



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

16 September 2015

Trial Day 329

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  
LIV Sovanna  
SON Arun  
Anta GUISSSE  
KONG Sam Onn

Trial Chamber Greffiers/Legal Officers:  
CHEA Sivhoang  
Niccolo PONS

For the Office of the Co-Prosecutors:  
William SMITH  
SREA Rattanak

Lawyers for the Civil Parties:  
Marie GUIRAUD  
Martine JACQUIN  
LOR Chunthy  
PICH Ang  
TY Srinna  
VEN Pov

For Court Management Section:  
UCH Arun

I N D E X

Mr. TAY Koemhun (2-TCW-873)

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**List of Speakers:**

Language used unless specified otherwise in the transcript

<b>Speaker</b>	<b>Language</b>
Judge FENZ	English
The GREFFIER	Khmer
Ms. GUISSÉ	French
Ms. JACQUIN	French
Mr. KONG Sam Onn	Khmer
Mr. KOPPE	English
Judge LAVERGNE	French
Mr. MAM Rithea	Khmer
The President (NIL Nonn)	Khmer
Mr. PICH Ang	Khmer
Mr. SMITH	English
Mr. SREA Rattanak	Khmer
Mr. TAY Koemhun (2-TCW-880)	Khmer

1

1 PROCEEDINGS

2 (Court opens at 0902H)

3 MR. PRESIDENT:

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

5 Today the Chamber will hear testimony of a witness 2-TCW-873, and  
6 if time permits, we will hear another reserve witness -- that is,  
7 2-TCW-252.

8 Greffier, please report the attendance of the Parties and other  
9 individuals at today's proceedings.

10 [09.03.31]

11 THE GREFFIER:

12 Mr. President, for today's proceedings, all Parties to this Case  
13 are present.

14 Mr. Nuon Chea is present in the holding cell downstairs. He has  
15 waived his right to be present in the courtroom. The waiver has  
16 been delivered to the greffier.

17 A witness who is to testify today -- that is, 2-TCW-873, confirms  
18 that to the best of his knowledge, he has no relationship by  
19 blood or by law to any of the two Accused -- that is, Nuon Chea  
20 and Khieu Samphan, or to any of the civil parties admitted in  
21 this Case. The witness took an oath before the Iron Club Statue  
22 yesterday, and he has Mr. Mam Rithea as his duty counsel. Both  
23 are awaiting the Chamber's call.

24 We have a reserve civil party today -- that is, 2-TCCP-252.

25 Thank you, Mr. President.

2

1 [09.04.44]

2 MR. PRESIDENT:

3 Thank you, Ms. Chea Sivhoang. The Chamber now decides on the  
4 request by Nuon Chea.

5 The Chamber has received a waiver from Nuon Chea dated 16  
6 September 2015, which notes that due to his health: headache,  
7 back pain, he cannot sit or concentrate for long, and in order to  
8 effectively participate in future hearings, he requests to waive  
9 his right to participate in and be present at the 16 September  
10 2015 hearing. Having seen the medical report of Nuon Chea by the  
11 duty doctor for the Accused at the ECCC dated 16 September 2015,  
12 which notes that Nuon Chea has back pain and it becomes severe  
13 when he sits for long, and recommends that the Chamber grant him  
14 his request so that he can follow the proceedings remotely from  
15 the holding cell downstairs. Based on the above information and  
16 pursuant to Rule 81.5 of the ECCC Internal Rules, the Chamber  
17 grants Nuon Chea his request to follow today's proceedings  
18 remotely from the holding cell downstairs via audio-visual means.  
19 And the Chamber instructs the AV Unit personnel to link the  
20 proceedings to the room downstairs so that Nuon Chea can follow  
21 it. And this applies to the whole day.

22 Court officer, please usher witness 2-TCW-873 as well as his duty  
23 counsel to the courtroom.

24 And Counsel Koppe, you have the floor.

25 [09.06.38]

3

1 MR. KOPPE:

2 Thank you, Mr. President. Good morning, Your Honours. Good  
3 morning, Counsel.

4 As indicated in the email earlier this morning to the Senior  
5 Legal Officer, I would indeed like to make oral submissions in  
6 relation to a request we received yesterday from the  
7 International Co-Prosecutor. It was a request to call three  
8 additional witnesses in relation to the treatment of the Cham. My  
9 submissions are not submissions in response to the request  
10 because we will use the opportunity to file written submissions.  
11 But we have two requests to make in relation or in reaction to  
12 this request now.

13 The prosecutor -- International Co-Prosecutor asked for three  
14 witnesses. As I said, one of the witnesses the prosecutor asked  
15 for was someone who testified here in Court in Case 002/01. Two  
16 others testified as well, but only--

17 [09.08.07]

18 MR. PRESIDENT:

19 Counsel Koppe, the Chamber has just received the document. And I  
20 think you should make your submission this afternoon so that the  
21 Chamber will have opportunity to review that submission. It is  
22 better, then, to leave this matter for the afternoon session  
23 starting from 1.30.

24 MR. KOPPE:

25 Fair enough. No problem. Although the request for relief that we

4

1 intend to ask is to stop the present proceedings and give us  
2 additional time, however, I don't see a problem in having this  
3 witness testify in the morning, and then we can address the issue  
4 after lunch.

5 (Short pause)

6 (Witness enters courtroom)

7 [09.09.33]

8 QUESTIONING BY THE PRESIDENT:

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

10 MR. TAY KOEMHUN:

11 A. My name is Tay Koemhun.

12 Q. Thank you, Mr. Tay Koemhun. And when were you born?

13 A. I was born in 1950.

14 Q. And when were you born -- where, rather?

15 A. I was born in Angkor Ban 2 village, or it is also known as  
16 Antung Sor (phonetic) village. It is Angkor Ban commune. And I  
17 married my wife who was from Peam Chi Kang <commune>.

18 [09.10.51]

19 Q. And where is your current address? And please observe the  
20 microphone before you respond.

21 A. Currently I live in Sambuor Meas Ka village, <Peam Chi Kang  
22 commune>, Kang Meas <district>, Kampong Cham province.

23 Q. What is your profession or occupation?

24 A. I am a rice farmer.

25 Q. What are the names of your father and mother?

5

1 A. My father is Ly Tay and my mother is Kang May.

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

4 A. My wife is Yim Kimsreang, and we have one child. Actually we  
5 have two child; one died during the Pol Pot regime.

6 Q. And Mr. Tay Koemhun, the greffier made an oral report that to  
7 the best of your knowledge, you do not have any relationship <by  
8 blood or by marriage> to any of the two Accused -- that is, Nuon  
9 Chea or Khieu Samphan, or to any of the civil party admitted in  
10 this case; is that correct?

11 A. Yes, that is correct.

12 [09.12.42]

13 Q. The greffier also reported that you already took an oath  
14 before the Iron Club Statue <situated in the east of this  
15 courtroom> yesterday morning; is that correct?

16 A. Yes, I already took an oath yesterday.

17 Q. The Chamber would like to inform you of your rights and  
18 obligations as a witness.

19 Your rights: As a witness in the proceedings before the Chamber,  
20 you may refuse to respond to any question or to make any comment  
21 which may incriminate you. That is your right against  
22 self-incrimination. This means that you may refuse to provide  
23 your response or make any comment that could lead you to being  
24 prosecuted.

25 Now, on your obligations, Mr. Tay Koemhun, as a witness in the



6

1 proceedings before the Chamber, you must respond to any questions  
2 by the Bench or relevant Parties except where your response or  
3 comment to those questions may incriminate you, as the Chamber  
4 has just informed you of your rights as a witness. You must tell  
5 the truth that you have known, heard, seen, remembered,  
6 experienced or observed directly about an event or occurrence  
7 relevant to the questions that the Bench or Parties pose to you.  
8 And Mr. Tay Koemhun, have you been interviewed by investigators  
9 of the Office of the Co-Investigating Judges? If so, how many  
10 times, when and where?

11 [09.14.35]

12 A. I was interviewed once at my home.

13 Q. And do you recall when it happened?

14 A. I cannot recall it, Mr. President.

15 Q. That is all right. And before you appeared before the Chamber,  
16 have you reviewed or read the written record of your statement  
17 that you provided at your home in order to refresh your memory?

18 A. I have poor eye vision and I asked my elder sibling to read it  
19 aloud to me. And I cannot recall everything. However, I can  
20 respond to the questions in relation to my statements.

21 Q. And to your best recollection, is the written record of your  
22 statement, that you have it read aloud to you, consistent with  
23 the actual statements you provided during the interview with the  
24 investigator at your home?

25 A. It is about the same.

7

1 [09.16.10]

2 Q. Mr. Tay Koemhun, now you are being assisted by the duty  
3 counsel through WESU based on your request, and you have Mr. Mam  
4 Rithea who is sitting beside you. Have you been introduced to  
5 your counsel?

6 MR. MAM RITHEA:

7 Mr. President -- and good morning, everyone. I am a duty counsel  
8 for the witness and I <have> actually made a contact and  
9 communicated with my client since yesterday <and this morning>.

10 BY THE PRESIDENT:

11 Q. Mr. Tay Koemhun, is that the case -- that is, what has been  
12 stated by your duty counsel?

13 MR. TAY KOEMHUN:

14 A. Yes, that is the case.

15 [09.17.16]

16 MR. PRESIDENT:

17 Pursuant to Rule 91bis of the ECCC Internal Rules, the Chamber  
18 will hand the floor to the Co-Prosecutors first to put their  
19 questions to this witness. And the combined time for the  
20 Co-Prosecutors and the Lead Co-Lawyers for civil parties are two  
21 sessions. You may proceed.

22 QUESTIONING BY MR. SREA RATTANAK:

23 Good morning, Mr. President, Your Honours, and everyone in and  
24 around the courtroom. And good morning, Mr. Witness. My name is  
25 Srea Rattanak. I am a National Deputy Co-Prosecutor. I have some

8

1 questions to put to you in relation to your experience.

2 Q. Where were you living before 1975?

3 MR. TAY KOEMHUN:

4 A. In 1975 I lived in Sambuor Meas village, Peam Chi Kang  
5 commune, Kang Meas district, Kampong Cham province.

6 Q. And from 1975, did you continue living in the same area or  
7 were you transferred elsewhere?

8 A. I continued living in the same area.

9 [09.19.02]

10 Q. So you were never relocated elsewhere before and during 1975?

11 Let me break my question into two parts. The first part is  
12 relation to your residence before 1975 and the second part is  
13 after 1975.

14 A. Before 1975, I lived in Angkor Ban Number 2 village, but at  
15 that time, I was unmarried. And in 1972, I moved to live in  
16 Sambuor Meas village, <Peam Chi Kang commune>, Kang Meas district  
17 in Kampong Cham province.

18 Q. So, <have> you <lived> in Sambuor Meas from 1972 until today?

19 A. Yes, I've been living there since 1972.

20 Q. Does it mean you only moved from one village to another within  
21 the same commune? And please, wait till my question ends before  
22 you respond, otherwise, it is difficult for the interpreters to  
23 interpret. Do the two villages that you mentioned locate in Kang  
24 Meas district?

25 A. Peam Chi Kang and Angkor Ban communes are located in Kang Meas

1 district.

2 [09.21.32]

3 Q. Since you've been living in Kang Meas district, are you  
4 familiar with the Au Trakuon pagoda?

5 A. I lived nearby the pagoda.

6 Q. Which village is the pagoda located in?

7 A. The pagoda is located in Sambuor Meas village, Peam Chi Kang  
8 commune, Kang Meas district, Kampong Cham province.

9 Q. What do you mean when you said you lived nearby the pagoda?

10 <Is your house located nearby the pagoda?>

11 A. My house is located about 50 metres from the compound of the  
12 pagoda.

13 Q. What was the pagoda used for during the Democratic Kampuchea  
14 regime?

15 A. During the regime, the pagoda was transformed into a prison.

16 Q. You said it was turned into a prison, and in what year did  
17 that happen?

18 A. I cannot recall that.

19 Q. Did you know about any <particular> event that happened in  
20 that prison?

21 A. In the pagoda-turned-prison, I saw people actually being  
22 walked into the pagoda. And allow me to tell you that the kitchen  
23 hall was just next to the entrance to the road leading to the  
24 pagoda.

25 [09.24.25]

10

1 Q. How often did you see people being walked into the pagoda?

2 A. It was quite often.

3 Q. You said it's quite often, can you tell us the frequency, for  
4 example, how many times per day or per week or per month?

5 A. Of course, I did not count. At that time, I was assigned to  
6 plough the rice field <quite a distance from the place>, so most  
7 of the time during the day, I spent ploughing the field and I  
8 only returned to the kitchen hall during mealtime.

9 Q. How many times did you actually witness the event?

10 A. It was about four to five times.

11 [09.25.40]

12 Q. And you said you saw people being walked in while you were  
13 having meals. And what were the times for your meal?

14 A. I had meal at 11.30.

15 Q. Can you clarify the matter -- what was the time that you saw  
16 people being walked in while you were having meal? Did you have  
17 lunch or dinner while you saw those people being walked?

18 A. It was right at 11.30.

19 Q. And each time that you saw those people being walked into the  
20 pagoda, how many of them?

21 A. I did not count, and I was even afraid to look at them.

22 Q. Were there many or were there only a few?

23 A. Sometimes I saw two people being walked into the compound,  
24 sometimes I only saw one person.

25 Q. Did you ever witness a group of people being walked?

11

1 A. No, I did not.

2 Q. And you said you saw people were being walked there, were they  
3 always on foot or were they being transported by <ox-carts or by>  
4 any other means <>?

5 A. They were on foot.

6 [09.28.30]

7 Q. Besides being walked on foot, did you see any other means  
8 <being used to take> people <> into the pagoda?

9 A. No.

10 Q. In order to jog your memory, in your written record of  
11 interview when you spoke to the investigator of the Office of the  
12 Co-Investigating Judges in document E3/5257, the Khmer ERN is at  
13 <00244303>; and the French ERN is at 00342666; and the English  
14 ERN is at 00251016; you were asked <how many times> you saw  
15 prisoners being <taken off the boat>. And you said you saw those  
16 prisoners being taken from the boat <> one time. Can you confirm  
17 that?

18 MR. KONG SAM ONN:

19 Deputy Co-Prosecutor, please specify the Khmer ERN again.

20 MR. SREA RATTANAK:

21 The document is E3/5257 and the ERN is at 00243103.

22 [09.31.02]

23 MR. TAY KOEMHUN:

24 A. No, I did not see prisoners being taken off the boat because I  
25 usually ploughed the field in the forest.

1 BY MR. SREA RATTANAK:

2 And about those people that you saw being walked into the pagoda,  
3 were they tied up?

4 MR. TAY KOEMHUN:

5 A. Yes, they were.

6 Q. Were they men or women? Were there any children <>?

7 A. Yes, there were both children and older people.

8 Q. Were the children tied up?

9 A. No, they were not. The children were walking behind their  
10 parents. They were not tied up.

11 Q. You stated that the children were following their parents.

12 Does this mean that they were brought in -- the entire family  
13 were brought into that place?

14 A. I have no idea. What I could see is that the three or  
15 four-year-old children were not tied up, they were walking behind  
16 their parents.

17 [09.33.03]

18 Q. Were they tied in lines?

19 A. No, they were not. They were tied up separately.

20 Q. When they were being walked into that place, were they  
21 tortured?

22 A. No. No torture was inflicted on them.

23 Q. How many people <led> the prisoners into that place?

24 A. There were two of them. They were quite young.

25 Q. Could you tell the Chamber about the people who were being

13

1 tied up, were they New People or <villagers or other groups of  
2 people>?

3 A. I do not know whether they were New People or any type of  
4 people.

5 [09.34.45]

6 Q. <Did> you know some of them?

7 A. I have never seen these people before. The people who had been  
8 arrested were not known by me, and I have never seen them before.

9 Q. What do you mean by that? <Did you not see their face or did  
10 you not know them?>

11 A. I <did> not know the <arrested> people <>.

12 Q. You <mentioned> that you <did> not know those people. <But, do  
13 you know why> they <were> arrested -- have you got any idea?

14 A. I do not know what was going on at that time and I do not know  
15 why they were arrested.

16 Q. Were there any people at the pagoda to receive those people  
17 who had been arrested?

18 A. I never entered into the pagoda myself so I have no idea  
19 whether there were people there to receive the people <or not>.

20 [09.36.45]

21 Q. You said a while ago that your house was located about 50  
22 metres away from the pagoda. Did you ever hear the <sound of a  
23 loudspeaker coming out of> the pagoda?

24 A. While I was working, I could hear the music over the  
25 loudspeaker. Every time I was at home, I did not hear any music.



14

1 At night-time, I would go to work to transplant rice seedling and  
2 work in the field from 6.00 to 10 p.m. <People went in groups to  
3 pull out and plant rice seedlings. There was a road and a dam  
4 behind the pagoda. On the way back from work>, I heard the <sound  
5 over the loudspeaker> and I could see the <> light <beaming> the  
6 place very dimly. And <when I asked other people> I was told that  
7 people were being killed <right there>. So I ran away to my  
8 house. <Everybody walked and ran very quickly>.

9 Q. <Did you hear and discuss it with each other on the way back  
10 from work or did you hear it while you were> working at that time  
11 from 6.00 to 10 p.m. <>?

12 A. In fact, I returned from work at about 9.00 or 10 p.m. on that  
13 day.

14 Q. You stated that you worked from 6.00 p.m. to 10 p.m., so at  
15 what time did you hear the music?

16 A. After I returned from work, I heard the music <at 10 p.m.>  
17 [09.38.55]

18 Q. When did the music stop playing over the loudspeaker?

19 A. I did not know when they stopped playing the music at that  
20 time.

21 Q. You stated that you heard the <> music being played at around  
22 10 p.m. <Did they begin playing it at 10 p.m., or did you hear it  
23 when you arrived at that place?>

24 A. I heard the music <> being played at 10 p.m. and I did not  
25 know when the music <had> started.

15

1 Q. Could you clarify this point for the Court: <you arrived at  
2 that place, where was it exactly? How> far were you from the  
3 pagoda?

4 MR. PRESIDENT:

5 Please hold on and observe the microphone before you speak. While  
6 you are waiting for microphone to be activated, you can have some  
7 time to think of what you going to respond to the question. I  
8 have repeatedly told you about the operation of microphone.

9 MR. TAY KOEMHUN:

10 A. Could you repeat your question please, Mr. Co-Prosecutor.

11 [09.40.35]

12 BY MR. SREA RATTANAK:

13 Q. When you heard the music being played over the loudspeaker,  
14 how far were you from the pagoda? Where were you at that time? I  
15 want to know the exact location. <Was it in the west, the north  
16 or the south, in front of or behind the pagoda?>

17 MR. TAY KOEMHUN:

18 A. I was in front of the pagoda. I was to the east of pagoda.

19 Q. So <where were> you going?

20 A. I was going to work in the field, <pulling out and>  
21 transplanting the rice seedlings.

22 Q. Mr. Witness, please listen to my questions carefully. Or  
23 perhaps my questions are not clear to you <>. You stated that you  
24 returned from work at 10 p.m. and you also stated that you were  
25 about 70 metres away from the pagoda when you heard the music

16

1 being played. So I would like to know where <> you <were going  
2 from work>?

3 A. I was going back home from work at that time.

4 [09.42.20]

5 Q. When you arrived home, <> you <did not> hear the music  
6 <anymore, did you>?

7 A. No, I no longer heard the music being played over the  
8 loudspeaker <> after I arrived home.

9 Q. What was the location of your house?

10 A. My house was located to the east of the pagoda. However, I was  
11 <moved out> from my house <near the pagoda to a house almost> one  
12 kilometre away. <But, I was assigned to work back there>.

13 Q. So, <that means> you were not living in your house; you were  
14 living <somewhere> about one kilometre away from <the pagoda>; is  
15 that correct?

16 A. Yes, that is correct.

17 Q. <When you heard> the music <being played over the loudspeaker,  
18 who told you that people were being killed>?

19 A. <The village fellows and co-workers walking together with me>  
20 said that perhaps people were being killed <as the loudspeaker>  
21 was being played.

22 Q. Did you hear the music often?

23 A. What kind of music you want to know?

24 [09.44.50]

25 Q. The music over the loudspeakers.

1 A. <> I could hear the music <only when I went to work>.

2 Q. Did you hear the music often?

3 A. I could hear the music being played once in a while.

4 Q. Before the pagoda was turned into a <prison>, did you ever  
5 hear the music being played?

6 A. I heard <> different types of music played during the daytime.  
7 <But, I do not know what music was played exactly>.

8 Q. So you would hear the music being played before the pagoda was  
9 turned into a <prison>. So when did it happen exactly? You  
10 <mentioned> that after the pagoda was turned into a <prison>, you  
11 <heard> the music being played <over the loudspeaker. You said  
12 that you have forgotten the year in which the pagoda was turned  
13 into a prison>. So before that time, had you ever heard that kind  
14 of music being played over the loudspeaker?

15 A. Before the pagoda was turned into a <prison, I never heard  
16 such sound. I heard only Pinpeat music and chanting and preaching  
17 by Buddhist monks> being played over the loudspeakers.

18 [09.46.59]

19 Q. <Within 70 metres away from the pagoda, did you hear any other  
20 sounds than that of the loudspeaker? I am referring to the sounds  
21 coming out of the pagoda only>. What <other> sounds did you hear  
22 <emanating from> the pagoda?

23 A. I only heard <the sound of> the loudspeaker.

24 Q. <You mentioned to me a moment ago that> you witnessed people  
25 being <walked> into the pagoda during daytime, <that was at lunch

18

1 times. Did you ever notice that when the people were brought  
2 into the pagoda during the daytime you heard the sound of the  
3 loudspeaker being played at night? Did you ever hear that?

4 A. People were brought in. I cannot get your question. What  
5 did you say?

6 Q. I wanted to ask this: you saw people were being walked into  
7 the pagoda during the daytime. Then, did you hear the sound of  
8 the loudspeaker in the evening of that day?

9 A. I do not know where the people were put inside the pagoda. I  
10 could hear it only when I went out to work. I did not hear the  
11 sound of the loudspeaker while people were being taken into the  
12 pagoda.

13 [09.49.16]

14 Q. Did that happen on the same day?

15 A. No. Sometimes, it happened on different days.

16 Q. You used the term "sometimes". Given that, it means that on  
17 some occasions, you could hear the sounds of the  
18 loudspeaker on the same days. Let me rephrase my question. You  
19 often heard the sounds of the loudspeaker while returning from  
20 work. At that time, perhaps you were about 70 metres away from  
21 the place where the sound came. On the night that you heard  
22 the sounds, did you witness people being walked into the  
23 pagoda during the daytime?

24 A. I did not always see all people were being marched into the  
25 pagoda during the daytime because, as I told you, I spent my

1 time at the worksite. <Sometimes, I came back to my village -->

2 [09.51.08]

3 Q. My apology. Perhaps my questions are too complicated for you  
4 and you cannot get the gist of them. I would like to simplify my  
5 questions. Now, you stated that you witnessed people were being  
6 marched into the pagoda. What happened to them after they were  
7 put into the compound of the pagoda?

8 A. I do not know what happened to them, Mr. Co-Prosecutor.

9 Q. Did you understand my last question or you do not know what  
10 happened to them? What happened to those who had been brought  
11 into the pagoda?

12 MR. PRESIDENT:

13 Please hold on, Mr. Witness. You have the floor now, Mr. Koppe.

14 MR. KOPPE:

15 Thank you, Mr. President. I think now the time has come to object  
16 to these questions. They are repetitive. The underlying  
17 assumption is that music was only played presumably when people  
18 were killed. I mean there's also the option that music was played  
19 and nobody was killed. The other underlying assumption of the  
20 Prosecution is that whenever people were brought in, they would  
21 be killed the same night. That's also a presumption. The witness  
22 has clearly answered that he sometimes heard music and that he  
23 doesn't know what happened inside. I think that's all he can say,  
24 and Prosecutor should now refrain from asking over and over again  
25 the same question.

20

1 [09.53.10]

2 BY MR. SREA RATTANAK:

3 Q. I can rephrase my question, but I did not ask whether people  
4 were killed inside the pagoda. I only asked what happened to  
5 those people who had been brought into the pagoda. Document  
6 E3/5257, ERN in Khmer, 00243107; in English, 00251021; French,  
7 00342672; you provided answers to the investigators of the OCIJ.  
8 You were asked: "What did they do to the prisoner who had been  
9 brought into the pagoda?" And your answer is: "They were killed  
10 in front of the pagoda." So my question is: How do you know such  
11 incident?

12 MR. PRESIDENT:

13 Please hold on, Mr. Witness. You may now proceed, Counsel Kong  
14 Sam Onn.

15 [09.54.41]

16 MR. KONG SAM ONN:

17 Thank you, Mr. President. I think the question put by National  
18 Deputy Co-Prosecutor has no foundation. He did not ask any basic  
19 general question first before he went to ask such a question. So  
20 please, Co-Prosecutor, rephrase your question.

21 BY MR. SREA RATTANAK:

22 Q. Let me clarify this point with you. You have testified before  
23 the Chamber that you do not know about the killing. Before the  
24 investigators of the OCIJ, you stated that prisoners were killed  
25 in front of the pagoda. So which version of your testimony is

1 correct, is it the statement in the OCIJ written record of  
2 interview or the statement before the Chamber now?

3 MR. TAY KOEMHUN:

4 A. I do not know -- I did not know whether prisoners were killed  
5 in front of the pagoda at that time. However, later on after the  
6 end of the regime, I learned about this.

7 Q. How did you know that those people were killed after the end  
8 of the regime -- where did you learn from?

9 A. Villagers went to see the grave-pits.

10 [09.57.10]

11 Q. How large were those grave-pits?

12 A. There were large and small grave-pits.

13 Q. How many grave-pits were there?

14 A. I did not count them.

15 Q. Could you give your estimate, how large the small pit was and  
16 how large the large pit was?

17 A. I cannot tell you the estimate, Mr. Co-Prosecutor.

18 Q. What did you see inside the grave-pits when you, together with  
19 villagers, went to see the pits?

20 A. I did not go to observe the things inside the pits. However,  
21 villagers told me that there were skeletons.

22 [09.58.48]

23 Q. What about clothes or any parts of -- what about clothes and  
24 other belongings?

25 A. I was told that there were clothes in those pits.



22

1 Q. Did they tell you what types of clothes they were? Did they  
2 tell you that those clothes belonged to Khmer people or any type  
3 of people?

4 A. I was told that they were normal clothes.

5 Q. What do you mean by that?

6 A. I do not know whether the clothes belonged to any other  
7 ethnicity, but I was told that they were normal clothes as we  
8 used to wear.

9 MR. SREA RATTANAK:

10 Mr. President, I would like to hand over the floor to my esteemed  
11 International Co-Prosecutor.

12 MR. PRESIDENT:

13 You may now proceed, Co-Prosecutor for the international side.

14 [10.00.21]

15 QUESTIONING BY MR. SMITH:

16 Good morning, Mr. President. Good morning, Your Honours. Good  
17 morning, Counsel. Good morning to the public and good morning,  
18 Witness.

19 Q. When did you go to the pagoda after the fall of Democratic  
20 Kampuchea? Did you go immediately after in January 1979 or  
21 sometime after that?

22 MR. TAY KOEMHUN:

23 A. I actually entered the pagoda compound right in 1979 when the  
24 pagoda was being rebuilt and refurnished.

25 Q. And is your evidence correct that you can't remember how many

1 pits there were, and how many were small and how many were large?

2 Is that your evidence, it's hard to remember the numbers of pits?

3 A. Yes, that's what I said.

4 [10.01.45]

5 Q. And is it your evidence that you could see the pits but you're

6 saying that you didn't look inside the pits to see if there were

7 bodies in there or not; is that correct?

8 A. Yes, that is correct. I did not look inside the pit since its

9 stench was rather strong.

10 Q. And what was the stench of, what was the smell?

11 A. It was the stench of corpses.

12 Q. Do you know a person called Chea Maly?

13 A. Do you refer to Chea Maly the commune chief? If that is the

14 case, yes, I do know him.

15 Q. And was Chea Maly, was he a Buddhist monk before 1975?

16 A. Yes, he was a monk staying in that pagoda.

17 [10.03.22]

18 Q. And do you remember whether he went to the pagoda after 1979

19 or early in 1979 to look at the pits? Do you remember whether he

20 went there or not?

21 A. The commune chief was a monk there -- or had been a monk there

22 until the time that he was asked to <defrock>. And later on, he

23 got married to a woman whose house was not far from the pagoda.

24 Q. Thank you for that. And do you remember whether he went to

25 look at the pits as well?

1 A. I do not know whether he actually went to look at those pits,  
2 as my house was far from his.

3 Q. Are you able to say when he was disrobed as a monk, like in  
4 1974, '75, '76 or any other time? When was he disrobed as a monk?

5 A. I cannot recall the year.

6 Q. You may not recall the year but was it in the Democratic  
7 Kampuchea regime between 1975 and 1979? Can you say that or can  
8 you not?

9 A. He was living there between 1975 to 1979; he was not relocated  
10 anywhere.

11 [10.05.58]

12 Q. But when the wat -- when the pagoda was turned into a security  
13 office, was he still living there, or when he disrobed, did he  
14 have to leave?

15 A. After he <was defrocked>, he left the pagoda and went to live  
16 with his family.

17 Q. And was he forced to disrobe or did he do it by his own  
18 choice?

19 A. He was forced to <defrock>.

20 Q. And who forced him to do that?

21 A. It was the Khmer Rouge group.

22 Q. Thank you. I'd like to put a statement that he made about when  
23 he went to the wat and saw the pits, and also about when he  
24 disrobed. If I can put that statement to you and if you can tell  
25 me -- give me your reaction to it, tell me whether you think it's

25

1 accurate or not from what you are able to see when you went to  
2 the wat earlier in 1979. And I'm referring to E3/7827, English,  
3 00210432 to 33; Khmer, 00663 --

4 MR. PRESIDENT:

5 Deputy Co-Prosecutor, please repeat the document number and the  
6 ERN slowly. Thank you.

7 [10.08.25]

8 BY MR. SMITH:

9 Sorry, Your Honour, for speaking so fast there.

10 Q. E3/7827, English, 00210432 to 33; Khmer, 00635155 to 56; and  
11 French, 00620031. And Witness, this is what Chea Maly told the  
12 investigators as to what he saw.

13 "When I visited the wat in 1979 after the end of the Khmer Rouge  
14 regime, the wat itself had been removed except for one monastery  
15 that had been used by the Khmer Rouge for security. I saw cuts  
16 and holes in the wall. In front of the temple, there were about  
17 100 to 150 pits. I saw these both in early 1979 and at the end of  
18 1979. Some pits had five bodies and some others contained 50 to  
19 100 bodies. The pit sizes range from about 2 metres by 2 metres  
20 to 5 metres by 5 metres. The pits were not there when I left the  
21 wat in April 1976. So they had to have been created between April  
22 1976 and early 1979.

23 "The area in which the pits were located has since been used for  
24 plantation. The remains that have been collected are just a  
25 portion of the bodies buried there. The remains in the stupa at

1 Wat Au Trakuon are only about three-tenths of the total number of  
2 bodies that were there."

3 [10.11.00]

4 Witness, he said a number of things in that statement, but what's  
5 your comment in relation to that statement? Does it seem accurate  
6 to you, inaccurate? Can you give us a comment about what he saw?

7 MR. KOPPE:

8 I object to this question, Mr. President. He just said that he  
9 didn't actually look into it, he has no knowledge. He's not in  
10 the position to confirm this statement. He can give a comment; I  
11 don't have a problem with this. But we just established that that  
12 would be -- what he's asking -- the Prosecution -- is beyond the  
13 realm of his knowledge. So I don't think that is a fair question.  
14 Comments, fine. But not on the specifics.

15 [10.11.47]

16 BY MR. SMITH:

17 Your Honour, I haven't asked him about the specifics. I just  
18 asked his reaction, whether he felt it was accurate or  
19 inaccurate. He clearly knows a lot about the pits there because  
20 he went there.

21 Q. Rather than have a debate, can you please comment on what Chea  
22 Maly said?

23 MR. PRESIDENT:

24 Witness, please hold on.

25 (Judges deliberate)

1 [10.12.38]

2 MR. PRESIDENT:

3 The objection raised by the defence counsel for Nuon Chea is  
4 overruled. The question is permissible. And Mr. Witness, please  
5 respond to the last question put to you by the Deputy  
6 Co-Prosecutor.

7 MR. TAY KOEMHUN:

8 A. I do not make any contact or discuss any matter with the  
9 commune chief regarding the pits or the number of pits. So I do  
10 not know the actual number of pits there.

11 BY MR. SMITH:

12 Q. Thank you. But you did go to the wat. You testified that you  
13 went to the wat to see the pits; that's correct, isn't it?

14 MR. TAY KOEMHUN:

15 A. Yes, I went to the wat in order to prepare for <a> religious  
16 ceremony but not to pay particular attention to the pits. I went  
17 to actually clean up the area to pile the broken materials there.

18 [10.14.05]

19 Q. Just one last question, Your Honour. Witness, you talked about  
20 the stench of corpses, human bodies. Do you know whether bodies  
21 were removed from the wat, from those pits? Were there any  
22 exhumations of those bodies, taking them out of the pits?

23 A. The remains were gathered and stored at the stupa which is  
24 located just in front of the temple. And actually, the fund for  
25 building the stupa was from Excellency Mao Pirum and the current

28

1 Prime Minister.

2 MR. PRESIDENT:

3 Thank you, Co-Prosecutor. It is now appropriate for a short  
4 break. We take a break now and return at 10.30.

5 Court officer, please assist the witness during the break time at  
6 the waiting room for witnesses and civil parties, and invite him  
7 as well as the duty counsel back into the courtroom at 10.30.

8 (Court recesses from 1015H to 1031H)

9 MR. PRESIDENT:

10 Please be seated.

11 The Court is now back in session and the floor is given to the  
12 International Deputy Co-Prosecutor to resume his line of  
13 questioning. You may now proceed.

14 BY MR. SMITH:

15 Thank you, Mr. President. Good morning again, Witness.

16 Q. I'd like to move to a different topic. The topic is the Cham  
17 population in Peam Chi Kang commune and the Angkor Ban commune.

18 So the first question is: when the Khmer Rouge took control of  
19 your area, your commune, were there Cham living in Peam Chi Kang  
20 and Angkor Ban communes?

21 MR. TAY KOEMHUN:

22 Yes, there were Cham people there in Peam Chi Kang commune.

23 [10.33.20]

24 Q. In that commune -- I know there's a number of villages -- but  
25 can you give an estimate of how many families lived in the

1 commune when the Khmer Rouge came to your area? Just an estimate.

2 A. I do not know how many of them living in that commune.

3 Q. Okay, say maybe in your -- in your village Sambuor Meas

4 village A. In the village that you lived, in your statement, you

5 said that there were Cham that were brought into your village to

6 live. Is that correct, during the Khmer Rouge period?

7 A. Yes, that is correct. During the Khmer Rouge period, Cham

8 families were brought to the village.

9 Q. And where did those Cham families come from?

10 A. I do not know where they were from.

11 Q. And why were they brought to your village?

12 A. I do not know why they were brought to my village.

13 Q. Were other people brought to your village after the Khmer

14 Rouge took control of Cambodia, Phnom Penh in 1975? Were other

15 people brought there, as well as the Cham?

16 A. There were people from Phnom Penh, <Kampong Cham> who were

17 also brought into that village.

18 [10.36.12]

19 Q. And about how many Cham people were brought into the village?

20 How many families? How many individuals? If you can give us an

21 idea, in your village, how many came to it?

22 A. I do not know, Mr. Co-Prosecutor, about the number of families

23 who had been brought in.

24 Q. Mr. Witness, thank you for the answer. We certainly don't want

25 you to guess any answer. Only tell us what you know. Thank you.



30

1 Now, when those Cham were brought into your village during the  
2 Democratic Kampuchea period, what happened to them?

3 A. During the Democratic Kampuchea period, Cham people did not  
4 create any activities. They were living normally as Khmer people  
5 were.

6 Q. Did the Cham people in your village stay there or were they  
7 taken away?

8 A. Could you repeat your question once again? I could not get it.  
9 [10.38.10]

10 Q. Did the Cham people that were brought to your village during  
11 the Democratic Kampuchea period, did they stay there throughout  
12 and were they there still in 1979, 1980, or did they leave or  
13 were they taken away during that period?

14 A. During that period, Cham people <were> living in the village.  
15 Regarding them, I do not know. I was living in Kaoh Touch. <I  
16 ploughed the field in Kaoh Touch>. I would return to my village  
17 once in every three months or two months. Once in a while, I  
18 would return home. I do not know where they were taken to.

19 Q. So are you saying that they were taken away during the  
20 Democratic Kampuchea period? I understand you're saying you don't  
21 know where they were taken to, but are you saying that they were  
22 taken away from your village during that period?

23 A. I do not know about that. I was living and working in the rice  
24 fields in Kaoh Touch. I would return once in every two or three  
25 months. I do not know where they were evacuated, where they were

1 sent to.

2 [10.40.20]

3 Q. In 1979 when the Khmer Rouge were defeated, those Cham were no  
4 longer in your village. Is that what you're saying?

5 A. Yes, that is true. It is my statement.

6 Q. If I could just refresh your memory with what you told the  
7 investigators a few years ago in relation to this topic, the Cham  
8 in your village. And I refer to E3/5257, English, 00251019;  
9 Khmer, 00243106; and French, 00342671. You were asked this  
10 question by the investigator and this what he's recorded you as  
11 saying:

12 "Did they arrest the Cham people in the group that had evacuated  
13 from Phnom Penh?"

14 And you said: "They arrested that group on sight. The Old People,  
15 like me, were not arrested, and the New People were the same.  
16 Only the Cham people were arrested."

17 Does that refresh your memory as to what you told the  
18 investigator a few years ago?

19 A. I never said about the arrest of Cham people. I do not know  
20 about that. I never stayed and lived in my village. I was  
21 assigned to work in the <forest> and plough the field. I have no  
22 idea about the arrest of Cham people.

23 [10.43.05]

24 Q. You testified earlier that you lived in the Angkor Ban commune  
25 until 1972 and then you moved to Sambuor Meas Village A, and

1 you'd been living in that village from 1972 till now. And then  
2 you also said that you moved to Peam Chi Kang for a while, in  
3 your statement you say for about one year. And you also said that  
4 when you were in Peam Chi Kang, you would eat at the dining hall  
5 in Sambuor Meas Village A. So your evidence is that you've  
6 testified that you were living in Sambuor Meas village. So, is  
7 that correct? That's where you were living for most of the time  
8 during the Democratic Kampuchea period. That was your evidence.  
9 A. During the evacuation time, I may have confused. After the end  
10 of the regime in 1979, I was told that Pol Pot would come back to  
11 control the country. For this reason I, together with my family,  
12 went to live in Peam Chi Kang <>. During the interview, perhaps I  
13 had just recovered from my illness. <So, my responses were partly  
14 wrong and partly right; they were not clear>. I did not stay in  
15 Peam Chi Kang. I was <> evacuated <to stay about one kilometre  
16 away> from the pagoda. I was staying around seven <or eight  
17 hundred> metres away from the pagoda.

18 [10.45.35]

19 Q. I won't discuss with you about that, because the information  
20 you've given is in your statement. But what I would like to talk  
21 about is the arrest of Cham in other parts of Peam Chi Kang  
22 commune. Not the arrest of the Cham in the village that we just  
23 talked about, but the arrest of Chams in other areas. Did you see  
24 Cham people being arrested when you were out working during that  
25 period?

1 A. I never witnessed it, because as I said, I was working and  
2 living on <the other side> of the river. I did not know about the  
3 arrests. I did not see it.

4 Q. In you statement, you talk about the job of pedalling water. I  
5 think one of your jobs was to pedal water. Can you tell the Court  
6 what pedalling water, what that activity is, please?

7 A. Regarding the water wheel, I had to pedal the water wheel in  
8 order to bring the water into the rice field.

9 Q. When you were doing that, did some Cham people help you do  
10 that or do that at the same time that you were doing it?

11 A. No Cham people were working in that field.

12 [10.47.48]

13 Q. Thank you. Perhaps if I could put a statement that you made to  
14 the investigators a few years ago and the one that you read  
15 before you came into Court, about what you said about this topic.  
16 And I'd like you to comment on that please.

17 Your Honours, it's the same statement, E3/5257 at English,  
18 00251019 to 20; Khmer, 00243106; and French, 00342671. And this  
19 is what you told the investigator that you said was basically  
20 true this morning:

21 "Sometimes when the Cham went to pedal water, security followed  
22 them and arrested them there." Question: "What year did they  
23 arrest the Cham?"

24 "It was probably in 1976, because the security office inside that  
25 pagoda was created in 1976. In 1975, there were still solidarity

1 teams."

2 And then you were questioned: "Do you know why they arrested the  
3 Cham?"

4 And you said: "I don't know." You said "No one dared ask about  
5 the arrests."

6 The question was put: "Did the arrest of the Cham happen just one  
7 time or many consecutive times?"

8 And you answered: "They arrested the Cham successively. Sometimes  
9 they followed and arrested the Cham at the ploughing sites."

10 "How did you know" -- this is a question -- "How did you know the  
11 Khmer Rouge" -- sorry, I'll repeat. "How did the Khmer Rouge know  
12 they were Cham?"

13 And you said: "They had them speak first. For instance, they had  
14 me raise my hand and speak, so they were able to know who was  
15 Cham and who was not."

16 So my question is: that's what you've told the investigator, is  
17 that true?

18 [10.51.02]

19 A. I don't think it is completely correct. While I was ploughing  
20 the fields, Cham people were arrested. At that time, they thought  
21 I was a Cham person. They pointed the weapons to my neck and at  
22 that time, they realized I was Khmer and they left, they went  
23 away. It was not during the time that I was <in the village>, it  
24 was <when I was> at a worksite.

25 Q. So you did see the arrest of Cham; is that correct?

1 A. Yes, I saw a few Cham, two or three <being> arrested at that  
2 time.

3 Q. In your statement, you say that they arrested the Cham  
4 successively. Did they arrest a lot of Cham over a period of time  
5 that you saw?

6 A. I saw two or three Cham people <being> arrested at that time.  
7 It was scary at the time and I did not dare to look at the people  
8 who came to arrest the Cham.

9 Q. And what did they do with the Cham that they arrested?

10 A. These Cham people were taken to plough the field.

11 Q. Once those Cham were arrested, did you see them again?

12 A. I saw who? Sorry, Mr. Co-Prosecutor.

13 [10.53.58]

14 Q. Once those Cham who were arrested in the fields, did you ever  
15 see them again?

16 A. Yes, I saw them back.

17 Q. And have you seen them, are they alive today, do you know?

18 A. I do not know because they had been arrested.

19 Q. Thank you. Earlier you were asked a question about whether or  
20 not you saw people being arrested from a boat, and you said that  
21 you hadn't seen anyone arrested or any prisoners on a boat. I'd  
22 like to put to you what you said in your statement. And this is  
23 E3/5257, at English, 00251016; Khmer, 00243102 to 03; and French,  
24 00342667. This is what you said to the investigator:

25 "I saw them arrest more prisoners and take them off boats."

1 Question: "Did you see arrests often?"  
2 "Sometimes I saw them, sometimes I did not see them."  
3 "How many times did you see them being taken off boats?"  
4 And you said: "Once."  
5 [10.56.19]  
6 "How did you know they were prisoners?"  
7 And you said: "They talked about it in the dining hall."  
8 Question: "Did those people have their arms tied?"  
9 Answer: "Yes, they were tied."  
10 Question: "How were they tied?"  
11 Answer: "Their arms were tied behind them."  
12 Question: "Were there men, women or children?"  
13 Answer: "There were men, women and children."  
14 And then question: "Were there any small children?"  
15 And answer: "Yes, there were small children. All the people saw  
16 this because there were hundreds of them at mealtime."  
17 Does that refresh your memory now that you did in fact see people  
18 being arrested off the boat?  
19 [10.57.24]  
20 MR. PRESIDENT:  
21 Please wait, Mr. Witness. You may proceed, Mr. Koppe.  
22 MR. KOPPE:  
23 I would appreciate it, Mr. President, if the Prosecution would  
24 also read the next sentence of that statement. I'd be happy to do  
25 it for him.

1 "When you saw those prisoners, were there any Cham?"

2 Answer: "I don't know."

3 BY MR. SMITH:

4 Thank you, Counsel. This event wasn't put forward to discuss  
5 whether or not the Chams were arrested; it was in relation to  
6 people being taken to Wat Au Trakuon security centre.

7 Q. So, Witness, do you now remember that you saw people taken off  
8 a boat or do you not know?

9 MR. TAY KOEMHUN:

10 I do not know if they were taken off boats.

11 [10.58.43]

12 Q. Mr. Witness, now I'd like to ask you some questions about your  
13 role as militia during the Democratic Kampuchea period. Did you  
14 work as a militia in the Long Sword Group during that period?

15 A. I was not a militiaman. Back then, I was assigned to plough  
16 the field at Sangkae Ou Phdau (phonetic). And at that time, the  
17 militiamen called me to be a soldier. So I followed the  
18 militiaman and they pointed the gun at me. My wife and my child  
19 were crying because they thought I would die <when I entered Au  
20 Trakuon>. I was allowed to spend a night when I arrived <at the  
21 commune office> and I was asked the <following morning> how many  
22 siblings I had. I told them that I had five siblings, and they  
23 asked me <if any of my siblings had been smashed by Angkar. I  
24 replied none of my siblings had, but that only my cousins, aunt  
25 and uncle had been smashed. They asked me if I had many relatives



1 who had been smashed>. I told them that I had about 20 <of them>.  
2 After hearing this, they closed the book <and stopped questioning  
3 me. Then, I was assigned to stay at the rice storehouse with the  
4 young people armed with long swords. I was in charge of the rice  
5 storehouse and fish-paste storehouse only>.

6 [11.00.47]

7 Q. Were you part of the sub-district militia or were you part of  
8 a group called the Long Sword militia? Were you in either one of  
9 those militia groups?

10 A. No, I was in neither <of them because> I was <only> tasked to  
11 <remain at the> rice <storehouse>.

12 Q. Thank you. Do you know -- have you ever heard of a group of  
13 militia back in the Democratic Kampuchea operating in your  
14 commune called the Long Sword Group?

15 A. Yes. I heard people talking about it. However, I did not know  
16 about the activities that the group involved in.

17 Q. And you're sure about that. You were never in the Long Sword  
18 Group, is that right?

19 A. Yes, that is the truth.

20 Q. And is it also the truth that you have no knowledge of what  
21 the Long Sword militia group did.

22 A. Please repeat your question.

23 Q. Is your evidence that you didn't know what the Long Sword  
24 Group did as militia in your area in Democratic Kampuchea?

25 A. That is correct. I did not know what they did during the

1 regime.

2 [11.03.40]

3 Q. You were also asked about this topic by the investigator from  
4 the ECCC when you spoke to him a few years ago, and some answers  
5 on this topic are recorded in your statement. I'd like to read  
6 those answers back to you and ask you to comment about it. Your  
7 Honours, it's E3/5257, at English, 00251018; Khmer, 00243104 to  
8 05; and French, 00342669. And this is the question that was asked  
9 to you, Mr. Witness:

10 "Do you remember the Long Sword militia?"

11 Answer: "Yes. There was one."

12 Question: "Were you in the Long Sword team?"

13 Answer: "Yes, I was in that team. They divided the Long Sword  
14 team into many teams which were responsible for various works."

15 "Who arrested the people?"

16 The answer: "The security unit."

17 "Were those security personnel in the militia?"

18 Answer: "They called that group security soldiers."

19 Question: "Did the Long Sword Group have the job of arresting  
20 people?"

21 Answer: "At that time, the Long Sword Group was divided into  
22 teams. Some teams ploughed the fields and some teams did secret  
23 work."

24 [11.05.52]

25 Mr. Witness, is that the truth, what I just read out to you? That

40

1 you did know about the Long Sword militia and you were in the  
2 Long Sword militia?

3 A. Yes, the Long Sword Group was subdivided into smaller groups.  
4 As for me, because <> my <> background <was not good>, I was  
5 tasked to guard the rice barn. <I was not allowed to go anywhere.  
6 Shortly after>, I was reassigned.

7 Q. So now you're saying that you were in the Long Sword militia  
8 group; is that correct?

9 A. Yes, it's correct. However, I did not involve in any activity  
10 of the group. <I> was tasked to guard the rice barn <only. It was  
11 a different part>. The other sub-teams were based not far from  
12 where I guarded the rice barn. <But,> I was not given any long  
13 sword to carry.

14 [11.07.30]

15 Q. And Witness, just a few more questions, because time is short,  
16 you also said in that statement at E3/5257, English, 00251081 to  
17 19; Khmer, 00243105; and French, 00342670; you said in answer to  
18 this question "Who was your direct superior in the militia?" And  
19 you said, "Doeun". Is that correct, was Doeun your direct  
20 superior in the Long Sword militia?

21 A. I only heard of Doeun, but I did not know what he looked like.

22 Q. But was he your superior?

23 A. No, he's not. It was a different one. And actually, I was by  
24 myself at the rice barn. As for Ta Doeun, I only heard of his  
25 name and he was at a different location.

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1 Q. I just have two last questions. I want to put these two  
2 statements to you and I would you to respond. A witness Sen Srun  
3 has testified in this Court and has given a statement E3/5252,  
4 English, 00235517; Khmer, 00235021; and French, 00269891; Sen  
5 Srun was asked this question:

6 "Could you tell me who at the time was the chief of the Long  
7 Sword?"

8 [11.10.15]

9 He answered: "The chief name Chay and his deputy was Tay  
10 Koemhun." And Tay Koemhun, he states, was the chief of the  
11 committee at the Au Trakuon pagoda.

12 "What type of persons were Chay and Koemhun?"

13 "From 1975 to 1979, they were the leaders of the Long Sword  
14 militias."

15 What's your comment in relation to that statement?

16 A. I did not meet with Srun, and Srun <went to join the army>.  
17 And since then, I <had> not <had> any contact with him. Whatever  
18 he said <was> not correct. I did not do that. I was not even a  
19 member of the militia, but on the contrary, Srun was a soldier,  
20 and of course, I <was> not his superior <either>.

21 Q. And one last statement I'd like to put and, again, this has  
22 been said by Sen Srun in one of his statements, and it's at  
23 E3/5302, English, 00210488; Khmer, 00635176; and French, 00623191  
24 to 92. And Sen Srun answered this question in relation to the  
25 gathering up of Cham people.

1 [11.12.26]

2 MR. PRESIDENT:

3 Please hold on, Mr. Prosecutor. Counsel Kong Sam Onn, you have  
4 the floor.

5 MR. KONG SAM ONN:

6 I do not get the ERN number of that document in the Khmer  
7 language.

8 MR. PRESIDENT:

9 Deputy Co-Prosecutor, please provide the document and the ERN of  
10 the Khmer document.

11 MR. SMITH:

12 Sorry. 00635176. And Sen Srun is answering a question in relation  
13 to the gathering up of Cham people.

14 "The person who told me to gather them up was Hoeun, who was my  
15 unit chief. He was a local and still lives in this area in  
16 Sambuor Meas Kha. Hoeun ordered me to gather the Cham and take  
17 them to the wat. I didn't know what their plan was, but I was  
18 told that Cham people were a different race and had to be  
19 smashed, and that if we kept them, they would rebel against us  
20 some time. The person who told me this was the commune security  
21 chief, whose name was Tay Koemhun. He is still alive and lives in  
22 my village."

23 [11.14.01]

24 MR. PRESIDENT:

25 The Deputy Co-Prosecutor, please hold on, and the defence counsel

1 for Khieu Samphan, you have the floor.

2 MS. GUISSÉ:

3 Yes, I would like to object to the manner in which the document  
4 is being presented. I do not deny <what is contained therein>,  
5 but <it appears that at the hearing, the witness,> Sen Srun, did  
6 come back on his statement. <So, when a witness has taken the  
7 stand to testify and when there are more recent statements, or  
8 statements that clarify what has been said, I believe that it is  
9 in total fairness for the witness who is summoned -- who is  
10 confronted with the statements of another person, to at least be  
11 reminded of both statements. So, I don't know if the  
12 Co-Prosecutor intends to address this issue afterwards, but there  
13 is a difference between Sen Srun's statement and what he has  
14 stated before this Chamber.>

15 [11.15.06]

16 BY MR. SMITH:

17 Yes, Mr. President, what was quoted was one particular statement.  
18 I will tell the witness that at a later time, in another  
19 statement, he said that you did not tell him the reason why Cham  
20 were being arrested. So he's taken that statement away at a later  
21 point in time. But what I'd like to -- and that's what he  
22 testified to, that he can't remember saying that.

23 Q. But my question is: In relation to that statement, that first  
24 statement that he gave about you telling him that the Cham people  
25 were a different race and needed to be smashed, did you say that

1 or not, to Sen Srun?

2 MR. TAY KOEMHUN:

3 No, I did not say it.

4 [11.16.04]

5 Q. Thank you. And my last question: Mr. Witness, isn't it true  
6 that the Long Sword militia and Peam Chi Kang commune was  
7 responsible for the arrests of Cham and other people, other New  
8 People or other people that were detained at Wat Au Trakuon  
9 pagoda? Wasn't it the Long Sword militia that had the  
10 responsibility, and, in fact, made those arrests in your commune  
11 in Democratic Kampuchea?

12 A. I have already testified that I did not live in the village.  
13 For that reason, I was not aware of that event. I did not know  
14 about the arrest of the Cham people or the New People. I spent my  
15 time in the plantation, growing <cucumbers and other> vegetables,  
16 <far from the village>. I stayed there and I slept there <at  
17 night> and I did not enter the village.

18 MR. SMITH:

19 Thank you, thank you, Mr. Witness. Mr. President, I took an extra  
20 five or six minutes or 10 minutes, in fact, over what was agreed  
21 to with the civil parties, so I would ask that if the civil  
22 parties could have an extra five minutes or 10 minutes to present  
23 their submissions -- or their questions. Thank you.

24 [11.18.05]

25 MR. PRESIDENT:

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1 The Lead Co-Lawyers, you may proceed.

2 MR. PICH ANG:

3 Thank you, Mr. President. Marie (sic) Jacquin is the assigned  
4 counsel to put questions to this witness. Thank you.

5 QUESTIONING BY MS. JACQUIN:

6 Good morning, Mr. President. Good morning, Your Honours. Good  
7 morning, the Prosecution, defence counsels, civil parties and the  
8 public. Good morning, Witness. My name is Martine Jacquin, civil  
9 party lawyer. And I thank you in advance for answering my  
10 questions.

11 Q. First question: You stated and confirmed a while ago that you  
12 lived very close to the pagoda. And when you said so in your  
13 interview a few years ago, you explained that you lived below the  
14 house, in a sector which was not a public sector, because you  
15 were a member of the security <team>; is that correct?

16 [11.19.14]

17 MR. PRESIDENT:

18 Witness, please hold on. Counsel for Khieu Samphan, you have the  
19 floor.

20 MS. GUISSÉ:

21 This is not an objection, Mr. President. I just wish to ask for a  
22 reference to the <witness> interview. <Thank you.>

23 MS. JACQUIN:

24 <The references are document> E3/5257, ERN KH <00243102>; the ERN  
25 in English, <00251015> and 00251016; in French; and 00342665.



1 MR. PRESIDENT:

2 Judge Lavergne, you have the floor.

3 JUDGE LAVERGNE:

4 Yes, I have indeed noted the references. I am not sure,

5 <Counsel>, of the location you are referring to. I have the

6 impression that when the witness was interviewed in E3/5257, he

7 <was referring> to Peam Chi Kang, and not <of the place> where he

8 was, close to the pagoda.

9 [11.20.43]

10 MS. JACQUIN:

11 Mr. President, I would like the witness to clarify that

12 particular situation.

13 MR. PRESIDENT:

14 Counsel, please make sure you speak a bit far from the

15 microphone, maybe 20 centimetres. Please provide the correct ERN

16 number in the Khmer language. It is not clear and incorrect.

17 Please make sure that you are well prepared when you proceed with

18 your questioning. Otherwise, the additional time that you

19 requested is not worthwhile.

20 [11.21.34]

21 BY MS. JACQUIN:

22 Q. Thank you, Mr. President. The witness confirmed a while ago

23 that he lived at a point in time close to the pagoda. In his

24 prior statement, whose reference I gave a while ago, he stated

25 that he was authorized to live in that sector because it was

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1 indeed the sector called Peam Chi Kang, because he was a member  
2 of the security service. I would like him to clarify both  
3 situations.

4 MR. TAY KOEMHUN:

5 A. The fact that I was asked to leave my home because that house  
6 was used for the security force and civilians were prohibited  
7 from entering the area. The area was guarded by soldiers. Anyone  
8 who breached the ban would be shot dead.

9 MR. PRESIDENT:

10 Counsel for the civil parties, you have been reminded to speak at  
11 a 20-<centimetre> distance from the microphone. And the National  
12 Lead Co-Lawyer, the Cambodian one, Mr. Pich Ang, please remind  
13 your counsel when she speaks too close to the microphone, the  
14 echo is too strong for the interpreter to provide a proper  
15 interpretation.

16 [11.24.01]

17 BY MS. JACQUIN:

18 Q. Witness, a while ago you said that your family consisted of  
19 about 25 persons and that you had five brothers and sisters. How  
20 many of those people are still alive <today>?

21 MR. TAY KOEMHUN:

22 A. Are you asking about my blood siblings?

23 Q. I am talking of the family you mentioned in your biography,  
24 and <who> you <included when providing> further information.

25 A. There are <quite many relatives> -- close and distant

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1 <cousins> -- who survived the regime <and are living today>.

2 Q. You were age 25 during the Democratic Kampuchea regime. You  
3 were a rice farmer, you were one of the Old <People> and your  
4 situation was not very difficult given the political regime in  
5 place at the time; is that correct?

6 [11.25.48]

7 A. No, that is incorrect. My life was miserable <> under the  
8 regime. The only food we ate was gruel compounded by hard manual  
9 labour.

10 Q. You stated that when they came to fetch you, your wife and  
11 child were crying. My question to you is: Why were they so  
12 worried? And how many of you were called to be members of a group  
13 representing the village?

14 A. I did not know whether I was called to be part of the <army.  
15 My wife and child wept because I was called to go to Au Trakuon  
16 and> everybody knew that if people were called to go to Au  
17 Trakuon pagoda, it means their fate would be sealed there.

18 [11.27.17]

19 Q. You stated in document <-- still the same one --> E3/5257, ERN  
20 in Khmer, 00243101; ERN in English, 00251014; ERN in French,  
21 00342663; you made the following statement:

22 "How come you were able to see prisoners being accompanied while  
23 you were in Peam Chi Kang?"

24 You said: "I lived in Peam Chi Kang <but> I had to eat in that  
25 place and that is why I was able to witness that event."

1 Question: "Did you recognize the prisoners in question?"

2 "I recognized some of them, including my cousin."

3 "Can you give us the names of those prisoners?"

4 "Yes. They were Thol, my adopted brother, Lim Srun, my cousin.

5 These two men were arrested with their families; <so their wives>

6 and children. Another cousin of mine was called You Hao. I had

7 seen many other prisoners being arrested. These persons had

8 alighted from a boat."

9 <My question does not concern the prisoners> from the boat, but

10 the prisoners you recognized and you were able to give their

11 names. What happened to them? Did you see them again on the day

12 of that arrest, and in particular, did you see your cousin?

13 [11.29.20]

14 A. I did not know what happened to them since we were at

15 different locations. While I was having a meal, I saw them being

16 walked, so I stopped eating my meal and I left the dining hall.

17 Q. Can you specify where they were being taken to?

18 A. They were taken to the pagoda.

19 Q. <Did> you see them <again> between the time they were arrested

20 and the end of the DK regime?

21 A. No, it is very likely that they had been killed.

22 Q. So you saw a certain number of people, men, women, children

23 enter this pagoda. So when you were in the communal dining hall

24 afterwards, did you sometimes hear the children shout or play?

25 A. No, I did not.

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1 MR. PRESIDENT:

2 The assigned counsel for civil parties, how much more time do you  
3 anticipate that you need to put questions to this witness?

4 [11.31.18]

5 MS. JACQUIN:

6 Mr. President, <I request> 10 extra minutes, which was, in fact,  
7 what was scheduled.

8 MR. PRESIDENT:

9 Yes, the Chamber will grant you the 10 additional minutes.

10 However, you may resume in the afternoon, since it is now our  
11 lunch break. The Chamber will take a lunch break now and resume  
12 at 1.30.

13 Court officer, please assist the witness at the waiting room for  
14 witnesses and civil parties during the lunch break and invite  
15 him, as well as the duty counsel, back into the courtroom at  
16 1.30.

17 Security personnel, you are instructed to take Khieu Samphan to  
18 the waiting room downstairs and have him returned to attend the  
19 proceedings this afternoon before 1.30.

20 (Court recesses from 1132H to 1331H)

21 MR. PRESIDENT:

22 Please be seated. The Court is back in session.

23 And representative for civil parties have the floor now.

24 BY MS. JACQUIN:

25 Thank you, Mr. President. Thank you, Witness for answering a

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1 question I'm going to put to you. I would like to get back to  
2 what you explained earlier which is that when they came to take  
3 you, your wife and child were crying because generally when  
4 people were being taken to the pagoda they would be executed. But  
5 for you, it was to be recruited as a militiaman, so do you agree  
6 with that?

7 MR. TAY KOEMHUN:

8 A. No. <I was not told that I would become a militiaman, but> I  
9 was told that I would become a soldier or a military man.

10 Q. You also told us that you were very afraid when two soldiers  
11 had pointed their guns at you, whereas you were in the rice field  
12 if I remember <correctly>, because they thought that you were  
13 Cham.

14 A. <At the paddy field>, they said I was Cham and they pointed  
15 their guns at me and then I heard people say I was Khmer not  
16 Cham. I was so <scared> at the time <that my stool and urine came  
17 out at the same time>.

18 Q. So had you been Cham, what would have happened to you?

19 [13.33.52]

20 MR. PRESIDENT:

21 Mr. Witness, you do not need to respond to the question because  
22 it is a hypothetical question. <The Chamber does not allow  
23 parties to ask such a question.>

24 BY MS. JACQUIN:

25 Q. Why were you so afraid of being taken for a Cham?

1 MR. TAY KOEMHUN:

2 A. At the time I was ploughing the field with Cham workers. While  
3 I was collecting the grass and carrying it on my head, they  
4 pointed their guns at my neck and <asked me to raise my hands.> I  
5 was so <scared> at that time <that my stool came out and messed  
6 my trousers. When they asked,> I told them that I was not Cham I  
7 was Khmer person, after hearing that they went away.

8 Q. Can we say that back then it was very dangerous to be Cham?

9 A. If I had been a Cham person, I would have been in the same  
10 situation as Cham people had.

11 Q. We recalled earlier the people that you knew, the people that  
12 you saw enter the pagoda and among these people there was your  
13 adopted brother, I'm looking for his name now, there was your  
14 cousin as well, and you also said that you thought that they had  
15 been executed, were these people thieves, were these people  
16 murderers, <to> warrant their execution?

17 A. <They were not thieves. They were> innocent <people>.

18 [13.36.55]

19 Q. So why, according to you, <why> were these people taken away  
20 to be executed -- entire families such as your <own> family  
21 <members>, Thol, Lim Srun, your cousin Deus (phonetic), You Hao;  
22 also with children -- if they were not criminals?

23 MR. PRESIDENT:

24 Please do not respond to that question because the witness is not  
25 <obliged> to draw any conclusion <on any fact presented to him by

1 a lawyer>.

2 BY MS. JACQUIN:

3 Q. Thank you, Mr. President. I would like to know if the witness  
4 saw people coming out of the pagoda since he saw people coming  
5 into the pagoda.

6 [13.38.10]

7 MR. TAY KOEMHUN:

8 A. Later on, <I did not see because> I was not staying in the  
9 village; I did not -- I no longer stayed in my house. I was  
10 reassigned to work in the forest growing <vegetables, potatoes,  
11 winter melons, pumpkins and so on.to support the> cooperative and  
12 I would return home once in <several months>. I have no idea  
13 whether <or not> the prisoners were released from that centre  
14 afterwards.

15 Q. <During the period> when you <would> eat in the communal hall  
16 next to the pagoda, did you see supplies coming in for the  
17 prisoners? <Did> they bring in meat and vegetables and rice,  
18 since they brought in prisoners?

19 A. No. <I never saw> it. No. I <did not see them being brought in  
20 there>.

21 Q. When <they came for you because> you were recruited, could you  
22 have refused to become a Long Sword person, what <would have>  
23 happened <to you> if you had?

24 MR. PRESIDENT:

25 Please hold on Mr. Witness. You have the floor now, Counsel Anta



1 Guisse.

2 MS. GUISSÉ:

3 Yes, Mr. President, I object to the second part of this question.

4 No problem regarding the first part but the second part, yes I do  
5 have an issue.

6 [13.40.14]

7 MR. PRESIDENT:

8 The objection is right. Parties -- rather witness is not entitled  
9 to respond to a hypothetical question. Counsel for civil parties,  
10 please make your questions simple and short so that the witness  
11 can understand and provide the right responses. There's no  
12 benefit to contribute to the truth if the questions are too  
13 complicated.

14 BY MS. JACQUIN:

15 Thank you, Mr. President, I will rephrase my question in simpler  
16 terms.

17 Q. Did you have the possibility of refusing to become a member of  
18 the Long Sword unit when they came to look for you?

19 [13.41.25]

20 MR. TAY KOEMHUN:

21 A. I was assigned to go and <stay at the rice barn. I did not  
22 have any objection>. I was not part of the Long Sword Group but I  
23 was staying close to that group and at the time I was <staying at  
24 the rice barn. I did not join> that so-called Long Sword Group. I  
25 would have died if I refused to <stay at the rice barn>. During

1 that regime it was a dictatorship and I would have been killed if  
2 I refused the assignment.

3 Q. Did you wear the black uniform?

4 A. I wore normal clothes. Sometimes I wore black clothes and on  
5 other some occasion I would wear blue or light blue clothes.

6 Q. When you were living in the same region? Because you lived  
7 always in the same region and there were many Cham people in the  
8 villages there; were the Cham richer than the other Cambodians?

9 A. What you're asking? Do you want to know whether Cham people at  
10 the time were well-off?

11 Q. Yes, I want to know if the Cham were rather wealthier than the  
12 other people in the villages.

13 [13.43.37]

14 A. I have no idea whether Cham people <were> better off in terms  
15 of wealth. I did not know Cham people at the time; I did not  
16 <know> whether they had better living conditions than Khmer  
17 people at the time.

18 Q. But when you were young, in the villages, it was already  
19 possible to identify the Cham people because the women had long  
20 hair and they wore head scarves and they didn't speak the same  
21 language. So in the village you obviously met Cham people.

22 MR. PRESIDENT:

23 Please hold on, Mr. Witness. You have the floor now, Counsel Anta  
24 Guissé.

25 MS. GUISSÉ:

1 I have a problem regarding the way <my colleague is putting> the  
2 questions. Before <testifying and> explaining how he was able to  
3 recognise Cham people, maybe it would have been <wiser> to have  
4 the witness <first> speak about how it was possible to recognise  
5 Cham people. <This is> in order to <avoid having Counsel testify  
6 and rather allow the witness to do it.>

7 [13.45.17]

8 BY MS. JACQUIN:

9 Mr. President, it is not the same question. I did not ask the  
10 witness <what the criteria> to identify the Cham <was, as> we  
11 already spoke about that in the past. I was putting another  
12 question to him which is, were there already Cham people in his  
13 village and if he knew them because they obviously were clearly  
14 identifiable.

15 MR. PRESIDENT:

16 Mr. Witness, you are instructed to give the response to this  
17 question.

18 MR. TAY KOEMHUN:

19 A. There were no Cham people in my village, <Sach Sou, Angkor Ban  
20 village,> before the Khmer Rouge period. I had not known any Cham  
21 people before that time because Cham people were living in a  
22 village different from mine.

23 BY MS. JACQUIN:

24 Q, So, the Cham people who came into your village, did they  
25 arrive as refugees from other regions or maybe from Phnom Penh?

1 [13.46.51]

2 MR. TAY KOEMHUN:

3 A. I do not know whether they <were> from Phnom Penh or from  
4 elsewhere.

5 MR. KONG SAM ONN:

6 So, I would like to suggest <the> Lawyer for civil parties to  
7 specify the time period. <So, his responses are not specific in  
8 term of time>.

9 BY MS. JACQUIN:

10 I thank the defence lawyer for explaining to me how I should put  
11 questions. But I consider that I have full freedom to put  
12 questions the way I think about them and my references are very  
13 specific. In certain cases before or after the DK regime, the  
14 witness answered to us that there were no Chams in his village  
15 before and that they were in another village. So I'm going to put  
16 another question to him.

17 [13.47.54]

18 Q. After the capture of Kampong Cham, were you worried to see new  
19 refugees arrive in your village?

20 MR. TAY KOEMHUN

21 A. No worry, no worry for me. At that time I did not know why  
22 they were sent into my village so I had no worries.

23 Q. You said to us that <under the Khmer Rouge>, life was very  
24 difficult for you and that you practically had nothing to eat. So  
25 didn't you think that these Cham refugees who were arriving on

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1 top of the others were also going to eat up the rice that was  
2 there, the little food that you had <left>. Did this somehow  
3 <worry> you?

4 A. I had no worries at that time. I was under the regime's hands  
5 and I was not the one who organised the food supply or anything  
6 at all so it depended on them, the regime leadership.

7 Q. Why then, were you so afraid when the militiaman thought that  
8 you were Cham?

9 [13.50.02]

10 A. I could not get your question about Cham people that I was  
11 afraid of, so could you ask it again?

12 Q. No, I did not say you were afraid of the Cham, I said that you  
13 were very afraid when the guards pointed their machine guns at  
14 you thinking that you were Cham, so why were you so afraid then?

15 A. If they <mistook> me <for> a Cham person <and arrested me> I  
16 would have been killed. I would be killed if they thought I was  
17 Cham.

18 Q. So now I would like to get back to your cousin who you saw was  
19 taken away to the pagoda when you were at the communal hall. You  
20 also saw Son (phonetic) Thol your adopted brother, Lim Srun your  
21 cousin and their families and their children and another cousin  
22 by the name of You Hao, <all> being taken away. So were they  
23 Cham?

24 A. They were Khmer people.

25 [13.51.42]

1 Q. So why were they then taken away to the pagoda, where you said  
2 that they never returned.

3 A. I do not get your question Counsel.

4 Q. Why were they taken to the pagoda if they were not Cham?

5 A. I do not know Counsel. I do not know why they were arrested. I  
6 was shocked and surprised to <find> my relatives <among the>  
7 arrested <people>. <But,> I do not know <anything>.

8 Q. You also saw other families with women and children coming  
9 into the pagoda, so was it possible to know that they were Cham?

10 A. While I was having meal, I noticed there were Khmer people. I  
11 was having watery gruel, <not cooked rice> at the time. <Only>  
12 Khmer people, I <saw> Khmer people being walked.

13 Q. You saw therefore Khmer people and Cham people come into the  
14 pagoda and you knew that they had been executed in the pagoda.

15 MR. PRESIDENT:

16 Please wait, Witness. You may now proceed, Counsel Kong Sam Onn.

17 [13.54.12]

18 MR. KONG SAM ONN:

19 I have heard the statement of this witness earlier and my  
20 objection is that the question is repetitive. Mr. President,  
21 could you please look at the time it has been <over> 20 minutes  
22 already from the beginning of the first session this afternoon  
23 and I may <need> additional time to put questions to this  
24 witness. <I am afraid that we will not finish today. Thank you>.

25 MR. PRESIDENT:

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1 Yes, it is now time so you have no more time, Lawyer for civil  
2 party because you spent <25> minutes already. You have no more  
3 time, please be seated.

4 Judge Lavergne, do you have any questions to put to this witness,  
5 you may now proceed if you have questions.

6 [13.55.13]

7 QUESTIONING BY JUDGE LAVERGNE:

8 Yes, thank you, Mr. President. Indeed I have a few questions to  
9 put to this witness.

10 Q. I understood, Witness, from your testimony that during the DK  
11 period you were threatened twice with weapons. The first time --  
12 I don't know if it is in a chronological order -- <it was>  
13 because you were suspected of being Cham. And you said there were  
14 other Cham people who were working with you on that day. So can  
15 you tell us when this happened and where this happened, and who  
16 threatened you?

17 MR. TAY KOEMHUN:

18 A. The worksite was located at Spean Ou Kandaol (phonetic). I was  
19 ploughing the field at that worksite. I have told the Chamber  
20 already I was assigned to <cut> the grass and then brought the  
21 grass for the cows to eat. At the particular time they pointed  
22 their gun <at> me and asked whether I was Cham, I replied I was a  
23 Khmer person and after hearing this, they went away. I could not  
24 even see clearly those <people's> faces at the time.

25 Q. You did not see these <peoples'> faces, but did you inform

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1 yourself to know who these people were?

2 A. I do not know who they were. They were <small> children.

3 [13.57.31]

4 Q. I understood that, <Sir>, but when you are threatened with a

5 gun I think it is legitimate to try to understand who is

6 threatening you. Did you ask any questions, did you <seek> to

7 <find out> who had threatened you with a gun?

8 A. I did not ask them at that time. They went away very quickly

9 after I told them.

10 Q. Okay. But you were not alone in this field, so did you ask the

11 people around you if they had recognised the young people who

12 were bearing those weapons? Did you ask any questions or <did

13 none of this> really matter at all for you?

14 MR. TAY KOEMHUN:

15 (No interpretation)

16 THE INTERPRETER:

17 The interpreter could not hear the full answer from the witness.

18 [13.58.28]

19 MR. TAY KOEMHUN:

20 A. I did not ask my co-workers at that time because my co-workers

21 were <late in coming to cut grass. I arrived there earlier. At

22 that time, no one was in that place and there was only one Rain

23 tree and four or five pairs of cows. No one arrived yet. Then,

24 they came and held me at a gunpoint.>

25 BY JUDGE LAVERGNE:



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1 Q. Witness, if I understood well what you said, you said there  
2 were Cham on that day in the field, so <can you tell us> what  
3 happened to the Cham on that day who were with you in the field?

4 MR. TAY KOEMHUN:

5 A. Yes, in fact there were Cham people working with me but they  
6 were <cutting> grass at the time. They did not <arrive> at the  
7 same time as me. <They were still cutting grass.>

8 Q. What happened to them<? Did anything happen to> these Cham,  
9 who were apparently genuine Cham <people>?

10 A. Later on I left the place where the cows were under the tree.  
11 Cham people were arrested at the bridge; it was about over 100  
12 metres away from where I was <cutting> the grass. There were Cham  
13 people <and> Khmer people working together.

14 [14.00.48]

15 Q. So the Cham were arrested, how many of them were arrested and  
16 when were they arrested?

17 A. They were arrested after lunch perhaps <at 12 o'clock>.

18 Q. I am not asking at what time of the day, I'm asking during  
19 what period. Was it when the Au Trakuon pagoda was converted into  
20 security centre? Was it in 1975, 1976, or 1977? Was it shortly  
21 <after the> end of the Democratic Kampuchea regime; when was  
22 that?

23 A. <At Wat Au Trakuon>, I cannot recall it. I do not know as to  
24 which year that happened. I apologise, Your Honour, I cannot  
25 recall it.

1 [14.02.08]

2 Q. Very well, I will <ask> that you make an effort, Sir, because  
3 we need specific information here. <Earlier> you said <that> when  
4 you were arrested, they took you for a Cham and you told them  
5 that you were not a Cham, you also said that other <people> who  
6 were present <said> that you were Khmer. So when you say that you  
7 were alone, it is inconsistent with your prior statements. Tell  
8 me yes or no; were there other <people> with you, <near> you,  
9 when you were threatened with a weapon?

10 A. It was the group that came to <hold me at a gunpoint> and  
11 that's what <they> said.

12 MR. PRESIDENT:

13 Counsel Kong Sam Onn, you have the floor.

14 MR. KONG SAM ONN:

15 I listened to the summary provided by Judge Lavergne that the  
16 witness was asked whether he was Cham and <other people said>  
17 that he <was Khmer> -- he was not Cham. However, through what I  
18 have heard <in Khmer> so far, <I have not heard the witness state  
19 that other people had confirmed he was Khmer. I have only heard  
20 that the people who came to arrest or to hold him at a gunpoint  
21 asked him that question and he himself responded to them. So, no  
22 one else came to say that he was Khmer based on what he has  
23 testified so far. Thank you>.

24 MR. PRESIDENT:

25 You can note down the response by the witness and you can ask for

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1 clarification later when it is your turn. I think this is a  
2 standard practice in this Court and Judge Lavergne, you may  
3 continue.

4 [14.04.03]

5 MR. KONG SAM ONN:

6 Your Honour, this is a summary of the fact and if it is not  
7 proper it may mislead the witness. <This is the reason why I jump  
8 in. Thank you>.

9 MR. PRESIDENT:

10 Even if that is case you should note it down and when it is your  
11 turn you can seek clarification from the witness.

12 BY JUDGE LAVERGNE:

13 Very well, let me also point out that we have the record and  
14 <this record> enables us to ascertain what is stated <during the  
15 hearings>.

16 Q. Mr. Witness, at the time of <these> events, you had already  
17 been enlisted as a soldier, or <> as a militiaman. What was your  
18 status at the time, were you an ordinary citizen?

19 [14.05.13]

20 MR. TAY KOEMHUN:

21 A. At that time I was an ordinary civilian.

22 Q. Very well. At the time, you said you were working in Spean Ou  
23 Kandaol (phonetic) if I noted correctly, how far was that from  
24 the Wat Au Trakuon or Sambuor <Meas>, what was the distance?

25 A. From Sambuor Meas village to Ou Kandaol (phonetic), the

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1 distance was less than 20 kilometres, however it was over 10  
2 kilometres.

3 Q. At the time, what was your domicile, where were you residing?

4 A. My house was located in Sambuor Meas.

5 Q. I haven't quite understood the different places of residences  
6 you may <have> had. You said that at <one> point in time you had  
7 to leave your house <in> Sambuor Meas and you said that you went  
8 to Peam Chi Kang. When did you go to Peam Chi Kang?

9 A. My apology, Your Honour. After 1979, due to the security  
10 presence in Au Trakuon and after I crossed the river from the  
11 other side, that is, after my visit to my family and my children  
12 I heard a rumour that the Pol Pot group re-entered the area, for  
13 that reason I relocated my family to Peam Chi Kang and that  
14 happened in 1979. However, we only stayed for a few nights during  
15 that period and in 1977 we were relocated once. However, the  
16 relocation area was not far from my original residence, it was  
17 about 700 metres only. At that time I was sick for few months <so  
18 I was a bit confused>.

19 [14.08.04]

20 Q. So, if I understood you correctly, throughout the entire  
21 period of Democratic Kampuchea, your place of residence had  
22 always been in Sambuor Meas commune. Today you are no longer <a>  
23 resident in that commune, since when have you stopped residing  
24 <there>?

25 A. At present I am living in Sambuor Meas. That is Sambuor Meas

1 village.

2 Q. Regarding the second episode, in which you <were> threatened  
3 with a weapon, <was> as they tried to <forcibly> enlist you. You  
4 said in the record of your interview, that you were a member of  
5 the Long Sword Group; and today you're telling us that you <were>  
6 not a member of that group. What is the truth?

7 [14.09.33]

8 A. I was not part of the Long Sword Group, however I stayed near  
9 the Long Sword Group. I only stayed there for two months and then  
10 I was dissolved due to my not so good biography since about 20 of  
11 my family relatives had been smashed. So I stayed there for about  
12 two months then I was re-sent to Kaoh Touch, that's when, I just  
13 said, <>I had to cross the river to live at the other side and I  
14 remained there until the fall of the regime in 1979.

15 Q. Why would they withdraw you from a group, if you were not a  
16 member of that group; you said "I wasn't a member of the Long  
17 Sword Group, yet I lived with them for two months and  
18 subsequently I was withdrawn from the group". If you were  
19 withdrawn from the group, it means that you were a member of the  
20 group, or am I mistaken? <Have I misunderstood?>

21 A. I was withdrawn from the group because of my tainted  
22 background that some of my relatives had been smashed. For that  
23 reason I was not allowed to stay at the rice barn anymore and I  
24 was relocated to work in the rice fields.

25 [14.11.18]

1 Q. Sir, <which group were you> withdrawn from?

2 A. I was withdrawn from the task that I was assigned to guard the  
3 rice barn <and the fish-paste storehouse> and reassigned to  
4 <plough> the rice fields <> at Kaoh Touch. <The cooperative  
5 assigned me to do that work there>.

6 Q. And when you stood guard at the <rice> warehouse, you did so  
7 in what capacity? You were not an ordinary citizen; in what  
8 capacity were you standing guard there?

9 A. I was an ordinary civilian, I did not have any authority over  
10 the rice barn if they came to get the rice supply, they did it  
11 among themselves. I did not have any control over it. <I only  
12 guarded it and pulled out grasses or weeds under and around the  
13 rice warehouse>.

14 Q. So a simple citizen, tasked with standing guard, what was your  
15 exact role, Sir?

16 [14.12.44]

17 A. I was an ordinary civilian.

18 Q. An ordinary civilian, member of an unknown group, <from which  
19 you were> withdrawn<, because if I understand, you were> a member  
20 of <a> group of <ordinary> civilians.

21 A. I was withdrawn from carrying out the task, the task of  
22 guarding the rice barn <and the fish-paste warehouse>, not from  
23 being a member of the Long Sword Group.

24 Q. Very well, let us return to the second incident in which you  
25 were threatened with a weapon and you were told to join a group,

1 what were you asked to do exactly?

2 A. When the gun was pointed at me, it was <exactly when> I was  
3 ordered to become a soldier. <In the> next morning, they came to  
4 take my biography. <They> asked me to detail all the numbers of  
5 my relatives. <I told them that I had lost over 20 relatives,  
6 cousins, big and small aunts and uncles. Hearing that>, they  
7 <closed the book and> walked away, <simply saying that what I had  
8 told them would lead to my death>. They did not say anything  
9 much. <After saying that>, they left <very quickly>.

10 Q. What were you asked to do? Which group did they ask <you to  
11 join,> and to do what? This morning, <if I understood correctly,>  
12 you said that you were <asked> to go and work in the rice  
13 <fields>. Is that what I should understand? You found yourself  
14 being threatened with a weapon because they wanted you to go and  
15 work in the rice <fields>?

16 [14.15.09]

17 A. Before I was walked by the people I <had actually been>  
18 working in <the rice fields at> a pond <far from> the village and  
19 then <they held me at gunpoint>.

20 Q. Very well, let us go back to the point: after pointing the gun  
21 at you, <what did> they want you to do? To become a soldier, to  
22 do what?

23 A. No, they did not say anything. They <only> said that they  
24 wanted me to be a soldier.

25 Q. And in order to ask whether you <wanted to> become a soldier

1 or not, they pointed a gun at you. Why?

2 <A. Yes.

3 Q.> Sir, generally guns are pointed at people who are to be  
4 arrested, did they also try to arrest you on that day?

5 A. They walked me to the commune <office> and left me there  
6 overnight. <The> next morning they questioned me about my  
7 biography.

8 [14.16.44]

9 Q. When you say "they" who are you referring to? Who led you to  
10 the commune, who put questions to you regarding your biography?  
11 Were those persons members of the Long Sword Group?

12 A. No, they belonged to the Southwest group and the person who  
13 questioned me was from the district <level>.

14 Q. Do you know who were the officials of Peam Chi Kang commune?

15 A. I do not know the commune chief.

16 Q. Does the name Pheap mean anything to you, a woman called  
17 Pheap, P-H-E-A-P, and who was the wife of a person called Kan.  
18 Does that ring a bell to you?

19 A. Yes, I heard of the name, but I never saw the person. I also  
20 heard the name of that man, <Kan>, but I never saw him.

21 Q. Very well. Let us go back to the meal you were having in the  
22 canteen <in> Sambuor Meas. <If I understand correctly,> you had  
23 your meals in that canteen <practically> throughout the <entire>  
24 period of Democratic Kampuchea? <Is that right?>

25 A. Yes, I actually had my meal there at the dining hall



1 throughout the regime.

2 [14.19.06]

3 Q. Now, if I properly understood what you said this morning, you  
4 said that you simply took note of the arrests of <perhaps> two or  
5 three persons on two or three occasions, accompanied by some  
6 children, aside from the arrest of the members of your family. Is  
7 that indeed what <we should> understand from your testimony, or  
8 there were more arrests?

9 A. What you have just said is correct.

10 Q. Mr. Witness, while <you were> eating at <the> Sambuor Meas  
11 canteen, were you <ever> bothered by nauseating smells?

12 A. No, I was not because where I was, was rather far from the  
13 pagoda compound.

14 Q. Can you tell us where the canteen was located in relation to  
15 the pagoda?

16 A. The dining hall was located near the road within the vicinity  
17 of the river bank and from my estimation it was about 400 to 500  
18 metres from the pagoda.

19 [14.20. 55]

20 Q. Very well. Perhaps, Mr. Son Arun will cross check that in the  
21 <record>, but I believe I heard you say it was about 50 metres  
22 from the pagoda this morning. <I must have been> wrong. I would  
23 like to <also> put some questions to you regarding what you told  
24 the Co-Investigating Judges when they interviewed you. You made  
25 mention of <people> who were transported by boat and who were

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1 prisoners and who were tied up. This morning I believe I heard  
2 you say that you no longer recalled having seen boats <with>  
3 prisoners arrive at Sambuor Meas. What exactly do you recall  
4 regarding prisoners and boats?

5 A. I do not know about people being transported by boats. What I  
6 knew was that I saw people being walked <through the pagoda's  
7 gate>, but I never saw people <being> transported by boats.

8 Q. Document E3/5257, ERN in French, 00342666 to 67; ERN in  
9 English, 00251016; ERN in Khmer, 00243105.

10 Question: "Did you see people being arrested often?"

11 Answer: "Yes, sometimes, sometimes no."

12 Question: "How many times did you see prisoners being taken off  
13 boats?"

14 Answer: "Once."

15 Question: "How did you know they were prisoners?"

16 Answer: "They talked about it in the <canteen>."

17 Question "<Were these people tied up>?"

18 Answer: "Yes they were tied."

19 [14.23.42]

20 Question: "How were they tied <up>?"

21 Answer: "Their arms were tied behind them."

22 Question: "Were they men, women, or children?"

23 Answer: "There were men, women and children."

24 Question: "Were there any small children?"

25 Answer: "Yes, there were small children as well. <The> people

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1 <living> in that area saw this because it was <during> meal time  
2 and there were hundreds of people there."

3 Question: "<Among> those prisoners, were there any Cham?"

4 Answer: "I don't know."

5 I would like to know whether there were hundreds of people eating  
6 at <the> Sambuor Meas <canteen,> or hundreds of prisoners?

7 [14.24.48]

8 A. At the dining hall where I had meal, there were about 100  
9 people who had meal there.

10 Q. And were there any security guards among those people, I mean  
11 security guards working at the Au Trakuon pagoda?

12 A. No, there was none.

13 Q. Did you know any <members of the> security <guard detail> from  
14 the Wat Au Trakuon?

15 A. No, I did not.

16 Q. Did you know a person by the name of Moeun, who apparently  
17 resided <in> Sambuor Meas?

18 A. The name Moeun does not ring a bell.

19 JUDGE LAVERGNE:

20 Very well, I don't think I have any further questions for you Mr.

21 Witness. <Thank you, Mr. President.>

22 [14.26.12]

23 MR. PRESIDENT:

24 Thank you. The Chamber now hands the floor to Counsel Koppe, who  
25 wishes to provide a submission in response to the submission by

1 the Co-Prosecutors requesting to hear new witnesses, that is, the  
2 document presented by the Co-Prosecutors yesterday. I refer to  
3 document E366. Counsel Koppe, you have the chance to do so.

4 MR. KOPPE:

5 Thank you, Mr. President, I would be very happy to do so. However  
6 I myself only have five minutes of questions to the witness. I  
7 believe if I am wrong, I'll be mistaken surely the Khieu  
8 Samphan's team has also many questions. So it would make more  
9 sense if I finish my questions and then have the witness go and  
10 then I will come with my submissions. It's also may be better for  
11 the witness.

12 [14.27.27]

13 MR. PRESIDENT:

14 Thank you for the information and of course we grant you your  
15 request. You may proceed now.

16 QUESTIONING BY MR. KOPPE:

17 Thank you, Mr. President. Good afternoon, Mr. Witness, as I said  
18 I only have very few questions for you.

19 Q. Let me first start with the very last question that was put to  
20 you by Judge Lavergne about a man called Moeun. You said you had  
21 not heard of such a person with that name, can you think a little  
22 bit more about Moeun, possibly a security guard at Wat Au  
23 Trakuon, Moeun does that ring a bell?

24 MR. TAY KOEMHUN:

25 A. The name Moeun does not ring a bell at all because I did not

1 go there so I did not know him.

2 Q. No problem, Mr. Witness. Earlier you were also asked question  
3 about something that Sen Srun had testified to. You called Sen  
4 Srun in your answer a soldier. Do you know whether Sen Srun was  
5 also a palm tree climber?

6 [14.29.24]

7 A. I do not know about that and actually at that time I had not  
8 known him yet. He worked separately from where I worked. I only  
9 got married at that time and Sen Srun never stayed at home  
10 because he was a soldier.

11 Q. Just to be sure I'm asking you a question about early 1977, do  
12 you know perhaps whether Sen Srun, at that time, was a member of  
13 a palm tree climbers unit working close by Wat Au Trakuon?

14 A. I was not aware that he climbed palm trees and as you  
15 understand climbing a palm tree was a different task from  
16 ploughing the field which was what I did.

17 [14.30.36]

18 Q. My next question, Mr. Witness, is something that you said in  
19 your statement, English page 4. English ERN, 00251015; French,  
20 00342665; and Khmer, 00243101. You said in answer to a question  
21 as follows. The question is, "Why was this area" where your house  
22 was, "why was this area a forbidden area, used for security?" and  
23 then you answered, "Because the Au Trakuon pagoda was used as a  
24 security office." And just a bit before you said that they didn't  
25 allow people to live in the village. Can you explain a little

1 bit, was there some kind of security parameter around Wat Au  
2 Trakuon where people or villagers were not allowed to go into?

3 A. If you talk in term of the premises of the pagoda which  
4 stretched to about 700 to 800 metres.

5 Q. So there was a parameter of 700 to 800 metres around the  
6 pagoda where people were not allowed to come but was there an  
7 extra parameter in such a way that they as you said did not allow  
8 people to live in the village?

9 A. You meant outside the premises of pagoda? If you talk about  
10 the external parameter of the pagoda it means actually the  
11 parameter of the premises of the pagoda reached the river bank  
12 and that area was also restricted. So allow me to clarify to the  
13 <south> of the pagoda was the river front and to the <north> it  
14 was a pond. <To the east and to the west of the pagoda was a  
15 village.>

16 [14.33.32]

17 A. But what was the width and the length of the total parameter  
18 around the pagoda, was that about 800 metres in length and in  
19 width? Can you be a little bit more specific as to what distance  
20 people were not allowed to approach the pagoda?

21 A. I cannot tell you about that matter. I am not able to tell  
22 you. All I know was that from the river bank up to the compound  
23 of the pagoda that area was not allowed to walk or trespass into.  
24 <There were soldiers standing guard there.>

25 Q. Thank you, Mr. Witness. Last question, you've been answering

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1 some questions already in relation to the arrests of your adopted  
2 brother Thol and Lim Srun, you also mentioned one of your cousins  
3 You Hao and you said that those three family members were  
4 arrested along with their entire families. Can you describe that  
5 a little bit for me, how did you know they were arrested with  
6 their entire families?

7 [14.35.27]

8 A. Well, Lim Srun was the 17th April Person. Hao was a Base  
9 Person and as for Thol, Thol was also the 17th April Person <>  
10 and my <big> aunt and uncle were Base People.

11 Q. And just to be clear, they weren't Cham, they were Khmer, is  
12 that correct?

13 A. While I was having meal, I saw them.

14 Q, But my question was, they weren't Cham; is that correct, they  
15 were Khmer like you?

16 A. Yes, you are right.

17 Q. And how many children were arrested with -- together with  
18 Thol, Lim Srun and You Hao?

19 A. You Hao was alone at the time. Lim Srun came with eight  
20 children at the time and Thol had eight children with him at the  
21 time.<My> aunt had six children at the time. <My> uncle had seven  
22 children. As for <Kmao (phonetic), En> (phonetic) they had four  
23 children at the time coming with them. They were related to my  
24 <father's> side and I cannot recall relatives of my mother's  
25 side.

1 Q. And all those children that you referred to were also not Cham  
2 children, is that correct?

3 A. Yes that is correct.

4 Q. You said that they were arrested, is it also possible that  
5 they were part of evacuation from one place to another?

6 A. They were arrested from their base areas <where they had  
7 lived>. They were living in Angkor Ban <commune when> they were  
8 arrested.

9 [14.38.46]

10 Q. Have you ever heard later, maybe after 1979, why these  
11 families with their wives and children had been arrested, what  
12 was the reason for their arrests?

13 A. I do not know about that.

14 Q. Were there other occasions or other circumstances during which  
15 you saw Khmer people being arrested including their family  
16 members, including children?

17 A. I cannot give you the prediction. <As I said> I was <not>  
18 staying in my house, so I did not know what else happened at that  
19 time. After the regime fell, I came back to my home village.  
20 During the regime, I was assigned to <plough the rice field and>  
21 grow vegetables <to support the cooperative>. <Each person was  
22 given two pairs of bulls and had to plough the rice field day and  
23 night. I did not stay in the village, so> I did not know what  
24 happened beside my work.

25 [14.40.27]



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1 Q. My last question, Mr. Witness, assuming for second that you  
2 were right in what you said you saw. Is it correct that when  
3 Khmer people were arrested, it could happen also that they were  
4 arrested with the spouses and their children and it wasn't  
5 something typically for the arrest of Cham?

6 MR. PRESIDENT:

7 Please hold on, Mr. Witness. You may now proceed International  
8 Deputy Co-Prosecutor.

9 MR. SMITH:

10 Your Honour, I think it is slightly unfair question because the  
11 witness said previously that he was unable to say whether or not  
12 Khmer people and their families were arrested. So, it's really  
13 based on a premise that the witness hasn't put forward.

14 MR. KOPPE:

15 If I may respond, Mr. President, I think the premise of the  
16 questions of the Prosecution today was that he himself was a very  
17 active member of the Long Sword Militia, that's true or not I  
18 think based on his experience and his knowledge of the particular  
19 period, I should be able to ask this question.

20 MR. SMITH:

21 Your Honour, the only problem is that he answered it in the  
22 previous question saying that he was unaware of seeing other  
23 Khmer families and children other than the ones that he knew.

24 (Judges deliberate)

25 [14.42.46]

1 MR. PRESIDENT:

2 The objection by the International Deputy Co-Prosecutor is  
3 overruled. Mr. Witness, if you recall the last question put to  
4 you by Counsel Koppe, you can now provide your answer and if not,  
5 you can ask Counsel to repeat the last question for you. Do you  
6 recall the last question, Mr. Witness?

7 MR. TAY KOEMHUN:

8 A. I cannot recall it, Mr. President.

9 [14.43.19]

10 BY MR. KOPPE:

11 Q. Let me repeat it for you, Mr. Witness. I just asked you some  
12 questions about the arrests of close family members. You  
13 confirmed that they were arrested in the company of their spouses  
14 and children, have you ever seen other arrests of Khmer men  
15 together with their spouses and children and do you know whether  
16 this was something that in your period could also happen to Khmer  
17 and not typically to Cham families?

18 MR. TAY KOEMHUN:

19 A. I have never seen Khmer family were arrested together with the  
20 entire members. As I told the Court earlier I was assigned to  
21 plough the field on another side of the river, I never spent time  
22 at my house in the village.

23 MR. PRESIDENT:

24 Well, it is now time for the short break. The Chamber will take a  
25 short break from now until 3 p.m. Court officer, please find a

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1 proper room for the witness during the break time and please  
2 invite the witness together with the duty counsel back into the  
3 courtroom at 3 o'clock.

4 The Court is now in recess.

5 (Court recess from 1445H to 1501H)

6 MR. PRESIDENT:

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

8 The floor is once again given to the defence team to continue  
9 putting questions to the witness. You may proceed, Counsel.

10 MR. KOPPE:

11 Thank you, Mr. President, but we were finished.

12 MR. PRESIDENT:

13 Thank you. And the floor now is given to the defence team for  
14 Khieu Samphan.

15 [15.02.30]

16 QUESTIONING BY MS. GUISSÉ:

17 Q. Thank you, Mr. President. Good afternoon, my name is Anta  
18 Guissé. I'm the International Co-Counsel of Mr. Khieu Samphan,  
19 and in that capacity I'm going to put a few <additional>  
20 questions to you. You have told us that you no longer remember  
21 the name of the commune chief of Peam Chi Kang under the DK  
22 regime. Do you remember, however, the name of the security chief  
23 of that <same> commune?

24 MR. TAY KOEMHUN:

25 A. I know a person named Kan and Horn. I only know their names,

1 but I never met them.

2 Q. And according to you, what was Horn's position?

3 A. He worked in the <> compound of the pagoda, and he was the  
4 chief of that prison.

5 Q. And aside from him, do you remember who was working at the  
6 pagoda?

7 [15.04.14]

8 A. I don't, since I never entered the pagoda during the regime.

9 Q. In your statement, E3/5257, French ERN, 00342669; Khmer ERN,  
10 00243104; English, 00251018; in your statement, you speak about  
11 the Long Sword <Group>. So, I understood that before the Chamber,  
12 you explained that you only belonged to that <group> for a very  
13 short period: two months. But in your statement, you tell us that  
14 this group was divided into several sub-units, and you said, when  
15 you answered the question "Who was arresting people?", you  
16 answered: "The security unit." So, do you remember saying that?  
17 And do you remember that there was indeed a security unit within  
18 the Long Sword <Group>?

19 A. The security force members stayed and worked within the  
20 premises of the pagoda. And as for the Long Sword Group, I did  
21 not know the details about them <because I was in a different  
22 part>.

23 Q. So, when you refer to the security unit in your statement, you  
24 are only referring to the one that was <within> the pagoda; is  
25 that correct?

1 A. Yes, that is correct.

2 [15.06.33]

3 Q. According to your statement, during the two months when you  
4 were a member of the Long Sword Group, do you remember the names  
5 of the <people you met who were> members of that group? The names  
6 of other members of that group?

7 A. Members of the Long Sword Group were all very young, and I did  
8 not have any contact with any of them.

9 Q. Does the name Lav Chay, and <for the interpreters'  
10 information,> it is number one on the list I <circulated>. Does  
11 that name Lav Chay mean anything to you?

12 A. No. The name Lav <Khtchoy (phonetic)> does not ring a bell.

13 Q. There may well be a pronunciation problem. I sent the  
14 interpreters a list of names, to avoid any problem with  
15 pronunciation, and the person is the first name on the list, Lav  
16 Chay. <If there was indeed a pronunciation problem, please  
17 correct me for the sake of the witness.>

18 MR. KONG SAM ONN:

19 Mr. President, the proper pronunciation is Lav Chay, and I think  
20 there is a spelling mistake in the transcript. Thank you.

21 MR. PRESIDENT:

22 It's Lav Chay, not Khtchoy (phonetic). And Mr. Witness, does that  
23 name ring a bell to you?

24 [15.08.37]

25 A. No. Lav Chay does not ring a bell to me.

1 BY MS. GUISSÉ:

2 Q. How about name number three on the list, that's Meng Ly, does  
3 that ring a bell to you?

4 MR. TAY KOEMHUN:

5 A. I cannot recall that name.

6 Q. Does the name Heng Pa ring a bell?

7 A. I cannot recall this name. Maybe they used two names at the  
8 same time, and I am not familiar with the names that you have  
9 mentioned so far.

10 Q. Does the name Yoeun, that is number five on the list, ring a  
11 bell?

12 A. And what was the position of Yoeun? And do you know his full  
13 name?

14 [15.10.11]

15 Q. That is the only name I have in relation to the Long Sword  
16 Group. I do not know the position he held <-- may have held> in  
17 that group, but it <seems to be> in relation to the Long Sword  
18 Group. <So my question goes back to that topic.>

19 A. I know a person named Yoeun, but that person was not a member  
20 of the Long Sword Group.

21 Q. And what was the position held by that person during the  
22 Democratic Kampuchea regime?

23 A. He was chief of a mobile unit, and his full name is <Hou>  
24 Yoeun (phonetic). And <under this> regime, he was <chief> of <the  
25 district education office>. Currently, he is retired.

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1 Q. You were a member of the Long Sword Group for two months. Did  
2 you hear anything regarding the Long Sword Group <from the people  
3 living there>?

4 MR. PRESIDENT:

5 Mr. Witness, please wait. And the International Deputy  
6 Co-Prosecutor, you have the floor.

7 MR. SMITH:

8 Thank you, Your Honour. I think the question is misstating the  
9 evidence. In his statement, he says he was the member of the Long  
10 Sword Group, but in his testimony, he is stating that he wasn't a  
11 member. That's what Judge Lavergne cleared up with him. So it's  
12 mixing two things together, but that was his testimony today. He  
13 said he was near where the Long Sword Group was, but he wasn't in  
14 the Long Sword Group.

15 [15.12.39]

16 BY MS. GUISSÉ:

17 Q. Mr. Witness, could you clarify this matter for us? Were you a  
18 member of the Long Sword Group for two months, or not? Even <if  
19 it meant working> in a rice field?

20 MR. TAY KOEMHUN:

21 A. I was never a member of the Long Sword Group. I was tasked to  
22 guard the rice barn for two months, and then I was reassigned to  
23 plough the rice fields in Kaoh Touch.

24 Q. Did you hear <the people living there> talk about the Long  
25 Sword Group during the Democratic Kampuchea regime?

1 [15.13.44]

2 A. No, I did not, since I worked at a far distance from where  
3 they were.

4 Q. And where were they?

5 A. We were in the same area, but we stayed separately, and we  
6 slept separately. <I stayed under the rice barn and they stayed  
7 outside it>.

8 Q. Now, when you say that they were "far away from where I was",  
9 can you give us an idea of the distance when you say that they  
10 were far away from you?

11 A. Their sleeping quarter was about 50 metres from where I was.  
12 They stayed at <the shed that they built for themselves> while I  
13 stayed <under> the rice barn.

14 Q. Fifty metres away, <does> that mean that you were able to see  
15 members of that group from where you <slept, or> from where you  
16 were <living>?

17 A. I did not dare look at them. And I did not know whether they  
18 were tasked to go to this direction or that direction. <I only  
19 stayed under the rice barn>.

20 [15.15.58]

21 Q. And why didn't you dare look at them?

22 A. I was afraid. I was afraid that I would be accused of trying  
23 to know about the nature of their work. In simple terms, I was  
24 afraid.

25 Q. As the Co-Prosecutor told you this morning, one witness came



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1 to testify before this Chamber, and I want to confront you with  
2 his statement before the Chamber, since so far <it seems> all  
3 we've done has been to read his prior statements before the  
4 Co-Investigating Judges <to you>. And that witness stated that he  
5 accompanied a group of Cham to the Au Trakuon pagoda <at the same  
6 time as> the Long Sword Group. That witness is Sen Srun. And  
7 since you say you know him, my question to you is whether you  
8 knew about the fact that he accompanied a group of Cham people  
9 with the members of the Long Sword Group to the Au Trakuon  
10 pagoda?

11 [15.17.47]

12 A. I was not aware of that. I did not know whether Sen Srun  
13 escorted the Cham people. As I stated, I stayed at the Kaoh  
14 Touch, and I only returned after 1979.

15 Q. <More specifically, as> regards the distinction you made  
16 between the security unit, which you said was within the premises  
17 of the pagoda, and the persons in charge of arrests, this is what  
18 Sen Srun said at the hearing of 14 September 2015, shortly after  
19 14.13, this is what he stated: "It was not the security forces  
20 that went to arrest people. It was the Long Sword Group that had  
21 been set up in 1977, and which took the initiative to go and  
22 arrest persons directly. As for the security forces, they were at  
23 the base, at the detention centre, to receive and arrest those  
24 persons. The Long Sword Group <or its members> were <the ones who  
25 handled> arrests." End of quote.

1 My question to you at this stage, Mr. Tay Koemhun, is this: does  
2 that refresh your memory? Did you not hear at any point in time  
3 that the Long Sword Group was in charge of carrying out arrests?

4 A. I did not say any members of the Long Sword Group <or anyone  
5 else> went to make arrests. As I said, I did not stay in the  
6 village, so I wasn't aware of whatever happened in the village. I  
7 <only> worked <in the fields or lakes or> on the island, and I  
8 never took a boat to cross the river. And I only <came every two  
9 months to> get my rice supply. <Sometimes, the unit chief  
10 personally brought the rice supply to me>. For that reason, I was  
11 not aware at all of any activities that the group involved.

12 [15.20.29]

13 Q. Still on 14 September 2015, shortly before 14.22.08, and it is  
14 still Sen Srun testifying, he explains under what circumstances  
15 he escorted the Cham to Au Trakuon pagoda. This is what he  
16 states: "I understood that they were being arrested. It was the  
17 members of the Long Sword Group who were arresting them. I was  
18 there, standing guard and to prevent them from <entering or>  
19 going to the main road." End of quote. Does that event remind you  
20 of anything? Or does it <really> remind you of <nothing> at all?

21 A. If Mr. Sen Srun said he stood guard there, it implies that he  
22 was part of the team. I myself did not know Sen Srun at that  
23 time, and I <came> to know him only after 1979.

24 [15.21.52]

25 Q. The problem that arises is that <the next day>, on 15th

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1 September 2015, <the same person,> Sen Srun, gives more details  
2 regarding the Long Sword Group on that day, and he says shortly  
3 before 09.11.01, at the hearing of the 15 September 2015: "I  
4 recognized Tay Koemhun clearly, because he was one who had  
5 brought the Cham <to> where I was located." End of quote.

6 Do you understand that Mr. Sen Srun is <implicating> you  
7 specifically on the day <a group of> 200 to 300 Cham were  
8 arrested? And he did so by saying he was present, and he  
9 recognized you clearly. <What do you have to say about this>?

10 A. I categorically reject that statement, the statement that Sen  
11 Srun alleged that I was chief of security. I completely reject  
12 this statement <as invalid>. I cannot accept it.

13 Q. I do understand that you are denying his statement. <Hence, my  
14 logical follow-up question is:> would you say that Sen Srun has  
15 any particular reasons to make false accusations against you?  
16 Does he have a grudge <against> you? And if yes, what is the  
17 basis for such a grudge?

18 [15.23.51]

19 A. I do not know anything about that. As I said, Sen Srun was a  
20 soldier. <After the end of the regime>, I was a member of the  
21 pagoda committee. I helped to <clean> the temple, and to my  
22 recollection, Sen Srun did not go along well at all with the  
23 monks residing in the pagoda <and he had quarrels with the monks  
24 every day>. Sometimes, he even <swore at> the monks. And only  
25 lately that he changed, and then he came to assist in doing work

1 in the pagoda. And in the past, he even actually grabbed a  
2 portion of the pagoda land, and built his own home. Regarding his  
3 allegation, I categorically deny it. I was never a security chief  
4 or his supervisor, or making arrests of any Cham people. Not at  
5 all.

6 Actually, one day he came to my house, and he said that he was  
7 going to Phnom Penh. And I asked why. And he said he was called  
8 by the Court. And I said <I would also go to the Court.> And then  
9 he asked me whether I was a member of the Long Sword Group, and I  
10 told him, "<No. I was not>. You <listen to my words carefully>. I  
11 <was> not a member of the Long Sword Group".

12 [15.25.44]

13 And that I was arrested from <Damnak Sangkae to be> drafted to be  
14 a soldier, and my wife and my children actually wept when I was  
15 arrested. <"How come you, Srun,> say that I was a member of the  
16 Long Sword Group? I was drafted to be a soldier. After my  
17 biography was taken, <it was found that a lot of people from my  
18 bloodline had been smashed>. And I felt the pain <and it hurts me  
19 so much. Why do you say that?>

20 Then he asked me whether that is true, and I said yes, of course,  
21 that is the truth. <I told him, "You, Srun, don't misunderstand  
22 that way". This is exactly what I said to him>. And I will go and  
23 talk to him after I return home after my testimony before this  
24 Court. I have to confront him to bring out the truth. And of  
25 course, if I were his superior at that time, I will be

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1 responsible before the law. And I stated already, and I'm stating  
2 again, I <came> to know him after 1979, and before that I did not  
3 know this Sen Srun at all. <I did not know him from my childhood  
4 since I lived in Antung Sor (phonetic) and he lived in Sambour  
5 Meas>.

6 [15.26.57]

7 Q. That was a lengthy answer. Sen Srun indeed talked to the  
8 Chamber about the pagoda committee in answer to the question <as  
9 to> why he had said that the members of the pagoda were all Khmer  
10 Rouge people. And this is what he said, <on> 15th September 2015,  
11 and he starts at shortly before <09.39.09>.

12 "<I will be brief in my answer.> As regards the members of the  
13 pagoda committee, Peun Phi (phonetic) was the <head> of the  
14 kitchen, and there was another person who was head of the  
15 committee, and he's still alive today." And the next question put  
16 to him was as follows: "Why did you say 'all the members of the  
17 pagoda committee were <all> Khmer Rouge <people'>? The two people  
18 you have just mentioned, did they have any positions under  
19 Democratic Kampuchea <within> your commune?"

20 [15.28.23]

21 And his answer was as follows: "The two individuals held  
22 positions <during> the Democratic Kampuchea regime. Tay Koemhun  
23 was the deputy of the Long Sword Group, and Peun <Phi> (phonetic)  
24 was the <head> of logistics. In the commune, he was also the  
25 <head> of the kitchen in upper Sambuor Meas. So <these two people

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1 held official> positions <during that> period." End of quote.

2 Here again, <not only does> Sen Srun say that you were <in charge  
3 of arresting> a group of Cham during the Democratic Kampuchea  
4 regime, but he again confirms that you were the deputy head of  
5 the Long Sword Group. Do you have any remarks to make in this  
6 regard?

7 [15.29.34]

8 A. My response is that I categorically reject the statement made  
9 by Sen Srun. It is an unfair accusation against me. <Pon Phy>  
10 (phonetic) was a <Buddhist clergyman> at the pagoda, and he  
11 actually <challenged Sen Srun about the> portion of the  
12 <pagoda's> land <that Sen Srun had grabbed. Then, Sen Srun swore  
13 at monks, clergymen and me and everyone. So, he> had a grudge  
14 against <me and then put all the blame on me. Having had nothing  
15 to speak>, he blamed me and accused me of being a security chief.  
16 Maybe that's the reason that one day, a representative from this  
17 Court came to ask me whether I was the security chief <of Au  
18 Trakuon>, and I said no, my name is Tay Koemhun. And <based on>  
19 what I <heard people saying>, the chief of the security there was  
20 Horn. And then I asked, "How come you came to know, to ask me  
21 whether I was the security chief?" And the investigator said,  
22 "Somebody lived near the pagoda <told him about that>." And now  
23 <that> I know who the person is <and what he said,> I reject that  
24 allegation before this Court.

25 [15.31.07]

1 Q. Part of your discussion with the people who interviewed you  
2 was <re-transcribed>, it's document D166/42.1. And I would like  
3 to read out to you <> what was recorded from what you said, and  
4 you will confirm to me if you are indeed referring to this event  
5 and to <these aforementioned> statements. And it's ERN French,  
6 <01142460>; Khmer, 01141831. There is no English translation <of  
7 the transcript>, but I will read slowly to make things easier for  
8 the interpreters.

9 So, this is what <is indicated that> you said when you were  
10 interviewed by the investigators <from> the OCIJ.

11 "It is possible that my statements were not properly <reported>,  
12 unless somebody wants to slander me. It's <> possible that this  
13 happened. For example, maybe someone wants to become a pagoda  
14 chief. However, that person did not get that job, and the job was  
15 given to me because most people prefer that I get that job. This  
16 can happen, and we have to be careful about this." End of quote.

17 So, do you mean here -- first of all, do you remember having said  
18 that? And does that correspond to what you just told us regarding  
19 Sen Srun's accusations against you?

20 [15.33.15]

21 A. At that time, he put such a question to me, whether I was  
22 security chief at that time. I told him that I was simply an  
23 ordinary citizen. <I heard people saying that the security chief  
24 was> Horn. <I am Tay Koemhun>. I asked him who told him that I  
25 was the security chief in the regime. He said that someone

1 <living near the pagoda told him that. A few days later, he gave  
2 me a phone call, saying he wanted to speak to Sen Srun. I said  
3 that even though I met Sen Srun I would rarely talk with him  
4 because we have had an argument over the pagoda's land. We wanted  
5 to enlarge the pagoda's fence. He said that was his own land.  
6 But>, hundreds of <elderly people> in the village said that that  
7 portion of land belonged to the pagoda, not belong to <Sen Srun>.  
8 So, <Sen Srun> accused me <> blindly.

9 \*\*\*\*\*MS. GUISSÉ:

10 I am done with my cross-examination, <Mr. President,> and my  
11 colleague Kong Sam Onn has a few extra questions to put to the  
12 witness.

13 MR. PRESIDENT:

14 You may now proceed, Counsel Kong Sam Onn.

15 [15.34.50]

16 QUESTIONING BY MR. KONG SAM ONN:

17 Q. Thank you, Mr. President. Good afternoon, the Chamber. Good  
18 afternoon, Mr. Witness. This morning you <mentioned> that you had  
19 just recovered from <an> illness when you were interviewed. What  
20 kind of disease did you have before the interview?

21 MR. TAY KOEMHUN:

22 A. I had <been given> five <bags of IV fluid> before I <came>  
23 here. <When the weather is very hot,> my <brain does not work.  
24 But, it is fine when it is cold like this>. And my head <blurred  
25 and I had poor vision>.



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1 Q. Mr. Witness, I want to know about the time when you were  
2 interviewed by the investigators of the OCIJ <in 2009>. You  
3 stated that you had just recovered from the disease when you were  
4 interviewed. So, what kind of disease did you contract before the  
5 interview?

6 [15.36.20]

7 A. <At that time>, I went to <> the hospital <in the provincial  
8 town> and I was told that I had a <typhoid and cerebral  
9 inflammation>. So, <they referred me> to Angkor <Thom> hospital,  
10 and after a period of time <of about three months>, I went back  
11 home <as my health was a bit improved>. Currently, <I am advised  
12 to take only sleeping pills and energy medicine>.

13 <Q: Thank you>.

14 <A: I had been sick for about 3 months>..

15 Q. Thank you. Can you tell the Court <how> the disease at that  
16 time affected your memory?

17 A. <As a result of the illness, I am very forgetful now>.

18 MR. PRESIDENT:

19 Mr. Witness, please hold on. You may now proceed, International  
20 Deputy Co-Prosecutor.

21 MR. SMITH:

22 Your Honour, it may be a translation issue, but I didn't hear the  
23 witness say that he had a disease, in the English. So, perhaps  
24 that could be clarified?

25 [15.37.57]

1 MR. KONG SAM ONN:

2 I am not sure I understand the objection by the International  
3 Deputy Co-Prosecutor. I am now asking the witness about the  
4 illness or disease this witness had before the interview in the  
5 past. <I am not sure whether the International Co-Prosecutor  
6 heard him speak of the illness he has at present.> So, can I ask  
7 Mr. Co-Prosecutor to state again the objection?

8 MR. PRESIDENT:

9 You may continue your questioning, Counsel Kong Sam Onn.

10 BY MR. KONG SAM ONN:

11 Q. In 2009, you said that -- you stated that you had an illness.  
12 So how did that illness affect your memory?

13 MR. TAY KOEMHUN:

14 A. I <am very forgetful. For instance, after I place some stuff  
15 somewhere I cannot find it and I forget where I placed it>. So I  
16 have been <chronically ill since> Pol Pot's time <when> I was  
17 forced to work hard and I was beaten. <I keep bearing it. But,  
18 when it relapsed, it hurt me very much. So,> I was hospitalized  
19 <>.

20 [15.39.13]

21 Q. How long had you recovered before you were interviewed?

22 A. You want to know about the interview in the past? I had  
23 recovered one month before the interview took place.

24 Q. Did you still have medicines at the time you were interviewed?

25 A. Yes, I was still on medication.

1 Q. Thank you. Did you verify what was written down in the written  
2 record of the interview by the investigators? <For example, did  
3 you go through it yourself or did> someone read for you <to check  
4 if> the written record of the interview <was accurate or if there  
5 were any points for corrections>?

6 A. I did not read myself the written record of the interview at  
7 that time <because I have a poor vision. My eyes have been weak  
8 since I was sick. So>, I asked my elder sibling to read the  
9 written record of interview for me. <But, it is not the same as I  
10 would read myself. I would remember well if I read it myself>.

11 Q. At that time, <do you remember whether any corrections were  
12 made on> the written record of the interview?

13 A. <What correction?> I do not really understand what you are  
14 asking, Mr. Counsel. <Could you repeat, please?>

15 Q. For instance, there was wrong information noted down in the  
16 written record of interview, and you requested to have it  
17 corrected. <For example, in your testimony this morning, many  
18 points were incorrect>. Did you notice that there were mistakes  
19 made in the written record of the interview?

20 [15.41.50]

21 A. I noticed that I <had> stated the year wrongly. <I mistakenly  
22 stated that the year in which the Pol Pot's regime ended was  
23 1977. I should have said that it was> 1979. <I was confused  
24 because I forgot. When the regime fell in 1979, I was> evacuated  
25 to live in Peam Chi Kang.

1 Q. You made mention of that point already. Did you request to  
2 have that year changed when you were interviewed in 2009, or you  
3 <just> requested to have it corrected now?

4 A. I have just realized <this morning> that I <had provided>  
5 wrong <statements>.

6 Q. <Thank you. It is fine. I want to ask you another question>.  
7 You stated about the time when you were living close to the  
8 pagoda, and you stated that your house was located about <> 50  
9 metres away from the pagoda before 1975. <So, my question is:  
10 when> did you <exactly> leave your house which was close to <Wat>  
11 Au Trakuon <>?

12 [15.43.45]

13 <A: I was evacuated in approximately 1966>.

14 <Q: Please, Sir.>

15 <A: No. That's wrong. It was 1976. It was the time when many  
16 people were being killed> within the compound of the pagoda, and  
17 the <villagers were evacuated out of the village so that they  
18 would not> walk close to the pagoda.

19 Q. How did you know that it was in 1976 that <villagers> were  
20 evacuated?

21 A. I noticed that in 1976 the pagoda was turned into a <prison>  
22 to <detain> people.

23 Q. Thank you. In relation to the time you went to live in Kaoh  
24 Touch, <in what year> did you leave for that place? <When did go  
25 to do farming in Kaoh Touch?>

1 A. I left to work in a farm at Kaoh Touch in late 1977, and I was  
2 living there until 1979, when the regime fell. <Then, I returned  
3 home>.

4 Q. Thank you. What about the period between 1976 and 1977? Where  
5 did you live?

6 A. In that period, between 1976 and 1977, I was assigned to  
7 plough the field at Phdau. Sometimes I was assigned to work at Ou  
8 Kandaol <bridge where I was held at gunpoint. They kept changing  
9 my workplace. The people> ploughing <the> fields <were constantly  
10 moved to mobile units>. I was relocated and re-assigned to  
11 <plough the rice fields and plant the rice seedlings>.

12 Q. Thank you. When you were assigned to plough the field <did you  
13 have a house or a residence in the village after you were moved  
14 from your house near the pagoda?>

15 [15.46.36]

16 A. When I was assigned to plough the field, I was sleeping under  
17 the tree where my cows were also tied to that tree.

18 Q. Is it correct to say that you did not <have> any house within  
19 the village?

20 MR. TAY KOEMHUN:

21 A. <That I was given -->

22 BY MR. KONG SAM ONN:

23 Q. My question is that: when you were assigned to plough the  
24 field, you did not <have> a house in the village where you were  
25 evacuated from? I mean, you did not stay in a house close to Au

1 Trakuon pagoda; is that correct?

2 A. After my evacuation, I did not -- I no longer stayed in the  
3 house within that village. I stayed in another house in a  
4 different place.

5 [15.46.56]

6 Q. I want you to listen to my question carefully. You were  
7 assigned to plough the field. Did you stay in a house within your  
8 village? You stated that you were sleeping in the fields. My  
9 question is: did you have a house within your village? <>

10 A. I was assigned to plough in vegetable farms, and there were  
11 small huts built for me to stay in. I was not allowed to <enter  
12 the village or> come back and stay in my house in the village. <I  
13 was given food or gruel to eat only on the farm>.

14 Q. Thank you. You made mention that you came to have a meal in  
15 the dining hall <of the cooperative> within the village. <What  
16 time were you referring to>?

17 A. It was when I was re-assigned to plough the field <near> the  
18 village. So, I was allowed to have meals in the dining hall  
19 within the cooperative. And whenever I was assigned to plough the  
20 field at the lake <I did not have time to come. So>, I would eat  
21 at that place.

22 Q. <Thank you. Could you state how often you were assigned to  
23 plough near> the cooperative, close to the dining hall?

24 A. It was not 10 metres away from the dining hall. I was assigned  
25 to plough the field about 100 or 200 metres away from the dining

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1 hall. <I was not ploughing near the dining hall>.

2 Q. <My question was:> <how> often<? I wanted to know how many  
3 days or weeks did you plough per month? Could you specify that?>

4 <A. I ploughed every day>.

5 <Q.> I want to know about the time when you were assigned to  
6 plough the field close to the dining hall. You already told the  
7 Chamber that <there were times when> you were assigned to plough  
8 the field in the forest, and also at the lake <and sometimes you  
9 ploughed near the dining hall>. So <I want to know> how <your  
10 times working far and near the> dining hall <were divided>?

11 [15.50.50]

12 A. I would be assigned to plough the field in the forest more  
13 often than the field close to the dining hall.

14 Q. Thank you. You told the Chamber that you were working <on the>  
15 farm in Kaoh Touch in 1977, and you would visit your village once  
16 in every two months. How long did you stay in your village when  
17 you had the chance to visit your village? Or did you have to  
18 return to your worksite on the same day?

19 A. For instance, if I went to visit my village at <noon time I  
20 had to return to Kaoh Touch at> 1.00 or 2 <p.m.> in the afternoon  
21 <to plough the field. Sometimes, I did not have to come back to  
22 the village, food supply was sent to me through their people>.

23 [15.52.00]

24 MR. KONG SAM ONN:

25 Thank you, Mr. Witness. Mr. President, I am done with my line of

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1 questioning.

2 MR. PRESIDENT:

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

4 MR. SMITH:

5 Thank you, Your Honour. Just a brief matter. The witness has said  
6 that when he would leave this Court, that he would go and  
7 confront the other witness. I would ask that you advise this  
8 witness to not confront other witnesses that have appeared before  
9 this Court. As a witness protection measure for both people, I  
10 would ask that you would provide that advice to this witness.

11 Thank you.

12 MR. PRESIDENT:

13 I don't think it does not matter for him. He is fully mature, and  
14 he is part of the pagoda committee. However, Mr. Witness, please  
15 do not use any violence when you confront with another person --  
16 that is, Mr. Sen Srun. It is your obligation to testify before  
17 the Chamber, in order that the Chamber can find the truth.

18 Everyone is contributing to finding the truth. And I believe you  
19 are part of the pagoda committee, and you are fully mature, and  
20 you will not cause any incidents to happen while confronting with  
21 any concerned individual. But please do not try to confront with  
22 Mr. Sen Srun and other -- any other witnesses who have appeared  
23 before the Chamber. Under the law, witnesses are not allowed to  
24 confront with any other concerned witnesses, who have testified  
25 before the Chamber. Do you understand it, Mr. Koemhun?



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1 [15.54.36]

2 MR. TAY KOEMHUN:

3 Yes, I understand, Mr. President.

4 MR. PRESIDENT:

5 The Hearing today has come to a conclusion. Thank you, Mr.

6 Koemhun. Your testimony will contribute to the truth, and you may

7 now be excused. You may return to your residence, or to any other

8 place you wish. I wish you good luck and prosperity.

9 Court officer, please work with WESU to send Mr. Tay Koemhun back

10 to his residence, or to any destination he wishes. Thank you

11 also, Mr. Mam Rithea, the duty counsel for the witness, you may

12 also be excused.

13 Before we adjourn the hearing, we still have a few minutes. So

14 the Chamber would like to give the floor to Counsel Koppe, to

15 present the response to the submission request by Co-Prosecutor

16 yesterday. It relates to document E366. You may now proceed.

17 [15.56.07]

18 MR. KOPPE:

19 Thank you very much, Mr. President. I'm also mindful of the

20 clock, and the points that I'm going to make, some of them are

21 quite principled. So my question is whether it would not be

22 better, because it's very late in the day -- I think everybody's

23 tired -- that I make my submissions tomorrow morning early?

24 MR. PRESIDENT:

25 Thank you, Counsel. And I'd like to hand the floor now to Judge

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1 Claudia Fenz.

2 JUDGE FENZ:

3 Just one question for clarification. Perhaps I misunderstood what  
4 you said at the very beginning. Are you providing a response to  
5 this request orally? Or are you making a different submission?

6 MR. KOPPE:

7 I will be making a different submission. We will file written  
8 submissions, as provided by the Internal Rules, but this is a  
9 different request. It's two requests for clarifications,  
10 actually, and one request which has a broader impact on possible  
11 delay of the proceedings. So, I think it would make more sense to  
12 do it tomorrow, when everybody's fresh.

13 [15.57.33]

14 MR. PRESIDENT:

15 Thank you, Counsel. And if you need more time to do with your  
16 submission, let -- we do it tomorrow. Tomorrow, we will hear the  
17 testimony of the civil party, and we try to complete with the  
18 scheduling, as the testimony of the civil party has been put off  
19 for three or four days now. And we will try to overcome the  
20 logistical issue, and proceed with our scheduling.

21 The proceedings today come to an adjournment. The Chamber will  
22 adjourn now, and resume tomorrow -- that is, Thursday, 17  
23 September 2015, commencing from 9 o'clock in the morning.

24 Tomorrow, the Chamber will hear testimony of a civil party --  
25 that is, 2-TCCP-252. The information is for the Parties and the

1 general public.

2 Security personnel, you are instructed to take the two Accused  
3 back to the detention facility, and have them returned to attend  
4 the proceedings tomorrow before 9 o'clock in the morning.

5 The Court is now adjourned.

6 (Court adjourns at 1559H)

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