witness. And in addition to this, the witness
13 has said that he has read his statement earlier, so there's
14 really no need to refresh his memory. Why not ask open questions
15 when it comes to this specific topic, like the prosecutor has
16 been doing before.

17 MR. LYSAK:

18 If I may respond, Mr. President. First, this is a procedure that
19 has been authorized by the Court time and again. Second, counsel
20 is perhaps mistaken about the passage, this is not the sensitive
21 issue that I think he's - perhaps he is confused about the
22 passage I'm about to read.

23 [09.49.55]

24 I will continue to ask - to start with open questions, the
25 witness has now already indicated that biographies were directed,

18

1 and now I'm going to follow up with a quote relating to the
2 biographies and some more specific details. So I'm doing exactly
3 what the Court has authorized us to do and I think that counsel's
4 objection is improper.

5 (Judges deliberate)

6 [09.51.02]

7 MR. PRESIDENT:

8 The objection by international co-counsel for Mr. Nuon Chea is
9 not sustained. Mr. Co-Prosecutor has already been following the
10 direction as guided by the Trial Chamber during the last couple
11 of years.

12 So Mr. Co-Prosecutor, you may proceed.

13 BY MR. LYSAK:

14 Thank you, Mr. President.

15 Let me just start over with the quote that I wanted to follow up
16 with you. You stated - quote:

17 "Immediately after 17 April, I was still a militia man and was
18 working with Nan. After receiving an instruction from Sron, Nan
19 was taking the record of biographies of the 17 April People.
20 Next, Nan asked all village chiefs in communes to come to the
21 meeting in which he told them to take records of biographies of
22 the 17 April People in all villages." End of quote.

23 Q. In this statement you refer to a meeting at which Nan - who
24 you earlier identified as the commune chief - a meeting in which
25 Nan instructed the village chiefs to take biographies. Where was

1 this meeting held, if you recall?

2 MR. LEV LAM:

3 A. These meetings were held at the office which was located about
4 a few hundred metres from the commune. They were not conducted in
5 the commune office itself.

6 [09.53.18]

7 Q. Were you present at this meeting where Nan asked all the
8 village chiefs to take biographies from the evacuees?

9 A. The meetings were conducted in close sessions, but during the
10 meeting I heard that Comrade Nan asked people to provide their
11 biographies. But I never been allowed to - access to any of the
12 biographies.

13 Q. And can you give us your best recollection - your best memory
14 of how you heard that Nan had asked all the village chiefs to
15 collect biographies?

16 A. I was near that place and I heard Nan told the village chief
17 to collect biographies so that they could be handed over to Sron,
18 that's what I heard.

19 [09.55.08]

20 Q. Can you tell us where was Nan's office located?

21 A. Nan's office was at the same place as where we worked.
22 Actually, there was not - there was not an office. And the
23 militia men were asked to work at the houses of the villagers
24 because it was requested by the cadres that they should be
25 allowed to work there.

20

1 Q. And in the statement that I just read, you indicated that in
2 the period immediately after 17 April, you were still a
3 militiaman and that you were working with Nan. When you say that
4 you were working with Nan, did the commune militia report to her?

5 A. It was Nan who was in charge of discharging duties or tasks to
6 the militiamen, including delivering messages to people. So I was
7 also under the instruction of this person.

8 Q. Did you have a position or rank in the commune militia at the
9 time?

10 A. I was a simple ordinary militiaman and did not hold any
11 significant rank.

12 [09.57.42]

13 Q. And I'm not sure whether I've asked you this or you've
14 mentioned it already, so let me just confirm. Am I correct that
15 Nan was a female?

16 A. Yes, she was a woman cadre.

17 Q. Now after the biographies had been collected from the 17 April
18 evacuees in your commune, do you know who the biographies were
19 sent to and what they were used for?

20 A. I learned that Comrade Nan collected the biographies from the
21 village chiefs who then handed over to Sron. And I just did not
22 know where else these - to whom these biographies could have been
23 sent further.

24 Q. I'd like to read another statement from your OCIJ interview,
25 D125/68. This one is at Khmer, 00201484; English, 00274646; and

21

1 French, 00338364. You state here - quote:

2 "When the 17 April People from Phnom Penh arrived at District 12,
3 they were asked about their biography by cadres. Based on their
4 answers, they were classified into two categories: the ordinary
5 people such as rice farmers and non-ordinary people such as
6 soldiers, civil servants of Lon Nol and capitalists."

7 [10.00.29]

8 Can you tell me how you became aware that the 17 April evacuees
9 were separated based on their biographies into these two groups,
10 ordinary people and non-ordinary people such as soldiers or civil
11 servants of the Lon Nol regime?

12 A. I knew about that while I was still a militia man, that there
13 were two categories of people. The farmers would be put to one
14 side, and as for the soldiers, there were no need to ask about
15 the soldiers because the soldiers were considered to be in the
16 oppose group.

17 Q. Do you remember how you learned that the 17 April evacuees
18 were to be divided into these two groups? Were you at a meeting
19 where this was discussed or is this something you were told by
20 Nan or someone else in the commune?

21 A. At the meeting, I was nearby and I heard Nan speak about the
22 categorization of the people, the farmer would be put to one side
23 for them to work.

24 [10.02.31]

25 Q. And when you said you were nearby a meeting and heard Nan, was

22

1 this the same meeting that you mentioned earlier or was this a
2 different meeting where you heard Nan talking?

3 A. I heard only once during the meeting that I was nearby.

4 Q. Can I ask you – did the 17 April evacuees who came to Svay
5 Chuk commune – did they include soldiers or civil servants from
6 the Lon Nol regime?

7 A. As far as I know, because the civil servants were living and
8 mixing together with the soldiers during their evacuation and
9 they came to live in the village together, for that reason they
10 needed to sort out their biography.

11 Q. When the evacuees arrived in your commune, did you see whether
12 any of them were wearing uniforms – military uniforms?

13 A. To my knowledge, there were some soldiers. For example, there
14 were 20 or 30 soldiers who came in one day, but on next day they
15 left and I did not know where they went. As for the people,
16 people could stay there for one week or could stay much longer.

17 [10.04.52]

18 Q. Did the district or commune leaders provide any instructions
19 or orders as to what was to be done with the 17 April evacuees
20 who were identified as Lon Nol soldiers, civil servants or
21 capitalists?

22 A. During the sorting of the people I was not aware of it. But
23 later on I learned that the 17 April People who were farmers
24 would be put to one side. And for the other people, they would be
25 put to another group. And later on, those people in the latter

1 group disappeared.

2 Q. I want to read to you another excerpt from your interview and
3 follow up on this part. This is D125/68, at Khmer, 00201484;
4 English, 00274646; French, 00338364, where you stated as follows
5 - quote:

6 "The order of this operation was issued from commune and district
7 chiefs. I heard with my ears that chief of District 12, Sron,
8 told Srey Nan, chief of Svay Chuk commune, to separate the
9 people. Rice farmers had to be kept for work and enemies had to
10 be taken away and capitalists had to be destroyed.

11 "Q. What was the meaning of 'destroy'?

12 "A. At that time, all people knew that to destroy meant to kill."
13 [10.07.29]

14 And then continuing a little later on the next page, you stated
15 as follows - quote:

16 "Sron made a final decision for Nan to implement. With my ears I
17 heard that one of the decisions was to kill my uncle. At the time
18 I was so suffering, however, I could not say a word but shed
19 tears. At that time, there was an order to kill approximately 100
20 families in early rainy season in 1975. This order was
21 immediately implemented." End of quote.

22 My first follow-up question is where was it -

23 MR. PRESIDENT:

24 The Prosecution, please wait. The defence counsel, you may
25 proceed.

24

1 [10.08.30]

2 MR. KOPPE:

3 Again, Mr. President, for the record, this passage shouldn't have
4 been read out. This is a crucial passage in the statement. We
5 should have just been hearing open questions – open-ended
6 questions. This is, to the Nuon Chea defence, a completely
7 unacceptable way of getting information from a witness. So, for
8 the record, and for appeal reasons, we object strongly to this
9 way of proceeding.

10 MR. LYSAK:

11 Mr. President, this has been ruled on by the Court. I've asked
12 open questions and now I'm following up with details regarding
13 the information the witness has provided.

14 May I proceed?

15 MR. PRESIDENT:

16 The objection is overruled. We actually ruled on the approach of
17 putting questions before this Chamber.

18 The Prosecution, you may continue.

19 [10.09.37]

20 BY MR. LYSAK:

21 Q. You indicated in this statement that you heard a decision or
22 order from the district leader, Sron, including a decision
23 relating to your uncle. Can you tell me where it was that you
24 heard Sron and Nan have this conversation?

25 MR. LEV LAM:

25

1 A. I heard of the conversation when they were in the meeting at
2 that militia unit's office.

3 Q. And can you tell us - you indicate that your uncle was one of
4 the people who was targeted, who was your uncle, what did he do
5 prior to 17 April 1975?

6 A. My uncle was a Lon Nol soldier stationed in Longveaek.
7 [10.11.15]

8 Q. And just to clarify, you indicated that the meeting where you
9 heard these statements was held at a militia unit, can you
10 specify for us where this was - where this meeting - this
11 specific meeting took place, was this in Chrak Sangkae village or
12 was it outside the village?

13 A. It actually was held outside the village at the location of
14 the militia unit where I lived.

15 Q. Do you remember approximately how many people were present at
16 this meeting?

17 A. In that meeting there were about 10 - a little bit more than
18 10 people.

19 Q. And who were the people who were present other than Nan and
20 Sron, who you've already identified, who were the other people
21 who were present at this meeting?

22 A. Participants in that meeting when I was nearby, I saw village
23 chiefs and cadres subordinate to them. So, most of them were the
24 village chiefs from Svay Chuk Cheung.

25 [10.13.25]

26

1 Q. After this meeting, Mr. Witness, what happened to the 17 April
2 evacuees who had been identified as Lon Nol soldiers, civil
3 servants or capitalists, what happened to them?

4 A. After the meeting and after the sorting out of the
5 biographies, some of those people disappeared; they were smashed.

6 Q. What about your uncle, can you tell us? Your uncle who was a
7 soldier, what happened to him?

8 A. My uncle came to meet me in my house and I told him to flee,
9 but he said he refused to flee and three days later he was taken
10 away and killed.

11 Q. Are you able to – can you tell us the location where these
12 people were taken to, where they were killed?

13 A. The location where my uncle and other people were killed was
14 to the west of the village. It was about three or four kilometres
15 to the west of the village.

16 [10.15.55]

17 Q. I want to make a – ask you about another statement in your
18 OCIJ interview. This is at D125/68 at Khmer, 00201486; English,
19 00274648; and French, 00338366. And you were asked about whether
20 you were present at the execution site and you responded as
21 follows – quote: "I was once ordered to take people to that
22 place." End of quote.

23 Can you tell us who it was that ordered you to transport people
24 to that execution site?

25 A. At that time the village chief by the name of Oeun – Ta Oeun –

1 who instructed me to go with him; that is to bring people to the
2 front, that's how I was told. So I went along with another
3 militiaman and we stopped at a meeting place, and those people
4 were tied and taken away for the execution. But when I reached
5 the location, the district soldiers were already there, so then
6 we only dropped the people off there and we were not to allow to
7 do anything or to go away.

8 [10.18.55]

9 Q. The group of people that were transported or were taken to the
10 execution site by the village chief and yourself and another
11 militiaman, how many people were in that group?

12 A. The group that I took there was a total of about 20 other
13 people including young children. I thought that they were being
14 relocated to another village, but instead they were taken to that
15 spot where the district military were already there. I was scared
16 too at the time, so I stood at one place and later on I returned.

17 Q. How was this group of 20 people taken to the execution site?
18 Did you walk them there or did you use vehicles?

19 A. For those people with ox carts they would drive the ox carts,
20 and some walked on foot until we reached that execution point.

21 Q. And just to clarify, the execution site where you took these
22 people to, is this the place you identified as being about three
23 or four kilometres west of Chrak Sangkae village?

24 A. Yes, that was the location.

25 [10.21.21]

1 Q. And you just indicated that when you arrived at this site that
2 there were already district soldiers there. How many district
3 soldiers were there?

4 A. There was a group of the district soldiers and there were 12
5 of them.

6 Q. Were these people that – the district soldiers, were these
7 people that you knew or had seen before?

8 A. I saw those district soldiers before. I saw them around 1973
9 or '74 and I knew some of them, but I only knew their faces and I
10 did not know their actual names because they kept changing their
11 names.

12 Q. Did you know, at the time, who the commander of the district
13 soldiers was?

14 A. I did not know the commander; I only knew some of those
15 district soldiers. And there were a number of commanders at the
16 district, but I did not know them.

17 [10.23.15]

18 Q. And I wanted to also ask you about the – when it was that this
19 event took place, approximately how long after 17 of April 1975 –
20 how long after that was it that you took this group of 20 people
21 to this execution site?

22 A. It was in 1975, it was around June. It was the time that I was
23 asked to take those people.

24 Q. You told us a few minutes ago that when you arrived at the
25 execution site, the people in the group of 20 were tied up and

1 then taken away. Who was - who was it that tied them up?

2 A. First, I saw only 10 people being tied up and taken away. And
3 the other 10 people remained untied and the children were also
4 untied. And it was the district soldiers who did the tie up of
5 those people.

6 Q. Can you describe for us how they were - when you say that they
7 were tied - tied up, how were they tied?

8 A. I was nearby; they were tied up with their hands behind their
9 back by a scarf or "krama" in Khmer. And then they were walked
10 away.

11 [10.25.45]

12 Q. And who was it that took the 10 people - who was it that took
13 them away after they had been tied up?

14 A. Actually, the ones who tied them up walked them away. They
15 were part of that district soldiers' group.

16 Q. And what can you tell us about what happened to these 10
17 people after they were tied up and taken away by the district
18 soldiers?

19 A. Of course, after they were tied up, they were taken away and
20 executed.

21 Q. Do you - are you able to tell us - do you have any information
22 as to how they were killed?

23 A. I did not know how they were killed, but later on I learned
24 that they used a club or ox cart axel to kill those people. They
25 did not use bullets to shoot them because that would break their

30

1 secrecy. They used clubs or bamboo stock to hit them or to strike
2 them.

3 [10.27.57]

4 Q. How did you learn that clubs or ox cart axels - axels or
5 bamboo had been used to kill these people, how did you learn
6 that?

7 A. I learned that as I was told by other people, I did not
8 witness it myself. They told me that they did not use anything
9 but only these tools, including the bamboo stock, and they did
10 not shoot those people. But I learned of this information at a
11 later stage.

12 Q. Was this something you were told by some of the district
13 soldiers who were there?

14 A. The district soldiers did not tell me, but it is likely that
15 that was the way they killed the people.

16 MR. PRESIDENT:

17 Defence Counsel, you may proceed.

18 [10.29.30]

19 MR. KOPPE:

20 Thank you, Mr. President. May I invite you to instruct the
21 witness not to speculate, not to say "It is likely that they were
22 killed in such a manner". The witness should be instructed only
23 to testify as to what he has seen himself or has heard himself.

24 MR. LYSAK:

25 Mr. President, if I may respond. The witness has already

31

1 indicated that he was told this by someone; I'm following up on
2 that. I think it's rather premature for counsel to be on his feet
3 making submissions that it is speculative when the witness has
4 indicated that this is information he learned from someone. I'm
5 in the process of asking the witness about that, so I'd ask to be
6 able to proceed.

7 MR. PRESIDENT:

8 Thank you. And first of all, the Chamber wishes to now remind the
9 witness that, in his testimony, he should refrain from using the
10 term such as - would suggest a speculative response. And witness
11 is advised to respond to all questions based on his experiences
12 and the events he bore witness to. Otherwise, his testimony would
13 not be considered as valid or lack of probative value.

14 [10.31.16]

15 It is now appropriate moment already for the adjournment. The
16 Chamber will adjourn for 20 minutes.

17 The next session will be resumed by 10 to 11.00.

18 Court officer is now directed to assist the witness and his duty
19 counsel during the adjournment and have them returned to the
20 courtroom by that time.

21 THE GREFFIER:

22 (No interpretation)

23 (Court recesses from 1031H to 1053H)

24 MR. PRESIDENT:

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

1 We would like, once again, to give the floor to the Prosecution
2 to continue putting questions to this witness. You may proceed.

3 BY MR. LYSAK:

4 Thank you, Mr. President.

5 Q. Let me follow up, Mr. Lev Lam, with the issue that had been
6 raised just before the break. Can you clarify for us - you
7 indicated that you later learned about certain instruments that
8 had been used to kill these people. Did someone tell you that
9 clubs, bamboo and cart axels had been used? And if so, who was it
10 that told you that?

11 A. They did not tell me that, but to me, there were no other
12 tools that they could use to kill people besides these tools.

13 [10.54.33]

14 Q. And did you see any of these tools at the execution site? Did
15 you see any clubs or cart axels or bamboo at the execution site?

16 A. No, I did not.

17 Q. I'd like to read and follow up on another statement in your
18 interview. This is D125/68, at Khmer, 00201485; English,
19 00274647; and French, 00338365. You stated, at this part of your
20 interview, as follows - quote:

21 "The determined destinations were several. All of which were
22 located near the execution site. When people got there, they were
23 divided into smaller groups of 10 people. Then, they were told
24 that they would be brought to see Angkar. However, they had to be
25 blindfolded and their hands had to be tied behind their back."

1 [10.56.10]

2 And continuing one question later in your interview:

3 "Question: Please describe the killing process.

4 Answer: When people to be killed arrived at the execution site,

5 executioners were already waiting there. Pits were already dug

6 beforehand. Executioners told people to sit at the pits and

7 listen to the announcement of Angkar." End of quote.

8 You indicated in this statement that evacuees were being - were

9 told that they were being brought to see Angkar. When is it that

10 they were told that? And who told them that they were being

11 brought to see Angkar?

12 A. Only the village chief who told them that they were to go and

13 meet Angkar.

14 [10.57.26]

15 Q. So to clarify, this is something the village chief told the
16 group of 20 people when you were leaving Chrak Sangkae village.

17 Is that right?

18 A. Yes, that is correct.

19 Q. Now, you also indicate, in the statement that I just read,

20 that when the people were taken away for execution, they were

21 told to sit at the pits and to listen to the announcement of

22 Angkar.

23 My question to you is: Were you able to hear what took place

24 after this group of 10 people who were tied up were taken away?

25 Were you able to hear what happened to them?

34

1 A. I was at a quiet distance from them about 30 metres. I heard
2 it in a low voice, the countdown of one, two, three, and then I
3 walked away and I did not know what happened next.

4 Q. In the same statement that I just read, you also made
5 reference to grave pits that had been dug beforehand. How did you
6 know that pits had been dug beforehand?

7 A. I decline to respond to this question.

8 [10.59.56]

9 MR. PRESIDENT:

10 Duty Counsel, please take the floor.

11 MR. MAM RITHEA:

12 Mr. President, Your Honours, the - my client already responded
13 that he wished to decline to respond to this question.

14 MR. PRESIDENT:

15 Witness, the last question is not the kind of questions that
16 could incriminate you. The question is why you learned of that
17 information but you already responded to this question. And of
18 course, the Chamber already advised you of your obligation that
19 you must respond to all the questions that are put to you.

20 And Duty Counsel, please also advise that your client to do so
21 and you need to discuss with your client if you're think the
22 question could incriminate your client.

23 [11.01.20]

24 MR. LEV LAM:

25 I reply that I did not know because I, myself, did not see those

1 pits.

2 BY MR. LYSAK:

3 Thank you for clarifying that, Mr. Witness.

4 Q. How long were you at the execution site before you returned to
5 Chrak Sangkae village?

6 A. I didn't stay long. I stayed for about 15 minutes and then I
7 hurried to return.

8 Q. Now, you told us that in the group of 20 people that the
9 village chief and you brought to the execution site, that you saw
10 10 of them tied up and taken away. The other 10 were not tied.
11 Did any of the other 10 return with you when you went back to
12 your village?

13 A. Those who were not tied up did not return. They were all
14 taken.

15 [11.03.00]

16 Q. And of those 10, how many were young children?

17 A. There were about five to six children.

18 Q. Are you able to provide an estimate to the Court of the total
19 number of people who were killed at that execution site?

20 A. In total, there could be six - 70 to 80 people who were
21 killed.

22 MR. PRESIDENT:

23 Defence Counsel, you may proceed.

24 MR. KOPPE:

25 Thank you Mr. President. Could you please instruct the witness,

1 again, not to speculate? He either knows it or he doesn't and he
2 should refrain from answering there could have been 60 or 70 or
3 80 people.

4 [11.04.40]

5 MR. LYSAK:

6 Mr. President, if I can follow up and find the basis for the
7 witness' information, then I think we'll be in a much better
8 position. Counsel's objections, again, are somewhat premature.
9 The witness has been instructed. If I may proceed, I will clarify
10 with the witness what information he has.

11 BY MR. LYSAK:

12 Q. Mr. Witness, in your interview, you describe an exhumation of
13 the graves at the site that was conducted after January 1979. Can
14 you tell us about what information you have regarding the
15 exhumation or digging up of the graves in the area of this
16 execution site, that took place after January 1979?

17 MR. LEV LAM:

18 A. I - while I walked my dog, I saw a pit that was dug out, as
19 people were looking for gold. It was in the vicinity of Prey
20 Totueng, and I saw the skeleton remains scattered everywhere
21 there. It was to the west of the Damrei Srot prison and that area
22 was called Prey Totueng.

23 [11.06.35]

24 Q. To clarify, is this the same location where the group of 20
25 people - where you brought the group of 20 people that you just

37

1 described to us or was this a different location?

2 A. The location where I took the people through, I did not see
3 the pits there at the time but only around 1981 or '82 while I
4 was walking my dog. I saw the pits there and they dug the pits in
5 order to look for gold and there were skeleton remains there.

6 Q. Let me read to you from your interview and then follow-up on
7 that. This is D125/68 – D125/68 – at Khmer, 00201484; English,
8 00274646; and French, 00338364. Your interview reads as follows –
9 quote:

10 [11.08.11]

11 "After 1979, people came to exhume the graves over there in order
12 to seek gold and valuable things.

13 Question: Please kindly describe the mass grave exhumation.

14 Answer: At that time, people exhumed about 20 to 30 graves, in
15 which there were about 700 to 800 dead bodies in total. Some
16 graves have not been exhumed yet, so the total number of people
17 who were killed there remains unknown."

18 My question to you is, you told OCIJ or provided an estimate of
19 700 to 800 dead bodies that were at these mass graves. Can you
20 tell us how you came up with that number? What was the basis of
21 that information?

22 A. I saw the pits and in each pit, there were between 20 to 30
23 skulls and there were also several pits which had not been dug
24 out.

25 [11.09.46]

38

1 Q. Just to be sure I understand, you're saying that you saw
2 approximately 20 to 30 skulls in each grave pit that had been dug
3 up? And can you tell us how many - the total number of graves
4 that you saw at the site?

5 A. I saw about 20 pits.

6 Q. Thank you for that information, Mr. Lev Lam. Let me turn to a
7 few different subject areas before I end my examination.

8 The person that you have identified as the - as a chief of Svay
9 Chuk commune, Nan; do you know whether Nan was a relative of Nuon
10 Chea?

11 A. I do not know whether Nan was related to him, as Nan came from
12 another village.

13 Q. Did you know whether Nuon Chea had relatives who lived in Peam
14 commune?

15 A. No, I don't.

16 Q. I want to ask you now just a few questions relating to some
17 other statements that have been provided by witnesses regarding
18 executions in Kampong Tralach Leu district.

19 [11.12.05]

20 MR. LYSAK:

21 With your leave, Mr. President, I'd like to provide two
22 interviews to the witness, document D125/93, D125/93 and D232/40,
23 D232/40. I will not name - read the names of these witnesses and
24 would also ask that the witness be instructed not to state the
25 names of these witnesses. With your leave, I'd like to provide

39

1 these statements to the witness at this time.

2 MR. PRESIDENT:

3 Yes, you may do so.

4 Court Officer, could you deliver the documents from the
5 Prosecution for the witness' examination? And Witness, you are
6 instructed not to reveal the names of the people in this
7 document.

8 [11.13.25]

9 BY MR. LYSAK:

10 Q. My first question for you, Mr. Lev Lam, and perhaps your
11 counsel can assist you with this, if you could look at the names
12 of the two people who gave these interviews, without saying those
13 names, can you tell us whether you know either of these people?

14 MR. LEV LAM:

15 A. I do not know any of the two people named on these two
16 documents.

17 Q. Mr. Witness, in D125/93 and the reference page is, Khmer,
18 00212084 through 85; English, 00275128 through 29; and French,
19 00293909 through 11; this witness describes how two female cadres
20 from Svay Chuk commune, Yeay Nan, the same person you have talked
21 about and another female cadre named Yeay Phoeun - how these two
22 cadres held a meeting at the Thmei Khmer village cooperative and
23 conveyed - quote: "Orders of the upper level pursuant to which 30
24 families of 17 April People or Lon Nol soldiers were taken away
25 and killed at a site north of Thmei Khmer village, named Prey Sre

40

1 Val - Prey Sre Val."

2 [11.16.11]

3 The second statement I provided to you, D232/40, is the statement
4 of a group leader from Thmei Khmer village who also confirms the
5 executions of newly evacuated people at the same location, Prey
6 Sre Val.

7 My question to you is: Do you know the sites that are indicated
8 here, Thmei Khmer village and a place called Prey Sre Val? Do you
9 know these sites? And did you hear any information regarding
10 executions that took place at this location?

11 A. No, I don't. But I know Thmei Khmer village. I do not know
12 Prey Sre Val, but I know another one but not this one.

13 Q. What is the other one that you know?

14 A. I know another Muslim village, a Cham village. It was known as
15 Svay Ph'aem.

16 MY. LYSAK:

17 Mr. President, I'd like to provide two more statements to the
18 witness. These ones: D232/42 - D232/42 - and D232/63. With your
19 leave, if I may present these documents to the witness.

20 [11.18.25]

21 MR. PRESIDENT:

22 Yes, you may do so.

23 Court Officer, could you deliver the documents from the
24 prosecutor for the witness' examination?

25 BY MR. LYSAK:

1 Q. Mr. Witness, before you start looking at those documents, in
2 regards to the location of the prior ones, Thmei Khmer village,
3 was Thmei Khmer village – was it in Svay Chuk commune or some
4 other commune?

5 MR. LEV LAM:

6 A. Thmei Khmer village is located in Svay Chuk commune. That is
7 south of Svay Chuk commune, because Svay Chuk commune is divided
8 into two: the north of Svay Chuk and the south of Svay Chuk.

9 Q. Thank you. Now if you could look at the two documents that
10 were just provided to you and without – again, without reading
11 the names of these two witnesses, can you tell me whether you
12 know any – either of these two individuals?

13 A. No, I do not know any of them.

14 [11.20.15]

15 Q. In these two statements, Mr. Witness, these individuals who
16 are from Tbaeng Khpos – and I apologize if my pronunciation isn't
17 good. These witnesses describe the arrival of 17 April evacuees
18 from Phnom Penh, including Lon Nol officials and soldiers who
19 were held at the Tbaeng Khpos Pagoda and then taken away for
20 execution at three sites that they identify.

21 And if you look at answer six in interview D232/42, there are
22 three execution sites that were identified by this witness; one,
23 Kak Roneam; the second one, Trapeang Andoung; and the third one,
24 Trapeang Khlong. My question to you is: Are you familiar with any
25 of these sites? And during the 1975 period, did you hear of

1 executions at these locations?

2 A. No, I do not. I only know the one near my village. I did not
3 know about other places, at other villages.

4 [11.22.11]

5 Q. Was there a commune in Kampong Tralach Leu district called
6 Tbaeng Khpos?

7 A. Yes, there was a Tbaeng Khpos commune and there was also a
8 pagoda by the name of Tbaeng Khpos.

9 Q. And where was this commune in relation to Svay Chuk commune?

10 A. Tbaeng Khpos commune is at a far distance from the Svay Chuk
11 commune. It was about two kilometres away and it was on the other
12 side of the railway track and the distance between the two is
13 about two kilometres.

14 [11.23.19]

15 Q. Thank you, Mr. Witness. The last area that I want to ask you
16 about - the last subject matter - in the document that is before
17 this Chamber, E3/135, this is the June 1977 issue of a

18 publication called "Revolutionary Flag". It is announced in this
19 document that Kampong Tralach Leu district had been selected by
20 the Central Committee as one of the three model districts in the
21 country for 1976 and awarded the honorary Red Flag.

22 My question to you is: Do you remember whether this was something
23 that was announced to all people in the district, that Kampong
24 Tralach Leu had been recognized as a model district and awarded
25 the honorary Red Flag for 1976?

1 A. I was not quite sure about that.

2 Q. My last question is whether - at any time between April 1975
3 and January 1979, whether you were aware of any Khmer Rouge
4 leaders coming to visit your district?

5 A. No, I was not aware of that.

6 [11.25.27

7 MR. LYSAK:

8 (Microphone not activated) Sorry. Yes, my colleague - national
9 colleague has a few questions for you and then we will turn the
10 floor to the civil parties. Thank you for your time.

11 QUESTIONING BY MR. SENG BUNKHEANG:

12 Thank you, Mr. President.

13 Mr. Witness, I only have a few questions supplementary to what my
14 colleague asked you.

15 Q. This morning you stated before this Court that you joined a
16 meeting chaired by Sron and Nan at the militia unit office in
17 Chrak Sangkae village and you heard Sron made an instruction to
18 select the former Lon Nol soldiers who had been evacuated, to be
19 killed. My question to you is: How did you know that the
20 instruction by Sron was made by Sron himself or did he receive
21 the order from upper echelon?

22 MR. LEV LAM:

23 A. I heard Sron stating to that effect while I was nearby. I
24 heard his voice speaking about that and that's what I stated in
25 my record.

1 [11.27.23]

2 Q. Thank you. My question, in fact, is that besides that, did you
3 know by any other means – for example, that you were told that
4 instruction was ordered from another level to Sron or you did not
5 know about that?

6 A. No, I did not know about that because I did not see any other
7 upper echelon coming to tell him. I only heard the decision made
8 by Sron.

9 Q. Thank you. You also testified before this Court that Sron was
10 the district committee – did you know who were the sector or the
11 zone committees?

12 A. I only heard the names but I never saw them. I heard of the
13 sector committee, which was about the district committee and the
14 sector committee was Ta Sarun. I never met him in person.

15 Q. Besides Ta Sarun, did you know of any other people within the
16 sector level or above the sector level? For example, the zone
17 level?

18 [11.29.14]

19 A. As for the zone committee, I never heard about them. I never
20 heard of any name of people who were at the zone level. I only
21 heard of Ta Sarun, as I stated but I never met him in person and
22 I heard that he was at the sector level.

23 Q. Thank you.

24 Now, regarding the meetings in which you heard – or you knew that
25 Sron and Nan were the chairpersons. Can you tell the Chamber

45

1 please, when did these meetings take place? Did they take place
2 before people evacuated to your area?

3 A. The meetings were convened after the 17th of April had already
4 arrived.

5 Q. Thank you. Were you aware whether there were any meetings,
6 like evacuation management meetings, the meeting prepared for
7 receiving these people?

8 A. I don't know.

9 [11.31.06]

10 Q. Thank you.

11 On another point, before the Co-Investigators and the document
12 D135/68, you stated that, "People in Phnom Penh had been forced
13 to leave the city. Some had been forced to come to this area.
14 Many of them end up being killed there". For reference, this
15 document can be referred to Khmer ERN, 00201484; English,
16 00274646; French ERN, 00338363. My question is: How did you know
17 people in Phnom Penh were forced to leave the city or how did you
18 obtain such information?

19 A. I saw evacuees from Phnom Penh and from Kampong Chhnang -
20 whether they had been forced to leave the cities or not, that's
21 not to my knowledge. I just saw them coming to my area.

22 Q. Thank you. This is going to be my final question.

23 This morning, you testified that after receiving instructions
24 from Sron, Nan had to take record of the biographies of the 17 of
25 April People for the purpose of execution and you said that

1 immediately after the 17th of April 1975, you had been working as
2 a militiaman, working with Nan. Now, can you tell the Chamber
3 what kind of tasks did Nan give you to treat the evacuees?

4 [11.33.44]

5 A. Nan did not use me personally. I worked at the office and I
6 was engaged in climbing up the palm trees to collect the palm
7 juice. That's all.

8 MR. SENG BUNKHEANG:

9 Thank you Mr. Witness. I have no further questions.

10 And thank you, Mr. President and Your Honours. We believe that
11 our questioning can also help ascertain the truth.

12 MR. PRESIDENT:

13 Thank you.

14 We would like to now hand over to counsel for the civil parties
15 to put some questions to this witness.

16 MS. SIMONNEAU-FORT:

17 Thank you, Mr. President. On the civil party side, it is counsel
18 Beini Ye who is going to be asking the questions.

19 [11.35.00]

20 QUESTIONING BY MS. YE:

21 Good morning, Your Honours. Good morning to everyone in and
22 around the courtroom.

23 Q. Good morning, Mr. Lev Lam. My name is Beini Ye. I am one of
24 the international civil party lawyers and I have just a few
25 follow-up questions for you. I want to focus on the time period

1 between the 17 April 1975 and June 1975. You said earlier this
2 morning that in this time period, you saw evacuees from Kampong
3 Chhnang and from Phnom Penh arriving around one week after the
4 17th April 1975. Can you give us an estimate of how many evacuees
5 you saw arriving at that time?

6 MR. LEV LAM:

7 A. I saw about 200 to 300 families only, because either evacuees
8 could have been put to live in other villages. So in my village,
9 I saw about 200 to 300 families.

10 Q. Thank you. When you say "families", how many people would make
11 up a family?

12 A. To call a family, there must be at least about five to six
13 people.

14 [11.36.45]

15 Q. Thank you. And these evacuees who arrived, in what
16 transportation did they arrive in?

17 A. Some was in pushing carts, some were walking, some were
18 walking and carrying some belongings, including mattresses -
19 rather the mats, and also the kitchen utensils.

20 Q. Thank you. And can you please describe the condition of the
21 people who arrived from the cities?

22 A. People had problem finding enough food to eat because there
23 was not enough rice for them.

24 Q. Thank you. And did you observe any health problems or health
25 issues among these evacuees?

1 A. Some were sick but they were compelled to keep moving.

2 [11.38.34]

3 Q. Thank you. And when they arrived, was there any food or
4 medicine provided to these evacuees?

5 A. Neither food nor medicine was provided to these people,
6 although requests were made because these people had no more food
7 to eat. Then a few cans of rice would then be offered to them,
8 just to deal with these problems, but there was no medicine.

9 Q. Thank you. And how did the villagers – the Base People – react
10 to the arrival of so many evacuees?

11 A. The Base People had sympathy toward these newcomers and
12 sometimes, they had to share with them some rice and vegetables

13 Q. Thank you, Mr. Lev Lam. Now, I would like to come to a new
14 topic.

15 You said earlier that you were ordered to take people to the
16 execution site and among the group that you took, were five to
17 six young children. My question is: Were the parents of these
18 children also in the same group with you?

19 A. These people were in the same group when their parents would
20 bring them together.

21 [11.41.00]

22 Q. Thank you. And do I understand it correctly that these
23 children were the children of former Lon Nol soldiers and former
24 Lon Nol officials that wrote their biographies before being taken
25 away?

1 A. After their biographies had been obtained, they would be taken
2 away.

3 Q. Thank you. And apart from your group that you took to the
4 execution sites, were there any other groups that were taken in
5 this manner to the execution sites by other militia?

6 A. This place was there already and then people had to be sent
7 and some people were tricked to go to this location. Several
8 families were tricked and the others just followed.

9 Q. Can you please explain what you mean by being tricked?

10 A. I said they were tricked because they said that the families
11 would be sent to live in a new village, but after all, it was not
12 that – they were not sent to the village. Finally, they were sent
13 for execution.

14 Q. Thank you. And among these other families who were tricked and
15 who were also sent to the execution site, were there also
16 children?

17 A. Yes, the whole family, including their children and no other
18 outsiders would be brought with them. The whole family would be
19 brought to the execution site.

20 [11.44.02]

21 Q. Thank you. And on the way, when you were taking this group –
22 your group to the execution site, can you describe the behaviour
23 of the people that you took there?

24 A. Some people were taking the lead in bringing them to the site
25 and people did not engage in any conversation until the time when

1 they were brought to that place.

2 Q. And did these victims express any reaction when they were tied
3 up and led away from your group?

4 A. The message was that these people were instructed to be tied
5 up because they had to meet Angkar to get some food. Without
6 having them being tied up then they would not be allowed to meet
7 Angkar for some food. That's why they had to be tied up.

8 [11.45.48]

9 Q. Thank you. I was rather asking about the reaction of the
10 people who were tied up - of the weak victims.

11 A. These people did not protest or react very much because they
12 had to allow these people to tie them up.

13 Q. Thank you. Now, you said earlier on that Sron classified the
14 biographies in two categories: one of capitalist Lon Nol soldiers
15 and Lon Nol officials, who later on disappeared; and then other
16 one in peasants category. My question is: What happened to the
17 category, or to the people who fell under the category of
18 peasants?

19 A. People who said they were peasants, they did farming. They
20 then would be allowed to be in the same place and when the
21 Vietnamese arrived they were also allowed to go back to their
22 hometown.

23 [11.47.34]

24 Q. Thank you. Now, you said you saw 200 to 300 families arriving
25 from Kampong Chhnang and Phnom Penh. How many of these families

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1 did you see going or being brought to the execution site?

2 A. I saw about 100 families.

3 Q. Thank you, Mr. Witness. And my last question is: How did you
4 feel when you heard about the death of your uncle at that time?

5 A. It was painful, mentally, to hear about his death. But I
6 couldn't speak it out. It was more emotional feeling, but I
7 couldn't say so.

8 MS. YE:

9 Thank you, Mr. Lev Lam. I am sorry for your loss and I thank you
10 very much for answering all my questions. I have no further
11 questions and I wish you a safe journey back home.

12 [11.49.09]

13 MR. PRESIDENT:

14 Thank you, counsel; and thank you, witness.

15 It is now already appropriate moment for the adjournment. The
16 Chamber will adjourn until 1.30 p.m.

17 Court officer is now directed to assist the witness and his duty
18 counsel during the adjournment and have them returned to the
19 courtroom before the next session resumes at 1.30 p.m.

20 And, security personnel are now directed to bring Mr. Khieu
21 Samphan (sic) down to his holding cell downstairs and have him
22 returned to the courtroom at 1.30 p.m.

23 The Court is adjourned.

24 (Court recesses from 1149H to 1333H)

25 MR. PRESIDENT:

1 Please be seated. The Court is now back in session and the floor
2 is given to the defence team for Nuon Chea to put questions to
3 this witness. You may proceed.

4 QUESTIONING BY MR. SON ARUN:

5 Q. Good afternoon, Mr. President, Your Honours and good
6 afternoon, Mr. Lev Lam. My name is Son Arun. I'm defence counsel
7 for Nuon Chea. I have some questions to put to you this afternoon
8 and my colleague will have some more questions for you.

9 First - and I would like to refer to your written record of
10 interview with the Office of the Co-Investigating Judges. You
11 stated before the investigators that in the Damrei Srot prison,
12 there were about 20 to 30 prisoners, as you stated this morning;
13 is this correct?

14 MR. LEV LAM:

15 A. Yes, it is.

16 [13.35.29]

17 MR. PRESIDENT:

18 The prosecutor, you may proceed.

19 MR. LYSAK:

20 Mr. President, I don't know whether it was - there was a problem
21 with the translation, but it sounded like the subject of this
22 question was the Damrei Srot prison, which is not an issue within
23 the scope of the current trial, not a matter that I asked
24 questions or the witness testified about this morning. So I don't
25 if there was a problem in the translation, but questions about

1 the Damrei Srot Prison, which came into existence in early 1976,
2 are outside the scope of – of this trial and we would object.

3 [13.36.16]

4 MR. SON ARUN:

5 This morning the prosecutor and the civil parties' counsel spent
6 half a day to speak about the Damrei Srot prison and it is also
7 reflected in the written record of the interview with the OCIJ
8 and you said it is out of the scope; that is incorrect.

9 MR. LYSAK:

10 Mr. President, that is – that is simply incorrect. If counsel
11 would read the interview, he will see that these executions took
12 place in the months after 17 April 1975. The prison came into
13 existence in 1976. The only connection is that the location of
14 the execution site was – at one point, the witness identified in
15 this interview that it was 500 metres from the future location of
16 the prison. That is the only connection between these two. But
17 the testimony this witness gave this morning had nothing to do
18 with the – with the prison, itself, which didn't come into
19 existence until early 1976.

20 [13.37.42]

21 MR. PRESIDENT:

22 Counsel, your questions should be related to the fact put before
23 this Chamber. If the fact could – should link to the killing site
24 near the Chrak Sangkae village and the killing was that of the 17
25 April People, who were the former soldiers and the public

1 servants of the previous regime, and that is the purpose of
2 today's testimony and questioning.

3 MR. SON ARUN:

4 Thank you, Mr. President. Allow me first to ask the witness about
5 the prison and then I will move on to that killing site, if I can
6 do so, because his testimony also reflects in the written record
7 of the interview.

8 [13.38.45]

9 MR. PRESIDENT:

10 Not all the facts within that written record of interview are
11 subject to the questioning today. Our focus today is on the
12 policy toward the 17 April People; that is based on the request
13 made by the Prosecution, and we only focus on certain facts, not
14 the entire written record of the interview by this witness before
15 the investigators of the OCIJ, because that written record of
16 interview is more general and it covers all the events within the
17 period of Democratic Kampuchea.

18 [13.39.37]

19 MR. SON ARUN:

20 Anyway, I do not understand this clarification, but I will hand
21 the floor over to my international colleague.

22 QUESTIONING BY MR. KOPPE:

23 Q. Thank you, Mr. President. Good afternoon, Counsel.

24 Good afternoon, Mr. Witness. I would like to start asking you
25 questions, Mr. Witness, about the arrival of people from Phnom

1 Penh and from Kampong Chhnang.

2 You said earlier there were about 200 or 300 families coming.

3 These 200 to 300 families, did they come all at once? Did they

4 come in various days? Do you remember when you first saw them and

5 when you saw them, they were all there at the same time?

6 MR. LEV LAM:

7 A. I saw them already come to that area, but I did not know

8 whether later on, they - more had come. I saw them gathered under

9 the shade of the trees.

10 [13.41.42]

11 Q. But did you see people arrive from Phnom Penh or from other

12 cities, for instance, in May 1975 or June 1975?

13 A. At that time, evacuees from Phnom Penh were mixed together

14 with those evacuated from Kampong Chhnang and we could not

15 identify who was who.

16 Q. I just want to be absolutely clear. When you speak about these

17 people, you didn't actually see them arrive, you just saw them

18 all together in the weeks after 17 April '75; would that be

19 correct?

20 A. Yes, I saw them at the village.

21 Q. But I still want to be absolutely clear. You didn't see, in

22 the weeks or months later, New People arriving from cities like

23 Kampong Chhnang or Phnom Penh?

24 A. After that, I did not see more come.

25 [13.43.36]

1 Q. All right. Did you speak, yourself, to any of these people
2 belonging to the 200-300 families when they were kept together?

3 A. Since I did not know them, I did not speak to them or make a
4 joke with them.

5 Q. How did you know, then, that they came from Phnom Penh or
6 Kampong Chhnang?

7 A. I saw them and, actually, some of them came through my house.
8 I did not ask much - ask them much, but my father told me that
9 they came from Kampong Chhnang.

10 Q. What do you mean when you say, "Some of them came through my
11 house"?

12 A. Some evacuees came and stayed under the house of my - under my
13 house because they did not have anywhere to go, so we allowed
14 them to stay under the house.

15 [13.45.22]

16 Q. And did the same happen to other people from this group; did
17 they stay close by or under the houses of other people in the
18 village?

19 A. Others stayed at other houses within the village. There were
20 150 houses within my village, so those people would stay at those
21 houses or they stayed under the - the trees.

22 Q. So would it be fair to say that those - once those 200 to 300
23 families arrived, they were spread out in the various houses of
24 the village and if yes, can you tell us how long they stayed in
25 those houses in the village?

1 A. That is correct. They stayed for one week and then some of
2 them disappeared and some remained.

3 Q. Is it correct for me to say, Mr. Witness, that none of these
4 people who had arrived from Phnom Penh or Kampong Chhnang were
5 guarded or were kept in – in one location?

6 A. That is correct. They were spread within the village.

7 [13.47.48]

8 Q. Do you remember how many people who had arrived from Phnom
9 Penh or Kampong Chhnang were in your house? How many people; men,
10 women, or children, were living in or around your house?

11 A. Near my house, there were a few families and a bit further
12 from my house; there were several more families, but I could not
13 tell you how many families all together because there were many
14 of them within the village. It was crowded.

15 Q. Now, if you're saying, "A few families stayed in my house" and
16 earlier this morning, you said, "A family is about 5 to 6
17 people", would it be fair to say that in your house, between 15
18 and 20 people were staying; people that had just arrived from
19 Phnom Penh or Kampong Chhnang?

20 A. I knew that those who came to stay near my house were from
21 Kampong Chhnang. As for those from Phnom Penh, they were at other
22 houses.

23 [13.49.26]

24 Q. Now, these people were staying at your house for a while.

25 Didn't you speak to them at all? Didn't you make little chat with

1 them, talk to them about their background, their former jobs,
2 etc.?

3 A. I did not really speak to them much. I, of course, saw their
4 faces. I saw them at my house and then I left because I did not
5 always stay at home.

6 Q. Now, let me move on a little bit in time. This morning, Mr.
7 Witness, you said or you testified that you, at one point,
8 learned that the people who had just arrived from Phnom Penh or
9 Kampong Chhnang had to write their biography. Do you remember
10 when this news was conveyed to the people that were living in
11 your house that they had to write their biography?

12 A. They made their biography, but I did not know much about that
13 as I, at the time, was at the office.

14 Q. But could you explain to us how that went in practice? All
15 those people were scattered around in the 150 houses; how were
16 they informed, how did they know that they – that, at one point
17 in time, they were supposed to write their biography? How was it
18 – how was the news brought to them?

19 A. They walked around getting biography from those people and it
20 was the village chief who did that.

21 [13.52.05]

22 Q. Yes, but how did the village chief do that? Did he knock on
23 the door? Did he ask who was from Phnom Penh and Kampong Chhnang,
24 please raise their hand and come with me? How did that go?

25 A. They went from one house to the next and asked where those

1 people came from and if they came from Kampong Chhnang, they
2 would say they came from Kampong Chhnang and if they came from
3 Phnom Penh, then, they would say they came from Phnom Penh.

4 Q. Even though there were also people who said that they were
5 from the village, but, in fact, were from Kampong Chhnang or from
6 Phnom Penh?

7 A. At that time, those people were asked by the village chief and
8 the village chief advised them if they came from Kampong Chhnang,
9 they should say they came from Kampong Chhnang or if those who
10 came from Phnom Penh should say so.

11 [13.53.32]

12 Q. What else did the village chief tell them? What - what did he
13 ask them to do except writing where they are from? Which
14 instructions did he - did he give to, for instance, the people
15 that were in your house?

16 A. I did not know the details of other points within the
17 instruction as I was not with the village chief.

18 Q. Maybe, but you were at least with the people who were living
19 in your house. Did they - didn't they tell you which instructions
20 they got or had received in respect of their biography?

21 A. They wrote their biography that they were rice farmers and, in
22 fact, just to tell you, those people who came to live under that
23 - my house, they're still living today and they're still living
24 in Kampong Chhnang.

25 [13.55.10]

1 Q. Do you remember where were - where they were supposed to write
2 their biographies? Did they write their biographies while in your
3 home or did they write it outside? Did they had to go to - to a
4 place to write it; do you remember that?

5 A. So they walked from one house to another and later on, they
6 were all called to a meeting at the village chief's house and
7 that's where they wrote their biographies there - that is, at the
8 village chief's house.

9 Q. All 700 people at the same time?

10 A. Of course not the 7 - not everyone at the same time. There
11 could be 30 families at one time or 40 families at one time and
12 after that group concluded, then another group would go.

13 [13.56.37]

14 Q. But did you actually see that yourself that a group of 30
15 people would assemble at the house of the village chief?

16 A. I saw some of them, but I did not actually join that meeting;
17 only saw them and then I walked away.

18 Q. But is it your testimony that the people who were living in
19 your house had written in their biography that they were rice
20 farmers?

21 A. Yes. Those people who lived under my house were rice farmers
22 and some of other families who were nearby or at other houses,
23 they were also rice farmers.

24 Q. You testified earlier that you didn't have any - that you were
25 not allowed any access to any of those biographies being written.

1 What you know - what was written, is it only something that you
2 heard from the people who were living in your house?

3 A. Please, repeat your question.

4 [13.58.35]

5 Q. You have testified earlier that you didn't have any access to
6 the biographies once they were written. The fact that the people
7 who were living in your house called themselves rice farmers, is
8 that something they told you after they were done?

9 A. Regarding the making of a biography; after they came back from
10 making their biography, they did not tell me, but they told my
11 mother and they told my mother that they wrote on their biography
12 that they were rice farmers.

13 [13.59.24]

14 Q. Do you know how the village chief made sure that the people
15 who wrote their biography were accurate? How did he check
16 whether, for instance, the people who were living in your house
17 were, in fact, rice farmers from Kampong Chhnang?

18 A. This could be verified through means of farming, for example,
19 whether they had possessed some cattle and also - they also
20 analyzed their peasants' background; how they lived their life to
21 identify them as peasants.

22 Q. But do you know how the village chief or others did that in
23 practice? If somebody wrote down that we have two cows in Kampong
24 Chhnang, how did the village chief or somebody else verify that?
25 How could he do that?

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1 A. I don't know about this, but the information in the
2 biographies could be significant - significantly enough for
3 someone to identify the author of the biography, but I cannot
4 tell whether the information is somehow accurate or not.

5 [14.01.31]

6 Q. But were you never told by anybody how it - how the
7 biographies were verified? Did somebody ever ask you to - to
8 verify a biography?

9 A. I was told to verify the information in the biography, itself,
10 and there is no other ways we can have - we can check other than
11 rely - relying heavily on the content of each biography and that
12 if people said they were peasants, they would be put in peasants'
13 group and if they said they were soldiers, then, they would also
14 be placed in the soldier group.

15 Q. So what you're saying is that if the soldier says - soldier
16 wrote down in his - his biography that he was, in fact, a rice
17 farmer, he turned out lucky and the other one who told the truth
18 was unlucky; is that what you're saying?

19 MR. PRESIDENT:

20 Witness, can you please hold on and Co-Prosecutor, you may now
21 proceed.

22 [14.03.12]

23 MR. LYSAK:

24 Mr. President, I think these questions are starting to ask the
25 witness to speculate and provide conclusions about who was lucky

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1 and who was not and whether - whether or not some people were
2 inaccurate in their biographies. I think he's asking the witness
3 to speculate at this point.

4 MR. KOPPE:

5 Mr. President, that is the strangest objection I've heard in a
6 long time. We're - we're reaching the core of - of the importance
7 of this witness; was there a policy to target Lon Nol officials
8 or soldiers, so the selection - the way these people were
9 selected is of crucial importance for ascertaining the truth in
10 this matter. So any question about his knowledge of selection
11 process is vital information, especially in the light of the -
12 the testimony that the persons - I will call them unlucky - were,
13 in fact, executed. So I really cannot place the objection of the
14 Prosecution.

15 [14.04.24]

16 MR. LYSAK:

17 Mr. President, I have no objection if he wants to ask factual
18 questions about the process, but he's not asking a factual
19 question; he's asking the witness to speculate on what may have
20 happened if someone concealed information in their biography,
21 whether they were lucky or unlucky. That does not - that's not a
22 factual question related to the selection process.

23 (Judges deliberate)

24 [14.05.03]

25 MR. PRESIDENT:

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1 The objection by Mr. Co-Prosecutor is sustained.

2 Witness is now directed not to respond to the question that
3 solicits speculative response.

4 Counsel is now advised to rephrase the question.

5 BY MR. KOPPE:

6 I will, Mr. President.

7 Q. Mr. Witness, what can you say to us about the verification
8 process, in general, of these biographies? Has anybody ever asked
9 you to follow up on the content of a biography?

10 MR. LEV LAM:

11 A. No. I was never asked to follow up this because I had
12 different duty and other people would be entitled to do this
13 instead of me.

14 [14.06.26]

15 Q. Do you know whether, in those weeks after 17 April, anybody
16 was ever accused of not writing the truth in his or her
17 biography?

18 A. There was no - there was no such case because people had to
19 write down the truth because the moment before a person started
20 to write his or her own biography, he or she was already told
21 that the content of the biography must be truthful; otherwise,
22 they should not write it.

23 Q. True, but did you - were you never part of a discussion in
24 which mechanisms were discussed to find the people who maybe did
25 not speak the truth in their biographies?

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1 A. At that time, there was no such system and that no one was
2 tasked, other than the cadre of the village, to do this. Other
3 people would not be asked to follow up on this content of the
4 biography.

5 [14.08.20]

6 Q. What do you know, Mr. Witness, about the division or the
7 distinction in two groups: enemies and capitalists, on the one
8 hand and other people, on the other hand? How did, for instance,
9 Sron decide on the basis of a biography who was a capitalist and
10 who wasn't?

11 A. I don't know about this.

12 Q. Do you know how Sron or others decided on the basis of a
13 biography that somebody was a Lon Nol official? What is a Lon Nol
14 official; do you know that?

15 A. No, I don't.

16 [14.09.32]

17 Q. Do you know how Sron or others decided on, after reading the
18 biographies, that somebody was an enemy?

19 A. I don't know.

20 Q. Do you know how Sron, Nan, or others made sure that everybody
21 who had come from Phnom Penh or Kampong Chhnang handed in a
22 biography? Did they do a count – a head count for instance?

23 A. I don't know.

24 Q. Do you know if there was a certain format, for instance, a –
25 what's the word – a little piece of paper, people had to write it

1 down? Was it a little booklet that people had to write down their
2 biography? Do you know how that was done?

3 A. Normally, the papers that they used for writing the
4 biographies could have been nothing other than the simple sheets
5 from students' writing books. There were no such A4 paper as we
6 do have these days.

7 [14.11.27]

8 Q. Mr. Witness, please do not say "normally"; you know something
9 or you don't know something. So I'm not interested how things
10 could have been done normally; my question is - is what - to what
11 you know as to what form of paper or booklet or whatever people
12 were supposed to write in their biographies.

13 A. I know for sure that these papers were the sheets from the
14 pages of the writing books and the small pieces of papers that
15 they used for writing biography; that's what I knew.

16 Q. Mr. Witness, do you know which personal details a person was
17 supposed to write down; names of father and mother, for instance,
18 how many children, those kind of things; do you know anything
19 about that?

20 A. I do not know the detail information of how a biography should
21 be written because I was nowhere nearby to know all about this.

22 [14.13.05]

23 Q. Let's move on to another - the next phase, Mr. Witness. Let's
24 assume for a moment that all these people wrote their
25 biographies. They went home; some of them went to your house.

1 What happened then?

2 A. After the biographies had been written, these people would be
3 asked to return home and those who wrote in their biographies
4 that they were soldiers then would be taken to other locations.

5 Q. How do you know that? Have you heard that? Have you seen that?
6 Did somebody go around in the village and say, "Everybody who
7 wrote down 'soldier' should come"? How did that go?

8 A. I heard from other people about how biographies should be
9 written, what should be put in such biography and I heard about
10 this from others.

11 [14.14.52]

12 Q. I don't understand completely, Mr. Witness. It's - it's - as I
13 understand from your testimony, you were living in a small
14 village; 150 houses. Please try to remember well.

15 Have you not heard anybody say or see anybody calling for the
16 people who said in their biographies that they had been Lon Nol
17 soldiers?

18 A. Well, I heard people say about this because, under my house,
19 my mother was told about the biographies and that they told her
20 that some of them were taken somewhere that she never knew where
21 they could be taken to.

22 Q. Have you actually seen with your own eyes that people went to
23 a place and - and told whoever that they were Lon Nol soldiers?

24 A. No, I don't know about this.

25 [14.16.35]

1 Q. And what about former officials of the Lon Nol regime; how
2 were they informed that they had to go to a certain place?

3 A. Regarding the former Lon Nol officials, people would just say
4 that now, at this particular location, it was too crowded; then a
5 group of them or some of them would need to be transported or
6 transferred to other location, the location that they were taken
7 to and would never seen again - would never be seen again.

8 Q. Do you remember whether there was a discussion about the words
9 "Lon Nol officials"? What is a Lon Nol official? Who - who would
10 qualify to be a Lon Nol official? Did you hear any discussions
11 about that?

12 A. I don't know about this.

13 Q. Yet you speak about Lon Nol officials. What do you mean when
14 you speak about Lon Nol officials?

15 A. Lon Nol officials here refer to soldiers - Lon Nol soldiers;
16 that's what I understand.

17 [14.18.50]

18 Q. So are you saying now it's only Lon Nol's - former Lon Nol
19 military who had to assemble, at some point, after their
20 biographies had been checked and verified; is that correct?

21 A. The only thing I know about his is that after the biographies
22 were obtained, then, people could identify whether they were -
23 those were Lon Nol soldiers or not; that's what I - I was told.

24 Q. Do you know how many soldiers had actually written down that
25 they were soldiers in their biography? How many had to assemble

1 at one point; do you know?

2 A. No, I don't.

3 Q. Do you know if anybody ever asked them anything about their
4 rank, about which unit they were from, those kind of questions?

5 A. I knew from the commune - rather, the village chief.

6 [14.20.45]

7 Q. But did he tell you how he knew that they were, in fact,
8 soldiers?

9 A. I don't know where he could learn this information from, but
10 to me, only cadres could have such information.

11 Q. I'm trying to find out, Mr. Witness, how you know that other
12 cadres knew that these people were, in fact, Lon Nol soldiers.
13 How did people verify that these people were, in fact - had been,
14 in fact, Lon Nol soldiers?

15 A. I'm afraid I don't know fully about this; in particular,
16 whether these people could have been soldiers or civilians.

17 Q. Now, at one point in time, there was a group gathered together
18 and if I understand it correctly, you - you used the word
19 "trickery" in respect of this group. Did I understand that
20 correctly?

21 A. Yes, it is correct.

22 [14.23.03]

23 Q. Could you please explain, again, how this group - of - of
24 which you do not know who they are, but how were they tricked to
25 leave their respective houses where they were staying to, I

1 presume, a central place? Could you say something about the
2 trickery?

3 A. The trickery would include, for example, like when people told
4 them that living in this area, you would face food difficulty and
5 that only moving elsewhere that you would have more food or
6 plentiful - plenty of food and this is the way they convinced
7 them or tricked them to leave one place to another.

8 Q. But how did they do the convincing or the trickery? Did they
9 tell that to them face to face or did they tell that at a bigger
10 meeting? How did they convince these people?

11 A. They did this right in front of the group of these people. For
12 example, they would just say, look, we had no more rice to eat;
13 if we remain in the same location, we would not have food, so
14 it's better to leave this place for another location to get more
15 food.

16 [14.25.16]

17 Q. Now you have to explain that to me because I don't understand.
18 You first have to use the trickery to get the group together. And
19 once the group is together you could maybe fit them into
20 something but how did they get the group together? Do you know
21 that?

22 A. I'm afraid I don't know how people could be gathered or
23 tricked to come together.

24 Q. So is your testimony now that there was at one point in time a
25 group of whom you had no idea who they were and no idea how they

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1 had come to this place? Is that what you're saying now?

2 MR. PRESIDENT:

3 Mr. Witness, could you please hold on and Mr. Co-Prosecutor you
4 may now proceed.

5 [14.26.32]

6 MR. LYSAK:

7 Thank you, Mr. President. I want to give counsel an opportunity
8 to cross-examine. At the same time, his questioning has become
9 extremely repetitive and circular. The witness has answered his
10 questions which he's probably asked six times the same question
11 at various points to the best of his ability. And Counsel is also
12 now engaged in mischaracterizing the witness' testimony. The
13 witness did not say they had no idea who these people are, the
14 witness, simply, in response to questions about verification said
15 he didn't know what was done or how verification was done.

16 Counsel is misstating the testimony asking repetitive questions
17 and I think this last question is repetitive and objectionable.

18 [14.27.33]

19 MR. KOPPE:

20 With all due respect, Mr. President, that's an outrageous
21 objection. There has been not one single repetitive question. I'm
22 trying to find out what he knows about the existence of the
23 group. Who were there, how they were assembled. Obviously, the
24 witness doesn't have any idea but that's the purpose of this
25 cross-examination.

1 MR. LYSAK:

2 And I would add, Mr. President, it's inappropriate for counsel to
3 be making submissions in front of this witness. Highly
4 inappropriate, and I would ask that he cease making comments.

5 MR. KOPPE:

6 Please say the same thing to your colleague, Mr. Prosecutor, when
7 he was questioning the wife of Khieu Samphan, he did the same
8 thing.

9 (Judges deliberate)

10 [14.29.20]

11 MR. PRESIDENT:

12 Defence Counsel, please move on to another question. We already
13 have all the grounds for our deliberation.

14 And when you raised the approach of putting question by the other
15 party to Khieu Samphan (sic), I think you keep repeating that
16 same point. And of course, the Bench will discuss on all those
17 relevant matters and make an assessment on the probative value of
18 the evidence. And there is no need for you to raise the same
19 point again and again.

20 BY MR. KOPPE:

21 Very well, Mr. President.

22 Q. So, Mr. Witness, this group of allegedly Lon Nol soldiers is
23 assembled at some point. Do you remember exactly when this was?

24 How many weeks after 17 April?

25 MR. LEV LAM:

1 A. After the 17 April, they came to the village and later on they
2 left the village and I did not know where they were relocated to,
3 because a portion of them left the village.

4 [14.31.04]

5 Q. Where to?

6 A. I already said they left the village and I did not know where
7 they went too.

8 Q. Now this group of people that you were speaking about, is that
9 the same group of people I believe you said 70 who were – who
10 were taken in groups of 10 to a specific location?

11 A. No. That was a separate group. This morning I spoke about a
12 group whom I was asked to take them. And that is to take them to
13 another village as they were to be relocated and there were only
14 two or three families within that group. And when you referred to
15 another group I didn't know because they left the village.

16 [14.32.35]

17 Q. Now I'm losing you, Mr. Witness. This morning you were
18 speaking about a group of people, I think, 70. And you were
19 ordered to bring 10 of these people from one location to another
20 location. Who were these people?

21 MR. PRESIDENT:

22 Witness, please wait. The Prosecution, you may proceed.

23 MR. LYSAK:

24 Mr. President, my objection is that he is misstating the
25 testimony of this witness. The witness described an incident

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1 where he took 20 people up to the execution site; 10 of them were
2 then tied up and taken away. And I don't know whether counsel has
3 forgotten the testimony or whether he is simply trying to mislead
4 or confuse the witness but his questions should be clear. And if
5 he's referring to this incident it was 20 people that he took up
6 there, 10 of whom were tied up and taken away.

7 [14.33.44]

8 BY MR. KOPPE:

9 I object to the word "execution site", Mr. President, because
10 that is something that we are trying to establish here.

11 Q. Let me rephrase, Mr. Witness. At one point you were bringing
12 10 people from place A to place B, who were these people?

13 MR. LEV LAM

14 A. Those people were a group of people who were referred to in
15 Khmer as "svay tran".

16 Q. Could you help me and explain to me what that means?

17 A. To my knowledge, "svay tran" from the Lon Nol regime referred
18 to the commune militia group.

19 [14.34.55]

20 Q. How did you know - or how do you know that these 10 people
21 were who you said they were? Did you speak to them; did you talk
22 to them before you brought them?

23 A. The village chief told me to transport two or three families
24 as they were all the "svay tran" people and that they would be
25 transported to be relocated in another village.

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1 Q. But did the village chief tell you how he knew what the
2 background was of these two or three families?

3 A. I was told by the village chief they were the commune militia
4 group called "svay tran" and that they would be relocated to
5 another village.

6 Q. And did he tell you that before they were tied - during the
7 time they were tied or afterwards?

8 A. When they first were taken they were not tied as some of them
9 actually sat on the ox carts. Only when they arrived at that
10 location they were tied up.

11 [14.36.58]

12 Q. So when they arrived at that location, was that the location
13 you spoke earlier about where you stayed about 15 minutes?

14 A. Yes. After I took them there they were received by the
15 district soldiers at that location.

16 Q. And that was the location that you said earlier about that you
17 didn't see any grave pits; is that correct?

18 A. I did not go to where the grave pits were. I was told by the
19 soldiers to stay put in one place and not to wander around and
20 then they took those people away. And that's it.

21 Q. And after 15 minutes you went back to where you came from; is
22 that correct?

23 A. Then I returned to the Sangkae village.

24 Q. Were these the only 10 people that you took to that particular
25 place that you were just describing? These are the only 10 people

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1 who you brought there?

2 [14.39.06]

3 MR. PRESIDENT:

4 Witness, please wait. The Prosecution, you may proceed.

5 MR. LYSAK:

6 I'm not sure whether counsel is deliberately doing this but he
7 continues to misstate this witness' evidence. It was 20 people he
8 took up there, 10 of whom were tied. I don't know why counsel
9 keeps misstating the testimony of the witness but the question is
10 improper when he continues to misstate the record.

11 BY MR. KOPPE:

12 Q. Fine. These 20 people, were those the only 20 people that you
13 brought to that specific location, Mr. Witness?

14 MR. LEV LAM:

15 A. The group that I took there, there were 20 people and there
16 were about five children who went along with their parents.

17 [14.40.17]

18 Q. When you left these 20 people at that place - no, let me
19 rephrase.

20 When you left after 15 minutes that place, were these 20 people
21 still standing there?

22 A. They were still at that location when I left.

23 MR. PRESIDENT:

24 The time is appropriate for a short break. We will take a
25 20-minute break and return at 3.00 pm.

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1 Court Officer, could you assist the witness during the break and
2 have him returned to the courtroom at 3.00 pm.

3 (Court recesses from 1441H to 1500H)

4 MR. PRESIDENT:

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

6 We would like to hand over to now, counsel for Nuon Chea if he
7 wishes to put a few more questions. And can counsel please advise
8 the Chamber as to how he already shared this time with counsels
9 for Mr. Khieu Samphan?

10 BY MR. KOPPE:

11 Yes, Mr. President. We agreed that I would be continuing for
12 another half hour and the last 25 to 30 minutes would be the time
13 for the Khieu Samphan team.

14 Q. Mr. Witness, although you have testified to this particular
15 point before, but just to be clear, is it correct that you have
16 not seen yourself the actual killing of these 20 people?

17 [15.02.30]

18 MR. LEV LAM:

19 A. No, I didn't see this. These people were taken away only to be
20 received by other people and then I would be allowed to return
21 home.

22 Q. Did you, in any way, experience, in the days after you left
23 these people, signs of possible killings? For instance, a smell
24 of dead bodies, or maybe the sound of bulldozers digging graves,
25 something to that effect?

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1 A. I don't know.

2 Q. When you say you don't know, this means that you didn't see or
3 didn't hear anything like that, or – just to be sure?

4 [15.04.12]

5 A. I took them there but I didn't see the pits prepared for them
6 or any other things that you mentioned.

7 Q. And also, Mr. Witness, to be clear about the number of the
8 groups, before the break there was confusion whether it was in
9 fact 10 or 20 people that you brought. I have been going through
10 your earlier statement to the Investigating Judges and there you
11 were speaking about 10 people. Today you spoke about 20 people.
12 My question, just to be sure, how many people did you bring to
13 this particular site, 10, 20, or maybe more?

14 [15.05.17]

15 A. This morning I already told the Court once that I took about
16 20 people, not just 10 people. These 20 people include a few
17 children as well.

18 Q. Thank you for the clarification, Mr. Witness. I'm just reading
19 for you a passage from your statement to the OCIJ on ERN number
20 00274647, page 6, first paragraph. You said – and I quote you
21 literally: "When people got together, they were divided into
22 smaller groups of 10 people." But today you're saying it was a
23 group of 20 people.

24 MR. PRESIDENT:

25 Mr. Witness, please hold on and Mr. Co-Prosecutor, you may now

1 proceed.

2 MR. LYSAK:

3 Thank you, Mr. President. We - I would object to this question.

4 Counsel is again misleading the Court and the witness. The

5 passage he just read from talked about what happened when they

6 got to the execution site. That they were divided up into groups

7 of 10 at the execution site. By leaving out the prior part of the

8 sentence he's attempting to mislead the witness and the Court and

9 suggesting that the witness previously said he only brought 10

10 people up to the execution site. The witness statement does not

11 say that.

12 [15.07.09]

13 BY MR. KOPPE:

14 Mr. President, the only thing I can say in answer, and then I

15 will move on to the next question, is that the Prosecution can

16 use the word "execution site" as many times as it wants, but from

17 this witness we haven't heard any testimony that people were in

18 fact executed. But nevertheless, I will move on.

19 Q. Mr. Witness, just to speak some more about the people that you

20 refer to as "svay tran", would you be able to explain one more

21 time what you meant when you were using these terms to describe

22 that particular group?

23 MR. LEV LAM:

24 A. "Svay tran" refers to families, families who were regarded as

25 the village militia.

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1 Q. Village militia? Is that something else, in your recollection,
2 than Lon Nol soldiers or Lon Nol officials?

3 [15.08.58]

4 A. "Svay tran", or Lon Nol soldiers, were the terms that were
5 used interchangeably. But the soldiers were those who engaged in
6 fighting in the battlefields when the militia would be someone
7 who would stand guard, protect the village in - at the village.

8 Q. Did I understand you correctly when you said earlier that the
9 group of Lon Nol soldiers was a different group that you had
10 nothing to do with, and that they were relocated to another area?

11 A. Lon Nol soldiers and the militia were grouped as one. They
12 were the same people.

13 Q. But earlier, Mr. Witness, you were speaking about a separate
14 group of Lon Nol soldiers. Did I understand you correctly?

15 A. My understanding is that soldiers and militias, or "svay
16 tran", are the same. The difference is that the soldiers would go
17 to fight in the battlefields, when the militia or the "svay tran"
18 group would just be in the village.

19 [15.11.24]

20 Q. Very well, then. Could you maybe explain again how the village
21 chief knew that these around 20 people were "svay tran"? Did
22 these people also write a biography?

23 A. Biographies were already written before the village chief
24 would know their identity. For me, I don't know about this.

25 Q. So you don't know whether these specific "svay tran" had in

1 fact written their biographies?

2 A. No, I don't know whether these 20 people already had written
3 their biographies. I was tasked with taking them to a new village
4 and I took them.

5 Q. Do you know where they were from, which town?

6 A. I knew they were from Kampong Chhnang.

7 [15.13.24]

8 Q. And how did you know?

9 A. The village chief told me.

10 Q. Did the village chief tell you how he knew?

11 A. He told me to bring this group of 20 people to another new
12 village because now in this area there was not enough food.
13 That's what he told me.

14 Q. Do you remember if any of these 20 people were living in the
15 150 houses in the village after 17 April 1975?

16 A. They were living in the houses that were far from mine. They
17 lived in the village but not in the central part of the village.
18 They were living somewhere near the - or far from the central
19 area.

20 Q. Do you remember seeing them before you took them as a group to
21 this location? Do you remember seeing them walking around in the
22 village for instance?

23 A. No, I didn't. I never saw them.

24 [15.15.55]

25 Q. Just to be sure, you didn't know any of those 20 people

1 personally; that is correct, right?

2 A. I had not known them and I - if I see any of them today I
3 would still recognize one of their faces.

4 Q. Have you ever been to Kampong Chhnang in the years afterwards?

5 A. Yes.

6 Q. Have you ever seen any of these 20 people in Kampong Chhnang?

7 A. No.

8 Q. Have you heard anybody say that these - one of these people
9 was living in Kampong Chhnang?

10 A. No, I haven't heard anyone talk about this.

11 [15.17.27]

12 Q. Now, let me get back, Mr. Witness, to your statement, and I
13 would like to read a passage from your statement. Page 6, ERN
14 00274647; that is in document D125/68, you say the following:

15 "At that time, there was an order to kill approximately 100
16 families in the early rainy season in 1975. This order was
17 immediately implemented. The soon-to-be-killed people were told
18 to bring all belonging properties and travel to the execution
19 site by all means, such as by carts or on foot. The determined
20 destinations were several, all of which was located near the
21 execution site. When people got together they were divided into
22 smaller groups of 10 people, then they were told that they would
23 be brought to see Angkar. However, they had to be blindfolded and
24 their hands had to be tied behind their back."

25 Now, is this something that was told to you by others, or have

1 you actually witnessed this? Could you explain this passage in
2 the light of your earlier testimony that you haven't seen
3 anything when it comes to executions?

4 A. I didn't see them being taken away. I just heard people talked
5 about it.

6 [15.19.35]

7 Q. But who told you about approximately 100 families to be killed
8 in early rainy season in 1975?

9 A. The village chief. No one else other than him.

10 Q. But how did he know?

11 A. He knew it because he was the village chief.

12 Q. Did he say that he saw it? Did he say that he was involved?
13 Did he do the actual killing?

14 A. I didn't see him killing anyone.

15 Q. But then how - did he tell you how he knew?

16 A. He told me that, you see, all people were gone and that to him
17 these people could have been killed already because they never
18 seen coming back to the village.

19 [15.21.42]

20 Q. But you just testified that they left to be relocated in
21 another village.

22 MR. PRESIDENT:

23 Witness, could you please hold on and Mr. Co-Prosecutor, you may
24 now proceed.

25 MR. LYSAK:

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1 I have two objections, Mr. President. Again, questioning is
2 getting repetitive. Second, counsel is again mischaracterizing
3 the testimony of this witness. This witness described what he
4 called trickery, where these people were told they were being
5 moved to a new village but in fact were not. So I think if
6 counsel - counsel has asked these same questions a number of
7 times now, but if he is going to engage in repetitive questioning
8 he shouldn't misstate the testimony of the witness.

9 [15.22.36]

10 MR. KOPPE:

11 I'm just asking a question to this witness and it's the
12 prosecutor now giving evidence, saying that they were in fact not
13 being relocated but executed. He's now making an argument. I'm
14 just trying to see if there's a discrepancy between what this
15 witness has been saying and testifying, that the group was
16 relocated in another village, or that they might have been
17 killed. I'm trying to find out what the truth is, Mr. President.

18 (Judges deliberate)

19 [15.24.05]

20 MR. PRESIDENT:

21 The objection by the Co-Prosecutor is sustained. The questions
22 are repetitive. Counsel, you are now instructed to move on to a
23 new question.

24 BY MR. KOPPE:

25 Very well, Mr. President.

1 Q. I would like to read to you, Mr. Witness, another quote from
2 your statement to the OCIJ. That would be on the same page, same
3 ERN number, page 6. You say the following:

4 "When people to be killed arrived at the execution site,
5 executioners were already waiting there, pits were already dug
6 beforehand. Executioners told people to sit at the pits and
7 listen to the announcement of Angkar. One of the executioners
8 counted one, two, three, and they began to kill. One killer
9 killed only one person."

10 [15.25.18]

11 Mr. Witness, could you explain this statement, in the light of
12 your earlier testimony that you haven't seen any executions?

13 MR. LEV LAM:

14 A. One person could kill another person only if the other person
15 was tied up, otherwise it was impossible.

16 Q. I don't understand this answer, Mr. Witness. I read you a
17 passage from your statement in which it says that you've seen
18 with your own eyes, people being executed. Today in your
19 testimony you're saying that you never saw such a thing. Now,
20 which of the two is the case?

21 A. I think I apologize for not being able to respond to this.

22 Q. You think you cannot answer this and you apologize? That's not
23 an answer. My question is simple, which of the two is true, is it
24 your testimony today or the statement that you made in front of
25 the Investigating Judges?

1 [15.27.34]

2 MR. PRESIDENT:

3 Mr. Witness, please hold on, and International Co-Prosecutor, you
4 may now proceed.

5 MR. LYSAK:

6 Sorry to be on my feet again, Mr. President. If counsel is going
7 to put a question he should be more specific. The passage he just
8 read, first of all, it doesn't indicate it was all based on eye
9 witness information. The witness has described some of this
10 earlier. If counsel wants to put a specific part of this
11 statement to the witness to seek his clarification I have no
12 objection. But I think his question is vague when he reads -
13 excuse me - when he reads a statement that had six different
14 assertions in it and then asks a very broad question. So I would
15 ask counsel to be very specific in regards to this particular
16 statement.

17 [15.28.40]

18 MR. KOPPE:

19 I'm lost, Mr. President. I'm in your hands. I'm just reading a
20 passage from a statement in which this witness seems to say that
21 he saw with his own eyes an execution. Today we are hearing that
22 he didn't see it himself. I'm just trying to find out which two
23 of the statements is correct. What else could I do?

24 MR. LYSAK:

25 Mr. President, let me help counsel a little bit. For example, the

1 last sentence in the statement he just read says one of the
2 executioners counted one, two, three. The witness has explained
3 how he knew that. So that is why it's - if counsel wishes to put
4 specific parts of this statement to the witness I have no problem
5 with that, but I think it's improper to put this entire group of
6 statements together as one, as if they are one assertion.

7 [15.29.40]

8 BY MR. KOPPE:

9 It says one of the executioners counted one, two, three. I only
10 have two more minutes, let me rephrase, Mr. President.

11 Q. Mr. Witness, I just read you a passage about pits being dug
12 beforehand, and an executioner counting one, two, three, and the
13 killing began. Now, have you seen it yourself with your own eyes,
14 or have you heard that maybe from somebody else, or are you
15 making it up, Mr. Witness?

16 [15.30.28]

17 MR. LEV LAM:

18 A. I was nearby and I heard the counting of one, two, three. Of
19 course I heard the counting, but I did not know whether they
20 killed the people there as I walked away. But I personally heard
21 the counting of one, two, three.

22 Q. But was it an executioner who was counting one, two, three or
23 was it just somebody who was counting one, two, three?

24 A. Of course it was the executioner who counted, and nobody else.

25 Q. How would you know that if you haven't seen anything, Mr.

1 Witness?

2 A. I heard the counting, but I could not see through the forest.

3 [15.31.49]

4 Q. Maybe it was somebody giving instruction that people should
5 walk one, two, three. Could that be the case too? Mr. Witness,
6 I'll finish my question. Isn't this complete testimony a figment
7 of your imagination, you've never seen any executions, you were
8 not ever involved in any executions, you have no idea about
9 executions happening in your village? Isn't that true, Mr.

10 Witness, it is all a figment of your imagination?

11 A. Of course it is not a figment of my imagination. I did hear
12 the counting of one, two, three, although it is - I could not
13 verify with you whether it is a counting of the commencement of
14 killing of the people, or it's the counting for people to march
15 because I was about 30 metres away when I heard the counting.

16 Q. Let me put it differently, Mr. Witness. I'm putting to you
17 that there were no executions, that you weren't a witness to any
18 of those executions in the weeks after 17 April '75.

19 A. I am not clear on your question.

20 [15.33.45]

21 Q. For the very last time, Mr. Witness, I am putting it to you
22 that you were not witness to any executions in the weeks after 17
23 April '75; is that true?

24 MR. PRESIDENT:

25 Witness, please wait. The Prosecution, you may proceed.

1 MR. LYSAK:

2 Mr. President, if counsel is asking, simply asking the witness to
3 confirm whether he personally saw the killings, I have no problem
4 with that. If he's asking – if he's making an argument here about
5 whether the witnesses testimony supports the fact that executions
6 occurred, then I would have a rather large problem, which is
7 putting it to the witness that his testimony does not establish
8 that there were executions.

9 [15.34.42]

10 But if his question is simply intended to confirm that the
11 witness did personally not see the killings, I have no objection.

12 MR. KOPPE:

13 That we have established, Mr. President, and my final question
14 is, isn't it true Mr. Witness, there weren't in fact any
15 executions in the weeks after 17 April '75?

16 (Judges deliberate)

17 [15.35.12]

18 MR. PRESIDENT:

19 The objection by the Prosecutor is sustained. Witness, you are
20 instructed not to respond to this question and I think the time
21 is run out for you counsel.

22 MR. KOPPE:

23 Sadly enough, Mr. President, I will finish my questions.

24 MR. PRESIDENT:

25 The floor is now given to Khieu Samphan's' defence. You have 24

1 minutes to conclude.

2 [15.35.54]

3 QUESTIONING BY MR. VERCKEN:

4 Thank you for that very precise time definition, Mr. President.

5 Q. Mr. Witness, I have a few follow-up questions to put to you.

6 It won't take long. I think 24 minutes will be just what I need.

7 Just now you answered a question from my learned colleague, Mr.

8 Koppe, who was asking you how you knew where the 300 families

9 came from; who you found one day in your village, and you

10 answered that your father had talked with these people, and they

11 said they came from Kampong Chhnang. So let me ask you what about

12 Phnom Penh; if your father said that certain people came from

13 Kampong Chhnang, how did you know that other people came from

14 Phnom Penh, who told you that?

15 [15.37.11]

16 MR. LEV LAM:

17 A. Those who came from Kampong Chhnang stayed under my house and

18 for those who came from Phnom Penh, they stayed at other people's

19 houses or under the trees.

20 Q. Could you answer my question which was how did you know that

21 these other people came from Phnom Penh?

22 A. Those who came from Phnom Penh, they came from a different

23 direction. The one came from Kampong Chhnang came from the east

24 and those who came from Phnom Penh, they went through Kampong

25 Speu. So the directions that they arrived from, they were

1 different and there were many of them and there were a mixture of
2 these two groups of people in the village.

3 [15.38.40]

4 Q. You will forgive me if I don't fully understand your answer
5 because at the start of this afternoon's questioning, the first
6 question put by my learned colleague, Mr. Koppe, you said that
7 when you saw the 300 families setting up in your village, they
8 were already all there, living there in the village. And now,
9 what I'm asking is how did you know that some of the families
10 were from Phnom Penh and you told me that they came from Phnom
11 Penh because they took a different route. How did you know that
12 some of the families who were installed in your village had come
13 from Phnom Penh?

14 A. I heard that some people who came from Phnom Penh settled in
15 that village and the village chief also said that in our village,
16 people came from Phnom Penh and also some came from Kampong
17 Chhnang.

18 Q. Are you talking about your village where you had your house or
19 are you talking to us about a different village, Mr. Witness?

20 A. Of course I talk about my village because I only knew what
21 happened in my village and I did not know what happened in other
22 villages.

23 Q. So what you're telling me is that the idea that some of the
24 families among the 300 had come from Phnom Penh was given to you
25 by the village chief; is that right?

1 A. Yes, that's right.

2 [15.41.07]

3 Q. Did the village chief tell you this before the 300 families
4 did their biographies or after they had written their
5 biographies?

6 A. The biographies had already been written for that reason he
7 knew from where they came from, either Phnom Penh or Kampong
8 Chhnang.

9 Q. How much time went by between when the 300 families came to
10 your village and the time when some of the 70 families that you
11 were responsible for started to be evacuated? In other words,
12 between the arrival of the 300 families and the episode when you
13 were asked to accompany 10 or 20 people to a new village?

14 [15.42.42]

15 A. I only took 20 people and I did not take any other people from
16 those groups.

17 Q. I don't dispute that, but my question is about the time that
18 went by between the arrival of the 300 families and the episode
19 where you accompanied 20 people. How much time elapsed between
20 those two events?

21 A. The period between these two events was about three days. Some
22 people had been brought or taken out during these three days, but
23 I was the one who took the - that group, probably three days
24 after those people arrived.

25 Q. You told us that you saw 300 families coming into the village

1 and this morning you said that there were five people roughly per
2 family; so roughly 1,500 people came to install themselves in
3 your village. These must have included children, indeed you
4 talked to us about children, but these people had to write their
5 biographies as you told us. Let's imagine that two thirds of them
6 wrote biographies, so that gives you 1,000 biographies and you're
7 telling us that in three days the village chief had the
8 opportunity to read 1,000 biographies from these people and to
9 decide which of them should be evacuated; is that your testimony,
10 Mr. Witness?

11 [15.45.36]

12 A. In one day, not all of them could be relocated to other
13 villages. So each time, 10 or 20 families would be taken out and
14 it was a continuous process during this period of time.

15 Q. I don't know if I understood what I was hearing, but it did
16 seem to me that you made two statements about the biographies
17 that were mutually contradictory. I'm just looking at what you
18 answered my learned colleague and counsel Koppe asked you, did
19 anybody tell you how the biographies were checked and you
20 answered, as I heard it in my headphones, "I was told to check
21 the information in the biography itself. It was the only way to
22 check. If somebody said he was a peasant, he was put in the
23 peasant's group." End of quote. And then a bit later on, you
24 said: "I was never asked to check the biographies because I had
25 other jobs to do." So, Sir, could you kindly clarify, did you or

1 did you not work on the contents of these 1,000 or so biographies
2 that were written by the people who came to the village. Did you
3 sift through these biographies, one way or another; did you do
4 the checks?

5 [15.47.55]

6 A. No, I did not because I did not have anything to do with that.
7 It was the task of the cadres and we, the militia, had a separate
8 kind of task. I personally never reviewed any of those
9 biographies.

10 Q. So you have just told us that this was the job of the cadres,
11 but answering my learned colleagues' question just now, you said:
12 "Only the village chief checked the contents of the biographies."
13 Are you changing your testimony now? Was the village chief the
14 only one to work on the biographies or did other people go
15 through them as well; what is your testimony precisely on this
16 subject?

17 A. Allow me to clarify it. For the examination of the
18 biographies, there was a group of the village chief, cadres at
19 the village commune at district level; they all together examined
20 the biographies. It was not the village chief alone who did the
21 task. It was a group who actually reviewed the biographies.

22 Q. How many pages long was a biography?

23 A. No, I did not know how many pages each biography contained.

24 [15.50.10]

25 Q. How did the village chief and the other cadres working with

1 him, manage to evaluate, investigate and check the contents of
2 the biographies of 70 families who were evacuated from your
3 village in the space of three days? Getting the biographies
4 drafted, rereading them and checking them; do you know the answer
5 to this?

6 MR. PRESIDENT:

7 Witness, please wait. The Prosecution, you may proceed.

8 MR. LYSAK:

9 Mr. President, given the witnesses testimony that he was not
10 involved in this, Mr. Vercken is asking him to speculate when he
11 asks him to provide a statement about how the village and the
12 cadres who did this, how they were able to do it. He's asking the
13 witness to speculate.

14 (Judges deliberate)

15 [15.51.59]

16 MR. PRESIDENT:

17 The objection and its ground is valid. That's sustained. Witness,
18 you are instructed not to respond to the last question put to you
19 by the International counsel for Khieu Samphan.

20 BY MR. VERCKEN:

21 Q. A few minutes ago, I asked you how much time went by between
22 the arrival of the families in your village and the time when you
23 were told to accompany a group of them away and you said three
24 days. About two and a half hours ago, answering a colleague from
25 my learned colleague counsel Koppe, you were asked how long did

1 the 300 families stay under the house in your village; you
2 answered: "During a week and then some of them disappeared and
3 others stayed." Mr. Witness, is your testimony that the first
4 people were transferred to another village in three days' time or
5 in a week's time?

6 A. I already stated that it was three days after.

7 [15.53.53]

8 Q. Just in closing, I'd like you to enlighten me on an expression
9 that I might mispronounce, "svay tran", and you said that these
10 were the village militia, but at the same time, you seem to be
11 telling us that the 300 families who were living in your village
12 had come from two cities, Kampong Chhnang and Phnom Penh. Can you
13 please explain this apparent contradiction in your testimony?

14 A. I already stated that "svay tran" referred to those people who
15 guarded the village. Soldiers would go to the battlefield, so
16 that is the distinction between the two groups. "svay tran" would
17 always remain to protect the village and in the current similar
18 term, it refers to the village or commune militia.

19 [15.55.28]

20 Q. And in those days, were there "svay tran" in the towns?

21 A. I did not know whether there was "svay tran" in the cities or
22 in the village because the country was divided into separate
23 sectors.

24 Q. And finally, my colleague Victor Koppe asked you if after
25 having left the 20 or so people who you took from the village,

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1 you saw any clues or any indicators of crime, crimes that might
2 have happened, smells or bulldozer tracts or something like that
3 and you said: "I don't know" and then you said: "I didn't see any
4 pre-prepared pits." But the question my colleague was asking you
5 about was what you saw before, but also what you saw after, after
6 you had left. Did you hear the noise of bulldozers or notice any
7 particular odours or see any particular indicators of crimes that
8 might have been committed?

9 A. I did not witness it because by the time I reached that
10 location, there were soldiers who had been there to receive them.
11 Of course I did not go and have a look at the pits and whether
12 they smelled or not.

13 Q. And after that, in subsequent weeks or months?

14 A. Later on, I did not stay in that area or went to that
15 location.

16 [15.58.14]

17 MR. VERCKEN:

18 That is all. Thank you, Mr. President.

19 MR. PRESIDENT:

20 Thank you, Counsel. And Mr. Lev Lam, hearing your testimony has
21 now concluded and you may be excused from the Court; and we are
22 grateful for your time to testify before this Court for one full
23 day with patience and best effort.

24 [15.58.51]

25 Your testimony may contribute to finding the truth and the

1 Chamber wish you all the very best. The hearing today has come to
2 an adjournment and we will adjourn now and resume tomorrow
3 morning that is Wednesday the 3rd of July, 2013 commencing from
4 9.00 a.m. For tomorrow's proceeding, we will hear the testimony
5 of a witness, TCW-689. This information is for the parties, the
6 support staff and the general public.

7 I'd like to make a small change. The witness is actually TCW-169
8 as it is incorrectly reported by the Greffier. So it is TCW-169.
9 Court Officer in corroboration with WESU, please make an
10 arrangement for the witness to return to his residence or
11 wherever he resides to go to. Also make the same arrangement for
12 the reserve witness and have him return to the courtroom tomorrow
13 before 9.00 a.m.

14 Security guards, you are instructed to take the two accused, that
15 is Nuon Chea and Khieu Samphan, to the detention facility and
16 have them returned to the courtroom tomorrow morning before 9.00
17 a.m..

18 As for Nuon Chea, bring him to the holding cell downstairs with
19 its equipped video audio visual means for him to remotely follow
20 the proceeding. The Court is now adjourned.

21 (Court adjourns at 1601H)

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