



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**  
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TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

1 April 2015  
Trial Day 267

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

The Accused: NUON Chea  
KHIEU Samphan

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

Trial Chamber Greffiers/Legal Officers:  
CHEA Sivhoang  
Roger PHILLIPS

Lawyers for the Civil Parties:  
Marie GUIRAUD  
LOR Chunthy  
SIN Soworn  
HONG Kimsuon  
VEN Pov  
TY Srinna

For the Office of the Co-Prosecutors:  
Vincent DE WILDE D'ESTMAEL  
Nicholas KOUMJIAN  
Dale LYSAK  
SENG Bunkheang  
SREA Rattanak

For Court Management Section:  
UCH Arun  
SOUR Sotheavy

I N D E X

Mr. Richard DUDMAN (2-TCW-923)

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HEARINGS ON VICTIM IMPACT

Ms. TAK Sann (2-TCCP-982)

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Questioning by Mr. KONG Sam Onn ..... page 48

Ms. IEM Yen alias EAM Yen (2-TCCP-985)

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Questioning by Mr. LOR Chunthy ..... page 56

**List of Speakers:**

Language used unless specified otherwise in the transcript

Speaker	Language
Ms. CHHAY Marideth	Khmer
Mr. DE WILDE D'ESTMAEL	French
Mr. DUDMAN (2-Tcw-923)	English
Ms. IEM Yen (2-Tccp-985)	Khmer
Judge FENZ	English
The GREFFIER	Khmer
Ms. GUIRAUD	French
Ms. GUISSE	French
Mr. KONG Sam Onn	Khmer
Mr. KOPPE	English
Mr. LOR Chunthy	Khmer
Mr. LYSAK	English
The President (NIL Nonn)	Khmer
Mr. SREA Rattanak	Khmer
Ms. TAK Sann (2-Tccp-982)	Khmer

1

1 PROCEEDINGS

2 (Court opens at 0803H)

3 MR. PRESIDENT:

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

5 This morning, the Chamber will continue to hear the testimony of

6 Mr. Richard Dudman, via video link from the United States of

7 America. For the afternoon session, commencing from 1 p.m., the

8 Chamber will hear the statements of impact by two civil parties,

9 who claimed to suffer harm during the Democratic Kampuchea

10 period.

11 And the greffier, Ms. Chea Sivhoang, could you report the

12 attendance of the Parties and individuals to today's proceedings?

13 THE GREFFIER:

14 Mr. President, for today's proceedings, all Parties to this case

15 are present. As for Nuon Chea, he is present in the holding cell

16 downstairs, as he requests to waive his right to be present in

17 the courtroom. His waiver has been delivered to the Greffier. The

18 witness who is to testify today -- that is, Mr. Richard Dudman,

19 via video link from the United States, and the AV unit confirms

20 that the link has been connected for the proceedings, and the

21 witness himself is ready to testify.

22 The civil parties who are to testify this afternoon, there are

23 two of them: 2-TCCP-982 and 2-TCCP-985. <Thank you, Mr.

24 President.>

25 [08.06.10]

1 MR. PRESIDENT:

2 Thank you, Ms. Chea Sivhoang. The Chamber now decides on the  
3 request by Nuon Chea. The Chamber has received a waiver from Nuon  
4 Chea, dated 1st April 2015. He confirms that, due to his poor  
5 health condition -- that is headache, back pain, and that he  
6 cannot sit for long, and in order to effectively participate in  
7 the future hearings, he requests to waive his right to  
8 participate in and be present at the 1st April 2015 hearing. He  
9 has been informed by his counsel about the consequences of this  
10 waiver, that in no way it can be construed as a waiver of his  
11 rights to be tried fairly, or to challenge evidence presented or  
12 admitted to this Court at any time during this trial.

13 Having seen the medical report by the duty doctor for the Accused  
14 at ECCC, dated 1st April 2015, who notes that the health  
15 condition of Nuon Chea is that he has chronic back pain when he  
16 sits for long, and recommends that the Chamber so grant him his  
17 request, so that he can follow the proceedings remotely from a  
18 holding cell downstairs.

19 Based on the above information, and pursuant to Rule 81.5 of the  
20 ECCC Internal Rules, the Chamber grants Nuon Chea his request to  
21 follow the proceedings remotely from a holding cell downstairs,  
22 via an audio-visual means for today's proceedings, as he waives  
23 his direct presence in the courtroom.

24 [08.07.54]

25 The AV unit is instructed to link the proceedings to the room

3

1 downstairs, so that Nuon Chea can participate in and follow  
2 today's proceedings remotely.

3 Good morning, Mr. Richard Dudman. Are you ready?

4 MR. DUDMAN:

5 I am ready, Mr. President.

6 MR. PRESIDENT:

7 Thank you, Mr. Dudman. And the Chamber now hands the floor to the  
8 lead Co-Lawyers for civil parties to continue putting questions  
9 to you. Madam International Lead Co-Lawyer for civil parties, you  
10 have the floor.

11 [08.08.53]

12 MS. GUIRAUD:

13 Thank you, Mr. President. We have no further questions for the  
14 witness.

15 MR. PRESIDENT:

16 Thank you. Now the Chamber hands the floor to Khieu Samphan's  
17 defence. Counsel, you may proceed.

18 QUESTIONING BY MS. GUISSÉ:

19 Thank you, Mr. President. Good <morning>, Mr. Dudman. I am Anta  
20 Guisse, and I am the Co-International Counsel for Mr. Khieu  
21 Samphan. <As the floor is now mine> I'm going to put a few  
22 questions to you. It shouldn't take too much time.

23 MR. DUDMAN:

24 Good morning.

25 [08.09.54]

1 Q. Good <morning>. When <your colleague> Elizabeth Becker  
2 testified before this Chamber, she spoke about the preparations  
3 for your trip to Kampuchea in December, 1978, and this is what  
4 she said. And here I'm going to quote from her book, <in  
5 English,> "When the War Was Over", in French, "Les larmes du  
6 Cambodge". The ERN -- the excerpt I'm going to quote from is at  
7 ERN 00638654 in French. In English, 00238115, on page 402, in the  
8 English version. This is what she says regarding the preparation  
9 for your trip: <>  
10 "Dudman and myself had been informed of the critical situation in  
11 Cambodia before we arrived. I spoke with experts from the State  
12 Department, from the Ministry of Defence as well, as well as from  
13 the CIA in Washington. In Bangkok and in Beijing, I met military  
14 and political experts from the USA, <> France, <> Canada, <>  
15 Australia and <> China. None had predicted a large-scale war  
16 between Vietnam and Cambodia. According to them, at worst, the  
17 Vietnamese would try to reach the Mekong and would just stop  
18 there, just happy to control the eastern bank of the river,  
19 before <advancing to> the capital <to> later <launch an  
20 offensive>. One of the most eminent American experts was an old  
21 friend, and <in Bangkok he told me> that my fears about the war  
22 and about my own security were <unfounded>. He said it would be a  
23 piece of cake." End of quote.  
24 [08.12.14]  
25 So, my first question <Mr. Dudman> is: do you remember if you

5

1 took any precautions, just like Elizabeth Becker, and had  
2 gathered information on the situation in Cambodia before you  
3 prepared your trip in 1978?

4 A. I do not remember what preparations I made. I am sure I talked  
5 to many people, including officials, and I -- but I can't recall  
6 what I did exactly.

7 Q. And do you remember if, <like Elizabeth Becker,> you were  
8 <also> told that there was nothing -- that you shouldn't fear an  
9 immediate attack <>?

10 A. I don't remember any such assurance that I received.

11 Q. And regarding this latent <ongoing> conflict between Cambodia  
12 and Vietnam, while you were preparing for your trip, and  
13 <particularly> while you had <gathered information> on the region  
14 and in particular on Vietnam, did you do any research on the  
15 border issues between Cambodia and Vietnam? And in particular,  
16 with regard to <the discussions over> the Brevier Line?

17 [08.14.03]

18 A. I don't recall what research I may have done.

19 Q. Two days ago, or yesterday I don't quite remember, you  
20 listened again to Pol Pot's statements when you interviewed him  
21 in 1978. In the excerpt that was played during the hearing by my  
22 colleague from the Nuon Chea <> team -- in fact, it was  
23 yesterday, I can confirm that -- Pol Pot spoke about <> Vietnam's  
24 expansionist ambitions, and also spoke about the fact that it was  
25 not only a border <issue>. Do you remember that part of that



6

1 interview? <And> did that match what you knew about the situation  
2 back then <concerning> Vietnam's political ambitions, <if you  
3 recall>?

4 A. I don't remember that conversation, so I don't know how to  
5 compare it with what I knew at the time.

6 Q. Do you remember back then that we were in the midst of the  
7 Cold War, and Pol Pot spoke about this, <particularly> about a  
8 rapprochement between Vietnam and the Soviet Union? Does that  
9 ring a bell in relation to the events <at the time>?

10 A. I don't recall.

11 [08.16.17]

12 Q. In your report of January, 1979 -- this is document E3/3290,  
13 at ERN 00419207 -- you speak about the Chinese presence in  
14 Cambodia, and this is what you said. I will quote in English,  
15 because this document has not been translated into French. For  
16 the interpreters, it is just before the paragraph, "Where <are>  
17 the rich [...]".

18 "Nowhere in our travels did we see any sizeable body of Cambodian  
19 troops or weapons, and the only signs we saw of Chinese  
20 assistance in the country were two MIGs flying above Phnom Penh  
21 one day, and a line of 56 Chinese trucks driving north from  
22 Kampong Som, where a Chinese freighter had discharged them." End  
23 of quote.

24 Mr. Dudman, does this jog your memory? Do you remember having  
25 seen two <> MIGs <> flying over Phnom Penh?

7

1 A. I do not remember that.

2 [08.18.11]

3 Q. <In her testimony that you briefly referred to in the past --  
4 pardon,> when Elizabeth Becker testified about Caldwell's death,  
5 and <> the different hypotheses that were formulated back then,  
6 in your report -- again, E3/3290 -- this is what you write, and  
7 <again> I will quote in English. You speak about what was said by  
8 Thiounn Prasith:

9 "Prasith described the shooting as a political act to discredit  
10 us in the world, and to show that we cannot protect our friends.  
11 He said the terrorists knew that the visit of the first three  
12 westerners to Cambodia was a significant one, and that Cambodia's  
13 reputation in the world would be greatly damaged if they were  
14 assassinated. Only days later, that Cambodian regime would be  
15 driven into hiding by the Vietnamese assault." End of quote.  
16 Here again, the same question <Mr. Dudman>: does this <excerpt  
17 from your report> jog your memory? And do you remember Thiounn  
18 Prasith speaking about the hypothesis of a Vietnamese attack  
19 <from the very first day>?

20 [08.19.44]

21 A. I didn't understand your question.

22 Q. I am asking you if <this excerpt from> your report <jogs your  
23 memory>, and if you remember Thiounn Prasith speaking about the  
24 possibility of a Vietnamese attack, of a Vietnamese terrorist  
25 attack, <early on> as <> one of the reasons for the murder?

8

1 A. I really don't remember my thinking at the time. I -- I have  
2 only -- what I wrote at the time was what I -- what I knew then,  
3 or thought I knew. But I don't have any recollection of anything  
4 further.

5 [08.20.45]

6 Q. In the same report you also spoke about what Ieng Sary said --  
7 <still> at the same ERN, 00419212. I will quote in English<>:  
8 "Ieng Sary said sadly that the -- that the visit had been  
9 intended to present to the world the concrete situation in his  
10 country, but that the terrorist incident had cast a very dark  
11 cloud on this effort. The Cambodian government later attributed  
12 the terrorist act to Vietnam, its enemy in the current war, in  
13 which there was a temporary lull at the time of our visit." End  
14 of quote.

15 Same question again: does this <ring a bell? I understand this is  
16 an excerpt from a report you drafted at the time, did you  
17 indicate right after the fact-->?

18 A. No, it does not.

19 [08.21.58]

20 Q. And the last excerpt I'm going to read out regarding your  
21 <1978> report, you spoke about certain <hypotheses> -- or you  
22 said <before the Chamber>, when you answered the Co-Prosecutor's  
23 questions <>, that there were <various theories thrown about and>  
24 there was quite a bit of speculation back then. And <that> you  
25 remember that there was a lot of rumours following Caldwell's

1 murder. This is what you said at the end of your report regarding  
2 the possibility of an attack that may have been instigated by the  
3 Khmer Rouge government itself. This is what you said:  
4 "<Finally,> was there any possibility that the government could  
5 have arranged the attack? A dispatch from Hanoi later reported  
6 that Caldwell had recently turned against Cambodia, and  
7 conjectured that the government may have wanted to prevent what  
8 they feared would be an adverse report. This seems out of the  
9 question. The Cambodian government had everything to lose from  
10 the incident. If, for some unaccountable reason, the authorities  
11 had wanted us killed, they could have contrived an accident or  
12 ambush to kill us all. And from lengthy conversation with  
13 Caldwell up to a few hours of his death, I know that he remained  
14 fully sympathetic to the Cambodian revolution." End of quote.

15 [08.23.49]

16 So my first question: do you remember your conclusions back then  
17 <>, and do you <confirm -- firstly, do you remember> that  
18 particular conclusion? Was that what seemed plausible to you in  
19 1978? That is to say, that <> the Cambodian government had no  
20 interest in <carrying out> such an attack?

21 A. I have read just today again what I wrote at the time, but I  
22 have no recollection of what led me to write that. I don't  
23 remember those circumstances.

24 [08.24.45]

25 MS. GUISSÉ:

10

1 Fine. Thank you for your patience <in the face of adversity>, Mr.  
2 Dudman, and I have no further questions <at this point in time,  
3 Mr. President>.

4 MR. PRESIDENT:

5 Judges of the Bench, do you have any questions you would like to  
6 put to the witness?

7 It seems that the Bench does not have any questions. And this  
8 morning's proceeding will adjourn now, as it ends before the  
9 scheduled time. And we will resume the proceeding again at 1  
10 o'clock this afternoon. For the afternoon session, we will hear  
11 the statements of impact by two civil parties who claim they  
12 suffered harm under the Democratic Kampuchea regime from the 17th  
13 April 1975 to the 6th January 1979. This information is for the  
14 Parties and the general public.

15 [08.26.01]

16 Mr. Richard Dudman, the Chamber is grateful of your time and  
17 testimony. Your testimony will contribute to ascertaining the  
18 truth in this case. The hearing of your testimony is now  
19 concluded, and you may be excused. We wish you all the very best.  
20 The Chamber would also like to thank the two counsels -- that is,  
21 Mr. Todd Lowell and Mr. Jason Barrett for your assistance in the  
22 testimony of Mr. Richard Dudman <for 6 hours in the past three  
23 days>. The testimony is now concluded, so you may also rest.

24 Thank you.

25 MR. DUDMAN:

11

1 Thank you, Mr. President.

2 MR. PRESIDENT:

3 Good-bye, Mr. Richard Dudman.

4 And the Deputy International Co-Prosecutor, you have the floor.

5 MR. LYSAK:

6 Yes. Before we break, Mr. President, yesterday I mentioned my  
7 recollection that an issue we discussed yesterday that had been  
8 raised by the Nuon Chea team, questioning or challenging the use  
9 of victim impact statements relating to the facts of the case. I  
10 did look at the transcript, and I did find where this issue was  
11 discussed and ruled upon.

12 [08.27.44]

13 On the 20th of May 2013, this was about one week before the  
14 victim impact testimony was to begin, the Court scheduled  
15 argument at the end of the day to hear from the Parties on the  
16 issue of to what extent the Prosecutors and the Defence would be  
17 allowed to question the civil parties during the victim impact.  
18 You'll find this at pages 100 to 111 -- end of that -- of the  
19 20th of May, E1/193.1. My colleague, Mr. Raynor, made 10 points  
20 to this Court that emphasized the importance of being able to  
21 rely on factual information from the civil parties. He  
22 emphasized, I quote: "That civil parties should be questioned on  
23 all issues of relevance; that evidence relating to suffering and  
24 the occurrence of the crimes was inextricably linked." He talked  
25 about how the civil parties were victims of forced movement,

1 whose evidence would go to the heart of the trial. He noted that  
2 the defence should be provided the opportunity to challenge that  
3 evidence.

4 [08.29.17]

5 He stated, I quote: "Both the Prosecution and Defence have been  
6 proceeding on the basis that full examination would take place."  
7 End of quote. And he noted the duty of the Chamber to ascertain  
8 the truth, which mandated that these civil parties testifying in  
9 the victim impact phase be treated the same as prior civil  
10 parties.

11 In response, this is what Mr. Koppe, Nuon Chea's counsel, said  
12 and I quote: "Mr. President, I don't think I would ever be saying  
13 this in a court of law, but I think I agree with all 10  
14 submissions from the Prosecution. So we fully concur with the  
15 submissions of the Prosecution." He was then followed by the  
16 Khieu Samphan defence, Mr. Vercken, who also concurred with our  
17 position. Let me quote him: "Bringing people here for them to  
18 speak only about their harm suffered, without them explaining the  
19 reasons and experience that led to this harm, seems unusual to me  
20 and incongruous in such a Trial. It's difficult to distinguish  
21 the origin, the factual aspects of the harm, from the harm  
22 itself." He concluded: "It seems to me that it is normal, if  
23 these people come next week, that aspects linked to harm slide to  
24 some things that are factual. We will manage as we can, faced  
25 with the situation in order to try to examine them."

1 [08.31.07]

2 The next day, on the 21st of May, again at the end of the day --  
3 this is, document, the transcript for the 21st of May 2013,  
4 E1/194.1, around page 119 in English -- the Trial Chamber issued  
5 its ruling on this issue, stating, I quote: "There has been a  
6 mutual consent amongst all the Parties, and the Chamber decides  
7 that the Parties may question the civil parties on relevant,  
8 factual issues, subject to the time limitations already  
9 announced."

10 So, when we started the victim impact proceedings, everyone in  
11 this Court knew that they would be examined, not just on harm,  
12 but on the relevant facts. That is why all the Parties asked  
13 questions on that, and that is why this Chamber cited that  
14 evidence in its judgement.

15 [08.32.08]

16 It's very unfortunate to me that these arguments were put to the  
17 Court yesterday. It's not an isolated incident in the appeal  
18 brief that was filed by the Nuon Chea team. And on a  
19 going-forward basis, I might suggest that where the Nuon Chea  
20 team wishes to make motions to this Court, it file a motion and  
21 not simply attach portions of an appeal brief, which are being  
22 litigated before the Supreme Court. We take issue with many, many  
23 characterizations like this, which misstate what has happened  
24 before this Court. In any event, it's important that the record  
25 be clear that in the past Trial, this Court announced very



14

1 clearly that these civil parties would be examined on factual  
2 issues, and the same should happen today when we start. Thank  
3 you.

4 MR. PRESIDENT:

5 Judge Fenz, you have the floor.

6 JUDGE FENZ:

7 Perhaps it's easier if I add something, and then you can answer  
8 to both. In this context, I would like to refer to a decision the  
9 Nuon Chea team has referred to in their appeals brief, and that's  
10 E267/3 from 2nd of May, 2013. So my guess is that--

11 [08.33.52]

12 MR. PRESIDENT:

13 There seems to have no translation. Can you check, the AV unit?

14 Judge Fenz, could you please repeat what you had just said?

15 JUDGE FENZ:

16 I just wanted to add that there was a decision, E267/3 from 2nd  
17 May, 2013, dealing with the issue at hand. And I guess it was  
18 probably the basis for the debate in Court a couple of days  
19 later. It was also referenced by the Nuon Chea defence in the --  
20 in the appeal. And specifically, page 9 of this decision appears  
21 to deal with all the issues raised yesterday by the Nuon Chea  
22 defence. It clearly says that cross-examination will be allowed.  
23 And it also clearly, in paragraph 21, says how generally --  
24 generally, how the Trial Chamber will deal with civil party  
25 statements, including impact statements, on trial level.

15

1 [08.35.17]

2 The reason I didn't mention it yesterday is because, since it was  
3 mentioned in the appeal, I thought it was obvious, and the only  
4 thing I tried to do is highlight what I thought was probably a  
5 misquote of another decision. But just to add to the arguments.

6 Thank you.

7 MR. KOPPE:

8 Thank you, Judge Fenz. In reaction to what the Deputy  
9 Co-Prosecutor just said: of course yesterday I revisited our  
10 appeal brief, and I also revisited the decision of the Trial  
11 Chamber in this respect. And it seems to me we have a completely  
12 different interpretation as to the ruling on this matter by the  
13 Trial Chamber. To us, to me, it seems clear there's a distinction  
14 between testimony given by witnesses or civil parties normally,  
15 while sitting there and giving testimony to the facts, and the  
16 phenomenon of civil impact testimony.

17 Now, obviously, if a civil party talks about the suffering, he or  
18 she would relate to some underlying facts. However, the whole  
19 idea of the distinction, also made by this Trial Chamber, is that  
20 it is in essence no evidence, evidence that will not be used  
21 against the Accused ultimately in its judgement. That's how we  
22 understood it then, and that's how we still understand your  
23 decision.

24 [08.37.01]

25 You've seen in our appeal brief that we've quoted your decision.

16

1 And the mere fact that it is only 10 minutes' time that was  
2 allotted to us to ask some questions to the civil party giving  
3 civil impact testimony, is one element that confirms our  
4 interpretation and understanding. The fact, as mentioned  
5 yesterday, that you asked the defence's permission to continue  
6 while Nuon Chea was absent because of sickness, confirms this  
7 interpretation. We have been always acting on the basis of a  
8 fundamental difference in suffering testimony on the one hand,  
9 and real testimony to the evidence on the other hand.

10 [08.38.02]

11 At the time, and that is in response to Deputy Co-Prosecutor  
12 Lysak, at the time, of course, we were fully agreeing with  
13 Prosecutor Keith Raynor when we said that we needed equal  
14 opportunity to question witnesses. However, that was not the  
15 standard practice. The standard practice was 'you have another 10  
16 minutes to ask some follow-up questions'. Plus, I think we should  
17 be reminded of a difference between, on the one hand, a civil  
18 party coming here to testify, and then at the end giving civil  
19 impact testimony, and this whole group which is now scheduled,  
20 which is just coming here for a half hour or for an hour.

21 In any case, I believe, and that's the reason of our appeal,  
22 there is a very different interpretation possible as to what the  
23 law is. We on the defence team are lawyers. We read your  
24 decision, and if we see things wrongly, then -- then the Supreme  
25 Court Chamber will tell us. And if you see we see things wrongly,

17

1 then of course we will -- we would accept that at this stage in  
2 these proceedings. But to us, there is unclarity as to what the  
3 law is, and if you're saying this is how we should interpret your  
4 decision, then we will arrive at our alternative.  
5 Our proposed alternative is that we need the equal time to  
6 question the upcoming civil parties. So that's, I think, how it  
7 should be interpreted, and that's how we should see -- you should  
8 see our appeal brief. And last remark, following some remarks of  
9 the Co-Prosecutor, the reason why we just sent you excerpts from  
10 the appeal brief is because of reasons of expediency and of  
11 fastness. That's the reason that we did it. We simply do not have  
12 the resources to always come up with full responses to motions,  
13 especially in light of the fact the civil party testimony, impact  
14 testimony, was already scheduled. So again, summarizing, what  
15 apparently seems clear to other Parties, didn't seem clear to us  
16 at all.

17 [08.40.39]

18 MR. PRESIDENT:

19 You may now proceed, the Counsel for Mr. Khieu Samphan.

20 MS. GUISSÉ:

21 Thank you, Mr. President. I would like to say something very  
22 briefly. I would like to quote one of your memoranda, document  
23 E236/5/3/2, in order for you to understand the substance of my  
24 submission yesterday, and our understanding of <the difference  
25 between> the two types of testimonies: that of a civil party <who

1 is coming to testify> to facts, and a civil party appearing to  
2 present his or her sufferings.

3 [08.41.30]

4 So this memorandum, which deals with <the possibility of video  
5 testimony for civil party> TCCP-13, <> this is what you stated,  
6 <and I quote>: "The purpose of hearings devoted to the incidents  
7 of <alleged> crimes <perpetrated against the> victims, is to give  
8 the civil parties an opportunity to present evidence in support  
9 of their application for moral and collective reparations, Rule  
10 <23(1)(b)> of the Internal Rules." End of quote. To my  
11 understanding, when we talk of <applications for> reparations, we  
12 are already in a second stage, that is, we <have> already <>  
13 decided that there would be a conviction, and we are now  
14 interested in applications for reparations.

15 As far as we are concerned, that is why during the first Trial we  
16 <hardly> examined the civil parties <that came to testify on>  
17 their sufferings, because we understood that there was a  
18 distinction between the hearings, in respect of which they were  
19 appearing as witnesses to facts at the same time, and those that  
20 were devoted exclusively to the application for moral and  
21 collective reparations. And that is how we understood your  
22 memorandum.

23 So, <let it be very clearly known> that, as far as we are  
24 concerned, it is not a question of saying that effectively we can  
25 <clearly> distinguish between facts and sufferings, because we

19

1 need a minimum basis for the civil party to refer to facts  
2 experienced by that civil party, <but facts that are uniquely  
3 associated to that civil party,> and facts that have to be  
4 considered by this Chamber in view of the reparations application  
5 <that appears at a second stage. Because we all agree that there  
6 cannot be an> application for reparations <without a conviction>.

7 [08.43.22]

8 That is why we needed this clarification today, because we <also>  
9 noted in paragraph 30 <I believe> of our appeal brief that there  
10 was a massive use of statements by civil parties that were  
11 supposed to be related only to the application for moral and  
12 collective reparations, which were used as Prosecution evidence.  
13 And that <is the clarification that we request today>, and <once  
14 more> bearing in mind the fact that we have always tried to show  
15 proof of foresight in the questions that we ask, and which we  
16 intend to continue <doing so. Now,> if there are any new  
17 elements, <and once more I specify that new elements are> not  
18 always easy for us <> because we <hardly> have enough data on the  
19 civil parties before they appear. <So,> it is only in the course  
20 of these <civil parties'> testimonies and <hearings> that we  
21 <know whether> we would need more time to cross-examine them.

22 [08.44.32]

23 MR. PRESIDENT:

24 You may now proceed, Deputy International Co-Prosecutor.

25 MR. LYSAK:

20

1 I'll be very brief. What we just heard is revisionist history.  
2 Read the transcript from the 20th of May, 2013. There is no  
3 ambiguity. There is no room at all for Mr. Koppe and the defence  
4 to suggest that they were unaware of the purpose of the victim  
5 impact civil parties. It could not be clearer. The exact issue we  
6 were discussing was the extent to which the civil parties heard  
7 in victim impact would be testifying about factual information,  
8 and whether that could be used. That was the issue. Read the 10  
9 points from Mr. Raynor. Read the responses from the Defence  
10 Counsel. This is crystal clear. This is an issue that they have  
11 made up after the judgement, after losing. It is as simple as  
12 that.

13 [08.45.48]

14 MR. PRESIDENT:

15 So we -- the Chamber does not allow any further submission or  
16 observation because we have been in two rounds already. The  
17 Chamber informed the Parties already yesterday that the Chamber  
18 is well-informed, and we will take this matter into  
19 consideration.

20 Security personnel are instructed to bring Mr. Khieu Samphan back  
21 to the waiting room downstairs, and bring him back to the  
22 courtroom this afternoon at 1 o'clock. The Court is now  
23 adjourned.

24 (Court recesses from 0846H to 1302H)

25 MR. PRESIDENT:

21

1 Please be seated. The court is now back in session. In this  
2 afternoons hearing, and on Thursday and Friday the Chamber will  
3 hold the hearings of victims impact statements of some civil  
4 parties who --experience during Democratic Kampuchea. The Chamber  
5 will hear their statements. Civil parties will state the  
6 sufferings which they experienced during that time and we will  
7 hear two civil parties this afternoon -- that is, 2-TCCP-982 and  
8 2-TCCP-985. The first civil party to be before the Chamber today  
9 is 2-TCCP-982.

10 Court officer is instructed to usher in the above mentioned civil  
11 party to the stand so that he or she can make statements.

12 (Civil party enters the courtroom)

13 [13.04.48]

14 QUESTIONING BY THE PRESIDENT:

15 Good afternoon, Madam Civil Party, what's your name?

16 MS. TAK SANN:

17 A. My name is Tak Sann, I am from Kiri Vong district, Takeo  
18 Province.

19 Q. Thank you very much. When were you born?

20 A. I do not remember. I am illiterate and I cannot remember the  
21 date of my birth.

22 Q. And how old are you as of today?

23 Please wait, Madam Civil Party, please wait until the microphone  
24 is activated.

25 A. I am 67 years old.



1 Q. Thank you very much. Where is your current address?

2 A. I live in Saom commune, Kiri Vong District, Takeo Province.

3 Q. What is your current occupation? <Please wait until the  
4 microphone is activated>, Madam Civil Party.

5 A. I am at home. I collect firewood for sale and I have a small  
6 business.

7 Q. What are your parent's names?

8 A. My parent's names are Lim (phonetic), <Seng> (phonetic).

9 [13.07.02]

10 Q. What is your father's name?

11 A. My father's name is <Tak> (phonetic).

12 [13.07.11]

13 Q. What is his surname?

14 A. His surname is Lim (phonetic).

15 Q. What is your mother's name?

16 A. Her name is <Seng> (phonetic).

17 Q. What about her surname?

18 A. My mother father's name is Lim (phonetic).

19 Q. Are you married?

20 A. I am a widow.

21 Q. How many children do you have?

22 A. I have four children.

23 Q. I would like to ask a few questions to the staff of TPO, what  
24 is your name?

25 <MS. CHHAY MARIDETH:>

1 A. My name is Chhay Marideth. I am staff member of TPO to support  
2 the victims of Khmer Rouge period.

3 MR. PRESIDENT:

4 Thank you very much, Madam. The Chamber wants to know your name  
5 and wants the Parties to know your name as well. During the  
6 testimony of this civil party the Chamber allows you to sit close  
7 by to the civil party so that you can support the civil party and  
8 from your support we hope that the civil party will be strong and  
9 can make a statement of her suffering.

10 [13.09.58]

11 Thank you, Madam Civil Party. In today's hearing, the Chamber  
12 will give you the floor to make a statement of the sufferings and  
13 injury you have experienced during that time and you will be  
14 asked to make statements in relation to the harms inflicted upon  
15 you resulting in your civil application to claim collective and  
16 moral reparation for physical, material and mental injury as  
17 direct consequences of crimes. And the two Accused are charged  
18 with the crimes which caused injury on you during the period of  
19 17th April 1975 through 6th January 1979. You have the floor now,  
20 Madam Tak Sann.

21 Please wait Madam Civil Party. You may proceed, Lead Co-Lawyer  
22 for civil party.

23 [13.11.06]

24 MS. GUIRAUD:

25 Thank you, Mr. President. I have the honour of starting <this

24

1 series of statements> and then I will give the floor to my  
2 colleagues during these three days. We have decided to put  
3 questions to the civil parties to help them come up with answers  
4 with regard to <the harm and> suffering <> they endured during  
5 the Democratic Kampuchea period. So I'm going to start with Ms.  
6 Tak Sann, then my colleague Mr. Lor Chunthy will continue later  
7 on in the afternoon.

8 <Good morning Madam Civil Party-- >

9 MR. PRESIDENT:

10 So, this means that this civil party will not make a statement  
11 first and the civil party will use the rights to be questioned by  
12 the Lead Co-Lawyer. Is that true?

13 [13.12.13]

14 MS. GUIRAUD:

15 That is true indeed. We have made the choice of putting questions  
16 and <the civil party's> answers in fact will <constitute> her  
17 testimony on the harm <and suffering> that she <experienced>.

18 MR. PRESIDENT:

19 So this would apply to all civil parties or there are exceptions  
20 on some civil parties?

21 MS. GUIRAUD:

22 I believe <it will apply to> all civil parties.

23 MR. PRESIDENT:

24 You may proceed now.

25 [13.12.57]

1 QUESTIONING BY MS. GUIRAUD:

2 Thank you, Mr. President. Good afternoon, <Madam> Civil Party.

3 The first question that I'm going to ask you is where were you

4 born and then we will be able to unfold your personal history

5 between 1975 and 1979 and help you voice the <harm and> suffering

6 that you experienced during that period. But first in order to

7 understand how the events tie up, I wanted to know first where

8 you were born, in which district?

9 MS. TAK SANN:

10 A. I was born in Kampuchea Krom.

11 Q. Can you tell us when you left Kampuchea Krom?

12 A. After seven or eight months -- <almost> one year <after,> I

13 left Kampuchea Krom when there was the <Vietnamese> exchange

14 program.

15 Q. So to be clear about this: you remained in the same place? Did

16 you always live where you were born or did you move between the

17 time when you were born and when you <arrived> in Kampuchea Krom?

18 A. I fled to live in the lower part that is Krom because I was

19 afraid and my children and I fled to live in the lower part that

20 is Krom.

21 [13.15.33]

22 Q. Thank you. Do you remember when you fled?

23 A. I do not remember because I cannot read and write I do not

24 remember the year I just fled to that place together with others.

25 Q. Where were you before you fled to Kampuchea Krom?

1 A. I lived in Kouk Ampil <village>, Trapeang Chhuk.

2 Q. Thank you. So you said that you fled to Kampuchea Krom with  
3 your children, did you leave a house <or> a plot behind? Can you  
4 tell the Court what <material goods> you had to leave behind when  
5 you left for Kampuchea Krom?

6 A. I had a house before I left and I had some belongings. So I  
7 left behind my house.

8 Q. Thank you. You said that you left with your children. Can you  
9 tell the Court with whom exactly <did> you flee to Kampuchea  
10 Krom? Who were the family members <who travelled with you>?

11 A. My mother, my father, my husband and children, we all fled to  
12 Kampuchea Krom.

13 [13.17.42]

14 Q. Why did you flee?

15 A. I was afraid, for this reason I fled to that place. I was  
16 afraid that I would be sent to the upper part, for this reason I  
17 fled with others <>.

18 Q. Thank you. <A little earlier> you said <> that you spent about  
19 seven or eight months in Kampuchea Krom. Can you tell us <under>  
20 which circumstances you came back to Cambodia?

21 A. I left Kampuchea Krom with some little belongings and spent  
22 two nights at Phnum Den and after that Khmer Loeu came to bring  
23 us and together with our belongings to Tnaot Chrum.

24 Q. Can you provide us with more information on the exchange  
25 programme that you talked about, how did <> this exchange

1 programme take place?

2 [13.19.21]

3 A. I do not know how to explain. I was asked to leave that is why  
4 I left with others.

5 Q. Did you know where you were going to go when you arrived in  
6 Cambodia?

7 A. I did not know where I would go. I thought I would be happy to  
8 be back in my home village but I was brought to anywhere else.

9 Q. Did you think back then that you were going to go back to your  
10 home village?

11 A. I was not allowed to live in my home village and I was taken  
12 and brought to Tnaot Chrum.

13 Q. Can you tell us with which family members you travelled from  
14 Kampuchea Krom back to Cambodia?

15 A. There were many people. I do not know them and they were taken  
16 to Kampuchea Loeu, they were hundreds of carts.

17 Q. The family members you travelled with, who were they?

18 A. My parents, my children, my husband.

19 Q. Did you leave Kampuchea Krom with any belongings such as cows,  
20 food, clothes; can you provide us a bit more clarification on  
21 this?

22 A. Yes, I had some belongings, cats, cattle and some food to eat.

23 [13.22.13]

24 Q. Thank you. Can you explain to the Court what happened when you  
25 arrived in Cambodia?

1 A. I thought that I would be prosperous when I arrived in  
2 Cambodia but instead I was placed in a sufferings area.

3 [13.22.49]

4 Q. Thank you, <Madam> Civil Party. We are in fact going to try to  
5 speak about the suffering you endured when you arrived in  
6 Cambodia. Can you tell me <> when you arrived in Cambodia, in  
7 which district, which commune <was it>?

8 A. <At> Trapaeng Thum Khang Cheung <which> was <called> Tram Kak  
9 <commune>.

10 Q. Thank you. I am first going to ask you a question regarding  
11 the <personal> belongings you brought with you. Were you able to  
12 keep what you had brought with you from Kampuchea Krom or not?

13 A. I had some belongings. Trucks went to collect me and they took  
14 all my belongings and those belongings were put in a collective  
15 property.

16 Q. Can you explain to the Court what happened afterwards with  
17 your family members? Were you allowed to stay together with your  
18 husband and with your children?

19 A. First I was allowed to live with my family and my husband and  
20 after that we were divided into different units.

21 Q. Were you able to see your children or not and can you tell us  
22 a little bit what happened in that regard?

23 A. I <> explained to my children that, please do not say  
24 anything, so you only did what you are asked to do.

25 Q. How often could you see your children?

1 A. I did not go to visit my children. My children would come to  
2 visit me on the 10th, 20th every month.

3 Q. <At the time,> did you suffer from the fact <> that you could  
4 not see your children enough? Can you tell us <a little bit  
5 about> how you experienced this <at the time>?

6 A. Normally mothers love their children. The children are away  
7 from mothers so we miss them but we could not do anything.

8 [13.26.38]

9 Q. Thank you. You said earlier on, that you arrived at Tram Kak  
10 with your two children. Did you have any other children when you  
11 were in Tram Kak?

12 A. <> I was pregnant <with another> child. And my husband was  
13 taken away; I did not know where he was taken to so I had a baby  
14 alone <in the hospital. >

15 [13.27.27]

16 Q. Thank you. Can you tell us a little bit more about the  
17 disappearance of your husband? <Under what circumstances> did he  
18 disappear and is he the only member of your family who  
19 disappeared?

20 A. <My husband went> with five or six carts. And <at 5 o'clock>  
21 when I returned<,> I could not see my husband, he disappeared<. I  
22 only saw the cows> and I did not dare <> ask where he was at that  
23 time. <I was afraid.>

24 Q. You spoke about two children <at the time>; did both of these  
25 children survive the regime?



1 A. Yes, they did.

2 Q. Did you lose other loved ones during that period?

3 A. Yes, my sibling. I also lost my sibling during the regime.

4 [13.29.15]

5 Q. Thank you. Now we're going to speak about the possible  
6 suffering you <would have experienced while> you were working at  
7 Tram Kak. So, <I would like for you to> tell us where you were  
8 sent to when you arrived at Tram Kak, and what kind of work <did  
9 you perform>?

10 A. First, I was asked to carry the termite mound earth and later  
11 on to carry fertiliser and then to work on a canal at Kouk Kruos.

12 Q. What was the most difficult task you had to carry out?

13 A. To carry the earth -- the termite mound earth up to the dam at  
14 Kouk Kruos was difficult. They put more earth on the baskets that  
15 I had to carry and then sometimes <> I fell down.

16 Q. Were you able to rest when you were tired?

17 A. No, I did not dare to rest as I was forced to work. Everybody  
18 did not dare to take any rest.

19 [13.31.10]

20 Q. And why <did you not dare> to rest?

21 A. We were not allowed to rest as we were forced to complete the  
22 work assignment.

23 Q. <During the time you were there,> did you sometimes have to  
24 work at night at Tram Kak, after your evening meals?

25 A. Yes, after the meal we were ordered to dig pits in order to

1 plant coconut trees.

2 Q. Thank you. You stated a while ago that you were pregnant while  
3 you were at Tram Kak, did you have to work while you were  
4 pregnant?

5 A. I had to work until the time that I delivered my baby.

6 Q. Thank you. <In hindsight, out of all work you did during those  
7 years you spent at Tram Kak, what was the most arduous task>?

8 [13.32.58]

9 A. The most difficult work was to carry the earth as it was  
10 rather too heavy for me, they sometimes filled in the baskets too  
11 full and it was too heavy for me to carry it.

12 Q. Thank you. Did you suffer from hunger while you were at Tram  
13 Kak?

14 A. We were given gruel to eat.

15 Q. Was such gruel sufficient for you to eat satisfactorily?

16 A. No, it was not enough and also I had to leave some for my  
17 child as well, as my child did not have enough food to eat.

18 Q. To be clear, Madam Civil Party, were you hungry throughout <>  
19 those years?

20 A. Yes, I was hungry and I did not dare to steal anything as I  
21 was afraid, so we had just to try to survive.

22 Q. What were you afraid of?

23 A. I was afraid that I would be taken away and killed so we did  
24 not dare to complain even if the food was not enough.

25 Q. Did you always have the same food rations or <did> such

1 rations change over the months and years you spent at Tram Kak?

2 [13.35.20]

3 A. It was basically the same; as they sometimes only changed the  
4 vegetable but the soup was still watery and we only had a bowl of  
5 watery soup for four of us in a group.

6 Q. You stated a while ago, that you kept a bit of soup for your  
7 children. <Did-->

8 MR. PRESIDENT:

9 Counsel Koppe, you have the floor.

10 MR. KOPPE:

11 Thank you Mr. President. Good afternoon, Your Honours. I've been  
12 listening for a while now to the questions of the Lead Co-Lawyers  
13 of the Civil Parties, I believe there is an American expression,  
14 that says "if it walks like a duck, swims like a duck and quacks  
15 like a duck, it must be a duck." And what I'm listening to is the  
16 civil parties asking for testimony -- asking the civil party to  
17 testify. I think I granted before objecting some leeway to the  
18 civil parties but what we're having here is not civil party  
19 impact suffering whatever you would like to call it, but simply  
20 somebody giving testimony and of course we had a long discussion  
21 before as to the parameters of what we're having today but I  
22 believe we are having, or we are listening to testimony and I  
23 don't think that is the idea of this session and tomorrow's and  
24 Friday's session.

25 [13.37.29]

1 MS. GUIRAUD:

2 Mr. President, I of course would like to respond. I am quite  
3 shocked by my learned friend's objection. In the last half hour,  
4 this civil party has told us that she lost her house, she was  
5 rooted from her <home>, she lost her husband, <she witnessed her  
6 children die of starvation,> she was often <> famished <herself>  
7 and she was subjected to <thoroughly> inhumane working  
8 conditions. Is all that not the suffering which the civil party  
9 is expressing? We are dealing <with> civil parties who are  
10 illiterate, <who are overwhelmed from being before this Chamber,>  
11 and it is much easier to interact with them by putting questions  
12 to them. Again, what <is the> part of this civil party's  
13 testimony <that> is not directly related to the suffering she  
14 <endured> during Democratic Kampuchea? I am <truly> shocked by  
15 the objection of my learned friend because <of the fact> he  
16 <feels inclined> to explain what <constitutes> harm or suffering,  
17 <as if it were> not exactly what <Madam Tak Sann> has just  
18 related to us.

19 (Judges deliberate)

20 [13.42.08]

21 MR. PRESIDENT:

22 I would like to hand the floor to Judge Claudia Fenz, to provide  
23 an oral ruling on the objection raised by the Defence Counsels  
24 and the techniques used by the Lead Co-Lawyers in putting  
25 questions to the civil party. You may proceed, Judge Fenz.

1 [13.42.33]

2 JUDGE FENZ:

3 The first is a remark on language in the context of the civil  
4 party that talks about suffering, this kind of language is a  
5 questionable taste at best.

6 Now to the substance, it's obvious this civil party has talked  
7 about suffering. Now it is obviously, equally obviously,  
8 difficult to make a clear distinction between testimony on  
9 suffering and testimony on facts. For the next two and a half  
10 days we will simply go ahead with the way it was planned and with  
11 the method adopted by the Co-Lead Lawyers. When it comes to  
12 questioning time for the other Parties, we will be open to  
13 reasoned submissions and on the basis of these next two or two  
14 and a half days, the Chamber will, if necessary, review the  
15 approach to this kind of evidence. So for the time being we are  
16 going ahead as planned and as scheduled and Defence is requested  
17 not to interrupt until they are given the floor. Not to interrupt  
18 on the basis that you don't like the process as it is at the  
19 moment until you are given the floor.

20 BY MS. GUIRAUD:

21 I was almost done with my questions <before> my learned friend  
22 interrupted me. <Perhaps it is time that one of these days he  
23 explains how these> objections may be in the interest of this  
24 client <because> I am increasingly perplexed by the <comments> of  
25 my learned friend regarding the civil parties; <for a long time

1 now, they have> exceeded the <very boundaries of propriety> and I  
2 must add that this last objection was really the <> straw <that  
3 broke> the camel's back.

4 Q. <I'm drawing to a close,> Madam <Civil Party, so that> you  
5 <may> have an opportunity now to express your suffering <after>  
6 the <Democratic Kampuchea> period. <What happened> after the  
7 Vietnamese arrived? Where did you go?

8 MS. TAK SANN:

9 A. After the arrival of the Vietnamese I went along on the carts  
10 with the Khmer Rouge. At that time I was carrying my young baby  
11 and we went along further and further but then we were told not  
12 to follow them. <So, I went to look for my parents.>

13 [13.45.38]

14 Q. Did you ultimately return to your native village?

15 A. Only after the Vietnamese arrived, then we returned to our  
16 native villages and there were many of us returning and we had to  
17 make a long trip and some time we had to sleep along the way,  
18 whenever the night fell, then we stopped and rested.

19 [13.46.17]

20 Q. Did you find the house in which you had lived prior to the  
21 Democratic Kampuchea regime?

22 A. No, it was no longer there, it was gone.

23 Q. A while ago, you stated that you lost your husband during the  
24 Democratic Kampuchea regime, did you <> subsequently <remarry>  
25 and how did you feel following the loss of your husband?

1 A. It was very difficult and I decided not to remarry as I  
2 decided and determined to take care of my children and because I  
3 missed my husband and I pity him that's why I decided not to  
4 remarry another man.

5 Q. Did you suffer as a result of the fact that you did not know  
6 where your close relatives had died and did you have the  
7 opportunity, subsequently, to bid them farewell according to  
8 <your> traditional rituals?

9 A. When the times comes for the annual ceremony, I just burned an  
10 incense sticks and prayed to their souls since I did not know  
11 where they actually died.

12 MS. GUIRAUD:

13 Thank you, Madam Civil Party. I am done, Mr. President.

14 MR. PRESIDENT:

15 The Deputy International Co-Prosecutor, the floor is yours.

16 MR. DE WILDE D'ESTMAEL:

17 Thank you, Mr. President. I have <I believe> 10 to 15 minutes  
18 <worth of questions> for the civil party. I will start when she,  
19 of course, feels better and when I have your leave to start, Mr.  
20 President.

21 MR. PRESIDENT:

22 Yes, you may do so.

23 [13.49.28]

24 QUESTIONING BY MR. DE WILDE D'ESTMAEL:

25 Thank you. Madam Civil Party, my name is Vincent de Wilde. I will

1 put some questions to you on behalf of <> the Office of the  
2 Co-Prosecutors. I would like you to <especially> clarify a number  
3 of things.

4 Q. <Earlier,>I was able to understand from <the French>  
5 interpretation <you said> that you were born in Kampuchea Krom  
6 but you also made mention of a native village in Cambodia. Could  
7 you please therefore repeat where you were born exactly, <> in  
8 Vietnam or in Cambodia?

9 MS. TAK SANN:

10 A. I was born in Kampuchea.

11 Q. And can you tell us the name of the village and commune in  
12 which you were born?

13 A. It was in Trapaeng Chhuk, Kouk Ampil, but I cannot recall the  
14 name of the district. I only recall that it was called the  
15 Trapaeng Chhuk, Kouk Ampil.

16 Q. Thank you. So you went to Kampuchea Krom and at a point in  
17 time, you returned. You state in <civil party application>  
18 D22/3205, <> that you registered your name on a list <drafted by>  
19 the Vietnamese government <with the intention of swapping the  
20 Khmer living in Vietnam for> Vietnamese<. Is that correct?>

21 A. Yes, I was part of the second exchange programme with the  
22 Vietnamese.

23 [13.51.42]

24 Q. On this form <> a date <is mentioned --> early 1976. Is this  
25 the period when you returned to Cambodia, <can you> confirm



1 whether that date is accurate?

2 A. I returned to Cambodia but I was not taken to my native  
3 village, but I was taken further into the upper part of Cambodia  
4 <called Tram Kak village>.

5 Q. Very well. But first of all before you arrived in the North  
6 that is in Tram Kak district, you said you passed through Phnum  
7 Den after you crossed the border between Vietnam and Cambodia.

8 Can you tell us for how long <> you <remained> at <> Phnum Den?

9 Did you spend a few days or several months there?

10 A. I spent two nights there, so we cooked rice and stayed there  
11 for two nights at Phnum Den and next day they brought in the  
12 truck <to transport> the cattle and we were asked to get on to  
13 those trucks and then we were transported away.

14 [13.53.31]

15 Q. When you were taken away, was it solely people <who returned>  
16 from Vietnam who were in the truck or <> were <there> also New  
17 People -- that is, the 17 April People, in the truck as well?

18 A. It was a mixture. There was our group and there were many,  
19 many of us in the group.

20 Q. Thank you. So you stated that you arrived in Tnaot Chrum  
21 village, Kouk Trabek commune in Tram Kak district. And you made  
22 mention of a meeting, <this was on your form in any case>, a  
23 meeting during which your personal property was confiscated.

24 We'll talk about that subsequently. On that form you <said you>

25 were told <or threatened> that if Angkar discovered that anyone was

1 keeping personal property, that person would be considered as an  
2 enemy <>. Was that the first time you were <> threatened since  
3 your return to Cambodia, when you told that you would be  
4 considered as an enemy if you do not hand <over> all your  
5 property?

6 [13.55.08]

7 A. Yes, that was the first time. Then we were told to give them  
8 the property that we brought along. So we all had to hand them  
9 over to them for communal use.

10 Q. At that time when you had to hand <over> all your personal  
11 property, did you regret <having returned> to Cambodia?

12 A. I did not regret much for the property that I handed over  
13 because I thought that it would be for communal use and that we  
14 would be given sufficient food to eat, but <I regretted letting  
15 go of the cattle a little>.

16 Q. Afterwards you were placed in a cooperative unit. Who worked  
17 with you in that co-operative unit? Were the people from Vietnam?  
18 Were they 17 April People? Were they Base People? Were they mixed  
19 or not?

20 A. We were put to work mixed with other people.

21 Q. Do you mean that Base People were working with you or <> were  
22 <you> mixed with 17 April People? <Can you> please clarify that  
23 point?

24 [13.57.01]

25 A. There were some of them, for example, there were four or five

1 of them, they were the Base People. But for us we had to work  
2 harder than them because they did not work as hard as we did  
3 because they were the Base People.

4 Q. And who led your cooperative unit? Were they Base People or  
5 people like yourself?

6 A. They were Base People, although I did not know them.

7 Q. You also stated on the information - on the victim's  
8 information sheet that if you did not complete your work on the  
9 rice fields, <that of transplanting> rice shoots, you wouldn't  
10 receive any food. Did it happen that you were not fed when you  
11 did not complete your work or <> was <that> only a threat?

12 A. It was a threat, although we were still given the food ration.  
13 But I must say the food ration was not enough.

14 [13.58.48]

15 Q. You also stated that you <had to test> the fertiliser you made  
16 using excrement, <by tasting it> to make sure it wasn't too salty  
17 <as> to destroy the rice shoot. Why did you <take the precaution>  
18 to taste this fertiliser made with excrement?

19 A. I was ordered to taste it, so I had to force myself to do that  
20 as I was scared.

21 Q. And if the rice shoot died, what would have happened to you  
22 according to the orders that were given to you by the Khmer  
23 Rouge?

24 A. <If> the rice seedlings <died>, then we would be <punished. It  
25 was too salty>.

41

1 Q. <Madam> Civil Party, there is a document in the Case file,  
2 <with reference> E3/4092. This is a document that comes from the  
3 Krang Ta Chan security centre. I'm not going to show it to you,  
4 but I'm going to read out an excerpt. It's on the second page. In  
5 Khmer ERN is--

6 MR. PRESIDENT:

7 Please wait. There is <an objection> -- please proceed, Victor  
8 Koppe.

9 [14.00.52]

10 MR. KOPPE:

11 Thank you, Mr. President. I understood the instructions of Judge  
12 Fenz. However, I feel obliged to nevertheless stand up because I  
13 think we are taking it another step further. Showing the civil  
14 party a document and asking for her reaction or her testimony has  
15 again nothing to do with her suffering but is only intended to  
16 establish evidence. So, again I feel obliged to object and allow  
17 me very briefly to react to what you said about my expression. I  
18 would like to make it very clear that the use of this expression  
19 was intended at the civil party Lawyer and obviously not at the  
20 civil party herself.

21 [14.01.43]

22 JUDGE FENZ:

23 Perhaps at this point in the translation into French was even  
24 worse, which is another reason why using this kind of language is  
25 something one should consider.

1 MR. KOPPE:

2 I understand, but I cannot be held responsible for improper  
3 translation. I believe it's a standard American expression. I  
4 will never use it again, but I want to be very clear, it was  
5 obviously not directed at the civil party.

6 MR. DE WILDE D'ESTMAEL:

7 Mr. President, may I respond? <I would like to say that> the  
8 objection is not appropriate in so far that the civil party  
9 <clearly> said that <part of her suffering was caused by the fact  
10 that> she did not know where her family members had been <taken>  
11 to and where they had died. I'm here simply trying to see if she  
12 can identify one person who ended up at the Krang Ta Chan  
13 security centre.

14 (Judges deliberate)

15 [14.03.43]

16 MR. PRESIDENT:

17 The objection of the Defence Counsel for Mr. Nuon Chea is  
18 overruled. Deputy International Co-Prosecutor, please proceed to  
19 your line of questioning. And Madam Civil Party, please respond  
20 to the question asked by Co-Prosecutor.

21 BY MR. DE WILDE D'ESTMAEL:

22 I'm first simply going to remind the numbers, <Mr. President.  
23 It's> E3/4092, <in> Khmer, it's on page, 00271133; <in> English,  
24 00834793; <in> French, 00721274. And in this document, Civil  
25 Party, which comes from the Krang Ta Chan security centre, they

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1 described a person by the name of Tak <Sim>, <S-I-M,> who was 36  
2 years old back then. And who had married Nget Nev, <Nget> N-G-E-T  
3 and Nev, N-E-V. This person was born in the village of Preal,  
4 Saom commune, Kiri Vong district in Takeo province -- this is the  
5 village where you live now. So do you know this person, do you  
6 know <this person,> Tak <Sim>, who bears the same <surname> as  
7 you?

8 [14.05.31]

9 MS. TAK SANN:

10 A. I do not know this individual.

11 Q. Fine. Last question <Madam Civil Party>. Do you know a person  
12 who came from South Vietnam in 1976 and who <> settled, as you,  
13 in the commune of Kouk Trabek, whose name is Peou, P-E-O-U, Ny,  
14 N-Y?

15 A. I do not know this person.

16 MR. DE WILDE D'ESTMAEL:

17 Thank you very much for having answered my questions. <Mr.  
18 President,> I have no further questions <to put on behalf of the  
19 Co-Prosecutors>.

20 [14.06.34]

21 MR. PRESIDENT:

22 What about the Defence Counsel for the Accused, do you have any  
23 question to put for this civil party?

24 QUESTIONING BY MR. KOPPE:

25 Just a few, Mr. President. Good afternoon, Madam Civil Party. I

1 have a few follow-up questions.

2 Q. Would you be able -- when you speak about the food situation  
3 -- to make a distinction between how you were eating in 1976, how  
4 the situation with the food was a bit later in 1977, 1978? Could  
5 you tell us a bit more about the food situation in period of  
6 time?

7 [14.07.28]

8 MS. TAK SANN:

9 A. As for food ration, we had meal as normal. We had soup, and  
10 the soup was cooked in a large pot.

11 Q. Did you also have vegetables, meat, potatoes, fruit, those  
12 kind of things?

13 A. There was morning glory soup and eggplant -- there were  
14 eggplants and there was soup for us to eat.

15 Q. But would you be able to tell us how the food situation was in  
16 the beginning that you came to Tram Kak district, a bit later in  
17 time, and at the end of the DK regime? Can you tell us a little  
18 bit more about the food situation over time?

19 A. I only knew that there was soup for us to eat. There were  
20 fish, meat -- there were meat for us as well.

21 Q. I understand, Madam Civil Party. My question is; was there any  
22 improvement in the food situation? Was one year or one month, the  
23 food situation better than other times, for instance?

24 [14.09.33]

25 A. I know once in a while, we had rice to eat and we would also

1 have dessert once in a while.

2 Q. Maybe my questions are not very clear. I apologise, Madam  
3 Civil Party. But what I'm trying to understand is whether there  
4 was an improvement in the situation. In the beginning when you  
5 came, maybe there was not enough food, but later on in the  
6 district, there was enough food to eat. Could you tell us a  
7 little more about the various periods in time?

8 A. First, we had our food as normal. And months later, the food  
9 was also normal. But later on, we had gruel.

10 Q. Would it be fair, Madam Civil Party, to say that sometimes the  
11 food situation was good, sometimes it was a little less good, it  
12 was a little more bad? Sometimes good, sometimes bad; is that an  
13 accurate description?

14 A. The soup was watery. Sometimes the soup was good and sometimes  
15 the soup was not good. And we <were happy if> the food was good<.  
16 If not, we were just quiet.>

17 [14.11.51]

18 Q. Do you remember, Madam Civil Party, that -- whether the people  
19 who were responsible for the food gave everybody who was working  
20 the same portions of food, the same ration of food?

21 A. The food ration was not equal. For Base People, they had more  
22 food. And as for us, we were New People, our food were less.

23 Q. And how were you able to determine this? How were you able to  
24 see with your own eyes that that was the situation?

25 A. I had foods and I had meals, so I could witness it.



1 Q. How were you able to witness that you had less food than other  
2 people?

3 A. I had meal with other people in the dining hall. We were  
4 sitting at the table and we were sitting close to each other. So  
5 <> I could see that <>.

6 Q. Can you explain to me so that I can understand properly how  
7 that then -- how that went? Did somebody get more rice or did  
8 somebody get more soup? Can you please tell us some more about  
9 this?

10 [14.14.03]

11 A. They had a little bit more food than all of us. Sometimes I  
12 did not fill my stomach, I wept. But I would <just walk away and  
13 would> not dare to let other people see that I was weeping.

14 Q. But how would the people who served the food or who made the  
15 food be able to make a distinction between Base People and New  
16 People? How did that go in practice?

17 A. Yeay Thon (phonetic) - I knew Yeay Thon (phonetic). She was  
18 the cook.

19 Q. And what did this Yeay Thon (phonetic) the cook do?

20 A. The food was given to us and placed on the table. And when it  
21 comes to -- when it came to the time that we had meal, then we  
22 would go to eat.

23 Q. I'll move on to another subject, Madam Civil Party. If I heard  
24 your testimony correctly, you said that your husband, at one  
25 point in time, disappeared. Have you been able to see with your

1 own eyes what happened to him?

2 [14.16.15]

3 A. I did not witness it. My husband was asked to go and collect  
4 the rice to make <pounded rice>. And I did not know where my  
5 husband was taken to. <That's why I pitied him.> I do not know  
6 where he was taken to be killed.

7 Q. I know it's difficult, Madam Civil Party, to speak about this.  
8 But maybe you would be able to tell us why you say the words  
9 "taken away". What exactly do you mean with the words "taken  
10 away"?

11 A. Taken away means that my husband was killed because I did not  
12 see my husband on the ox cart when the ox cart returned.

13 Q. But do you remember actually seeing with your own eyes  
14 somebody taking your husband, arresting your husband, and walking  
15 him away to an unknown destination?

16 A. I did not witness it. He was asked to go and collect the rice  
17 seeds. He went together with other people on the ox cart, and I  
18 did not see those people back. He disappeared ever since.

19 [14.18.18]

20 Q. And it's my last question, Madam Civil Party. Just to be sure,  
21 you didn't see with your own eyes what in fact happened to your  
22 husband other than that one day, he didn't return home; is that  
23 correct?

24 A. Yes. He went and never returned. He always -- he was always  
25 with us in the cooperative during the lunch -- the mealtime. We

1 would eat together.

2 MR. KOPPE:

3 Thank you, Madam Civil Party.

4 MR. PRESIDENT:

5 What about the Defence Counsel for Mr. Khieu Samphan? And how  
6 much will you use for this Civil Party?

7 MR. KONG SAM ONN:

8 I will use perhaps about 15 minutes for this civil party.

9 [14.19.22]

10 MR. PRESIDENT:

11 Thank you very much. It is now convenient time for the break from  
12 now until 20 to 3.00.

13 Court officer, please facilitate a proper room for this civil  
14 party and the TPO staff. And have this civil party together with  
15 the TPO staff member back to the stand before the Chamber at 20  
16 to 3.00.

17 The Court is now adjourned.

18 (Court adjourns from 1420H to 1440H)

19 MR. PRESIDENT:

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

21 And the Chamber will give the floor to Khieu Samphan's defence to  
22 put questions to this civil party. Counsel, you have the floor.

23 [14.41.14]

24 QUESTIONING BY MR. KONG SAM ONN:

25 Q. Thank you, Mr. President, and good afternoon, Madam Civil

1 Party. I only have a few questions to put to you. When you were  
2 asked about your place of birth by the Co-Prosecutor, you made  
3 some reply but I'd like to get clarification and in your response  
4 you said that you were born in Cambodia. My question to you is  
5 the following: in a document, D22/3205, which is a victim  
6 information form -- that is, your information form, it stated  
7 that your nationality is Khmer Kampuchea Krom and my question to  
8 you is the following: are you aware that that was the case?

9 MS. TAK SANN:

10 A. Of course, I know because I lived in Kampuchea Krom or Khmer  
11 Krom.

12 Q. My question to you is whether you're -- you are a Khmer Krom  
13 or you are a Khmer person?

14 A. I am an upper Khmer or Khmer Loeu.

15 [14.43.00]

16 Q. Thank you. However, in your victim information form to become  
17 a civil party, it is read that your nationality is Khmer Krom and  
18 my question to you is why it is stated that you are Khmer Krom on  
19 that victim information form?

20 A. I came to live in Khmer Loeu although I used to live in Khmer  
21 Krom.

22 Q. My question to you is about what is recorded on the victim  
23 information form, which it states that your nationality is Khmer  
24 Krom and I want to know why there is a difference. As you stated,  
25 you are not Khmer Krom but on the form it is read that your

50

1 nationality is Khmer Krom and my question to you is why there is  
2 such a discrepancy?

3 [14.44.22]

4 A. Yes, I understand your question. I -- I had a nationality as a  
5 Khmer Krom but then I came to live in Kampuchea or upper Khmer or  
6 Khmer Loeu.

7 Q. When you lived in Vietnam what was your nationality or was it  
8 Khmer Krom?

9 A. When I came to Cambodia or upper Khmer, I changed my  
10 nationality as what it is currently known but I was born in  
11 <Kampuchea> Krom.

12 Q. So let me be perfectly clear that -- did you refer to your  
13 nationality as Khmer Krom in the past?

14 A. Yes, I did. I used to refer to my nationality as I was born in  
15 Vietnam.

16 Q. Can you specify whether you used to say your nationality was  
17 Vietnamese or Khmer Krom? Please respond as what you said did not  
18 go through the interpretation system.

19 A. My nationality was Kampuchea Krom or Khmer Krom.

20 Q. On your identification card, which is also on the document  
21 D22/3205, on the copy of your ID card it reads that your place of  
22 birth was at Preal village, Saom commune, Kiri Vong district,  
23 Takeo province. Why did you state a place of birth on the ID that  
24 is not true?

25 [14.47.07]

1 A. It was processed or organised by my mother when the ID card  
2 was made. At that time I was rather young so <> I did not know  
3 about that.

4 Q. The identification card that I referred to is actually a new  
5 identification card of the Kingdom of Cambodia and it is signed  
6 -- or it is made on the 17th July 2002, so it was about 12 years  
7 ago and it was issued by the Phnom Penh municipality. At the time  
8 of its issuance, were you still a young girl or were you already  
9 an adult or woman?

10 A. I was already mature.

11 Q. Who made that ID card -- was it you or was it your mother?

12 A. It was organised by my mother.

13 Q. So you did not go to the place where the ID was processed or  
14 made?

15 A. <No, it was mother who went there.>

16 [14.48.56]

17 Q. Because for the ID processing you had to be there yourself to  
18 be photographed and to fill in the particulars and it could not  
19 be done by someone else on your behalf. Is that the case?

20 A. Yes, I went there <> to have my photograph taken. <I was wrong  
21 earlier.> I went there by myself. <Sorry.>

22 Q. Let me go back to my question. Why there is a difference in  
23 your nationality? You stated that you were born in Khmer Krom but  
24 on your ID card you mentioned that you were born in Cambodia --  
25 that is, in Preal village, Saom commune, Kiri Vong district,

1 Takeo province. Can you tell the Chamber why there is such a  
2 difference?

3 A. I in fact was born in Preal village, Kiri Vong district, Takeo  
4 province.

5 Q. So, the statement you made previously that you were born in  
6 Vietnam is not correct? Is that true?

7 A. Yes, I was born in Kiri Vong district, Takeo province. And I  
8 was not born in Khmer Krom and I apologise for the mistake.

9 Q. Thank you. Can you recall who actually helped you in filling  
10 the victim information form?

11 A. What form are you referring to?

12 Q. I refer to the victim information form which has a document ID  
13 -- that is, D22/3205. Do you recall that?

14 [14.51.38]

15 A. I remember someone gave me an assistance in filling out that  
16 form.

17 Q. Do you know the name of the person?

18 A. Yes.

19 Q. What is the name?

20 A. The name was <Nhann> (phonetic).

21 Q. Thank you. In that same document -- that is, the victim  
22 information form, at the location where a witness provided a  
23 thumb print, it stated that a person that provided a thumb print  
24 as a witness is Chau Ny. Do you know that person -- that is Chau  
25 Ny?

1 [14.52.42]

2 A. No, I don't know anyone by the name of Chau Ny.

3 Q. On your victim information form this person, Chau Ny, signed  
4 that form as a witness. So, your response is that you don't know  
5 this person or never meet this person, Chau Ny? Can you confirm  
6 that?

7 A. I do not know any person by the name of Chau Ny, not at all.  
8 And I have never seen an individual by that name.

9 Q. This person, Chau Ny, actually came to testify before this  
10 Chamber in Case 002/01 as a civil party. Maybe this can refresh  
11 your memory?

12 A. No, I do not know this person and I don't have any contact  
13 with this person.

14 MR. PRESIDENT:

15 Defence Counsel, you should actually direct your question on the  
16 statement of suffering or impact of the civil party, that is the  
17 main purpose of this afternoon proceeding.

18 [14.54.42]

19 BY MR. KONG SAM ONN:

20 Yes, Mr. President.

21 Q. And now I move on to another topic -- that is, about  
22 reparation. In document D25/3205, on the last page, in the  
23 English language which is only a one-page document -- it is  
24 towards the end of the document which reads, and let me quote:  
25 "In this complaint, I would like to ask for some compensation for



1 my mental sufferings and the property that I lost during the  
2 Khmer Rouge regime, such as houses, kettle, buffalos and so on."  
3 End of quote.

4 My question to you, Madam Civil Party, is the following: do you  
5 still stand by your request for an individual reparation as  
6 stated on this document?

7 [14.55.56]

8 MS. TAK SANN:

9 A. Of course I request for reparation and if it is awarded, of  
10 course that is good. If it's not, what can I do because I lost my  
11 property -- what else I can do besides making that claim?

12 Q. Can you make it a bit clearer? Are you still making a request  
13 for an award or reparation or you forfeit it?

14 [14.56.30]

15 A. I don't want to claim for anything else but I want to claim  
16 for my husband. I want my husband to be back. My husband and my  
17 lost child.

18 Q. You seem to -- not to respond to my question and if you wish  
19 not to respond to my question, I'll end my question now.

20 A. I don't know what else I can ask for as I already lost my  
21 property.

22 Q. The reason that I ask you this question because you made that  
23 statement on the form -- that is, your request for the reparation  
24 for the loss of your houses, cattles, so and so forth during the  
25 Democratic Kampuchea regime. And my question is that; are you

55

1 still standing by your request for reparations -- compensations  
2 as stated on that form?

3 A. I don't know what else I can say regarding the compensations  
4 because I am illiterate. I don't know what else I can do.

5 MR. KONG SAM ONN:

6 Thank you Mr. President. I don't have any further questions for  
7 this civil party.

8 [14.58.02]

9 MR. PRESIDENT:

10 Thank you, Madam Tak Sann, for your statement of suffering and  
11 harms that you suffered under the Democratic Kampuchea regime and  
12 your time is now expired and you may return to wherever you wish  
13 to go. And the Chamber wish you a safe journey.

14 Court officer, in collaboration with WESU, please make necessary  
15 transportation of Madam Tak Sann to her residence or wherever she  
16 wishes to go to.

17 And as for the TPO staff, please remain seated as you are  
18 required to provide assistance to another civil party -- that is,  
19 2-TCCP-985.

20 And Court officer, please usher that civil party into the  
21 courtroom.

22 (Civil party enters courtroom)

23 [15.00.14]

24 QUESTIONING BY THE PRESIDENT:

25 Good afternoon, Madam Civil Party.

1 Q. What is your name?

2 MS. IEM YEN:

3 A. My name is Iem Yen.

4 Q. Thank you very much, Madam Iem Yen. When were you born?

5 A. <In the record,> I was born on the 8th of September 1970, but  
6 I was actually born in 1968.

7 Q. <> What is your current address <>?

8 A. I live in Tuol Pongro village, Saom commune, Kiri Vong  
9 district in Takeo province.

10 Q. What is your occupation?

11 A. I am a rice farmer.

12 [15.01.32]

13 Q. What are your parents' name?

14 A. My father's name is Mom Proh (phonetic).

15 Q. What is your mother's name?

16 A. My mother's name is Om Yorn (phonetic).

17 Q. What is your husband's name? How many children do you have  
18 together?

19 A. My husband's name is Sam On (phonetic). I have seven children.

20 Q. Thank you very much. The Chamber now hands over the floor to  
21 the Lead Co-Lawyer to put questions to the civil party in  
22 relation to the sufferings and injuries she experienced during  
23 the Democratic Kampuchea. You may proceed.

24 QUESTIONING BY MR. LOR CHUNTHY:

25 Thank you very much. My name is Lor Chunthy. I am the civil party

1 Lawyer. Good afternoon, Madam Iem Yen.

2 Q. My first question is that in 1975<,> where were you  
3 transferred in 1975?

4 [15.03.21]

5 MS. IEM YEN:

6 A. In 1975<,>I was transferred from Tuol Pongro village, Saom  
7 commune, Kiri Vong district to live in Trapeang Thum Khang Cheung  
8 <village, Tram Kak commune,> Tram Kak district, Takeo province.

9 Q. Thank you. What about in 1976? What unit were you transferred  
10 to?

11 A. In 1976, they sent me to live in Tuol Kruos village during  
12 which I was separated from my parents and I was asked to work. I  
13 was asked to dig the earth at Tuol Kruos dam. We were separated  
14 <into five> groups<. There were 10 people in one group> and there  
15 were 50 <people> in one <unit. Ten young people> were asked to  
16 dig 10 cubic metres and if we were <adults,> we were asked to dig  
17 15 <> cubic metres of soil. If I could not complete the quotas, I  
18 would be deprived of food. <So, I just endured it, but when I  
19 could not do it anymore, I ran away to look for my parents.>

20 [15.05.41]

21 In 1977, <> I was asked to go and collect the cow dung. I could  
22 not perform my duty because I was too young at that time, since I  
23 was too young, I missed my parents. At the time, because I missed  
24 my parents too much, <I snuck out to come home.> I was  
25 arrested<. I was beaten> and I was buried for a few hours. I was

1 warned not to do such a thing again otherwise I would be killed.  
2 I was very hungry and I was very thirsty. I was buried up to my  
3 neck. <I could barely breathe. I felt like dying.> I called for  
4 my parents help but no one could come to help me. I underwent  
5 sufferings at that time. After that time, I was put back into my  
6 unit <to work as usual. After> I was buried up to my neck, <> I  
7 was put back in the unit to work. <They warned me like that and I  
8 was scared.> In 1978, I was asked to cut Tuntrean Khet (phonetic)  
9 plants to mix with <faeces and> urines and the sewage to make  
10 fertilisers. And the fertiliser was <mixed> in <two> big <pots  
11 that were placed in a house. The house was shabby. We were asked  
12 to put the wet fertiliser separated from the dried one,> and <a  
13 group of 10> were asked to carry the fertiliser<, each pot was  
14 carried by four people. I felt suffocated doing that daily.>

15 [15.07.48]

16 In fact, I tried to escape from my unit a few times -- two or  
17 three times. I, at that time, was arrested again and again. I was  
18 put <back> in the cooperative after my arrest. <I was asked to  
19 collect cow dung.> I was waiting <for too long> at that time and  
20 I was very hungry. <I saw a man riding on an ox cart transporting  
21 cassava.> I stole some <pig> food to eat. Since I was too hungry,  
22 I went and chased the ox chart to steal a few cassava. I was  
23 spotted at that time. I <was thrown> onto the ox cart. <When I  
24 came down, they threw me in there again and stopped me from  
25 moving.> Later, I was put in <a cooperative in> Ta <Kuy

1 (phonetic)> dam. <I only knew it was Ta Kuy (phonetic) because I  
2 didn't know which village or commune it was at that time.> I was  
3 asked where I was <from.> I told them that I was <from> Ta <Kuy  
4 (phonetic)> dam. <So, they told my group chief to come take me.>  
5 There <was one unit chief and two group chiefs that came to take  
6 me. I thought that they would> not <do anything to me. When> I  
7 was brought <> to <a> house, I was tied up and I was told that  
8 because I stole something, I was tied up. <There were two other  
9 people who were collecting pig dung with me. The other two, one  
10 of them named Nat (phonetic), they did not steal. They were  
11 waiting to collect pig dung, so I was arrested alone because I  
12 stole something. After they tied me up, they also called the  
13 other two to tell them that we were going the same way.>

14 [15.09.46]

15 As I said, I was tied up, and my legs were tied up and my hands  
16 were tied to the back -- behind my back. They tied my hair to the  
17 window bar. I was thirsty during that time. I called a person,  
18 "<Mit> Bong", and I asked for water. <They pretended they didn't  
19 hear me.> I was deprived of food. I was so <> hungry. I asked for  
20 food and water for a few times <>. At the third time when I asked  
21 again, I was <forced to drink> water. <I was almost out of air.>  
22 And after that, the chief of the units brought in a whip or a  
23 bamboo stick and they hit on my abdomen <and my legs> and I was  
24 warned that<, "Next> time, please do not go and steal something  
25 <again ">. And I replied, "No, I would not do it again."

1 [15.11.10]

2 When night falls, the other children came to the house. I  
3 discussed with the two children that I wanted to go to relieve  
4 myself. The two children did not dare <> ask but I decided to ask  
5 that person and<, they let us go to relieve ourselves. I then  
6 told the other two that we should pretend> to relieve <ourselves>  
7 for a long period of time because <our> legs and feet were so  
8 hurt. <But it was not long before they came to take us back to  
9 the house and tie us up again.> At night time, when the children  
10 returned from their work <>, they also saw that the two children  
11 and I were tied up. <They released us. I thought that nothing  
12 would happen next, but> after that time, I was called to a  
13 self-criticism meeting and at that time, there was a child  
14 standing up to say that those who committed wrong should come to  
15 confess so I confessed at that time. <I said I would not do that  
16 again.> And after the meeting, I was asked to go back to work. I  
17 was told that on the 10th and the 20th of every month<, we could>  
18 rest but as time went on, the rest time was reduced<, the food  
19 was also not enough> and <I was overworked, so I ran away.>

20 [15.13.23]

21 Q. You responded -- you stated that you were allowed to visit  
22 your parents on the 10th and 20th every month. Since you enjoyed  
23 that latitude, why did you still go to see your parents on other  
24 days?

25 A. I stated that there was the 10th and the 20th of every month

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1 that we were allowed to go and visit our parents but our rest  
2 time to visit our parents was <reduced>. Because of this<,> I  
3 went to visit my parents. I was young at that time. I <needed> my  
4 parents to take care of me. Food rations were <reduced>, the time  
5 to visit my parents was <reduced>, so I decided to sneak <out> to  
6 see my parents.

7 Q. During that time, you were assigned in a mobile unit. Was  
8 there any training or education sessions in your mobile unit?

9 A. During that time there was no education sessions. We were only  
10 asked to work at day time and night time.

11 [15.15.15]

12 Q. What about food ration? You stated that during the time that  
13 you went to collect the pig dung and cow dung, you stole cassava.  
14 What about the food ration during that time? How was it?

15 A. I stole cassava at that time that I went to collect the pig  
16 and cow dung because I did not have enough food. That is why I  
17 decided to steal the cassava.

18 [15.16.19]

19 Q. You said that you were arrested when you were stealing the  
20 cassava and you were tortured. Your legs and hands were tied up.  
21 Is that true?

22 A. Yes. I stated that I was tortured at that time. I was so  
23 hungry at that time that is why <> I went to steal the cassava. I  
24 was arrested while I was stealing cassava, and I was <> thrown on  
25 to the cart a few times and after that I was taken to <the



1 cooperative. They called my team leader to take me to> be <tied  
2 up and> tortured <at that time>.

3 [15.17.25]

4 Q. You said you were separated from your parents. Was it <in 1976  
5 or after that?> Did it happen from 1976 until 1979?

6 A. I was separated from my parents from 1976, but I was allowed  
7 to visit my parents three times a month, and later on my visit  
8 time was reduced to once a month only. And as I was young, I  
9 missed my parents so miserably.

10 Q. You said that you missed your parents miserably. Did you ask  
11 permission to visit your parents at that time?

12 A. I missed them so much, I wanted to ask permission to visit my  
13 parents. <> I was not allowed to do so because they had scheduled  
14 for me to visit my parent on specific days and I asked them  
15 already a few times, but I was not allowed to visit my parents.

16 Q. You stated earlier that the chief unit arrested you and buried  
17 you. Was this the kind of a torture that you experienced and why  
18 were you tortured?

19 A. I mentioned that I was arrested and buried. The reason was  
20 that I ran away from my unit to visit my parents.

21 [15.20.59]

22 Q. When you were buried, were you buried alone or were you were  
23 being buried in front of others? So, how were you buried?

24 A. There was a pit which can put me in and I was buried deep to  
25 my neck as a warning for me not to commit such a wrong again.

1 Q. When you were being buried, were you allowed to have some  
2 food?

3 A. At that time I was deprived of food and water. I was starved  
4 and so thirsty. My whole body was in pain and I called for my  
5 parent's help, but no one could come to help me. After I was  
6 arrested, I was buried. Not in front of others. The other  
7 children <> already went to work and I was buried at the unit  
8 where I was staying at that time.

9 [15.21.56]

10 Q. My last question to you is the following. Can you please tell  
11 the Chamber that when you were separated from your parents and  
12 that you were not given an opportunity to go to school, what was  
13 your feeling about that? And also on the matter that you were  
14 arrested and buried, beaten and tortured, I'd like you to make a  
15 statement about that suffering or whether you can compare such a  
16 suffering to something that you can do for the Chamber?

17 A. I was buried alive and nothing could compare to it. I was  
18 buried to up to my neck. I could not move and I could not do  
19 anything. I tried to call my parents, but no one would answer my  
20 call, and it was the greatest pain I experienced.

21 Q. Up to today, has that suffering gone or is it still living  
22 with you?

23 A. Every time I recall it, it is vividly living in front of my  
24 eyes as I was living during the regime. And that happens every  
25 time <> I recall it.

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1 Q. And the lingering effect of what happened there will give you  
2 any consequence or the impact upon your current life, can you  
3 describe it to the Court?

4 A. During the regime I did not had a chance to go to school, and  
5 now I am uneducated, I don't know anything better than anyone. At  
6 that time there was no school and I was not allowed to attend any  
7 study.

8 Q. What about your health condition?

9 A. Health-wise, health-wise I am not that strong. During the  
10 regime I was still young and I was forced to overwork.

11 [15.25.26]

12 Q. Finally, do you have any questions that you wish to put to the  
13 two Accused?

14 A. I have two questions that I like to ask them. My first  
15 question is the following. Why you two inflicted torture on  
16 children like myself? What were you thinking about when you did  
17 that?

18 MR. PRESIDENT:

19 Defence Counsel, you have the floor if you have some matter to  
20 raise.

21 MR. KONG SAM ONN:

22 It is my observation that the question to the Accused is not  
23 directed through the President of the Chamber, could you please  
24 give such instruction to the civil party.

25 [15.26.45]

1 MR. LOR CHUNTHY:

2 Mr. President, I asked whether the Civil Party has any question  
3 for the Accused, and as the civil party does not know about the  
4 standing procedures in this Court, could you please accept the  
5 question by the civil party?

6 MR. PRESIDENT:

7 <Do you> have any more questions?

8 MR. LOR CHUNTHY:

9 I don't <have> any further questions.

10 MR. PRESIDENT:

11 And Madam Iem Yen, the Chamber wishes to inform you that after  
12 ascertaining the position of both Accused on 8th January 2015  
13 regarding the exercise of the right to remain silent, the Chamber  
14 notes that the two Accused maintained their express position,  
15 unless and until such time the Chamber is expressly informed  
16 otherwise by the Co-Accused or their counsels.

17 [15.28.04]

18 It is therefore incumbent upon them, to inform the Chamber in a  
19 timely and efficient manner, should the Accused resolve to waive  
20 their rights to remain silent and be willing to respond to  
21 questions by the Bench or relevant Parties at any stage of the  
22 proceedings. In so far, as of today, the Chamber is not informed  
23 that the Co-Accused have changed their express position, and thus  
24 agreed to provide their responses to the questions.

25 And the Co-Prosecutors, do you intend to put questions to the

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1 civil party?

2 [15.29.14]

3 MR. SREA RATTANAK:

4 President, yes, we do have some questions.

5 MR. PRESIDENT:

6 Thank you <>.

7 [15.29.32]

8 Today's proceeding has come to an adjournment. The Chamber will  
9 adjourn now and resume tomorrow. That is the 2nd April 2015,  
10 commencing from 9 o'clock in the morning. For tomorrow's  
11 proceeding, we will continue to hear the testimony or the  
12 statement of suffering and harm by this current civil party, Iem  
13 Yen and three other parties, 2-TCCP-288, 2-TCCP-981 and  
14 2-TCCP-893. This information is for both the Parties and the  
15 public.

16 Madam Iem Yen, the Chamber is grateful for the time to provide a  
17 statement of suffering and harms. However, it is not yet  
18 concluded. Therefore, you are invited to return tomorrow morning  
19 to this courtroom to continue at 9 o'clock in the morning.

20 And court officer, please make an arrangement in collaboration  
21 with WESU, for the civil party to return to her residence or  
22 place of stay and have her return into the courtroom tomorrow at  
23 9 o'clock.

24 And the TPO staff, you are also invited to return tomorrow  
25 morning to assist the civil party.

1 And security personnel, you are instructed to take the two  
2 Accused back to the detention facility and return them to the  
3 courtroom tomorrow morning before 9 o'clock.

4 The Court is now adjourned.

5 (Court adjourns at 1531H)

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