



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): 24-Feb-2017, 08:00
CMS/CFO: Sann Rada

TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

23 January 2015

Trial Day 232

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

The Accused: NUON Chea
KHIEU Samphan

Lawyers for the Accused:
SON Arun
SUON Visal
Victor KOPPE
KONG Sam Onn
Anta GUISSSE

Trial Chamber Greffiers/Legal Officers:
SE Kolvuthy
Robynne CROFT
SIVHOANG Chea
Matthew McCARTHY

Lawyers for the Civil Parties:
PICH Ang
Marie GUIRAUD
LOR Chunthy
VEN Pov
Yiqiang LIU
HONG Kimsuon

For the Office of the Co-Prosecutors:
Nicholas KOUMJIAN
SENG Bunkheang
SONG Chorvoin
SENG Leang
Dale LYSAK
SREA Rattanak
Joseph Andrew BOYLE

For Court Management Section:
UCH Arun
SOUR Sotheavy

INDEX

DR. HUOT LINA AND DR. KIN MING CHAN

Questioning by the President	page 4
Questioning by Judge Fenz.....	page 16
Questioning by Mr. Pich Ang.....	page 37
Questioning by Mr. Koumjian	page 41
Questioning by Ms. Guissé	page 51
Questioning by Mr. Kong Sam Onn.....	page 55
Questioning by Mr. Son Arun	page 56

MS. OUM SUPHANY (2-TCCP-296)

Questioning by Mr. Liu (resumes)	page 61
Questioning by Mr. Seng Leang.....	page 72
Questioning by Mr. Lysak.....	page 78
Questioning by Mr. Suon Visal	page 82
Questioning by Mr. Koppe.....	page 89

List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
JUDGE FENZ	English
MS. GUIRAUD	French
MS. GUISSÉ	French
DR. HUOT LINA	English
DR. KIN MING CHAN	English
MR. KONG SAM ONN	Khmer
MR. KOPPE	English
MR. KOUMJIAN	English
MR. LIU	English
MR. LYSAK	English
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. PICH ANG	Khmer
MR. SENG LEANG	Khmer
MR. SON ARUN	Khmer
MR. SUON VISAL	Khmer
MS. OUM SUPHANY (2-TCCP-296)	Khmer

1

1 PROCEEDINGS

2 (Court opens at 0909H)

3 MR. PRESIDENT:

4 Please be seated.

5 For this morning's session, the Chamber will hear the medical
6 expert on their assessment of fitness to stand trial of the
7 Accused, and as President of the Trial Chamber, and on behalf of
8 the Bench, I would like to welcome the Co-Prosecutors, Deputy
9 Co-Prosecutors, counsels for the defence of Nuon Chea and Khieu
10 Samphan, civil parties, and civil party lawyers and Lead
11 Co-Lawyers for civil parties, and for everyone in and around the
12 courtroom.

13 Greffier, could you please report to the Chamber the attendance
14 of the Parties to today's proceedings?

15 And, in fact, today we will have two separate hearings: First, to
16 hear the assessment by the medical expert on the fitness to stand
17 trial of the Accused. And the second part will be the
18 continuation on the testimony of the civil party, Oum Suphany.

19 [09.11.39]

20 GREFFIER:

21 Mr. President, for today's proceedings, all parties and
22 individuals to today's proceedings are present in Court.
23 Nuon Chea is present in the holding cell downstairs as he waived
24 his right to be present in the courtroom. A waiver has been
25 handed to the greffier.

2

1 One national and one international medical expert, as well as the
2 civil party, Oum Suphany, are present to be called by the
3 Chamber. The two experts state that, to their best knowledge,
4 they have no relationship by blood or affiliation to any of the
5 two Accused: Mr. Nuon Chea or Khieu Samphan, nor to any civil
6 parties recognised by the Chamber in this case. The two experts
7 already took an oath.

8 [09.12.40]

9 MR. PRESIDENT:

10 Thank you.

11 And this morning before we commence the hearing, the Chamber has
12 received a waiver from Nuon Chea due to his health and he
13 requests to follow the proceedings through remote means from the
14 holding cell downstairs. And he understands about his waiver
15 through his counsel and this does not mean that he waives his
16 right to a fair and just trial. And his waiver to be present in
17 the courtroom is supported by a medical report by the duty doctor
18 at the ECCC, which states that he has health problems and
19 recommends that the Chamber should allow him to follow the
20 proceedings from the holding cell downstairs. And for that
21 reason, the Chamber grants Mr. Nuon Chea's request to follow the
22 proceedings from the holding cell downstairs through remote means
23 for today's proceedings, as he expressly waives his right to be
24 present in the courtroom.

25 [09.14.35]

3

1 And the AV Unit, you are instructed to link the proceedings to
2 the holding cell downstairs so that Nuon Chea can follow it. And
3 that applies to today's proceedings.

4 Court officer, could you usher the two medical experts into the
5 courtroom?

6 (Short pause)

7 [09.16.20]

8 MR. PRESIDENT:

9 On the 18th December 2014 (sic), the Trial Chamber held a fitness
10 hearing for Nuon Chea and Khieu Samphan's fitness to stand trial,
11 and in accordance with Rule 32 of the Internal Rules, the Chamber
12 ordered an assessment -- a health and psychological -- psychiatry
13 assessment for the two Accused for fitness to stand trial, as
14 well as to assess various requests for the appropriate scheduling
15 of the Trial.

16 The Chamber ordered Dr. Chan Kingmin, a geriatrician; and Dr.
17 Huot Lina, an expert psychiatrist to assess the Accused on the
18 19th and 20th January 2015, and prepare a report in English for
19 each of the two Accused, which shall be completed by 21st January
20 2015.

21 As for the translation of the medical experts, will be delivered
22 to the counsels for the defence by 22nd <January 2015>.

23 The experts delivered the report, as instructed, and the Chamber
24 advised that the information contained within the report shall
25 assist the Chamber to decide whether each of the Accused is fit<>

1 to stand trial.

2 [09.17.58]

3 And in accordance with the criteria by Strugar of the ICTY<. In
4 today's hearing,> the experts <> will present their <medical>
5 report and will be questioned by <the Chamber,> the
6 Co-Prosecutors, the civil party Lead Co-Lawyers, as well as the
7 counsels for the defence.

8 And first of all, let me say good morning to the medical experts.

9 And before that, we would like to briefly ask you some questions.

10 First, I would like to put questions to Dr. Huot Lina.

11 QUESTIONING BY THE PRESIDENT:

12 Q. Doctor, is your name Huot Lina?

13 DR. HUOT LINA:

14 A. Yes, that is correct.

15 Q. Can you tell the Chamber your date of birth?

16 A. I was born on the 5th of May 1963.

17 Q. Where is your current address?

18 And Doctor, please be advised you should only respond when the
19 microphone is operational.

20 A. My current address is <House Number> 291 Kampuchea Krom

21 Boulevard, <Sangkat> Mittakpheap, <Khan Prampir Meakkakra,> Phnom
22 Penh <City>.

23 [09.19.40]

24 Q. According to the oral report of the greffier just now, and to
25 the best of your knowledge, you have no relationship or

5

1 affiliation with any of the two Accused; namely, Nuon Chea and
2 Khieu Samphan, or to any of the civil parties admitted in Case
3 002; Is that correct?

4 A. Yes, that is correct.

5 Q. The oral report by the greffier stated that you have already
6 taken an oath before appearing in the courtroom; is that correct?

7 A. Yes, that is correct.

8 Q. Dr. Huot Lina, is there any change in your current position or
9 occupation? Previously, we know that you are head of a psychiatry
10 department of Khmer-Soviet Friendship Hospital, as well as
11 professor of psychiatry at the University of Health Science.

12 A. Currently, I <took two-year leave, unpaid,> with the
13 permission from the Khmer-Soviet Friendship Hospital and I work
14 at a Psychiatric clinic -- that is my own private clinic;
15 however, I still engage in teaching at the University of Health
16 and Science.

17 [09.21.30]

18 Q. In February 2014, you were appointed by the Chamber as an
19 expert to assess the fitness of both Accused: Nuon Chea and Khieu
20 Samphan, and you appeared and testified before the Chamber
21 several times. Is there any change in relation to your
22 qualifications after the latest examination of Nuon Chea and
23 Khieu Samphan in March 2014?

24 A. After I made the assessment of the two Accused, I further
25 developed my career. I participated in various national and

6

1 international workshops and seminars in order to increase my
2 capacity.

3 And as for the two Accused that I examined, it is my observation
4 that their mental state remains the same.

5 MR. PRESIDENT:

6 Thank you, Doctor.

7 And I'd like now to put questions to Dr. Chan Kinming.

8 [09.23.00]

9 QUESTIONING BY THE PRESIDENT

10 Q. Doctor, is Chan Kinming your name? Is my pronunciation
11 correct?

12 DR. CHAN:

13 A. Yes, Your Honour, it is correct.

14 Q. When were you born, Doctor?

15 A. I was born on 21st November 1959.

16 Q. And what is your nationality?

17 A. I'm a Singaporean -- Singapore citizen.

18 [09.23.37]

19 Q. And where is your current address?

20 A. My current address in Singapore is No. 6 Napier Road,
21 Gleneagles Medical Centre, X07-03.

22 Q. And what is your occupation and where you practice your
23 profession?

24 A. I am a senior consultant geriatrician and I have my own
25 private practice in both Gleneagles Medical Centre, as well as

1 Mount Alvernia Medical Centre. I am also a visiting consultant to
2 the Geriatric Department of the Singapore General Hospital.

3 Q. According to the oral report of the greffier just now, to the
4 best of your knowledge, you have no relationship or affiliation
5 with any of the Accused: Nuon Chea and Khieu Samphan, or to any
6 of the civil parties admitted in Case 002/02; is that correct?

7 A. That's correct, Your Honour.

8 [09.25.38]

9 Q. Also in the oral report, it is stated that you have already
10 taken an oath before appearing in the courtroom; is that correct?

11 A. That's correct, Your Honour.

12 Q. How long have you been practicing as a geriatrician?

13 A. I have been practicing as a geriatrician since 1988, and I
14 suppose that's more than 20 years. I have done my training in
15 Singapore and I have also been working for one year at the
16 Victoria Geriatric Unit in Scotland. And during that time when I
17 was working there, I completed a diploma in Geriatric Medicine
18 which was conferred to me by the Royal College of Surgeons and
19 Physicians, Glasgow.

20 Q. Thank you, Doctor. And since you are a geriatrician, could you
21 confirm that you are qualified in the fields of cardiology and
22 neurology?

23 A. As a geriatrician, we are trained in all aspects of the health
24 of older people, so in the area of cardiology and neurology, I am
25 able to make expert comments on these issues.

1 [09.27.40]

2 MR. PRESIDENT:

3 Thank you.

4 Before we proceed to the presentation of the expert report and
5 the examination, the Trial Chamber wishes to inform Mr. Experts
6 that during your presentation, as well as in response to the
7 questions put to you by the Trial Chamber and the Parties, you
8 may choose to work together, share the work on a voluntary basis
9 or under mutual agreement, or one of you may decide to either
10 make the presentation or provide overall responses. In response
11 to the questions put to you by the Trial Chamber and the Parties,
12 if the questions are of a general nature and are not directing to
13 any specific expert, one of you may respond to those questions
14 and the other may complement the answers, or may resolve to
15 remain silent. During the brief presentation of the report and in
16 response to the questions, both of you may decide who is going to
17 present or respond.

18 [09.29.03]

19 The Trial Chamber wishes to remind Mr. Experts that, it is very
20 important to speak slowly and in subsequent order to facilitate
21 the official interpretation. Mr. Experts are also asked to use as
22 few technical complicated terms as possible to make it clear and
23 easy to understand.

24 BY MR. PRESIDENT:

25 Q. Mr. Experts, you are among the three experts, including Mr.

1 Seena Fazel, whom the Trial Chamber <initially> appointed in
2 February 2014, to assess the fitness to stand trial of Mr. Nuon
3 Chea and Mr. Khieu Samphan. Is that correct?

4 DR. HUOT LINA:

5 A. Yes, that is correct.

6 <DR. CHAN:

7 A. Yes, that's correct.>

8 BY MR. PRESIDENT:

9 Q. Thank you. And on 18 December 2014 - rather, then your team
10 prepared an assessment report related to Nuon Chea and Khieu
11 Samphan on 26th March 2014, as requested by the Trial Chamber.
12 Has your team really carried out the assessment?

13 DR. HUOT LINA:

14 A. Yes we did.

15 [09.30.49]

16 BY MR. PRESIDENT:

17 Q. And on 18 December 2104, the Trial Chamber appointed both of
18 you to reassess the fitness to stand trial of Mr. Nuon Chea and
19 Khieu Samphan; then from 19 to 20 January 2015, you examined
20 medical conditions of Mr. Nuon Chea and Khieu Samphan by
21 consulting with the physicians who have treated Mr. Nuon Chea and
22 Mr. Khieu Samphan at Khmer-Soviet Friendship Hospital. Have you
23 really done it?

24 DR. HUOT LINA:

25 A. Yes, we have.

1 BY MR. PRESIDENT:

2 Q. And on 21st January 2015, you made a joint report assessing
3 the two Accused, Mr. Nuon Chea and Mr. Khieu Samphan -- document
4 E329/4 and E329/5 -- so as to respond to the Trial Chamber's
5 request. Have you really done it?

6 DR. HUOT LINA:

7 A. Yes, we have.

8 [09.32.13]

9 BY MR. PRESIDENT:

10 Q. Thank you.

11 Before I hand the floor to Judge Fenz, who has been appointed by
12 the Bench to put the questions to the two experts, could you
13 summarise the assessment fitness report of the two accused on
14 their fitness to stand trial and provide recommendations to the
15 Trial Chamber on any treatment or care which are required to cope
16 with the current medical conditions of the two accused?

17 DR. CHAN:

18 A. Your Honour, I'd like to start first by giving a summary on
19 Mr. Nuon Chea's physical health and recommendations, and that
20 will be followed by Dr. Huot, who will be commenting, giving a
21 summary and commenting on his mental health.

22 [09.33.44]

23 When we visited Mr. Nuon Chea on two occasions during this 19 and
24 20 January, we found that, physically, he has not changed very
25 much compared to the last time when we saw him, which was less

1 than a year ago in March 2014. As usual, he was seated at the
2 edge of his bed with his hands holding on to his walking frame
3 and his back was unsupported. He was cheerful. He has good eye
4 contact. When he spoke to us in a very loud and clear voice, he
5 was able to answer our questions confidently. And in the physical
6 examination, when I examined him, I found that his blood pressure
7 - his vital signs, meaning his blood pressures, pulse rate,
8 respiratory rates, were normal. And I have also reviewed his
9 previous weekly reports and they have also been normal.

10 [09.35.00]

11 In relation to his cerebral -- neurological system, we find that
12 there was no deterioration. His reflexes were normal, but there
13 was some limitation when he raised his right leg because of
14 stiffness of his knees, his hip, as well as some back pain.
15 I also have to note that he has a chronic back pain for a long
16 time, which, in the past, has been confirmed by an x-ray showing
17 multiple osteophytes. Osteophytes are basically wear and tear of
18 the bones with abnormal calcifications around it. And that could
19 dig into the muscles and sometimes into the nerves causing the
20 back pain that he has been complaining of for a very long time.
21 But he said that the pain is worse only when he changes position.
22 When he lies down he could do so by himself but with tolerable
23 pain. But when he sits up, he needs help to pull him up and
24 that's where he complains of a bit more severe pain. But the pain
25 would go away once he achieved his final position -- the pain

1 would go away in a very short time.

2 [09.36.44]

3 We felt that his vision is relatively good in spite of the left
4 cataract that has not been removed. Since the last assessment, he
5 was able to read with his right eye and he could look at his
6 watch, he could read the names of countries that were printed on
7 the wall map and on the globe, which he has inside his room. He
8 did complain about some noise in his ear, a medical condition
9 which we call tinnitus, and this is associated usually with some
10 dizziness, especially when there is a change in the position of
11 his head, and that is something new compared to the last
12 assessment we saw of him in March 2014. But the dizziness also
13 lasted a short time once he achieved his final position. So,
14 overall, my conclusion for Mr. Nuon Chea is that his back pain is
15 chronic and is not going to go away. But over time, it may get
16 worse as a result of the normal age degeneration. The dizziness
17 is due to an age-related degeneration of the nerves in his ears,
18 and again it is unlikely to go away, and it may further
19 deteriorate and progress as he goes older.

20 [09.38.42]

21 And being a frail man as he is, he is at risk of deconditioning
22 with rapid decline of his physical function. So our
23 recommendation was that, he should continue with his
24 physiotherapy, once to twice a week, so as to maintain his muscle
25 mass, and his limb dexterity, and his functional status.

1 DR. HUOT LINA:

2 A. Mr. President, Your Honours, I would like to make a brief
3 summary concerning mental condition of Mr. Nuon Chea. Based on
4 our two-day examination, we observed that his mental condition is
5 stable. In 2004 (sic), in March 2004 (sic) -- from March 2004
6 (sic) until January <2015>, it is less than one year, we observed
7 that his memory is still stable. We also examined his fitness to
8 stand trial and we applied Strugar Case -- the seven criteria --
9 and after our examination, nothing has changed. He is able and he
10 is fit to stand trial as we assessed in the latest report -- in
11 the last report. <For the recommendation,> in particular, Mr.
12 Nuon Chea, his mental condition is good, so he could participate
13 in the trial proceedings. So this is my brief summary.

14 [09.41.15]

15 MR. PRESIDENT:

16 Now, what about Mr. Khieu Samphan health condition?

17 DR. HUOT LINA:

18 Thank you, Mr. President. Next, I would like to mention the
19 development of mental condition of Mr. Khieu Samphan.
20 In March 2014, from that time until January 2015, it is less than
21 one year, as I said, the memory of Mr. Khieu Samphan has not
22 changed, it is stable, it is in good condition. And his fitness,
23 his -- whether he is fit to stand trial, we also applied the
24 criteria of the Strugar Case. There are seven criteria. From my
25 examination, I believe his mental condition is stable. He has the

14

1 ability to participate in the trial proceedings. And as for our
2 recommendation in relation to mental condition, I believe he is
3 -- nothing hinders his participation in the trial proceedings.

4 [09.43.00]

5 DR. CHAN:

6 Your Honour, I would like to give a summary on the physical
7 conditions of Mr. Khieu Samphan. We visited him and examined him
8 on the 19th and 20th January, in his cell, and during that time,
9 on both occasions when we arrived, he was actually lying down on
10 his bed reading a book and upon knowing that we are here, he
11 could sit up in bed all by himself while he await us getting into
12 the room and he was able to smile as he recognised our faces, but
13 not our names. He was able to move around his room unassisted,
14 moving from his bed to the table and to the bathroom and back. He
15 was able to take hold of books and files of documents to flip
16 through, to show us certain passages that he wants us to read. He
17 spoke loudly, forcefully, without any slurring of speech,
18 although he complained that his hearing had deteriorated. But it
19 was adequate for us to communicate with him even as we spoke in a
20 normal tone, although there were occasions when he leaned forward
21 with his left ear in front, presumably to listen to us better. He
22 was able to read sometimes without a magnifying glass, but there
23 was certainly a magnifying glass on a book that he was reading.

24 [09.45.10]

25 On his physical examination, we found that, at that point in time

15

1 his blood pressures were very normal - 130 over 70 - and the
2 pulse was 70 per minute, also normal. And we know that he had
3 just been discharged from the hospital with bronchitis and
4 hypertension, but we found that his blood pressure had
5 normalised.

6 Examination of his chest also showed that his lungs were clear
7 and we reviewed his x-rays at the Khmer-Soviet Friendship
8 Hospital and the last x-ray before his discharge was clear, was
9 normal.

10 During the time of our interview he was in good spirits,
11 maintaining that he was only a little tired. We know that he does
12 have a history of chronic backache and in view of his age we
13 would also expect that his backache can worsen over time because
14 of age. And he has two histories of strokes before; therefore,
15 our recommendation is that, his blood pressures will need to be
16 monitored closely because hyper pressure and his age are known
17 risk factors for another stroke. But overall, we felt that
18 there's nothing in his physical examination that would affect his
19 ability to stand trial. That's my report, Mr. President.

20 [9.47.22]

21 MR. PRESIDENT:

22 Thank you, Mr. Experts.

23 Next, I would like to hand over the floor to Judge Fenz, who is
24 assigned to put specific questions to the two experts on behalf
25 of the Chamber.

16

1 You may now have the floor, Judge Fenz.

2 JUDGE FENZ:

3 Thank you, Mr. President. Good morning.

4 I will first shortly raise yesterday afternoon's incident. I'll
5 then -- and this is more for the benefit of the public -- walk
6 you very summarily through the remainder of the report, and then
7 ask questions, some of them while we are going, some of them at
8 the end.

9 [09.48.16]

10 QUESTIONING BY JUDGE FENZ:

11 Q. So, as about yesterday afternoon's incident. Are you aware
12 that there was another incident, meaning that we had to adjourn
13 early because Mr. Khieu Samphan was no longer able to follow
14 proceedings?

15 DR. CHAN:

16 A. Yes, we were briefly informed that there was such an incident.

17 JUDGE FENZ:

18 Q. Are you in possession of the report of the doctor made at that
19 time?

20 DR. CHAN:

21 A. No, Your Honour.

22 JUDGE FENZ:

23 Then I would perhaps suggest -- we, we have received the report
24 only very recently so perhaps we can give the Khmer version, and
25 my understanding is that there is only a Khmer version of this

17

1 very short report, to the experts. One of them speaks Khmer. I
2 think, it will only take a minute to read it and we can then
3 include it into the overall assessment.

4 [09.49.30]

5 So while this is being done, I will just shortly inform the
6 public what else, besides seeing Mr. Nuon Chea and Mr. Khieu
7 Samphan yourself, you have done before you reached the
8 conclusions. Now all the Parties are in possession of the full
9 report, so I will be very brief and sum up. I will start with
10 Nuon Chea.

11 Q. You have also looked at the history of the -- do you wish me
12 to give you a couple of minutes to read?

13 (Short pause)

14 [09.51.16]

15 BY JUDGE FENZ:

16 Q. I'll ask you anyway to shortly summarise this report for the
17 benefit of everybody. But I would first, as I said, want to make
18 a couple of additional remarks on how you have reached your
19 conclusions. And I will start out with Nuon Chea. You had a look
20 at his medical history; you stated that he has had hypertension
21 over 30 years and ischaemic heart disease in 1995. What is this
22 in lay terms?

23 DR. CHAN:

24 A. Ischaemic heart disease just means that he has a weak heart.

25 BY JUDGE FENZ:

1 Q. Moderate kidney insufficiency and an attack of cerebral
2 vascular disease in 1998, in lay terms?

3 DR. CHAN:

4 A. He suffered a stroke in 1998.

5 [09.52.11]

6 BY JUDGE FENZ:

7 Q. And chronic backache. You then -- additionally to obviously
8 talking to himself -- you consulted with doctors, treating
9 doctors at the Khmer-Soviet Friendship Hospital where he has
10 regular check-ups. They basically reported that he was slow in
11 walking, but nothing else extraordinary. You then consulted with
12 the detention facility's treating doctors, who mentioned
13 occasional dizziness, no significant complaints from Nuon Chea.
14 You consulted with detention staff, who also said they felt he
15 seems weaker when he walks; they also mentioned the dizziness.
16 Nuon Chea himself assessed -- Nuon Chea assessed himself as
17 feeling physically weaker.

18 Then when it comes to mental health - that was about physical
19 health - the same organisations or bodies were consulted. The
20 treating doctors at the Khmer Friendship Hospital reported no
21 problems, considered concentration as appearing normal. Chief of
22 detention staff noticed no specific memory problems.

23 [09.53.35]

24 You then mentioned - yes, we know the conclusions and what you
25 have done. You then mentioned that Nuon Chea's memory and

19

1 cognitive function will gradually deteriorate further with age
2 and you therefore recommend regular reviews in the future, and so
3 my first question is: How often should these reviews take place
4 provided there is no extraordinary incident in between?

5 The recommendation for the reviews is the last page, the last
6 paragraph of your assessment of Mr. Nuon Chea. And the question
7 was, how often is regular?

8 [09.55.22]

9 DR. HUOT LINA:

10 A. I would like to respond to Your Honour's question.

11 In reference to paragraph 46 of Nuon Chea's report, we recommend
12 that Nuon Chea's cognitive function should be regularly reviewed.

13 <But> I received a report from the Khmer-Soviet Friendship
14 Hospital, <which is> a weekly report and I have never seen that
15 the mental condition has been regularly reviewed. Only physical
16 condition has been examined. <It was written that it is in a
17 normal condition.> It is wise to review Nuon Chea's mental
18 condition once a month or once in every two months <for the
19 Khmer-Soviet Friendship Hospital>. <On the other hand> I believe
20 that ECCC asked the doctors to review the mental condition of Mr.
21 Nuon Chea annually.

22 <> I believe that we recommend that the specialist -- specialised
23 doctor should review cognitive function of Mr. Nuon Chea
24 regularly and based on specialised skills. And I observe that the
25 report on Mr. Nuon Chea's mental refer to only general condition

1 without mentioning the specific cognitive condition of the
2 Accused, Nuon Chea. When I talked to the treating doctor or the
3 duty doctor about Mr. Nuon Chea's mental condition, I received
4 the reply that Mr. Nuon Chea's mental condition is normal. That
5 is why the treating doctors put such a note in the reports.
6 <Also, they didn't send these reports to the psychiatrists.> Once
7 again, in paragraph 46 of the report, cognitive function of Mr.
8 Nuon Chea should be reviewed at least once a year. So this is my
9 brief response.

10 [9.58.22]

11 BY JUDGE FENZ:

12 Q. Just to clarify for me, perhaps it is a translation issue. But
13 I have heard it should, your last recommendation was once a year,
14 and before that you said once every month or every two months.
15 Can we clarify that?

16 DR. HUOT LINA:

17 A. I said once a year; is to comply with the order by the Trial
18 Chamber as we are appointed here to assess his cognitive
19 function. We were assigned to assess <their> mental condition in
20 2014 - '13, '14, and '15, and this can be considered a regular
21 review. And <if it is possible,> in addition to the review of
22 <their> cognitive functions once a year, <their> cognitive
23 function<s> should be reviewed additionally once a month or once
24 in every three months, <at the Khmer-Soviet Friendship Hospital,>
25 to make it complete for our information. <So, we can have some

21

1 records.> And as I said, I talked to the treating doctors of <the
2 two Accused,> and I received the reply that the cognitive
3 function of <the two Accused have> not degenerated, that is why
4 <they do> not need assistance from Khmer-Soviet Friendship
5 Hospital to review -- to specifically review <their> cognitive
6 function<s>.

7 [10.00.24]

8 And I recommend that there should be a doctor from Khmer-Soviet
9 Friendship Hospital, specialised in cognitive function to review
10 regularly once a month, or once every two or three months so that
11 we have full information during the time that we conduct
12 cognitive function annually for <them>.

13 BY JUDGE FENZ:

14 Q. So let me sum up and see if I understood you correctly. What
15 apparently the two of you are recommending is a yearly assessment
16 which covers everything physical and mental, and additionally to
17 that -- well, one, two or three monthly assessment of cognitive
18 functions which can be done locally. Now, provided this is
19 correct, do we have the capacities locally to do these
20 assessments? Meaning, do we have doctors who can do it?

21 [10.01.43]

22 DR. HUOT LINA:

23 A. To my knowledge, yes. There are specialists in psychiatry, and
24 I believe there are 30 or 40 experts in this field. And also
25 there are some of these specialists working at the Khmer-Soviet

1 Friendship Hospital, and they're able to carry out these
2 assessments. I believe that it is better that there should be a
3 regular report, in supplementary to the weekly physical
4 assessment, because these weekly or monthly medical reports do
5 not include the details of the cognitive function assessment.

6 Thank you.

7 BY JUDGE FENZ:

8 Q. Thank you. And you wouldn't want to be a bit more clear on
9 whether, where between one and three months we should actually
10 go? Is three months enough for the beginning? Every three months?

11 [10.03.10]

12 DR. HUOT LINA:

13 A. I believe this is based on the actual situation. But I believe
14 a <more frequent> assessment is <the> better. For that reason, it
15 would be ideal to have a monthly assessment. And if it cannot be
16 done, then an assessment every three months is also a good start.
17 <It is better than having nothing.>

18 BY JUDGE FENZ:

19 Q. Thank you. I'm now moving on to Khieu Samphan.

20 When it came to physical conditions, you looked at his history --

21 MR. PRESIDENT:

22 Counsel for Khieu Samphan, you may proceed.

23 MS. GUISSSE:

24 Thank you, Mr. President. I'm very sorry for interrupting Judge

25 Fenz. I simply wanted to make a remark. We have already informed

1 the Chamber that there were <a> certain number of details
2 concerning Mr. Khieu Samphan's health condition. And we impressed
3 upon the importance of medical confidentiality. <Up to now we've
4 allowed some leeway, because> we believe that it is <> important
5 for the experts to be able to summarise their <> positions
6 regarding Mr. Khieu Samphan's fitness to stand trial.

7 [10.04.41]

8 Now I foresee -- I'm not entirely sure the questions that the
9 judges will ask, nor what the Parties will ask. <Up to now> the
10 questions posed by Judge Fenz with respect to Mr. Nuon Chea <>
11 don't <pose any problems for us>. I just simply want to say that
12 if we're to delve into a certain level of detail with respect to
13 the health report <or other topics>, that we wish to put on
14 notice that we may submit a request to hold these hearings in
15 camera. <So, I would like to make this preliminary remark; yet
16 remind that thus far, no difficulties have been raised.>

17 <BY> JUDGE FENZ:

18 Yes, thank you. I'll be as general as I was with Nuon Chea when
19 it comes to presenting the way the experts arrived at their
20 conclusion. <>

21 Q. Back, you looked at his history, basically, high blood
22 pressure and <synthetic hypothyroidism>. What does that mean?

23 [10.05.50]

24 DR.CHAN:

25 A. Your Honour, it just meant that the thyroid gland is not

1 producing sufficient thyroid hormone.

2 BY JUDGE FENZ:

3 Q. And in 2007, he had a transient cerebrovascular accident; does
4 that mean stroke?

5 DR. CHAN:

6 A. Yes, he had a mild stroke.

7 BY JUDGE FENZ:

8 Q. Then another one in May 2008; last admitted to the Calmette
9 Hospital for one month for respiratory tract infection in 2009.
10 Then you mentioned some hearing problems, a cataract surgery in
11 2013, a chest infection admission in 2013. You reminded us that
12 since the last evaluation, there had been three episodes of
13 hospitalisation in March and May 2014, and the most recent in
14 January 2015. They were due to fatigue, fever, hypertension, and
15 in one case to acute bronchitis.

16 [10.06.55]

17 You talked to the Khmer Friendship Hospital staff who basically
18 had nothing special to add. The detention for treating doctor
19 said that -- felt that Khieu Samphan was feeling better. He
20 mentioned the blood pressure and the bronchitis. A detention
21 staff said he had never recorded any specific health problems
22 beyond the ones we have mentioned now; that he's very committed
23 to exercising.

24 Then when it comes to the mental health, all of the -- or none of
25 the agencies questions mentioned anything specific or

25

1 extraordinary. He himself, his self assessment was that his
2 memory was fine. He could remember his recent event like the
3 menu, for instance, during lunch time. He said sometimes he
4 couldn't remember what he did last week or yesterday but no
5 specific issues. Otherwise - now -- I want now to move from --
6 this is about Khieu Samphan -- from this expert report to the --
7 well, by now it's three incidents we had last week.

8 [10.08.12]

9 We all know that we had to adjourn early because Khieu Samphan
10 wasn't able to follow proceedings any longer. We had one of those
11 incidents on the 8th of January, one on the 21st of January, and
12 the last one as recently as yesterday. And we had asked you to
13 supplement your report in commenting on this incident and I will
14 now ask you to shortly summarise your findings on all three
15 incidents. So I'll also ask you, for the benefit of everybody --
16 because as I said the third report, the last report does not yet
17 exist in any other language than Khmer. So would you please
18 present your findings on those three incidents?

19 [10.09.09]

20 DR. CHAN:

21 A. Yes, Your Honour. Now let me first start by commenting on the
22 incident on the 12th of January, where he was -- when the Court
23 was adjourned and he was subsequently brought to hospital. We
24 reviewed the daily medical records of Mr. Khieu and we found that
25 on the morning of the trial date, namely the 12th of January, his

1 blood pressure was 150 over 90, which is higher than his usual
2 blood pressures as we check through his previous records. His
3 pulse rate was 112. Again, much higher by any standards, and
4 higher than his usual pulse rate. And of course when he was
5 brought into hospital, they realised that his oxygen was
6 so-called insufficient. The saturation was 93 or 94. And after a
7 variety of tests, he was started on some intravenous injection
8 antibiotics. And subsequently the blood pressure pulse,
9 everything normalises.

10 [10.10.52]

11 Now looking back at this particular incident, firstly I do not
12 think that the blood pressure was the cause of his problem. I
13 think at the start of the trial, he was already beginning to feel
14 unwell. Although, when we asked Mr. Khieu Samphan, he said that
15 he was well that morning. That's why our conclusion was that he
16 -- at that point in time, he probably has what we call a
17 sub-acute chest infection. It was not severe enough to cause a
18 rise in temperature nor severe enough to cause him feel
19 breathless or unwell, but the vital signs are showing it; in the
20 sense that his pressure and his pulse rate were not normal
21 compared to his usual. And of course, with the course antibiotic
22 treatment in the hospital, he recovered and the subsequent x-rays
23 and the subsequent oxygen levels in his body went back to normal.
24 And his normal is 97-98 per cent. So that's my comment on the
25 incident on the 12th of January.

1 Now the second incident was on the 21st of January. And because
2 of that, both Dr. Huot and myself came down to interview the
3 medical centre doctor as well as Mr. Khieu himself on the 22nd.
4 And we interviewed him and he said that, at the start he felt
5 well. And we also noted that his blood pressure that morning was
6 about 140 over 70 with a heart rate -- with a pulse rate of 82.
7 And when he felt unwell in the afternoon -- sorry, I beg your
8 pardon. I don't have the email that I sent off as a supplementary
9 report. It will be good for me to have that so I can be more
10 specific with his blood pressure.

11 [10.13.53]

12 JUDGE FENZ:

13 May I ask one of the legal officers to provide the English
14 version of the email to the expert?

15 (Short pause)

16 [10.14.32]

17 DR. CHAN:

18 Thank you, Your Honour.

19 Now, his blood pressure on the morning of the trial on the 21st
20 of January was 135 over 70 and his pulse rate was 76 per minute
21 and both were normal by his usual standards. The oxygen
22 saturation was 98 per cent. Again that was normal. There was no
23 mention about what his respiratory rate was that morning.
24 However, when he felt unwell, and when the Court was adjourned at
25 3.30 in the afternoon, his vital signs were taken at 4 p.m. by

1 the attending duty doctor. His blood pressure was 140 over 70.
2 His pulse rate was 82 per minute. His oxygen saturation was 95%,
3 and that is still normal for someone of his age. Again no
4 respiratory rate was recorded.

5 [10.15.51]

6 So again, for that second incident, blood pressure of 140 over
7 70, which is just five millimetre mercury higher than what he had
8 in the morning, could have caused him such -- to be so
9 symptomatic as to call for an adjournment of the court
10 proceedings.

11 When we interviewed him on the 22nd of January, he was able to
12 recount his -- what happened the day before. And the thing that
13 came out most strongly was the complaining of fatigue that he
14 felt in the afternoon. In his own words, as accurately as I can
15 recall, he said that if the morning session was to end by 11.30,
16 then he would have enough time for his lunch, as well as a short
17 break to rest -- to lie down. And if he has that, then he has no
18 problem continuing the afternoon session.

19 [10.17.34]

20 I've actually made note of that in my report because that was
21 what he said. And as a geriatrician, and of course with my
22 colleague, Dr. Huot, we felt that it is not unreasonable for
23 someone of his age being 84 years old and with his known physical
24 conditions of hypertension, history of strokes and chronic
25 bronchitis, to feel fatigue and as a result of the fatigue cause

1 him to feel dizzy, and to cause him to feel weak and unable to
2 continue.

3 At this point, I'd like to make a general statement about
4 hypertension -- high blood pressure. Usually -- or rather, if we
5 look at all the medical literature about high blood pressure, you
6 have no symptoms of high blood pressure. And although many lay
7 people would associate their dizziness, their headache to blood
8 pressure, there is actually no medical correlation. Certainly, a
9 blood pressure of 140 over 70 would not have accounted for that
10 discomfort. And therefore, on the second incident, I do not think
11 that his blood pressure was the cause. It is likely that it is
12 his physical fatigue that has taken its toll.

13 [10.19.27]

14 Considering also that he had just been discharged from hospital
15 suffering from an infection of his chest requiring injection
16 antibiotics, even though the normal parameters that we use to
17 gauge whether a person has fully recovered from that infection;
18 namely, we look at the white cell counts, we look at biochemical
19 parameter called C-Reactive Protein (CRP), we look at the x-rays,
20 they have all normalised. So effectively, the person has been
21 treated and cleared of the infection but the toll of the
22 infection on the body persists. And in older people sometimes,
23 they would take a week or two before they fully recover their
24 constitution, so to speak. So that is my comment on the incident
25 of the 21st of January.

1 [10.20.56]

2 Now for the incident yesterday, when I checked his -- when we
3 visited him, when I checked his blood pressure myself, he was in
4 a holding cell -- he was at a holding cell when I checked his
5 blood pressure, he was 140 over 70 with a pulse rate of 82. And
6 at the time, his respiratory rate was 18. Now based on the report
7 right in front of me and with the content, some of the content
8 being interpreted to me by Dr. Huot, his blood pressure, when he
9 felt unwell was 160 over 90, his respiratory rate was 84 per
10 minute -- sorry, I beg your pardon. His pulse rate was 84 per
11 minute and his respiratory rate was 28 per minute, which is much
12 higher than his usual. There was also a figure of 9, presumably
13 under the section on oxygen saturation. So whether it was 90 or
14 90 something, I do not know because there was only number "9"
15 that was written down there.

16 [10.22.38]

17 So obviously at the point in time, yes, the blood pressure has
18 risen 160 over 90, but I do not think that that again is a cause
19 because 160 over 90 is still not symptomatic for most patients. I
20 say most because I cannot generalise that to Mr. Khieu. If we
21 look at the medical literature, when we talk about a blood
22 pressure that is symptomatic enough to cause dizziness and
23 headaches and so forth, weakness, then we are looking at the
24 blood pressure of 180 over 110 diastolic. So this is still well
25 below the symptomatic range. But of course, we are dealing with

1 an individual and different people may have different tolerance
2 to blood pressure. But it's interesting to note that his
3 respiratory rate is 28.
4 [10.23.59]
5 Now, when one is excited, when one talks in a very excited manner
6 and in the course of the two days that we interviewed Mr. Khieu,
7 when we touch on certain points, he was very passionate about
8 defending himself, explaining himself and he can be
9 hyperventilating, which is a normal response when one is just
10 excited. An increase in blood pressure is also a normal response
11 when one gets excited. Even doing mental arithmetic can cause the
12 blood pressure to go up. So, at the end of -- or during a trial
13 session with a pressure of 160 over 90, my conclusion is that
14 yes, it is high but it may be appropriately high, but depending
15 on what was being discussed, what was he being questioned about
16 at that point in time. And when one gets worked up and when we
17 start to hyperventilate, physiologically the body breathes fast.
18 And when we tend to blow out the carbon dioxide in the body, then
19 the arteries in the brain will constrict and we will get dizzy.
20 Because we get excited, we hyperventilate, we get dizzy. And when
21 carbon dioxide in the blood goes down because we were
22 hyperventilating, then our blood becomes more alkaline, and that
23 binds up the calcium in our system, and it affects our muscles.
24 It causes cramps, it causes the tremors and the trembling that
25 each time we heard him complaining about. And although we have

1 not witnessed it ourselves, but based on the history, we find
2 that it is likely that in the process of physical fatigue, in the
3 process of being very excited, and involuntarily we
4 hyperventilate, he develops this dizziness as well as the cramps
5 and the tremors that he was experiencing during that time. So
6 that's my assessment of the third incidence. Thank you.

7 [10.27.02]

8 BY JUDGE FENZ:

9 Q. Thank you. I have first two questions to clarify. What you
10 just said and two follow-up questions.

11 First of all and for the record, when did you take the vitals
12 yesterday? And when, according to the report, where the vitals
13 taken in the afternoon?

14 DR. CHAN:

15 A. I took the record of his blood pressure in the morning when he
16 was still in his holding cell. I cannot remember the exact time
17 but it must be 9.00 -- 9 something in the morning.

18 BY JUDGE FENZ:

19 Q. And does the report about the afternoon incident mention a
20 time?

21 DR. CHAN:

22 A. Yes, I have the time for the morning. I took the blood
23 pressure at 9.15. And the medical report, the doctor reviewed him
24 at 3.00 in the afternoon.

25 [10.28.16]

1 BY JUDGE FENZ:

2 Q. Thank you. Then two follow-up questions to what you said just
3 previously.

4 I note that the four parameters mentioned in all the incident
5 reports are blood pressure, heart rate, respiratory rate and
6 oxygen saturation. Now you already explained some terms of blood
7 pressure and respiratory rate variations; would you be able to
8 tell us if it is possible to assign certain symptoms to pulse and
9 oxygen saturation. So what would the patient feel if these were
10 abnormal?

11 DR. CHAN:

12 A. Yes. The -- if the saturation is low -- when we say low for
13 someone of his age at 84, we're really looking at below 92 per
14 cent. I believe as I read through all his daily report, there
15 were none that had -- that were below 92 per cent. Of course, if
16 we left oxygen, one of the symptoms would have been
17 breathlessness. It also goes to say that it doesn't mean that
18 every complaint of breathlessness means that oxygen is low
19 because breathlessness is a very subjective symptom. And there
20 were times when the oxygen saturations were normal and yet the
21 patient still complains of breathlessness and vice versa.

22 [10.30.10]

23 As for the pulse rate, a high pulse rate, again, depends on the
24 sensitivity of the individual to his own body. Sometimes the
25 person may not even know that the pulse rate is high. And

1 sometimes, they may feel palpitations. They can feel the heart
2 pounding in the chest when they have a high pulse rate.

3 BY JUDGE FENZ:

4 Q. I notice that you repeatedly -- when you described the
5 parameter -- used words like "usual, normal, symptomatic"; that's
6 clear for me, the last one. Is it possible to give a range of
7 normal or usual for each of these parameters for Khieu Samphan
8 for a person of that age or is that impossible?

9 [10.31.09]

10 DR. CHAN:

11 A. Yes. Generally, we look at a cut-off of 140. Anything up to
12 140, we can consider that as normal. Above 140 to maybe 160, in
13 the literature, we consider that as Stage 1 hypertension or mild
14 hypertension. So above 160, then we consider that as moderate,
15 and severe would be 180 and above.

16 For the diastolic, 90 again is top normal of the diastolic blood
17 pressure. If you are looking at someone who is hypertensive, then
18 we are looking at 90-95. And 95-100 would be mild, above 100
19 would be moderate, and above 120 would be severe hypertension.

20 When we -- sorry, Your Honour, can I continue?

21 When we look at the blood pressures of a person and decide
22 whether they are hypertensive or not, it is the resting blood
23 pressure -- it is the blood pressure when they have been at rest
24 physically and mentally for 15 minutes at least on three
25 readings. If you are just looking at someone who feels unwell out

1 of a courtroom after all the exchanges and we check the blood
2 pressure, we do expect it to be high and this would have been a
3 normal physiological response to the circumstances.

4 [10.33.24]

5 BY JUDGE FENZ:

6 Q. And coming to my last questions. And this pertains to the
7 schedule. You already mentioned that you recommended an extended
8 lunch break. So basically, say one hour -- half an hour from the
9 morning session. Now my question is -- let me first pick up --
10 you have made it clear both of you that the conditions of none of
11 the Accused will improve. So we might be confronted with the need
12 in the future to further reduce. Should that be the case, from
13 your point of view -- from the medical point of view, does it
14 make more sense to shorten the days in a week or shorten the
15 hours in a day? Meaning, does it make more sense to go three full
16 days; for instance, to allow for a longer rest period or to stay
17 with four days and thus limit potentially further the number of
18 hours?

19 [10.34.51]

20 DR. CHAN:

21 A. Yes, Your Honour. I think it makes more sense for us to give
22 him more rest during the day of the trial rather than to have
23 three days of pack activity and four days of rest.

24 JUDGE FENZ:

25 Thank you. That concludes my questioning.

1 MR. PRESIDENT:

2 Thank you very much, Judge Fenz and Mr. Experts.

3 It is now time for break.

4 You may now have the floor the International Co-Prosecutor.

5 MR. KOUMJIAN:

6 So very quickly, Your Honour. It's probably completely my fault.

7 I didn't quite get the last answer. The witness I believe said

8 which was better a fewer days per week or the number of hours per

9 day. And if I - did I understand correctly, he said better to

10 shorten the day, and have a four days a week?

11 [10.36.08]

12 JUDGE FENZ:

13 No. Let me see if I understood it correctly. My understanding was

14 that it is exactly the other way round. Better to give more rest

15 during the day but still stay with X number of days than limit

16 the number of days in a week. Did I get this correctly?

17 DR. CHAN:

18 Yes. Absolutely.

19 MR. PRESIDENT:

20 It is now a convenient time for break. The Chamber take break

21 from this time until 10.50. During the break time, Court officer,

22 you are instructed to facilitate a proper place for Mr. Experts,

23 and have them returned before 10 to 11.00.

24 The Court is adjourned.

25 (Court recesses from 1037H to 1055H)

1 MR. PRESIDENT:

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

3 And I would like to ask whether Judges of the Bench have any
4 questions for these two medical experts?

5 And at the commencement of the hearing on the 21st January 2015,
6 the Trial Chamber advised the Parties that the fitness to stand
7 trial of the Accused is to be held on the 23rd January 2015, and
8 Parties are instructed to provide any confirmation by <3 p.m. in
9 the> afternoon of the 22nd if any Party wishes to have the
10 hearing held.

11 [10.56.48]

12 And yesterday we received confirmation from the Lead Co-Lawyers
13 for civil parties to put questions to the experts in relation to
14 certain paragraphs of the report. And for that reason, the
15 Chamber will cede the floor to the Lead Co-Lawyers for civil
16 party to put the questions to the experts.

17 And you may proceed.

18 MR. PICH ANG:

19 Good morning, Mr. President, Your Honours.

20 And due to the privacy and confidentiality of the personal
21 information of the Accused, we will not put questions in relation
22 to that, and most of the questions have been put to the two
23 experts by Judge Fenz already.

24 [10.57.47]

25 QUESTIONING BY MR. PICH ANG:

1 Q. And I have one question, which is in general to be put to the
2 medical experts.

3 For people with high blood pressure, and when they face an issue
4 to make them, for example, shocked or feel very unhappy or upset
5 or maybe a question would upset that individual, my question to
6 the experts is the following: Will people or individual with
7 history of hypertension is affected by such situation, and in
8 terms of mental status? And if so, how?

9 DR. CHAN:

10 A. Mr. President, I wish to answer that question, which is a
11 general question about how people would react if they have high
12 blood pressure when they are shocked, unhappy or upset. I think
13 the response of such an individual would be rise - a further rise
14 in his or her blood pressure. And depending on the intensity of
15 that shock, or unhappiness, sometimes it can be a triggering
16 factor for them to develop severe uncontrolled hypertension or
17 even hypertensive crisis.

18 [11.00.10]

19 Now in hypertensive crisis, we are really talking about a blood
20 pressure that is above 180 systolic and/or a diastolic that is
21 above 120. In such a situation, if the pressure is above 180
22 systolic and/or a diastolic of above 120, the person may develop
23 a condition called hypertensive encephalopathy. That happens when
24 the pressure is so high that it causes swelling of the brain and
25 as a result of the swelling of the brain, the person can develop

1 acute confusion, and a person may develop a stroke in the
2 process. Of course when the person becomes confused, incoherent,
3 unable to unrecognize people, it is a medical emergency where
4 they need to be brought straight away to the hospital.

5 BY MR. PICH ANG:

6 Q. Thank you, Mr. Expert, for your response.

7 You talked about the severity of the intensity of the
8 hypertension. Would you be able to provide further details on the
9 level of intensity that would cause a hypertension or leads to
10 hypertensive crisis?

11 DR. CHAN:

12 A. Well, I am afraid this is very individualized. There are some
13 people who are very resilient, and nothing can shock them. There
14 are others who are very sensitive and certainly any anxiety could
15 trigger a rise in blood pressure.

16 I have to add that not every blood pressure that is above 180,
17 over 120 will lead to hypertensive encephalopathy. Some patients
18 will, for some reasons; some patients will not, for some reasons.

19 I think that is also individualized and probably has a genetic
20 basis to that.

21 [11.02.57]

22 BY MR. PICH ANG:

23 Q. In order to avoid the level of hypertension that might lead to
24 a severe crisis, would you have any recommendations to make to
25 prevent such occurrence?

1 DR. CHAN:

2 A. I think the recommendations to prevent such an occurrence
3 would, first and foremost, be to have the normal, usual - usual
4 blood pressure of the person to be well controlled first. If the
5 person at rest and in a very relaxed state still has high blood
6 pressure, then obviously it would be much easier for that
7 pressure to go up upon provocation compared to someone whose
8 blood pressure is within the normal range so that that would be,
9 first and foremost, the most important thing to avoid a person
10 from developing such a hypertensive emergency.

11 The others would include very basic healthcare precautions like
12 proper diet, low salt diet, as well as adequate exercise and
13 adequate rest, of course.

14 [11.05.33]

15 MR. PICH ANG:

16 I have no further questing for Mr. Expert, and thank you for your
17 response, and thank you, Mr. President.

18 MR. PRESIDENT:

19 And what about other parties to the proceeding? Do you wish to
20 put questions to the experts?

21 And the International Co-Prosecutor, you have the floor.

22 MR. KOUMJIAN:

23 Thank you, Mr. President, Your Honours. Thank you, doctors, for
24 coming.

25 I would like to just ask you a few questions about material that

41

1 you reviewed in preparing your report. And in all of the
2 questions I am going to ask you, I want to distinguish between
3 questions about the general medical condition and care of the
4 Accused and questions directly relevant to their fitness to stand
5 trial.

6 [11.06.27]

7 QUESTIONING BY MR. KOUMJIAN:

8 Q. Did you have the opportunity, or were you provided by anyone
9 with the chance to observe the Accused, Nuon Chea and Khieu
10 Samphan's statements to the Court at the very end of the last
11 trial, Case 002/01 in October of 2013, where they each addressed
12 the Court in some detail about their views of the evidence and
13 the trial?

14 DR. CHAN:

15 A. No, we have not.

16 Q. Did you have the opportunity, or were you provided by anyone
17 with the opportunity to review statements made by Nuon Chea and
18 Khieu Samphan in October and November of 2014, when they
19 explained that they each have instructed their counsels to
20 boycott the proceedings until various conditions they demanded
21 were met, and explained their reasons?

22 [11.07.40]

23 DR. CHAN:

24 A. No, we have not.

25 MR. PRESIDENT:

1 And Madam Counsel for the Defence, you may proceed.

2 MS. GUISSÉ:

3 Thank you, President.

4 At this stage in the proceedings, I have some questions with
5 respect to the Co-Prosecutor's line of questioning. I do not see
6 any link whatsoever between <> the medical experts <>, and
7 <especially in the way that these factors are related to the
8 possibility of> the Accused <> attending the proceedings<, which,
9 once again, is not contested by the parties, by the Accused, who>
10 have never said that they were unable to follow the hearings.
11 I think <that the> questions should be <framed to address> what
12 the experts have been summoned to speak about.

13 [11.08.50]

14 MR. KOUMJIAN:

15 Thank you, Your Honour. And I absolutely appreciate counsel's
16 comment, that's exactly my point, one that I wish to make that no
17 one, including defence counsel, has said that the Accused are not
18 fit for trial, and that is the exact purpose of this hearing to
19 assess their fitness for trial. So I appreciate that point. Can I
20 go on in my questioning?

21 BY MR. KOUMJIAN:

22 Q. Sir, in regards to your - what you were able to review about
23 the current medical care given to Khieu Samphan and Nuon Chea,
24 can you compare that to the general population, and perhaps even
25 your own patients as far as the access that they have to regular

1 medical care?

2 MR. PRESIDENT:

3 Mr. Expert, please hold on.

4 And the Counsel for the Defence, you may proceed.

5 [11.10.05]

6 MS. GUISSÉ:

7 Once again, Mr. President, thank you.

8 I can see where the Co-Prosecutor is coming from. If he has a
9 speech <> to make on the <general> medical condition<s> <> in
10 Cambodia, this is not the appropriate place to do so. The medical
11 experts <were> here <today> to talk about the medical conditions
12 of the Accused<, which was done. I think that the direction> the
13 Co-Prosecutor <is taking, is> inappropriate.

14 MR. KOUMJIAN:

15 My question is directed specifically to the medical care of the
16 Accused, and this relates specifically to the issue that one of
17 the doctors raised about the amount of reviews that should be
18 done and the frequency of reviews of their mental conditions.

19 [11.11.03]

20 MR. PRESIDENT:

21 The Chamber wishes to hear the response from the experts to the
22 last question asked by the International Co-Prosecutor, and Mr.
23 Expert, you may respond to the last question.

24 DR. HUOT LINA:

25 A. I would like to respond to the last question asked by the

1 Co-Prosecutor.

2 In our recommendation, we recommend for a regular review to the
3 mental status of the Accused and it is my observation that the
4 Court invited the experts to have a regular review annually - or,
5 about annually. However, we have not received any regular medical
6 report from the hospital on the mental health. We only have the
7 physical medical report in the form of a daily report or a weekly
8 report, but none of the mental health report.

9 For us, it will be better if we are able to access to that, so
10 that we can use them as a reference in our report or an
11 assessment. And, if not, we can only rely on whatever reports
12 that we may have and when we asked the treating doctors or the
13 duty doctors, their impression on the mental health of the two
14 Accused is unchanged to them. And that's nothing particular for
15 them to take any further action or assessment. For that reason,
16 we recommend to have this regular mental health report;
17 otherwise, we can only work on the existing report that we have.

18 [11.13.20]

19 BY MR. KOUMJIAN:

20 Q. So, am I correct in understanding that you were made aware
21 that the Accused have a duty doctor and that there is a weekly
22 report on their medical condition, but you stated that you didn't
23 see an evaluation of their mental condition in those reports; is
24 that correct?

25 DR. HUOT LINA:

1 A. In the general medical report, it doesn't state clearly on
2 this condition, they only focus <more> on their physical health.
3 However, when we question or interview the treating or duty
4 doctors, their impression was that they did not notice that the
5 mental status of the Accused is changed.

6 [11.14.24]

7 Q. Would you agree, doctors, that the persons best able to make
8 an initial assessment of the ability of an Accused person to be
9 fit for trial to meet those seven Strugar criteria that you
10 mentioned in your report, that among them the people best
11 situated for that evaluation would be the counsel who interact,
12 who regularly with the Accused and can see if they are able to
13 understand evidence and understand the proceedings?

14 DR. HUOT LINA:

15 A. To my knowledge, the mental health assessment by a specialist
16 at a hospital -- or Khmer-Soviet Friendship Hospital, which is
17 the partner of the Court is not mainly focused on the mental
18 health, but on the physical health rather.

19 [11.15.32]

20 And as for the opinion of the defence counsel for the Accused, it
21 is my belief that other parties may view that assessment or
22 opinion as non-independent or biased about their client because
23 of course, apparently they are the defence counsel for the
24 Accused. So, from other parties' opinion, their opinion or their
25 assessment will be considered prejudicial or bias. For that

1 reason, we would recommend an independent body to make such an
2 assessment, and with that independent assessment, we can use it
3 as a reference in our assessment because we have asked duty
4 doctors and security personnel at the detention centre. And, of
5 course, they are aware of the opinion to be provided as the
6 opinions shall be independent and not biased of any party to the
7 proceedings.

8 And maybe my partner here will like to add to that.

9 [11.16.58]

10 DR. CHAN:

11 A. Yes, I would like to say that the assessment of the cognitive
12 status of an individual has to be done through as many facts that
13 we can receive as possible. Preferably this would be independent,
14 unbiased facts, and when we are doing the assessment it is not
15 such a simple process because there are different domains of the
16 brain that we are actually assessing.

17 For example, we not only have to look at memory, but have to look
18 at long-term and recent memory, we have to look at whether there
19 is any personality change, any thinking, any executive
20 functioning, planning, how about his language, aphasia, apraxia
21 whether he is able to do things that he is supposed to do and so
22 forth, which I will think is a bit more complex than just to
23 interact with the counsel because you would be probably concerned
24 about specific areas and therefore you would only be able to give
25 us information on specific areas, but there are many other areas

1 or domains of the brain that we need to assess before we come to
2 that conclusion of whether a person especially has dementia or
3 doesn't have dementia, and secondly whether the person has the
4 mental capacity to attend trial, to follow the proceedings and so
5 forth.

6 [11.19.00]

7 BY MR. KOUMJIAN:

8 Q. Doctors, each of you surely has patients of the ages of these
9 Accused persons and the general medical conditions of these
10 Accused persons. In your practice, do you regularly have those
11 patients go through a mental examination, or how often does that
12 occur and what does that involve normally?

13 DR. CHAN:

14 A: Yes, certainly we have many of such patients.

15 It depends on the situation. I mean we have to be very practical
16 when we are running our own clinic. We may not be doing the ideal
17 because it also depends on what other issues in hand.

18 [11.20.00]

19 If we are looking at generally well elderly, who is just here for
20 a single pathology, like hypertension, diabetes or something like
21 that, and we are not looking at any medical legal issues like a
22 person making a will, and so forth, then we would only be
23 assessing them at the first point of contact and probably the
24 next time, in a years' time versus someone who is in the midst of
25 a tussle, some medical legal issues about (inaudible) power

1 attorney and so forth, then we will have to assess them using
2 different instruments more regularly, because we cannot just keep
3 on using the same instrument over and over again because there is
4 a learned effect in these instruments.

5 BY MR. KOUMJIAN:

6 Q. If I understand your answer, if you had met these persons --
7 Accused persons: Nuon Chea and Khieu Samphan in a different
8 setting, they were out of custody, they were your patients, you
9 would give them a yearly medical examination and absent other
10 complaints that would be; is that correct?

11 DR. CHAN:

12 A: Yes, I would.

13 BY MR. KOUMJIAN:

14 Q. Thank you.

15 Now I wanted to focus and ask you just a few questions about the
16 scheduling questions that you - were posed to you by the Trial
17 Chamber.

18 Is it correct -- just to summarize your findings -- that you both
19 recommended, that both Accused were capable of sitting four days
20 per week in the trial hearings in this case, at the present time?

21 [11.22.02]

22 DR. CHAN:

23 A. Yes, you're right, four days per week, but with the extended
24 break in between so that they would have adequate rest for the
25 afternoon sessions.

1 BY MR. KOUMJIAN:

2 Q. Thank you. And what you are referring to is you indicated that
3 Khieu Samphan had indicated to you that he would prefer an extra
4 half hour at the lunch hour; is that correct?

5 DR. CHAN:

6 A: That's correct.

7 BY MR. KOUMJIAN:

8 Q. Now, just to clarify on that, would it be correct that in
9 regards to the ability of the Accused to sit through and
10 concentrate on the proceedings, there are two factors: one being
11 the length of the day of the overall proceedings; and secondly,
12 the length of individual sessions, would that be correct, that
13 both of those could be factors?

14 [11.23.00]

15 DR. CHAN:

16 A. Sorry, can you repeat that question? Thank you.

17 BY MR. KOUMJIAN:

18 Q. Yes, my question is: In determining a schedule that
19 accommodates the age of the Accused that there are two factors:
20 the number of hours per day that the Accused are in Court, but
21 also the length of an individual session without a break, so in
22 other words, whether we sit for two and half hours without a
23 break or have one hour and fifteen minutes with a break, both of
24 those can contribute to the -- both of those affect the issues;
25 is that correct?

1 DR. CHAN:

2 A. Yes. We believe so.

3 [11.23.54]

4 BY MR. KOUMJIAN:

5 Q. Is it also correct, you've explained of what's quite obvious
6 that the health of elderly persons is a dynamic situation and
7 that there is certainly is the possibility -- significant
8 possibility that their health will worsen in, for example, one
9 years' time; is that correct?

10 DR. CHAN:

11 A. Yes, that's correct.

12 BY MR. KOUMJIAN:

13 Q. So is it correct that any day of court that's lost at the
14 present time and may not -- we may not or may find it more
15 difficult to make that up a year or more from now because the
16 Accused condition will have worsened; is that correct?

17 DR. CHAN:

18 A. That's correct.

19 [11.24.40]

20 BY MR. KOUMJIAN:

21 Q. And just to summarize, assuming that the request of Khieu
22 Samphan is accommodated that the lunch hour is extended, and that
23 perhaps if the longest sitting -- individual sitting -- in other
24 words, is reduced, in other words may be from two hours to one
25 and a half hours, that in your opinions, each of the Accused is

1 capable of sitting now in the trial four days per week.

2 DR. CHAN:

3 A. That's correct.

4 MR. KOUMJIAN:

5 Thank you, Mr. President. Thank you, doctors.

6 [11.25.28]

7 MR. PRESIDENT:

8 Thank you. We would like to give the floor now to the defence
9 counsel.

10 And the defence counsel for Khieu Samphan, you may proceed.

11 MS. GUISSÉ:

12 Thank you, Mr. President. <Greetings>, experts. I will be brief.

13 I would like to make <two> remarks and then put some questions to
14 you subsequently.

15 QUESTIONING BY MS. GUISSÉ:

16 Q. In your medical reports, that of <> March 2014 and January

17 <2015>, you saw <the two Accused twice, over two consecutive

18 days; for> Mr. Khieu Samphan<,> once for two hours on one

19 occasion and again for an hour <or> 45 minutes on another

20 occasion. I'm talking of two different occasions<for which you

21 conducted interviews, in> March 2014 and January 2015.

22 [11.26.24]

23 On both occasions, <these interviews were conducted in> March

24 2014, when there were no hearings, and in January 2015 for Mr.

25 Khieu Samphan after he had spent a few days in hospital. My

1 question to you therefore is as follows:

2 As part of a future assessment, would you, the doctors, or any
3 other doctors <who would make an evaluation> not need more data
4 to assess the impact of the duration of the <days of> hearings
5 <and> the number of days of hearings? Wouldn't you need more data
6 after several weeks of consecutive hearings in order to know how
7 the Accused <> react to such schedules? In other words, from a
8 medical standpoint, do you make a distinction between an
9 assessment of the duration of hearings, as you did it -- since we
10 are not talking of fitness to stand trial -- duration of the
11 hearings and the number of days of hearings? Don't you need more
12 data after several days of consecutive hearings in order to be
13 able to gauge the reaction of the Accused to the days of hearings
14 and the schedules of hearings?

15 [11.28.16]

16 DR. CHAN:

17 A. I hope I could remember all the points that you have made.
18 It's a very long question, but from my understanding of what you
19 have said, you are saying that in the last year's March 2014
20 assessment, it was in between hearings, so he wasn't subjected to
21 any hearings, and in January 2015, he had been subjected to
22 hearing and he had just been discharged from the hospital.
23 I think, based on the review of the data that we received, that
24 will reveal the weekly report data, there has not been very
25 significant changes in his resting vital signs, as opposed to

1 those few incidents where we felt that, as a result of sickness
2 or as a result of fatigue, his vital signs went off his normal.
3 Unfortunately, I don't think there are any medical instruments
4 that could measure the impact of trial and so forth on the health
5 of the person. Because, if we look at the basic parameters that
6 have been provided to us, his counts were normal, the
7 echocardiogram, which is a reflection of the function of his
8 heart, although it has declined by a bit, if I remembered
9 correctly, in March 2014, his ejection fraction<,> which is a
10 measure of how much blood -- percentage of blood that is being
11 pumped out by the heart, was 64 per cent, and now it has declined
12 to 61 percent, which is acceptable for someone of his age and it
13 indicated adequate cardiac function in that sense.

14 [11.30.57]

15 As I say, our assessment was based on our impression as we talked
16 to him, we interviewed him. And there were times when he was
17 very, he got very agitated and he was gesticulating and he was
18 raising his voice. We had to calm him down and so forth. But at
19 the end of it all, when we asked him how he felt, he says, "I'm
20 okay. I can continue, you know. I don't have to break for lunch,
21 you know. We can carry on. I'm okay." So, it is based on such
22 feedback that we received from him that we come up with this,
23 number one.

24 And secondly, in the several times that we interviewed Mr. Khieu
25 himself, his only request was really to reduce the morning

1 session so that he can have lunch and after that he can lie in
2 bed for at least half an hour to rest and then he says that, "I'm
3 okay. After that, I'm refreshed. I'm able to continue the
4 afternoon session." So he had not made any request to us or
5 verbalized to us that he can't and therefore no he's unable to
6 participate and so forth.

7 I hope I've answered your question.

8 [11.32.34]

9 BY MS. GUISSÉ:

10 Q. Yes, in part. And I crave your indulgence for my length<y>
11 questions. I have another question. In your email of the 8th of
12 January, <E329/6/2>, you state that the <blood pressure and the>
13 heart rate of the patient <fluctuate throughout the day, and they
14 increase> when the patient is tired, <stressed, or> he feels
15 ill-at-ease<>. My question has to do with subsequent assessments.
16 Is it on the basis of such data that you determine that a monthly
17 or quarterly assessment of the patient should be carried out<,
18 bearing in mind that the Accused are on trial,> or you have other
19 factors on which you base yourself in making that determination?

20 DR. CHAN:

21 A. I think the recommendation of monthly or quarterly was on the
22 mental state assessment, not the physical assessment.

23 [11.34.04]

24 BY MS. GUISSÉ:

25 Q. And regarding the physical health statement of the Accused, do

1 you have any particular recommendations to make in terms of the
2 frequency of assessments?

3 DR. CHAN:

4 A. I have no recommendations other than to recommend that
5 whatever he's having now is adequate from the physical
6 examination point of view.

7 MS. GUISSÉ:

8 Thank you, experts. I have no further questions for the experts,
9 Mr. President.

10 MR. PRESIDENT:

11 Mr. Kong Sam Onn, you may now proceed.

12 [11.34.58]

13 QUESTIONING BY MR. KONG SAM ONN:

14 Thank you, Mr. President. I would like to have a few questions in
15 relation to paragraph 42.

16 Q. You mention a recommendation that we have to speak clearly and
17 slowly to Mr. Khieu Samphan. So how slow is this when we speak so
18 that Mr. Khieu Samphan can listen better and can follow the
19 proceedings?

20 DR. CHAN:

21 A. I would think that the speed at which we are speaking now
22 would be adequate.

23 B. BY MR. KONG SAM ONN:

24 Q. Does it have any impact resulting from our translation? Is
25 there any complexity in relation to translation that is making

1 him difficult to understand?

2 DR. HUOT LINA:

3 A. I believe there is no impact. I believe interpreters are
4 well-qualified and they have correct interpretations, so there is
5 no impact.

6 [11.36.44]

7 MR. KONG SAM ONN:

8 I have no further questions. Thank you, Mr. President.

9 MR. PRESIDENT:

10 What about Nuon Chea's defence team? Mr. Son Arun, you may now
11 proceed.

12 MR. SON ARUN:

13 Good morning, Mr. President, Your Honours, everyone in and around
14 the courtroom. I am Son Arun, the defence counsel for Mr. Nuon
15 Chea. I have several questions for you, experts.

16 QUESTIONING BY MR. SON ARUN:

17 Q. The first question concerning his backaches. He suffers from
18 severe backaches when he move and, as a result, he also suffers
19 from the headache. Does the two kinds of symptoms relate each
20 other? I do not know whether you can provide answers for my
21 questions.

22 [11.37.51]

23 DR. CHAN:

24 A. Yes, he does have backache, and he does associate headaches
25 and dizziness with his backache, but from the medical point, I

1 don't think there is any correlation. I think it is quite common
2 for people to associate symptoms together, just like earlier on,
3 I was mentioning about dizziness and high blood pressure. So, in
4 this case, it is dizziness and the headache with the backache.

5 MR. SON ARUN:

6 From my observation, I went to visit and discuss about hearings
7 with my clients frequently, and I observe that the health of Mr.
8 Nuon Chea has <greatly> deteriorated from years to years, and I
9 could see that his physical condition and mental condition has
10 been deteriorating severely. That is why he has suffered from
11 backaches and he is not able to sit in this courtroom so that he
12 could communicate with Parties and everyone. So as you can see,
13 today, he is not able to physically present in this courtroom,
14 because after he woke up, he had severe pain in his back and when
15 he sits in his courtroom, he cannot sit longer than a period of
16 20 minutes.

17 [11.39.57]

18 My next point: I support that there should be a duty doctor
19 specializing in mental condition of Mr. Nuon Chea, as suggested
20 by Dr. Huot Lina.

21 I have no further questions, Mr. President. Thank you very much.

22 MR. PRESIDENT:

23 Thank you very much.

24 On behalf of the Chamber, on behalf of the Bench, I would like to
25 express my sincere thanks for your comments and observations and

1 also questions during the expert examination.

2 I also express my sincere thanks to counsels for civil parties,
3 Co-Prosecutors, and defence counsels, staff, security personnel,
4 officers of the Trial Chamber, and interpreters, who have been
5 making this hearing <efficiently> possible.

6 [11.41.20]

7 The Chamber will take all the points from party and from experts
8 into account concerning the capacity -- the ability of the
9 Accused to join in these hearings. So we now come -- the hearings
10 on the presentation of medical report of the two Accused come to
11 an end, and I thank you, Mr. Experts, who spends your valuable
12 time appearing in this Court, as ordered by the Chamber. Thank
13 you for giving testimonies before the Chamber. As of now, the
14 hearings on medical reports come to an end and the experts can go
15 anywhere you wish to go. I wish you safe trip. Court officer, you
16 are instructed to facilitate with WESU to send the experts to his
17 preferred destination.

18 Chamber wishes to inform the public that in the afternoon
19 hearings, we'll continue to hear the remainder of Oum Suphany's
20 testimony. The hearings will resumes at 1.30 p.m.

21 Security personnel, you are instructed to bring Mr. Khieu Samphan
22 to the holding cell downstairs and have him returned before 1.30
23 p.m.

24 The Court is now adjourned.

25 (Court recesses from 1143H to 1330H)

1 MR. PRESIDENT:

2 Please be seated.

3 The Court is now back in session and before the Chamber hand the
4 floor to the Lead Co-Lawyers for civil parties to continue
5 questioning this civil party, the Chamber would like to give the
6 floor to Judge Fenz on the time that has been used this morning.
7 Judge Fenz, you have the floor.

8 [13.32.19]

9 JUDGE FENZ:

10 Thank you. I'm addressing defence counsel for Khieu Samphan. This
11 pertains to what you said this morning about the request to
12 classify as strictly confidential certain documents, just to
13 clarify issues. You asked, basically, for two things. One was to
14 classify the reports as strictly confidential and the other one
15 was to classify the emails that were written due to the request
16 of the Court for additional information. Now, do we agree or do I
17 understand it correctly, that when it comes to the reports, your
18 request does not pertain to the conclusions that were discussed
19 widely and openly in court here? And you didn't object to it?

20 MS. GUISSÉ:

21 Based on the findings that Mr. Khieu Samphan is indeed fit to
22 follow his proceedings, there is absolutely no objection to that
23 particular conclusion.

24 <JUDGE FENZ:

25 And when it comes to the email, I note that all two of them,

60

1 including the record we only got this morning, have been
2 discussed in such details that they can be considered this right
3 into the case file. And you didn't object to this either this
4 morning. So can I -->

5 (Technical problem - Short pause)

6 [13.38.36]

7 MR.PRESIDENT:

8 Judge Fenz, please continue.

9 JUDGE FENZ:

10 My second question pertains to the emails sent by the experts
11 included on the case file pertaining to the incidents, the
12 January incidents and the schedule. Is there any problem? They
13 have been discussed, basically word for word, today. So, is there
14 any problem with their classification as public?

15 [13.39.17]

16 MS. GUISSÉ:

17 Generally speaking, Your Honour, Mr. Khieu Samphan, even though
18 today he has demonstrated some leeway given the context, he does
19 have a preference to not allow these documents be public. I think
20 the proceedings, as they are recorded, are largely sufficient at
21 this particular stage.

22 JUDGE FENZ:

23 So you formally uphold your request to rule these emails as
24 strictly -- sorry, not to rule, to classify these emails as
25 strictly confidential?

1 MS. GUISSÉ:

2 Absolutely.

3 [13.40.09]

4 MR. PRESIDENT:

5 The Chamber would like to hand the floor once again to the
6 assigned lawyer for civil parties to continue putting questions
7 to this civil party. You may proceed. And we would like to remind
8 you that you only have one session of this afternoon hearing,
9 inclusive of the time for the Prosecution. You may now proceed.

10 MR. LIU:

11 Thank you, Mr. President. That is indeed our intention to finish
12 the questioning in one session before the break, both from our
13 side and from the Prosecution side.

14 [13.41.05]

15 QUESTIONING BY MR. LIU RESUMES:

16 Q. Okay. Good afternoon, Your Honours. Good afternoon, Madam Oum
17 Suphany. Before we broke yesterday, we were discussing your
18 experience in the hospital. Now I wish to continue on this
19 subject.

20 Did any of your family members were sent to the hospital?

21 MS. OUM SUPHANY:

22 A. Yes.

23 Q. Can you tell us which one?

24 A. It was my older sister.

25 Q. What happened to her afterwards? After she was sent to the

1 hospital?

2 A. She was seriously sick, and she had an infection on her foot.

3 She was then sent to the Trapeang Angk hospital. I'd rather

4 correct it. It's Trapeang Kol, not Trapeang Angk.

5 Q. Thank you, Madam Oum. Let me ask, did she survive after she

6 was sent to the hospital? Did she die in the hospital?

7 A. She died at the hospital.

8 [13.42.53]

9 Q. And were you with her when she died?

10 A. No, I was not with her.

11 Q. Did any of your family member was with her when she died?

12 A. No, I do not know who was with her.

13 Q. So, did you want to stay with her before she passed away?

14 A. Of course, we were siblings, blood siblings. I wanted to stay

15 close to her before she died so that she could close her eyes,

16 but we were not allowed by the medical staff.

17 Q. And did you visit her before, before she died?

18 A. Yes, I did.

19 Q. Did you need a permission to visit her?

20 A. I was not allowed to go; they said that there was already

21 medical staff there.

22 [13.44.31]

23 Q. So, in fact, how did you know she passed away?

24 A. Several days after, a villager told me that my elder sister

25 died and then I wept quietly alone in the middle of the rice

1 field.

2 Q. Thank you, Madam Oum. I move now to the next topic.

3 When answering Mr. President's question yesterday, "Where were
4 you during the Khmer Rouge period of time?", you gave a location
5 it's called Trapeang -- I will try my best -- it was Trapeang
6 Thum Tboung (sic) commune and Trapeang Chumroeu (phonetic)
7 village.

8 Did you always stay there during the Khmer Rouge period of time?

9 A. Yes, I stayed there for the entire period of the Khmer Rouge
10 regime.

11 Q. Okay. And when you were there, was your sister there as well,
12 staying with you?

13 A. My elder sister also lived in Trapeang Thum commune together
14 with me.

15 Q. Thank you. And is it correct that you visited your sister
16 while she was at the hospital?

17 A. Yes, I did.

18 [13.46.33]

19 Q. Thank you. And do you remember what did you see on the road to
20 the hospital?

21 A. While I travelled to the hospital, the road was quiet. There
22 were ox carts; I didn't know what it was transporting. Because my
23 older sister could not walk, then she was put in an ox cart.

24 Q. Did you see any people on the road when you went to visit her?

25 A. No.

1 Q. How long did you stay with her when you were visiting her?

2 A. I stayed there only during the rest period, so it was probably
3 around one or one and a half hours, then I had to return <> to my
4 work site. The hospital and where I worked was rather far and I
5 had to walk on foot.

6 Q. Thank you, Madam Oum. And do you remember how many times were
7 you allowed to visit her?

8 A. I cannot recall it well, but I recall that for one visit I
9 asked for permission and it was denied because I was told that
10 there were already medical staff there.

11 [13.48.36]

12 Q. Okay, I will move on then, Madam Oum.

13 Where did you stay when you were first in Tram Kak and when you
14 were evacuated from Phnom Penh?

15 A. When I left Phnom Penh, I went to Trapeang Thum Tboung commune
16 and that Prakeab village was where I stayed. That village was the
17 native village of my parents-in-law, and I stayed with them.

18 Q. So, I take it that you were staying with your parents-in-law
19 while you first arrived in Tram Kak?

20 A. Yes, I did.

21 [13.49.40]

22 Q. Did you always stay in that house afterwards?

23 A. I stayed with my parents for a while; it was a rather large
24 house. Angkar made me a house for me to stay at the Trapeang Angk
25 village. All New People would gather to live there so that it's

1 easier for them to control us.

2 Q. Okay. Can you describe this house Angkar asked you to stay? Or
3 asked the New People to stay? What does it look like?

4 A. Angkar made a structure for the house for us to stay and we<,>
5 the New People<,> had to use, like, coconut leaves to make up the
6 walls for the house and there was nothing<,> no furniture<,> in
7 the house, no beds, nothing at all. There was no toilet. It was
8 just a frame to the structure.

9 Q. Did you stay there afterwards as well? Or, should I ask: Did
10 you move out of the house afterwards?

11 [13.51.16]

12 A. Not long after, New People were gathered again to come and
13 live with the Base People. And my parents-in-law's house was
14 dismantled to make a kitchen and I had to live among the Base
15 People. And, of course, when we were living with the Base People
16 we did not dare to talk about our past memories; we pretended to
17 be <mute>. We only talked <about eating, or> whenever it was
18 necessary to do so.

19 Q. Madam Oum, yesterday you testified that you were sent to work
20 in the model rice field. Did you -- was the rice field model rice
21 field? Was it very far from this place you were now staying?

22 A. Some were placed near the village, while others were far. At
23 one point, we were asked to work at the Farm 160, near the <foot>
24 of the mountain so we had to bring <our children, grandchildren>
25 there because we had to stay there.

1 [13.52.45]

2 Q. So you actually stayed in the rice field, is that right? When
3 you were working around this Mountain 160?

4 A. It was called a work site.

5 Q. Thank you very much, Madam Oum.

6 Mr. President and Your Honours, at this point I would like to
7 show a document to Madam Oum. It's a page from her diary. I will
8 read first the ERN number. The ERN for the Khmer is 01032953;
9 English translation, 01036463 to 464; French, 01036481 to 482.
10 Can the Court officer also please give a copy of this document to
11 Madam Oum Suphany?

12 MR. PRESIDENT:

13 Yes, you may proceed.

14 BY MR. LIU:

15 Q. I'm waiting for this document to be uploaded into the screen.
16 But Madam Oum, can you take a look at these documents? The first
17 line, the one - yes, now it's on the screen.

18 In the first line, under the date 17 -- I'm sorry -- 1975,
19 February 9th. What did you write here?

20 [13.54.45]

21 MS. OUM SUPHANY:

22 A. The date was 9 February 1976, <not '75,> and I wrote: "I came
23 and lived in the Prakeab Khang Tbound village, <in> a dining
24 hall."

25 Q. Thank you. So the date was 1976, February the 9th. Thank you

1 very much.

2 What about the -- there are two boxes on this page. Can you take
3 a look at the second box? What did you write the next date in
4 that box? On June the 3rd, 1976?

5 A. It's the 3rd of June 1976 and I wrote "as a collective
6 eating". It means that we ate meals communally.

7 Q. Thank you very much, Madam Oum.

8 So, when you write that you were living together in the dining
9 hall, can you maybe elaborate that? Explain to us, what is the
10 dining hall like? And, when you were living there, how many
11 families were living together?

12 A. Eating communally in the cooperative means that we ate in a
13 long kitchen hall, and for one group -- there were four of us --
14 we were given a plate of rice with water lily soup. And we ate
15 communally, together.

16 [13.56.49]

17 Q. Madam Oum, I was asking - well, thank you for explaining to us
18 about the collective eating. But I was first asking, can you
19 maybe explain also, on February 9th, when you were assigned to
20 live together in a dining hall, what was the situation there?
21 What does this dining hall look like?

22 A. Collective eating means both, the Old -- the Base and the New
23 People ate in the communal dining hall and there were many people
24 that went to have meals there. And for each group -- there were
25 four of us -- we were given a plate of rice and soup, just a bowl

68

1 of soup, and that was the only dish that we were given. It's the
2 same thing for the rice; it was just a plate of rice and no more.

3 [13.58.00]

4 Q. Madam Oum, let me show you another document, maybe.

5 Your Honour, I would like to show Madam Oum a document of her
6 book, "When will we ever meet again". I will first read out the
7 ERN. The ERN for the Khmer was 00562844 to 845; there was two
8 pages. The English translation was 01037336, French translation
9 ERN 01037344.

10 Can I put these two pages on the screen and give them to Madam
11 Oum?

12 MR. PRESIDENT:

13 Yes, you may proceed.

14 BY MR. LIU:

15 Q. Madam Oum, on the first -- there were two pages: On the first
16 page I showed to you -- I believe it is page 87 -- there are a
17 couple of dates on that page. Can you tell us what is the last
18 date on that page? The one I'm showing you now.

19 MS. OUM SUPHANY:

20 A. The date that is shown on the screen is 9 February 1976.

21 Angkar made a new plan<, > that is, mixing the New People --

22 [14.00.04]

23 Q. Let me make the questions one by one; otherwise, we may get
24 confused.

25 So, the date was February 9th, 1976? Now, you are right in the

1 first page, Madam Oum. In the first page, the last date, I wish
2 to confirm with you that it is February 9th, 1976.

3 A. It's the 9th February; not the 9th September. <It's the 9
4 February 1976.>

5 Q. Yes, that is the 9th February 1976; right?

6 Madam Oum, is that the same date of the page we just showed you
7 in your original diary? There were two dates in your original
8 diary, do you remember? The diary is still next to you, I think.
9 The first date was February the 9th, 1976, was it right?

10 A. Yes, indeed. That is the extract from my diary and I just
11 expanded a little bit further base on my recollection at the
12 time.

13 Q. Thank you very much. So, it's the same incident you write
14 under the same date in two different documents: one is your
15 diary, one is your book. Is that right?

16 A. That is correct.

17 [14.02.06]

18 Q. Okay. Since we already know what you wrote on your diary,
19 maybe you can read out what you write here in your book, under
20 this date 1976, February the 9th. Can you just read it out?

21 A. Yes, I could read: "9 February 1976. Angkar made a new plan,
22 mixing the New People with the Base People. We, the New People,
23 left Trapeang Angk village, so my family lived with the New and
24 Base People. We lived together in the <dining hall> of the people
25 in Prakeab Khang Tboundg. They mobilized us in such a way so that

1 it was easy for them to work and to control us. If we lived with
2 the New People, we could secretly talk about, or recall the old
3 memories when we lived in Phnom Penh. Unfortunately, since we
4 lived with the Base People, we had to keep silent like mutes,
5 like the deaf. We only used our eyes to watch the road ahead, the
6 work site, and our mouth to eat and speak about important
7 things."

8 [14.04.10]

9 Q. Madam Oum, now, were all these incidents we discussed about
10 the moving, your living and eating arrangement we just discussed,
11 who made the decision?

12 A. It was Angkar, the upper echelon, because the subordinates
13 never said that they gave the order, they always referred to the
14 upper echelon who made the decision.

15 Q. Thank you, Madam Oum.

16 At this point, I wish to show the last exhibit to Madam Oum, and
17 finish the questions with this exhibit. So exhibit number Khmer
18 is, 00562857; English translation, ERN 01037338; and French
19 translation, 01037346.

20 Your Honour, may I give these documents to Madam Oum?

21 MR. PRESIDENT:

22 Your request is granted.

23 [14.05.23]

24 BY MR. LIU:

25 Q. Madam Oum, what I'm showing you now is page 100 of your book,

71

1 a diary entry of yours on November 18th, 1976. Can you read out
2 what you write here?

3 MS. OUM SUPHANY:

4 A. "Every day, frankly speaking, we appear to live unhappily
5 because I did not have energy as others. Or perhaps I was sick
6 and tired of this <repressive> regime. I could not dare to sing,
7 dance, speak, laugh loudly. Our regular routine activities were
8 sleeping, <working> and eating."

9 Q. Thank you, Madam Oum.

10 Do you remember what is this date, November 18th, 1976? Let me
11 ask you this way, Madam Oum, if you don't -- Was that your 30th
12 birthday? You were born on November 18, is that right?

13 A. That is correct.

14 Q. Thank you very much, Madam Oum.

15 Your Honours, I have concluded my questionings. I will now give
16 the floor, if I may, to the Prosecution. Thank you.

17 [14.07.27]

18 MR. PRESIDENT:

19 Thank you, Counsel.

20 Mr. Victor Koppe, you may now proceed.

21 MR. KOPPE:

22 One clarification for counsel; maybe I failed to follow it
23 properly but where did you see the date of November 18, 1976?

24 Because in the English translation, it doesn't seem to appear.

25 MR. LIU:

1 Sorry, I don't have the English translation with me. May I check
2 and refer back to you then? Thank you.

3 MR. PRESIDENT:

4 Now, the Chamber wishes to hand over the floor to the
5 Co-Prosecutors so that the Co-Prosecutors have time to ask
6 questions.

7 [14.08.37]

8 QUESTIONING BY MR. SENG LEANG:

9 Thank you, Mr. President. Mr. President, Your Honours, my name is
10 Seng Leang. I am the <National> Deputy Co-Prosecutor. <Today> I
11 have a few questions for Madam Civil Party concerning this
12 situation at the hospital. And I will ask questions, also, about
13 transporting prisoners and also the topic in my questioning
14 concerns model farms. And if I have time, I would go to ask
15 further topics -- a few more topics.

16 Q. To begin, I would like to refer to the trial transcript from
17 yesterday, when you responded to the question by the civil party
18 counsel at time 14.45.00. At that time, the counsel asked you to
19 tell the Court that when you entered the hospital to deliver your
20 baby, could you describe what were the services provided by the
21 hospital and what medicines were given to you?

22 Your answer is -- I quote: "The medics there, the medics at the
23 place called Trapeang Kol. Actually that place was not the
24 hospital, it was a makeshift hospital in a pagoda." And just now,
25 I heard the civil party lawyer asking you about your elder sister

1 who was admitted into a hospital. You mentioned about a hospital
2 in Trapeang Kol District. Could you confirm whether the Trapeang
3 Kol District hospital and Trapeang Kol Hospital are the same?

4 [14.11.25]

5 MS. OUM SUPHANY:

6 A. Trapeang Kol hospital and the hospital in Trapeang Kol
7 District were the same. As I said, it was a makeshift hospital
8 <from a> school<, in a pagoda>.

9 Q. Could you, once again, tell the Court where was the hospital
10 and was it under the district level or the commune label?

11 A. I heard the name Trapeang Kol <District> Hospital and I do not
12 know whether it was under commune or district levels. <I just
13 heard it from others.>

14 Q. Could you tell the Court, when you were admitted into the
15 hospital to deliver your baby, how many patients were there?

16 A. There were patients in the hospital, the hospital was full of
17 patients. And for those who had just recovered, they left the
18 hospital and for others, they would be admitted into the
19 hospital.

20 [14.13.02]

21 Q. Could you inform the Court, were there any Base <and New>
22 People patients? Were there any distinctions between the Base
23 People and New People in the hospital? I want to say that the
24 care -- the care from the medic -- was it the same or different?

25 A. I did not know about <dimension of> the care <from those>

1 medics. What I knew was that I was admitted into that hospital.

2 Q. Could you tell the Court, during the time you were
3 hospitalized, were there any leaders? For example, leaders of the
4 commune or district had their relatives or wives be admitted into
5 the hospital?

6 A. I presume there were relatives and wives of those leaders in
7 the hospital. I heard there was one lady who was the wife of the
8 committee member. I do not know the committee member here refers
9 to whom. She had <deer> meat to eat for her meal. <So I knew she
10 might be the wife of someone at the upper echelon or of Angkar,
11 because she had that kind of meat to eat.>

12 [14.14.45]

13 Q. Thank you, Madam. Could you inform the Court, where did the
14 patients eat their meal?

15 A. The patients had to eat in a communal hall; only serious
16 patients who were allowed to eat in the hospital.

17 Q. How many meals per day were they allowed to eat? And were the
18 meals sufficient for the patients?

19 A. They had two meals per day, in the -- during lunchtime and in
20 the afternoon. In the afternoon here, it was perhaps at 4.00 p.m.
21 As for food rations for patients, I believe they had just rice
22 and water lily soup. They did not have enough food and they did
23 not want to eat such meal.

24 [14.16.07]

25 Q. You referred to a lady who was the wife of a committee member,

75

1 she had <someone giving her a bag of deer> meat. So, why she
2 could have such <> meat? Do you know the reason?

3 A. I did not see <that> she got a <> bag of <> meat, but <when I
4 was eating with my elder sister, while she was still alive, and
5 she visited me during the time I was delivering my baby,> I was
6 eating <neem> leaves with my elder sister<, and we were laughing>
7 at the time; that <> lady looked at us while we were eating and
8 she presumed that we had <a> nice meal, so she exchanged the <>
9 meat with the <neem> leaves. At the time, I realized that it was
10 the <deer> meat and it was very delicious. <When I had that meat,
11 I was thinking that this might be from heaven. That was why it
12 was so delicious, because I was deprived of food for a long
13 time.>

14 BY MR. SENG LEANG:

15 I quote document <D22/3248>, ERN in Khmer <00562880; ERN in
16 English 01> -- ERN in Khmer is 00562880; ERN in English, 01037340
17 to 41; ERN in French, 01037349.

18 Q. You stated that on the 10th of the ninth - on the 10th of the
19 ninth lunar calendar<,> that is, in August 1977, the hospital
20 issued a <new> circular that all patients did not have the right
21 to have the visitors. Only serious patients had the right to have
22 the visitors. So do you know where the circular was from?

23 MS. OUM SUPHANY:

24 A. I know about the circular from the medics and I did not know
25 where it was from.

1 Q. (Microphone not activated)

2 THE INTERPRETER:

3 Mic is not activated.

4 MR. SENG LEANG:

5 Q. After the pronouncement of the circular, were there any
6 impacts on patients and also on you?

7 MS. OUM SUPHANY:

8 A. After that, there were no visitors coming to visit us. During
9 the time, I delivered a baby, I could not get out of bed for 10
10 days, and at that time, my husband came to help me. And after the
11 pronouncement of the circular, he no longer visited me.

12 [14.20.05]

13 Q. Thank you, Madam. I refer to another document D22/3248, ERN in
14 Khmer, 00562905; ERN in English, 01037347; ERN in French,
15 01037551. This incident happened in late 1978 near Trapeang Tnaot
16 <village>. I would like to quote your statement as follows -
17 quote:

18 "Late this year, I could witness that prisoner<s> were <tied>
19 together. Young, old, male, and female, they were walked in queue
20 to the south via Trapeang Tnaot village.<>

21 "Where were they taken to?

22 <"There were so many of them. I got goose bumps> having witnessed
23 this event <alone>, I did not dare to ask anyone and I was
24 standing still and speechless."

25 [14.21.39]

1 Q. Could you tell the Court where were these prisoners taken to?

2 A. These prisoners were walked to the south, and after
3 liberation, I realised that Krang Ta Chan Security Office was
4 situated in that area.

5 Q. Thank you, Madam. I move to another topic in relation to model
6 farm.

7 Yesterday at 14.03.03, when civil party lawyer posed a question
8 to you concerning a <> farmer, at the time, you responded as
9 follows - quote:

10 "Because I said I was a <> farmer, during the dry season I
11 carried earth. I made road, dug canals, make embankments, and dig
12 pond. And there was a big pond in Tram Kak district. That big
13 pond, I was also involved in digging it. I built road from Angk
14 Roka to Angk Ta Saom'" -- rather, "I built road from Angk Ta Saom
15 to Angk Roka. I was also involved in the work of a model farm."

16 I have a question for you. Could you explain to the Court, what
17 model farm is?

18 A. I am sorry; it was not a model farm, it's model embankment.
19 Perhaps I am confused yesterday. It is called model embankment.
20 <It was like a road. They built it straight on the field.>

21 [14.24.16]

22 Q. I heard you said model embankment, but have you ever heard in
23 your <district> about a model commune or model districts?

24 A. I have never heard of model cooperative, commune, or district.
25 But I have heard the term "model house" of Angkar.

1 Q. Thank you.

2 Madam Civil Party, I have now the last question for you
3 concerning your diary, document <E323/1.1>; ERN in Khmer,
4 01032953; ERN in French, 01036481; ERN in English, 01036463, you
5 wrote as follows: "On the 17 March 1975, Election."
6 Could you tell the Court, why did you know that on that day there
7 was election?

8 A. I heard over the radio.

9 [14.26.13]

10 Q. Were you involved in the election?

11 A. I was not involved in the election.

12 Q. Concerning the election, was there any propaganda during the
13 election?

14 A. No, there was no propaganda.

15 Q. Did you know anyone in your area stand for election?

16 A. No.

17 MR. SENG LEANG:

18 Mr. President, I have no further question. Thank you very much.

19 MR. PRESIDENT:

20 You have the floor now, Mr. International Co-Prosecutor.

21 [14.27.20]

22 MR. LYSAK:

23 Thank you, Mr. President. Good afternoon, Madam Civil party. I
24 have just maybe three or four questions for you.

25 QUESTIONING BY MR. LYSAK:

1 Yesterday, you testified that you had a brother who was a
2 Lieutenant Colonel who was taken away because he was a pilot. Can
3 you tell us what the name was of that brother and where he was
4 located when he was taken away?

5 MS. OUM SUPHANY:

6 A. It was not my biological brother. He was my elder
7 brother-in-law, the third elder brother-in-law. Sou Soupheap was
8 my <husband's> elder sister and this person named Hok Heng, he
9 was a pilot. After he arrived at <Tram Kak district> for nine
10 days -- after nine days, he was taken away. I did not witness his
11 arrest<, when he was taken away>. I could only see my elder
12 sister weeping and my <mother-in-law> said that, "Please do not
13 cry. If they take you away too, your children will be orphans.
14 They already took the father, not the mother too." Thank you.

15 [14.28.49]

16 Q. And can you tell us where you were located at the time your
17 brother-in-law was taken away?

18 A. I was in my parents' house at Trapeang <Chumreah (phonetic)>
19 commune, Trapeang Thum Tboundg district, Tram Kak district.

20 [14.29.24]

21 Q. You also mentioned yesterday a brother or brother-in-law named
22 Sou Nai alias Sou Sot, who was a doctor, who you indicated you
23 believed was killed at Tuol Sleng. Can you tell us -- first of
24 all, is this a brother or brother-in-law? And, where did he work
25 and live as a doctor?

1 A. He just returned from his study in France. He actually got a
2 scholarship to study in France and he only arrived in Cambodia
3 for two months. Then Phnom Penh dwellers were evacuated. And in
4 the <beginning>, actually, I went with him and I did not know
5 where he wanted to go to because he said that the Khmer Rouge
6 were cruel. In fact, at the beginning, he <also loved> the Khmer
7 Rouge but later on he knew that the Khmer Rouge killed people<,>
8 so he took us with him. But, later on, I returned to my house and
9 he went somewhere. And, only later on when I read the Tuol Sleng
10 book published by the Ministry of Propaganda and Culture, it
11 mentioned Sou Nai alias Sou Sot, who was a doctor, and he was
12 actually my fifth brother-in-law, and he came from Battambang.
13 So, I believe that he went to Battambang during the Khmer Rouge
14 regime and he was taken <from there> to be killed at Tuol Sleng.
15 On page 37, his name appears first.

16 [14.31.29]

17 MR. LYSAK:

18 Thank you, Madam Civil Party.

19 Mr. President, for the record, S-21 prisoner list, E3/3973, at
20 Khmer page 00006623; English, 00837537; and French, 00875910; is
21 a type of list of executed prisoners from health section, and
22 number 4 on that list is a person identified as Sou Sot alias Sou
23 Nam (phonetic), from Battambang, a doctor, who entered S-21 on
24 1st of October 1975, and was executed on the 23rd of April 1976.
25 Thank you for your time.

1 We have no further questions, Your Honour.

2 [14.32.39]

3 MR. PRESIDENT:

4 Thank you. The time is now appropriate for the afternoon break.

5 We will take a 20-minute break and return at 10 to 3.00 in order
6 to continue our proceeding.

7 And Court officer, please assist the civil party and the support
8 staff from TPO during the break and have them returned to the
9 courtroom at 10 to 3.00.

10 The Court is now recessed.

11 (Court recesses from 1433H to 1455H)

12 MR. PRESIDENT:

13 Please be seated.

14 The Court is now back in session, and the Chamber would like now
15 to give the floor to the defence team for Noun Chea to put
16 questions to this civil party.

17 I notice an assigned lawyer for civil party on his feet. You may
18 proceed.

19 [14.56.19]

20 MR. LIU:

21 Thank you, Mr. President, Your Honours. I wish to clarify that,
22 for the last date the defence for Noun Chea was referring, it is
23 indeed not sent to English or French translation. It was in the
24 Khmer -- Khmer original 04 because it was not sent to
25 translation. If the Defence so challenge, I will leave the

1 Chamber to decide. I have no problem to withdraw this two -- last
2 two questions, which I refer to this date.

3 MR. KOPPE:

4 No, that's not necessary. If the date is found in the Khmer
5 version but it is mistakenly not translated, then it is not
6 needed. And then, I am satisfied.

7 MR. PRESIDENT:

8 Thank you for the clarification. And now you may proceed.

9 [14.57.24]

10 MR. SUON VISAL:

11 Good afternoon, Mr. President; and good afternoon, Madam Civil
12 Party. My name is Suon Visal. I am counsel for Noun Chea. I have
13 some questions for you in relation to your recollection of events
14 that occurred during the Democratic Kampuchea regime. We have two
15 main topics: First is related to your activities living in the
16 cooperative and second is related to your marriage. And for the
17 second topic, my colleague will put questions to you.

18 QUESTIONING BY SUON VISAL:

19 Q. Can you recall when did you arrive at the Tram Kak
20 cooperative?

21 MS. OUM SUPHANY:

22 A. I simply recall that I arrived there in early 1975, and for
23 the exact date I have to refer to my book.

24 [14.58.32]

25 Q. Upon your arrival, where did you settle in?

1 A. Upon my arrival, I lived at the house of my parents-in-law in
2 Trapeang <Chumreah (phonetic)> village, Trapeang Thum commune,
3 Tram Kak district.

4 Q. Upon your arrival and after you lived there, when did you
5 become part of the cooperative?

6 A. It is my recollection that I was allowed to rest for four to
7 five days, then I was asked to dig earth to make a big pond.

8 Q. Was the cooperative established at that time or did you go
9 there at your own will?

10 A. During the Democratic Kampuchea regime, we could not go
11 anywhere at our own will. We had to follow our team and there
12 were the team chief.

13 [15.00.00]

14 Q. And before groups were established, were you called to a
15 meeting where you were informed that you would be a part of that
16 group or team? Or how did it happen?

17 A. At the beginning, I did not know about the management under
18 the DK regime. However, there was a group chief who told us that
19 that night we had to go and dig a pond. So, we all just followed
20 the group chief.

21 Q. When did you realise that there was a cooperative there?

22 A. I knew by myself that during the Democratic Kampuchea regime,
23 everyone belonged to a group or team regardless of whether they
24 were old, they were Base People or New People, and we would do
25 work according to what we were assigned to do.

1 Q. When did they establish this <> collective eating?

2 A. In my diary, that collective eating was from the 9th of
3 February '76, but let me state that, when we worked far from the
4 village, we also have to have this collective eating. So, it
5 happened from early on but <later on, it was certain that there
6 was communal eating>.

7 [15.02.13]

8 Q. Before communal eating was established, you could eat alone in
9 your family; is that correct?

10 A. Yes, that is correct.

11 Q. During the communal eating, how many people were asked to eat
12 together?

13 A. New People, Base People, we ate collectively. <But not all
14 together, it was a group of> four <>, and for New People,
15 normally we would eat with New People. And, for Base People, they
16 would eat with their Base People. This was a kind of class
17 distinction.

18 Q. I heard you said there was distinction between the Base People
19 and New People. Was there any distinction decided?

20 A. There was no official distinction or separation<>.

21 Q. That's what I want. I want such answer.

22 During <> the communal eating, <> was there any distinction also
23 between meals <for Base and New people>?

24 A. I do not know there was any kind of distinction between meals.

25 <If they secretly made any distinction, I would not know.>

1 [15.04.03]

2 Q. I would like to continue the question concerning your work
3 condition.

4 During the time you were in cooperative, what kind of work were
5 you assigned to do?

6 A. Upon my arrival, during the dry season, I was asked to carry
7 dirt or earth. I was asked to dig canal, and make dyke. <When I
8 was pregnant, I tended cows.> Sometime I <went> to make the
9 cotton with the old ladies. I carried fertiliser to fields. <I
10 carried termite soil to the fields.> During the rainy season, I
11 transplanted, I harvested, the same as other people.

12 Q. Were there any other members have different work? Did they
13 have the same work as you did?

14 A. Yes, we had the same work <because it> was a communal work.

15 Q. Was there any separation that New People had to do serious
16 work and Base People had to do light work?

17 A. At the time, there was separation of,<the> force<s, first,
18 second and third force>. <First> is those who have <> strong
19 energy<; the second force was those with average energy;> and
20 <third was> the group who has mild -- moderate energy and who do
21 not have much energy.

22 [15.05.58]

23 Q. And I believe there was separation between the adult and also
24 the children. Is that true?

25 THE INTERPRETER:

1 There was no answer from the civil party heard by interpreter.

2 BY MR. SUON VISAL:

3 Q. Yesterday, you said that you could not select the work by
4 yourself. My question is: If you did not have the <capacity to
5 do> the work<, what would they do to you>?

6 MS. OUM SUPHANY:

7 A. <If> I did not have the <capacity to do> the work <> because I
8 was weak, I <could request not do such> duties. <They could see
9 my appearance.> I was <so emaciated,> about 36 or 37 kilograms at
10 that time<. The wind could knock me down. They could see that> I
11 could not <do> the first group<'s tasks>. <They therefore put me
12 in the weak groups.>

13 [15.07.13]

14 Q. So, you mean during the time people were weak and did not have
15 much energy<,> they could <not force you> to do <severe> work
16 <that you could not do?> Is that true?

17 THE INTERPRETER:

18 Interpreter could not hear the answer from civil party.

19 MR. PRESIDENT:

20 Civil Party, please speak while microphone is operational
21 otherwise interpreter could not hear you and interpret into
22 foreign languages.

23 MS. OUM SUPHANY:

24 A. Yes, that is true.

25 [15.07.58]

1 BY MR. SUON VISAL:

2 Q. I would like to clarify another point in relation to your
3 break time. In that period, while you were working, if you had
4 other business, <or you got sick>, did you have freedom to relax?

5 MS. OUM SUPHANY:

6 A. Whenever we submitted a request for leave, we could be
7 entitled to it. Otherwise, we would not be entitled to leave.

8 Q. Thank you. What about other people in your commune? Was the
9 same rule applies to them during the time they have personal
10 business and they were sick. Could they take leave?

11 A. It applies to all for this rule. And the Chief of the Unit,
12 the Chief of the Group, could grant leave for those who submitted
13 the request.

14 Q. Was there any rule imposed for rest or for break times for the
15 workers there?

16 A. Each and every one <during the Pol Pot regime,> if we
17 realise<d> that we recovered from our disease or illness<,> then
18 we dared not pretend to be weak and stay at home. <If we could
19 not walk at all, we could rest.> And whenever we could work<,> we
20 had to go to work.

21 [15.09.58]

22 Q. So what you said is that you did <everything based on your
23 opinion because> you were afraid<>. Is that true?

24 A. Yes, we tried our best. We were afraid of those people. That
25 is why we had such feeling.

1 Q. My next question concerning the time you deliver your baby.

2 You said you deliver your baby in the period and I will not go in
3 detail concerning the time you were hospitalised. During the time
4 you were about to deliver the baby, were there any ones in your
5 family accompanying you to the hospital?

6 A. No, there was <no one> going with me. But, during the time I
7 was admitted into hospital, my elder sister had already been
8 there.

9 Q. What about your husband? Did he go to visit you at the time?

10 A. When he heard that I was about to deliver the baby, I saw him
11 there. He was allowed to visit me.

12 [15.11.43]

13 Q. Did your husband and your elder sister stay there and look
14 after you? How many days could they stay there to look after you?

15 A. My sister had already been there already, in the hospital
16 already, and my husband was with me <for 10 days> after I
17 delivered the baby because I could not get up after delivery.

18 Q. After you delivered your baby<, after> 10 days<,> was your
19 husband <still> there <before you checked out of the hospital>?

20 A. After 10 days of my delivery, he never came to visit me again
21 because he went to Farm 108 to work <on dry season rice>, and as
22 for my elder sister, she came to visit me <briefly but> quite
23 often as well.

24 Q. Thank you. I would like to quote your statement, document

25 D22/3248, ERN 00562881. I would like to quote your statement.

1 "During day time, during break time, he came to visit me quite
2 often. My elder sister came to take care <of> me instead of my
3 husband until I was strong enough." Was this your statement? Is
4 this your statement?

5 A. Yes. As I said, my elder sister had already been in the
6 hospital.

7 [15.13.40]

8 MR. SOUN VISAL:

9 Thank you, Madam Civil Party, and I have no further question. I
10 would like now ask the Chamber to hand over the floor to my
11 learned friend for further questions <regarding your marriage>.

12 MR. PRESIDENT:

13 Thank you very much. You may now proceed, Mr. International
14 Counsel.

15 QUESTIONING BY MR. KOPPE:

16 Q. Good afternoon, Ms. Oum Suphany. My name is Victor Koppe. I am
17 the International Lawyer for Noun Chea. I have a few questions
18 for you.

19 My first question to you is about the excerpts that were read to
20 you by your lawyer, excerpts from -- I describe it as a book,
21 with the title -- I speak - I quote it in French, "Quand nous
22 rencontrerons-nous".

23 My question to you is the following: Did you send this
24 transcript, this manuscript to DC-Cam in the framework of a
25 literature contest?

1 [15.15.03]

2 MS. OUM SUPHANY:

3 A. I wrote my book based on my diary. I did not know how you see
4 from my writing. It was about my own account during Pol Pot time.
5 It is from my collection. I wrote my book in 1980.

6 Q. My question was whether you sent it to DC-Cam. And did you in
7 fact win a third prize in that literature contest?

8 A. This book<, > in 2004, the Documentation Centre of Cambodia
9 held a contest concerning the writer -- writing a book about DK
10 period and I selected my book and joined the contest and I won
11 third prize. <Initially, it started with the contest.> The centre
12 wants to have the <>true> accounts from the period that is why I
13 joined the contest and I won third prize.

14 [15.16.48]

15 Q. Thank you for your answer. My other question relating to a
16 book of yours is the following: Did you also write a book with
17 the title in English "Under the Drops of Falling Rain"?

18 A. Yes. It was me, the writer <of the book, "Under the Drops of
19 Falling Rain">. <The story was like this: to start with,> my
20 neighbour said to me that<, "I could see that Madam Suphany wrote
21 almost every day and there <is> now a contest<. Do you want to
22 join it?"> And then I chose <the> book<, "When Will We Ever Meet
23 Again,"> for the committee to see and <told them that, "This is
24 the book I wrote. The one I like to write every day."> At the
25 time<,> I was told that novels <> usually <>did not include

1 <>dates <like that, and that I> need<ed> to <makeup> actor<s>,
2 characters in the <story to make it a novel>. That is why I
3 included some <important> detail<s> <from the book, "When Will We
4 Ever Meet Again",> concerning the death of my elder sister and
5 also some information when I was in the forest. <And I made the
6 characters up, but> actually<,> that book was -- <does not
7 reflect> my real accounts, it was mixing up -- it is <a bit>
8 mixed up with other accounts. <It was when I went to the base
9 area in 1984.> I was asked by the government <to go to the base
10 area>. Later, I worked in the local area and I also included some
11 detail from my experience during <Pol Pot regime that I had my
12 sister etc. I mixed it together.> So <I wrote this novel. But
13 "When Will We Ever Meet Again" is a true story excerpted from my
14 diary.> And at the time I applied <the> book<,> "Under the Drops
15 of Falling Rain,"> for the contest, I also won the contest.
16 In 2004, I applied the book called <"When Will We Ever Meet
17 Again"> for <Mr. Chang Yu (phonetic)'s document> and I won again.
18 [15.19.16]

19 Q. Thank you. The book with the title "Under the Drops of Falling
20 Rain", was that first published in 1997?

21 A. I won prize in 1989. I made some copies at that time and Madam
22 Ingrid Mam (phonetic) said that my book <>was <>very good<.> It
23 is <mostly based on a true story.> And then <she> helped
24 <publish> the English version <in 1997>. After that, <I did not
25 remember when exactly> Tonle Sap Publishing House published my

1 books. There are many books -- many more of my books won winning
2 prize in France<, but> I <did> not <publish those. I got to
3 publish this one.> <The> book that <won> the prize in France <was
4 published by> the Association in France<>.

5 (Short pause)

6 [15.21.31]

7 MR. PRESIDENT:

8 You may now resume your questioning, Mr. Victor Koppe.

9 MR. KOPPE:

10 Thank you, Mr. President.

11 BY MR. KOPPE:

12 Q. Madam Civil Party, just to understand correctly, am I saying
13 it right that your book titled "Under the Drops of Falling Rain"
14 was published in 1997 and that is my question, there was an
15 official English translation in 2011; is that correct?

16 MS. OUM SUPHANY:

17 A. It is not correct. It was -- the translation was done earlier
18 than that and only the copies of the books -- the books were made
19 copies and then the copies were sold<>. The copies were
20 published, rather, and I do not know when it was published. I
21 only knew that Tonle Sap publishing firm published my book.

22 [15.22.48]

23 Q. Do you still have the English translation, the official
24 published English translation in your possession?

25 A. Yes, I have. You can find it on sale at Monument Book Store.

1 Q. We tried but we failed. We asked your lawyers and they don't
2 have one. Would you be willing, I would ask you to present an
3 English version of your book so that we could make a copy of it?

4 A. You may go to Monument Book Store or any other book stores;
5 you will find a copy.

6 Q. I'm afraid, that's not the case because it is officially out
7 of print we're being told. That's why my question to you whether
8 you would be willing to give a copy to the Tribunal and then we
9 can make our own copy.

10 MR. PRESIDENT:

11 You have the floor now, Civil Party Lawyer.

12 [15.24.35]

13 MR. LIU:

14 Your Honour, I don't know what is the intention of the defence
15 lawyer to request a document from the civil party. If it is
16 requested as new evidence, I believe they should submit an 87.4
17 request before the examination, and at this point I don't see how
18 that is relevant to her testimony today.

19 MR. KOPPE:

20 There's no hidden tactics here; I just would like to read the
21 book one day. I'm interested in the story of the civil party;
22 that's all. <Nothing more.> I won't come back to it, so no
23 worries.

24 MR. PRESIDENT:

25 You may continue your questioning, Mr. Koppe. You can pose the

1 new questions.

2 MR. KOPPE:

3 I will, Mr. President, but not before I re-ask again whether the
4 civil party would be so kind and willing to present the Tribunal
5 with a copy of your English translation of your book and that we
6 can read it.

7 Oh, the objection was overruled. I'm sorry.

8 [15.26.04]

9 MR. LIU:

10 Your Honour, I didn't hear you overrule my objection. Actually,
11 at this point, I formally object this request to ask the civil
12 party directly submitting a request from the defence lawyer -- to
13 directly submit that document to the Chamber.

14 MR. KOPPE:

15 With all due respect, it's a book which is in the public domain.
16 It's the book. It's not --

17 MR. PRESIDENT.

18 The objection is sustained because this book is not in the case
19 file. New evidence should be submitted in accordance with
20 Internal Rule 87.4, and ask for requesting the copy of the book.
21 You can make the request personally and you could see her
22 personally. She already said the book is available at the <>
23 bookstore so you can go there and ask for one.

24 [15.27.05]

25 Mr. Koppe, do you have further questions.

1 MR. KOPPE:

2 Yes, I do.

3 BY MR. KOPPE:

4 Q. Ms. Oum Suphany, did you win a prize for this book "Under the
5 Drops of Falling Rain", a prize in Bangkok from the Southeast
6 Asian Writers Award?

7 MS. OUM SUPHANY:

8 A. That is true. In 2007, I went to receive the prize in
9 Bangkok<, which was called Siva Ova (phonetic)>.

10 Q. Do you remember why you received the prize for your book
11 "Under the Drops of Falling Rain"?

12 MR. PRESIDENT:

13 Civil Party, you may not need to respond to that question. It is
14 not relevant to facts in the case.

15 [15.29.30]

16 MR. KOPPE:

17 Mr. President, would you be so kind enough to explain why it is
18 not relevant?

19 MR. PRESIDENT:

20 <I already mentioned that it> is not relevant to testifying facts
21 in the case. It goes beyond the facts in the case. I believe, in
22 Khmer, it is clear enough, what I said.

23 BY MR. KOPPE:

24 Fine, I'll move on.

25 Q. Madam Civil Party, I would like to go back to something that

1 you said yesterday. On a question of your Lawyer at 13.48.54, you
2 said, and I quote from the unofficial English translation: "When
3 I wrote the diary, whatever I kept it in my heart, I expressed
4 and let it out through the diary so I felt relieved."

5 Do you remember that you said that yesterday?

6 MS. OUM SUPHANY:

7 A. I said that.

8 [15.30.05]

9 Q. Could you please explain a little bit more what you meant with
10 these words?

11 A. I wanted to say that some people who suffered or had a bad
12 feeling, they <cried. Some people talked when they were sad.
13 During that regime, we were not allowed> to express it. For me,
14 writing is the only way to let out the suffering or the sorrow I
15 kept inside.

16 Q. If I would concentrate on, let's say, the first three months
17 of your diary after 17 April '75, would you agree with me if I
18 say that whatever you felt those days, weeks or months, whatever
19 you saw, whatever you heard or experienced, you would write down?

20 A. Yes, indeed.

21 Q. In the first three months of your diary, you described the
22 evacuation from Phnom Penh on 17 April 1975, and your arrival in
23 the house of the parents of your future husband; is that correct?

24 A. Yes, that is correct.

25 [15.32.05]

1 Q. I have read with great interest your diary and also seen the
2 excerpts from one of your books and yesterday you testified in
3 answering a question that, en route, you saw people die -- a lot
4 of dead people on the road. Remember you said that in your
5 testimony?

6 A. Yes, that is true.

7 Q. I tried to find in your diary a similar remark indicating that
8 you saw dead bodies on the road but there is no such entry in
9 your diary. Do you remember why, the fact that you saw dead
10 bodies when you were evacuated did not end up in your diary?

11 A. I wrote about seeing dead bodies in the book. In fact, I
12 <already> stated that I only made a brief note in my diary and I
13 expanded it in the book in 1980, and 1980 was still very first.
14 My memory and my recollection was very well preserved, and that's
15 how I wrote it down in the book that, while en route, I saw many
16 dead bodies and sometimes at night time I slept near some dead
17 bodies as well. <But at that time, I was not that scared because>
18 there were so many dead bodies.

19 [15.34.13]

20 Q. Am I correct in assuming that when you wrote your diary in the
21 first months after 17 April '75, you didn't know yet that you
22 were going to write a book about these events; correct?

23 A. Could you please repeat your question, Counsel?

24 Q. When you wrote your diary in the first three months after 17
25 April '75, you didn't know that you would later write a book

1 about your experience; is that correct?

2 A. That is correct.

3 Q. May be my question wasn't clear but would you be able to
4 explain why the fact that you saw dead bodies didn't appear in
5 your diary but does appear five years later in your book?

6 MR. LIU:

7 Your Honour, I believe when the civil - I believe the civil party
8 when she was answering my question she said she wrote a song and
9 then she explained she seen many bodies, that's why she's on the
10 road and that's why she wrote the song. It's not what she -- at
11 least not -- in her answer, it's not what she wrote in her book.
12 So I think that question from the defence counsel needs to be
13 rephrased.

14 [15.36.02]

15 MR. KOPPE:

16 I'm not sure if I understand the objection.

17 My question is relating to dead bodies on the road during the
18 evacuation. You testified to that yesterday but I don't find it
19 in the entries of your diary in those first three months.
20 Considering the fact that you said that whatever came into your
21 heart or mind you would write down, my question is: Do you have
22 an explanation why those dead bodies do not appear in your diary.

23 MR. LIU:

24 Your Honour, if the question is phrased in this way, I'm not
25 objecting to this question. Thank you.

1 [15.37.12]

2 MR. PRESIDENT:

3 Counsel, could you ask the civil party again, it seems that she
4 did not get your question. So please repeat your last question to
5 her.

6 BY MR. KOPPE:

7 I will.

8 Q. Madam Oum Suphany, yesterday you testified you saw dead bodies
9 on the street, on the roads during the evacuation in the first
10 months after 17 April '75. I read your diary, in the first three
11 months after 17 April '75, I see entries for every day but I
12 don't see any entry saying "I saw dead bodies". There might be a
13 good explanation for this. But do you remember - or, do you know
14 why you didn't write that in your diary?

15 MS. OUM SUPHANY:

16 A. The reason that I did not write in my diary is that it was so
17 tragic and of course I saw what I saw and it sticks in my memory
18 and that's why I wrote it in the book and if you ask people who
19 are about my age and who are survived, then you would know that
20 there were dead bodies at that time. <Prior to that> there was
21 fierce fighting between the Khmer Rouge force and the former
22 regime soldiers while they attacked and entered Phnom Penh. For
23 that reason, there were a lot of dead bodies <in soldier uniform>
24 and I was shocked when I saw it<, so I did not write about it>.
25 And in some of my <other> books I did write about dead bodies. I

1 included the path where I saw dead bodies.

2 [15.39.35]

3 Q. Thank you for your answer. But would you be able to explain
4 the other thing that you said yesterday, when you said, "When I
5 wrote the diary, whatever I kept in my heart, I expressed and let
6 it out through the diary. I felt relieved"?

7 A. That is correct. For me, I liked to write and as I express it
8 in the song that I wrote, when I write down whatever I felt then
9 I felt relieved.

10 Q. I'll move on, Ms. Suphany.

11 Reading your diary, reading the first three months of your diary,
12 am I correct when I say that it was your decision to leave Phnom
13 Penh to go to the house of the parents of your future husband. It
14 was your decision to go to your parents-in-law house; is that
15 correct?

16 A. Yes, that is correct.

17 [15.41.29]

18 Q. Is it correct that it took you about a month to reach the
19 house of your parents-in-law?

20 A, Yes, because at that time there was no transportation and I
21 had to walk on foot and sometimes I had to rest en route when my
22 <husband> was not well -- was unwell, and <that was why> it took
23 us months to reach that village.

24 Q. Would you be able to estimate how many kilometres it is from
25 Phnom Penh to the village where the house of your - the parents

101

1 of your future - of your husband is situated?

2 A. The distance was about 68 kilometres. However, I did not take
3 the direct road. Sometime we walked off road through rice fields
4 and sometimes we were stopped. <That's why it took us so long.>

5 [15.43.00]

6 Q. Would you be able to explain why it ultimately took one month
7 to reach the house of the parents-in-law?

8 MR. PRESIDENT:

9 The assigned lawyer of the civil party, you may proceed.

10 MR. LIU:

11 Your Honour, I waited two questions before I do this objection
12 because I want to see where this is going, but we're now in the
13 trial, Case 002/02 and in Tram Kak segment. I don't know the
14 question on evacuation from Phnom Penh, which has already been
15 adjudicated, how that would help us ascertain the truth in this
16 segment. Thank you.

17 [15.44.00]

18 MR. PRESIDENT:

19 We have heard the questions and the last question is repetitive,
20 and in fact, the civil party responded to that question.

21 Secondly, the objection raised by the assigned lawyer for the
22 civil party is sustained as your question is far from the facts
23 before us now.

24 And Counsel Koppe, please move on.

25 MR. KOPPE:

1 Mr. President, that's a very interesting decision. I think I
2 would like to hear the decision of the whole Bench on this.
3 Am I not allowed to ask any questions relating to the first
4 months after 17 April '75, because if that is the case, then I
5 think that's a new viewpoint on this trial. So, if it's the
6 decision of the -

7 [15.45.05]

8 MR. PRESIDENT:

9 The Chamber already decided that your last question to this civil
10 party was already responded. On the various reasons, she took it
11 rather long to reach the house of her parents-in-laws, which was
12 about 67 kilometres. Please refer to the transcript. That's why I
13 instructed you that avoid this repetitive question as the civil
14 party has already replied to that question and your question. And
15 your question, as observed by the Bench, is far from the fact --
16 is being debated before us. And please refer to the specific
17 facts, which are being debated at this time in order to expedite
18 the proceedings.

19 MR. KOPPE:

20 I'm not sure if I understand what you're saying but that happened
21 more often, I think.

22 MR. PRESIDENT:

23 We already decided and ruled on that on why the civil party took
24 it rather long to travel from Phnom Penh to her parents-in-law's
25 house. She <already> replied to that, due to various reasons,

1 including sickness, including not traveling through a direct
2 route and that she was being stopped. And your last question was
3 to that point and of course it was repetitive and you are not
4 allowed to ask repetitive questions as it will delay the
5 proceedings and it will lead to contradiction in the responses.

6 [15.47.14]

7 MR. KOPPE:

8 Very interesting, Mr. President. Thank you.

9 BY MR. KOPPE:

10 Q. Madam Suphany, I will move to -- a little later in your diary.
11 I will move to 17 June 1975, and to the day later, Wednesday, 18
12 June 1975.

13 Do you remember, by heart, what happened on these days?

14 MS. OM SUPHANY:

15 A. No, I cannot recollect it. I have to refer to my diary for
16 that.

17 [15.48.11]

18 Q. Okay. I will assist you, Madam Civil Party. English, ERN
19 01036460; Khmer, ERN 01032950; entry of 18 June 1975: "I did not
20 go to work. During the day time I went to the Social Affairs and
21 then entered the village pounding the rice. Yeay Nam made cake in
22 preparation for my wedding. At night, we held a religious
23 ceremony. I wore a yellow silk shirt. My husband wore blue pants
24 and a white shirt--the 10th day of the waxing moon. My husband
25 still has leg pain."

104

1 Now that I have assisted you, Madam Civil Party, do you remember
2 that you wrote that?

3 A. Yes, I do. That was my wedding day.

4 Q. Would you be able to tell us something more about that day,
5 maybe some memories come to mind when you think of that day?

6 [15.49.56]

7 A. I recall that, at that time I was helping grinding the rice to
8 make a cake and my mother - and before I left from Phnom Penh, I
9 was still single but my future mother-in-law told me that I had
10 to tell them that we were husband and wife; otherwise, we would
11 not be allowed to be together because we, we -- that is, my
12 family, we were Phnom Penh dwellers. As for my husband's family,
13 they were half Base People and half New People as some children
14 studied in Phnom Penh and that we could not be together. So my
15 mother-in-law advised me that we had already married. But she
16 wanted us to marry again before her eyes and it was not really a
17 big ceremony as we had just left Phnom Penh and there <were two>
18 monk<s> from Angk Roka Pagoda and after that we had to make a
19 resolution. There was this unit chief who asked us<,> as in a
20 Catholic Church<,> whether I loved my husband and I said, "I do"
21 and my husband was asked the same thing and he replied, yes, he
22 did. And at the beginning, everything was not that strict yet as
23 we could dress with our own clothes, and in fact I still have the
24 clothes that I wore on <my wedding> day.

25 [15.51.57]

1 Q. Thank you. Madam Suphany, just to be sure you -- that day,
2 married the man that you were in love with, the man that you knew
3 17 April 1975 Phnom Penh, and that's the man with the name Sou
4 Nan. Am I correct?

5 A. Yes, that is correct.

6 Q. Is it correct that since that day, 18 June 1975, you were
7 married with that man the years after; is that correct?

8 A. Yes.

9 Q. Would you be able to tell us how long in total you were
10 married to your husband?

11 A. We married in 1975 and we remained husband and wife until
12 today.

13 Q. Thank you.

14 Madam Suphany, did you ever give an interview to the Phnom Penh
15 Post?

16 A. Pardon my recollection, I cannot recall specific interview
17 because I've been interviewed by many news outlets and media and
18 it is probably yes, because I have been interviewed by magazines
19 and various other media.

20 [15.54.01]

21 Q. Were you interviewed by the Phnom Penh Post in May 2013
22 together with your son?

23 MR. PRESIDENT:

24 Assigned counsel for civil parties, you may proceed.

25 MR. LIU:

106

1 Your Honour, that's a very specific information. I wish to know
2 where is that question coming from. The civil party already
3 answered that is probably yes. She has been interviewed by many
4 newspapers and articles but then - maybe Victor could be so kind
5 to explain to us why he is asking this question. Which document
6 based on he's asking that question and this is a very specific
7 question. I wish to -- not to lead the -- mistakenly the civil
8 party to answer that question before we see that document.

9 [15.55.17]

10 BY MR. KOPPE:

11 My reply would be, Counsel, do your homework.

12 Q. My question is: Is it correct, did you give you an interview
13 together with your son in May 2013 to the Phnom Penh Post?

14 MS. OUM SUPHANY:

15 A. Yes, that is correct.

16 Q. Do you remember with whom you spoke of the Phnom Penh Post?
17 Which reporter?

18 A. She was female foreigner; that's all I can recall.

19 Q. Would it be possible that her name is Rosa Ellen?

20 A. Yes, that is correct.

21 Q. What else do you remember about this interview that you gave
22 together with your son to this Phnom Penh Post reporter?

23 A. I was asked about the events that happened during the Khmer
24 Rouge regime.

25 [15.57.02]

1 Q. Ms. Suphany, did you tell the Phnom Penh Post reporter that
2 you were forcibly married?

3 MR. PRESIDENT:

4 The International Co-Lawyer for civil parties, you have the
5 floor.

6 MS. GUIRAUD:

7 Thank you, Mr. President. I haven't objected thus far but I think
8 it is quite obvious now that our learned friend, Koppe, is
9 relying on a document. There is a cardinal principle before this
10 Chamber<, > the principle of adversarial hearings<, > which means
11 that all the parties should be able to understand what documents
12 are used by the Parties. You have, by the way, created a <tool>
13 called the "Interface" which enables the Parties to place
14 documents at the disposal of the other Parties <the day before
15 the hearing>. So, I would now request you, Mr. President, to
16 <remind> Mr. Koppe <of his obligations; the adversarial principle
17 is non-negotiable in a courtroom. You must remind the Defence,
18 just like the other parties, that they must> abide by the
19 principle to share documents that they rely on in examining
20 witnesses in order that the prosecutor <> and the civil parties
21 may know where he is headed in a courtroom like this one.

22 [15.58.39]

23 MR. KOPPE:

24 I'm not in Court relying on the document, Mr. President. I'm
25 asking questions about an interview and all my questions have

108

1 been answered with "yes". I'm not presenting the civil party a
2 document. I'm not relying, for evidence reasons, on documents.
3 (Judges deliberate)

4 [16.01.01]

5 MR. PRESIDENT:

6 The time is actually appropriate for today's adjournment. The
7 Chamber will adjourn now and we'll resume on Monday, the 26th
8 January 2015, commencing from 9.00 a.m.

9 And Madam Oum Suphany, the hearing of your testimony as a civil
10 party has not yet concluded and we will continue to hear it again
11 on Monday, the 26th January 2015, and for that reason, you are
12 invited to return to provide the remainder of your testimony on
13 that day.

14 Likewise for the support staff from TPO, please assist the civil
15 party <to the completion for> the remainder of her testimony on
16 Monday, and the Court is now adjourned, and, as I said, will
17 resume on Monday, next week.

18 [16.02.10]

19 Court Officer, in co-operation with WESU, please assist the civil
20 party and the TPO support staff to return to their respective
21 accommodation and help them return to the courtroom on Monday
22 morning of the 26th January 2015, before 9.00 a.m. And please
23 have them wait in this main courtroom on that morning.

24 And security personnel, you are instructed to take the two
25 Accused back to the detention facility and have them returned to

1 the courtroom on Monday morning of 26th January 2015, before 9

2 a.m.

3 The Court is now adjourned.

4 (Court adjourned at 1603H)

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25