



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

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

ឯកសារដើម
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TRANSCRIPT OF TRIAL PROCEEDINGS

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Case File N° 002/19-09-2007-ECCC/TC

14 December 2016

Trial Day 493

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

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KHIEU Samphan

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For Court Management Section:
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I N D E X

Mr. VOEUN Vuthy (2-TCE-1062)

Questioning by Mr. KOPPE page 12

Questioning by Mr. LYSAK page 70

List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
Judge FENZ	English
The GREFFIER	Khmer
Ms. GUIRAUD	English
Ms. GUISSE	French
Mr. KOPPE	English
Judge LAVERGNE	French
Mr. LIV Sovanna	Khmer
Mr. LYSAK	English
The President (NIL Nonn)	Khmer
Mr. VOEUN Vuthy (2-TCE-1062)	Khmer

1 PROCEEDINGS

2 (Court opens at 0903H)

3 MR. PRESIDENT:

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

5 Today, the Chamber continues to hear testimony of Expert Voeun
6 Vuthy.

7 Ms. Chea Sivhoang, please report the attendance of the parties
8 and other individuals to today's proceedings.

9 [09.04.15]

10 THE GREFFIER:

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

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

16 The expert who is to conclude his testimony today, that is, Mr.
17 Voeun Vuthy, is present in the courtroom. And we don't have any
18 reserve witness for today.

19 [09.04.53]

20 MR. PRESIDENT:

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

23 The Chamber has received a waiver from Nuon Chea, dated 14
24 December 2016, which states that, due to his health, that is,
25 headache, back pain, he cannot sit or concentrate for long. And

2

1 in order to effectively participate in future hearings, he
2 requests to waive his right to be present at the 14 December 2016
3 hearing.

4 Having seen the medical report of Nuon Chea by the duty doctor
5 for the accused at the ECCC, dated 14 December 2016, which notes
6 that, today, Nuon Chea has a lower back pain when he sits for
7 long and recommends that the Chamber shall grant him his request
8 so that he can follow the proceedings remotely from the holding
9 cell downstairs.

10 Based on the above information and pursuant to Rule 81.5 of the
11 ECCC Internal Rules, the Chamber grants Nuon Chea his request to
12 follow today's proceedings remotely from the holding cell
13 downstairs via an audio-visual means.

14 The Chamber instructs the AV Unit personnel to link the
15 proceedings to the room downstairs so that Nuon Chea can follow.
16 That applies for the whole day.

17 [09.06.23]

18 And before I hand the floor to the defence team of Nuon Chea,
19 once again the Chamber would like to <thank> Mr. Voeun Vuthy for
20 coming to testify in this courtroom. Yesterday, your responses
21 were clear. However, due to the abundance of your technical
22 terminology, which is a bit difficult for interpreters, since it
23 has to be interpreted into English and French. So please, Mr.
24 Voeun Vuthy, speak slowly for the sake of the interpretation and
25 then your response could be interpreted in full.

3

1 And when you read the numbers, please leave a slight pause
2 between each number, and we will try to have our proceeding go
3 smoothly.

4 I'd like now to hand the floor to the co-counsel for Nuon Chea to
5 put questions to the expert.

6 Before that, I notice that the International Deputy Co-Prosecutor
7 is on his feet. You have the floor.

8 [09.07.53]

9 MR. LYSAK:

10 Thank you, Mr. President. Just one short preliminary matter.

11 As the Chamber is aware, you obtained from the expert a new study
12 related to Krang Ta Chan last week that was made available to the
13 parties. A translation was provided to us yesterday.

14 I think a formal request is necessary to admit that so that the
15 witness can be examined on it, and I'm not sure whether that is
16 -- whether the documents have already been admitted or not. That
17 seemed to be the intention. But in any event, I wanted to make
18 sure that there was a record that we are requesting the admission
19 of the new Krang Ta Chan study as a document -- a piece of
20 evidence that has just been completed and obviously meets the
21 criteria for 87.4. But we would seek a ruling before the parties
22 begin their examination on that.

23 MR. PRESIDENT:

24 Any other comments from other parties regarding the request made
25 by the <International> Deputy Co-Prosecutor?

4

1 First, the Lead Co-Lawyers for civil parties.

2 MS. GUIRAUD:

3 No remarks, Mr. President.

4 MR. PRESIDENT:

5 And Counsel Koppe, you have the floor.

6 [09.09.39]

7 JUDGE FENZ:

8 Just before you say something, I note that with the other study,
9 if I remember correctly, we admitted excerpts, not the whole
10 study. Is the request now to admit the whole study, or is there
11 some specification?

12 MR. LYSAK:

13 I think one of the reasons we proceeded that way before is that
14 we had hard copies, 30 volumes that had not been electronically
15 scanned, so I think that was part of the logistical reason behind
16 that.

17 It certainly, I think, would be sufficient to admit the same
18 material, but in this case, we have an electronic copy -- my
19 co-counsel's telling me to slow down.

20 [09.10.28]

21 We already have an electronic copy, so in order to separate it,
22 logistically, I think that would be more work. We have no
23 intention of translating anything beyond the same materials that
24 were translated in relation to the Choeung Ek study, but I think
25 -- logistically, I don't see any reason to split apart the

1 document.

2 MR. PRESIDENT:

3 Judge Lavergne, you have the floor.

4 JUDGE LAVERGNE:

5 In that case, Prosecutor, wouldn't it not be sufficient to
6 <simply> request that the parts that have been translated be
7 admitted into evidence as opposed to all of the documents since
8 you said that you did not <request the> translation of the rest,
9 but <perhaps we can limit it to> only what was <translated>, that
10 is, <I believe,> the introduction and a <certain> number of
11 pages. <But not the entire document.>

12 [09.11.40]

13 MR. LYSAK:

14 Judge Lavergne, I have no objection if that's what we do. That
15 would involve separating, though, the -- a file that exists
16 electronically in one file right now. I have no objection if the
17 Court wishes to do that, but this is not the first instance in
18 which we have a voluminous document and the translations are
19 limited to the most pertinent parts that are necessary for the
20 parties to understand.

21 So I think that's a matter for the Court's discretion. I don't
22 have any objection either way.

23 JUDGE LAVERGNE:

24 I would perhaps need a clarification because I'm not quite sure
25 of what was translated. What is obvious is that the introduction

6

1 was translated, and the parties may possibly tell us whether
2 other excerpts of that document have been translated or not.

3 [09.12.45]

4 MR. LYSAK:

5 Okay. Thank you, Judge.

6 I'll give you my understanding of what has been translated, and
7 that is based on my reading of the documents because the
8 translation we were provided yesterday doesn't have specific
9 indications of the corresponding Khmer pages. I suspect that the
10 final version posted will have that.

11 But there were -- there are three separate documents that were
12 notified and made available on the shared materials drive by the
13 Chamber. There is a one-page analysis list. That is Khmer,
14 01359088. That appears to have been translated.

15 There is another one-page document called a "List of preserved
16 remains", which is Khmer, 01361063. That appears to have been
17 translated. And then there is the large study, which is Khmer,
18 01359089 through 01361062. And from that large study, it appears
19 that the introduction or the summary was translated, and the
20 translation stopped when it got to the individual pages the same
21 way as the Choeung Ek study. There is an individual page for each
22 skull that was examined.

23 And the translators did one example of the individual pages but
24 then did not translate all the remaining pages.

25 So that is my understanding of what has -- what has been

1 translated.

2 [09.14.50]

3 JUDGE LAVERGNE:

4 Do the parties confirm their <understanding of what has> been
5 translated?

6 MR. KOPPE:

7 Yes. Thank you, Mr. President, Judge Lavergne. Good morning.

8 Clearly, the request to have admitted into evidence the documents
9 relating to the study for Krang Ta Chan is a valid request. As a
10 matter of fact, I will be asking questions based on these
11 documents to the expert. However, it's a bit unclear to me
12 exactly how many separate documents we have.

13 What we do have is a -- so far, a 17-page translation so far, I
14 think, without any ERNs. I think it's also informal translation
15 of various documents.

16 [09.15.57]

17 There is a translation of the introduction. There's an overview
18 of something that is called "Bones in the criminal centre Krang
19 Ta Chan", but I'm not sure whether that is a separate document.
20 It appears not to be so.

21 Then there's also a document called "An analytical list on the
22 torture and killing markings on the remains from 1 to 1904".

23 And then there is, indeed, one sample translation -- or a
24 translation, rather, of a sample page on one particular cranium
25 or skull, the number 0001. It appears to have the exact same

8

1 format as the descriptions used in the Choeung Ek study.
2 What we found in the library of -- a physical copy this morning
3 is this one book relating to Krang Ta Chan. There are a few parts
4 in it, which I might be referring to as well when questioning the
5 expert, but in general, I think it would make sense to follow the
6 same methodology in describing the various documents as the
7 Chamber has done before in respect of the Choeung Ek documents.
8 But having said that, yes, we agree that all documents should be
9 admitted into evidence.

10 [09.18.07]

11 JUDGE FENZ:

12 May I just clarify, all the documents you mentioned with the
13 possible exception of the last one would be part of what the
14 prosecutor calls the Krang Ta Chan study and what he wants to be
15 admitted into evidence; is that correct? Would that be covered?

16 MR. KOPPE:

17 That could very well be, yes. That -- we're talking the same --
18 about the same thing, but from the translation, it's a bit
19 difficult to establish if it's one separate document, four
20 separate documents or two separate documents.

21 JUDGE FENZ:

22 And the last document you mentioned, the very last one?

23 [09.18.38]

24 MR. KOPPE:

25 Yeah, that's -- well, as a matter of fact, I forgot to mention

1 also the table showing all preserved bones, page 16. In relation
2 to the various documents admitted into evidence, Choeung Ek,
3 these are all separate documents. So again, it would make sense
4 to follow that same procedure. But of course, that's up to the
5 Chamber to decide.

6 But we agree with the request.

7 JUDGE LAVERGNE:

8 Counsel Koppe, over and above the pages that have been
9 translated, can you give us the references of the pages you would
10 like to use which have not been translated, or would you like to
11 do that later?

12 [09.19.40]

13 MR. KOPPE:

14 It might be practical to do that later. We looked for this book
15 yesterday, but the library was closed, so we found it this
16 morning.

17 There is, for instance, reference being made to the DC-Cam
18 mapping project, a document which is on the case file.

19 JUDGE FENZ:

20 Is it admitted or not? I'm confused now, the last one, this book.

21 MR. KOPPE:

22 I believe -- I believe it is on the shared materials drive, a
23 scanned version of it. This is a physical copy of Krang Ta Chan.
24 It seems there's only one --

25 [09.20.16]

10

1 JUDGE FENZ:

2 But that's something additional to the Krang Ta Chan study, so it
3 needs -- it would need to be admitted separately.

4 MR. KOPPE:

5 Not -- well, not necessarily. There is one sample page, the very
6 first description of a cranium, has been translated. It's the
7 same that was done with the volumes from Choeung Ek. The vast --
8 almost all pages are descriptions of the various crania, but
9 there are photos in here as well. And at the back of -- at the
10 end of this book, reference is being made to figures of the
11 DC-Cam mapping project. But that document is on the case file
12 already.

13 MR. PRESIDENT:

14 Counsel Anta Guisse, you have the floor.

15 MS. GUISSSE:

16 Thank you, Mr. President. Good morning. Good morning, everyone.

17 I simply observe that the difficulties we face today result from
18 the mad rush with which that document was examined. In any case,
19 we, the Khieu Samphan defence, would wish that only the parts of
20 the Krang Ta Chan study that have been translated be admitted
21 into evidence. That would limit the difficulties we face and will
22 enable us to know exactly what we are referring to.

23 [09.21.44]

24 Obviously, of course, when we'll have the final version of this
25 courtesy copy <of> the translation, it <will have better

11

1 references> <for the parties> to know which part is relevant.

2 In any case, we would wish that <only> the parts that have been

3 translated be admitted into evidence since they are accessible.

4 They should be made accessible to all the parties given the short

5 time we have.

6 (Judges deliberate)

7 [09.26.11]

8 MR. PRESIDENT:

9 I'd like to hand the floor to Judge Lavergne to issue an oral

10 ruling on this matter.

11 Judge Lavergne, you have the floor.

12 JUDGE LAVERGNE:

13 Thank you, Mr. President.

14 At this stage in deliberation, the Chamber decides to declare

15 admissible the pages of the study regarding Krang Ta Chan, which

16 correspond to the pages that have been translated and which are,

17 therefore, accessible to the parties, that is, the introduction

18 of the study, two tables, as well as a copy of a cranial study.

19 If the Defence or the defence teams would like to use other

20 documents from that study, the request can be made in due course

21 during the proceedings.

22 I hope this is clear enough.

23 MR. PRESIDENT:

24 Counsel Koppe, you have the floor now.

25 [09.27.20]

12

1 QUESTIONING BY MR. KOPPE:

2 Yes. Thank you, Mr. President.

3 Good morning, Mr. Expert. I'm the International Co-Lawyer for
4 Nuon Chea, and I would like to ask you some questions this
5 morning.

6 Just to give you a heads up, I have two main subjects. My first
7 subject is about numbers, total numbers of human remains that
8 were preserved, and my second subject is the determination of the
9 trauma on the various crania, skulls or bones.

10 Yesterday, you confirmed, and we can read it also in the various
11 Choeung Ek documents, that in total 6,426 human remains were
12 preserved. In the documents, we can see that you and your team
13 have described 6,426 crania.

14 [09.28.42]

15 Q. Now, my first question is the following: Before you started
16 your study, you had estimated to find around 7,500 remains, which
17 is -- the number of 6,426 is, therefore, less than you initially,
18 in 2013, projected.

19 Can you explain to the Chamber why you think that was or what
20 your conclusions are in this respect?

21 MR. VOEUN VUTHY:

22 A. Thank you, counsel, for the question.

23 Allow me to clarify the difference in numbers, that is, the
24 number that we obtained after we conducted our forensic analysis.

25 And before I answer your question, allow me to provide you with a

13

1 bit of background.

2 Initially, when we started our research, we studied the context
3 around the crime site. And the first figure that we obtained,
4 that is, when those crania were stored in a wooden stupa, and
5 after 1983, the remains were 8,985. Later on, in 2010, when I
6 went to see the stupa of the remains, and the stupa was made of
7 concrete, I asked the person who managed the area as to the
8 number of remains of the victims, and the estimate was given
9 because there was no clear counting when it started. And I was
10 told the number reduced to 7,500.

11 [09.31.05]

12 That's why we mentioned that figure during our preservation and
13 forensic analysis.

14 Later on, we conducted our forensic analysis. We --

15 JUDGE FENZ:

16 Let's clarify that from the very beginning. If you use a total
17 whatever, please either don't do it or put on record what you are
18 using. Otherwise, it doesn't help.

19 So, for the record, the expert, while testifying, showed a photo
20 which identifies as, and if you now please tell me what the photo
21 showed.

22 Sorry, no. If you -- if you tell me the reference of the photo.

23 [09.32.01]

24 MS. GUISSÉ:

25 Thank you, Mr. President. I'm going to take advantage of this to

14

1 simply ask the expert to really slow down because it's very, very
2 difficult for the interpreters.

3 And I also have that same shortcoming, so -- <I know, I know that
4 it's hard,> but if you could slow down, that would be good for
5 all parties.

6 JUDGE FENZ:

7 So please identify the photo for the record -- for the written
8 record.

9 MR. VOEUN VUTHY:

10 Thank you. My apology that I spoke very fast.

11 Let me continue. The difference in number is because of the fact
12 that when the remains were transferred to the concrete stupa,
13 those remains were counted. Those remains, including the small
14 pieces, were counted.

15 [09.33.07]

16 One cranium <of a victim> was broken into <two or three> pieces,
17 and they counted those pieces together. We, the experts <could
18 not count like that. We>, had to fit the pieces together to make
19 a complete cranium. <It must be 70% to 80% in shape,> then we
20 counted as one.

21 And let me tell you, Mr. Lawyer, when we <> combined the pieces
22 into a cranium, we spent a lot of time doing it. And this
23 document, this photo, was given to you in the electronic email
24 already.

25 As you can see, the large pile, <> which I'm pointing to, could

15

1 only make up of 10 crania <of the victims>. That is why there
2 were differences in number.

3 JUDGE FENZ:

4 This doesn't work. If you refer to a photo, the photo needs to be
5 identified, either page whatever in the study or something.

6 Otherwise, whoever reads the record, doesn't know what you have
7 shown and what you are referring to.

8 [09.34.28]

9 MR. KOPPE:

10 It might be -- no. Maybe he's referring to other photo. Let me
11 not intervene here.

12 MS. GUISSSE:

13 Well, since they were disclosures with references on the shared
14 drive, I'd like to repeat the request that I formulated
15 yesterday, so it might be good to give the elements that we have
16 on the case file with ERNs to the expert so that he may refer to
17 documents that <all the parties have in their possession>.

18 MR. KOPPE:

19 So --

20 MR. PRESIDENT:

21 Sivhoang -- I told the greffiers already about the documents and
22 also, I instructed that the expert should be given the documents
23 with the ERN number and identification numbers, so now please
24 deal with the matter, greffier.

25 (Short pause)

16

1 [09.35.52]

2 MR. PRESIDENT:

3 Please resume your questioning, Counsel.

4 BY MR. KOPPE:

5 Q. Yes. I think I was able to follow the gist of your answer. One
6 follow-up question:

7 Your estimation of 7,500 was, if I understand correctly, based
8 upon the number of 8,985, which was apparently the result of the
9 excavations by Vietnamese authorities between 1981 and 1983. Is
10 that correct?

11 [09.36.55]

12 MR. VOEUN VUTHY:

13 A. The figure of 8,985 is the figure given by the Office of
14 Propaganda and Culture of Phnom Penh. At the time, no other
15 authorities went to excavate or exhume the remains.

16 At the time, there were some individuals went to exhume the
17 remains to find gold and to find clothes so that they could
18 <>make use of them. So my figure was <> based on the figures that
19 existed in the past.

20 Q. So if I'm -- may summarize, in doing the excavations 1981,
21 1983, sources say that 8,985 human remains were recovered. Based
22 on this number, you had an estimate of finding around 7,500
23 crania or human remains. However, at the end of your study in
24 December 2015, you concluded that you had preserved not 7,500
25 but, rather, 6,426 crania.

17

1 Is that a correct summary?

2 MR. LYSAK:

3 Thank you, Your Honour. I heard something different from the
4 witness, so perhaps he can clarify in his answer. I heard him say
5 that he asked for an estimate. When he was asked to do the study,
6 he obtained an estimate of the then number from people at Choeung
7 Ek, not that he came up with that 7,500 number himself, but
8 that's something that he could clarify.

9 [09.39.32]

10 BY MR. KOPPE:

11 That is, indeed, the case, but the subsequent answers -- but
12 maybe that was my interpretation, but let me ask you concretely.
13 Q. Was the number of 7,500 that was given to you in itself based
14 on that original number of 8,985?

15 MR. VOEUN VUTHY:

16 A. Thank you.

17 Before I respond to your question, let me recall of the
18 background. Before the remains were collected <from the mass
19 graves> and <then they were> placed in the wooden stupa, no one
20 conserved those remains. Some remains <> fell down into the mass
21 grave, and some others were eaten by cattle or cows. Some bones
22 were eaten by those cows and cattle. And again, some remains fell
23 <> back into the mass graves.

24 [09.40.52]

25 <The figure of 8,585 (sic) was reduced to 7,500.> The reasons

18

1 that I said there were 7,500 is because that when the stupas were
2 <> newly built in 1987 and '88, that was the time when the
3 remains were counted again, and the number came to 7,500.

4 So the difference in number is because of the fact that, at the
5 beginning, those remains, small pieces, were also counted. And
6 later on, <we put some pieces together and> we could come to a
7 conclusion there were 6,426 remains.

8 Q. I think I understand, but the question, then, is still open
9 about the sources for the conclusion that, during the excavations
10 between 1981 and 1983, 8,985 human remains were found.

11 Let me ask it differently. We have tried to search and to find
12 any underlying document, any corroborating document that would
13 support the conclusion that 8,985 human remains were found in
14 1981 or 1983.

15 Do you have any information about this -- these excavations?

16 [09.42.56]

17 A. Regarding the figure of 8,985, we had the documents and we
18 conducted the research regarding that figure. <First we> went to
19 Tuol Sleng centre to search for the exact figure, and what we
20 could find is that the figure was the result of the addition of
21 the tags shown at the mass graves. <The judge asked me about the
22 page numbers of the document.> I cannot recall which page
23 reflects what I have just explained <that there are 32 books or
24 32 versions>, so there are many pages showing the figure in <> my
25 document. I do not recall which page it is, but I have <all the

19

1 photos which were not> included <into the document; however, we
2 have kept them in the electronic system or database. We did not
3 include them into the book >. <That book is the> inventory book
4 <that> records the analysis and the figure that we have found
5 <from the remains of the victims only. For other evidences, they
6 were collected by the DC-Cam.>

7 We also went to the DC-Cam to conduct the research <there>.
8 <Second>, we make <> the analysis on the photos <from Tuol Sleng
9 prison> that were given to us. <Each tag was identified.>

10 Moreover, I <also> studied <> the film documentaries <that were
11 recorded> at those locations. We examined the mass graves as well
12 <the numbers of the victims>.

13 Some experts asked me about the differences in number, and I was
14 asked why the number is different from time to time. Because of
15 this question, we needed to make the <inventory records because
16 there was no> preservation<, no respect during the civil war.
17 Perhaps my answer is a bit long.>

18 [09.45.27]

19 Q. I understand what you're saying, but, first of all, that
20 doesn't change the fact that there is no underlying source
21 whatsoever to back up that number of 8,985. But not only this,
22 there's also a report from, I believe, a scientist from New
23 Zealand, Nancy Ragano Beavan -- Dr. Beavan, I have to say. She
24 wrote a report. I'm sure you're aware of that report. It's
25 E3/10643, and it's called "Evaluation of the Choeung Ek

20

1 Conservation of Victims at Killing Fields Project".

2 And on page 18, which is English, ERN 01235398; and Khmer,
3 01235461; she says, and let me -- let me quote you -- quote her,
4 sorry:

5 "There is no explanation about the different number of crania
6 reported at different times. Some of the ideas about the
7 difference in the numbers are that animals may have eaten some of
8 the bones while they were in the wooden stupa." End of quote.

9 Do you agree with that conclusion, that, at the end of the day,
10 there is not really any explanation?

11 I'm not sure which part of the question you heard, Mr. Witness.

12 Did you hear the quote from the report I read out to you?

13 A. My apology, counsel. There was a technical glitch in my
14 equipment. I did not hear the whole statement you made.

15 [09.48.09]

16 MR. PRESIDENT:

17 Counsel, please repeat your question, and also the quotes.

18 BY MR. KOPPE:

19 Q. Yes. What I was reading to you, Mr. Expert, is an excerpt from
20 a report of someone I'm sure you are well familiar with, a New
21 Zealand -- New Zealand scientist, Dr. Beavan. And she wrote in
22 her report, E3/10643, on page 18, English, ERN 01235398; and
23 Khmer, 01235462. She said:

24 "There is no explanation about the different number of crania
25 reported at different times. Some of the ideas about the

21

1 difference in the numbers are that animals may have eaten some of
2 the bones while they were in the wooden stupa." End of quote.

3 My question was, would you agree with her conclusion that, at the
4 end of the day, there is not really any good or proper
5 explanation for the difference between 8,985 and the ultimate
6 conclusion in your report of having preserved 6,426 human
7 remains?

8 [09.49.50]

9 MR. VOEUN VUTHY:

10 A. I agree with what you said about the difference in numbers.
11 There is no clear evidence showing the exact number, but let me
12 explain.

13 Nancy, the expert, came to conduct the study on the preservation.
14 She met me and some new staff members and I conducted my study
15 since the beginning <with some people who saw the graves before
16 the dead bodies had decayed, prior the remains being exhumed>. I
17 met Neang Say, <he is still alive,> and conducted the study with
18 him since the beginning when the skulls and remains were exhumed.

19 [09.50.50]

20 <The difference in numbers was because> some bones were eaten by
21 animals, and some fell back into the mass graves. Yes, <> when
22 the remains were removed from the wooden stupa and put in the
23 concrete stupa, we also examined very carefully.

24 <Another fact is that between> 1987 and 1988, there was a group
25 of Vietnamese medical doctors came to examine the remains. They

1 gave the numbers <> to the remains and some figures could arrive
2 at more than 7,500.

3 As I have explained, we have photographed the remains <as
4 evidence> and <how they were counted. There are code K6, K7, V1,
5 etc. Those are the names of the counters.> We have photographed,
6 and if you want to find out the figure, you can go to the
7 electronic mail. You can see <the photos of how the remains were
8 analysed, before the numbers were erased, and then the remains
9 were> cleaned <in order to see> the trauma.

10 [09.52.18]

11 Q. I understand what you're saying. I'm not saying that you are
12 wrong, but support for what you're saying might even be found, in
13 all fairness, in E3/10766, which is an exhaustive list of the
14 preserved remains because that says that 6,426 skulls were found.
15 However, at the same time, you identified or your team has
16 identified, for instance, at number 3, category the humerus, I
17 believe the upper arm, that there are 7,708 right humerus and
18 7,673 left humerus. So that could be an indication that the
19 original estimate might not have been far off if my understanding
20 of anatomy is correct, of course.

21 However, that doesn't change the fact, Mr. Witness, that Nancy
22 Beavan, in her report, also mentioned that, in 1988, Vietnamese
23 forensic workers came to Choeung Ek to clean the bones from the
24 old wooden stupa before they put the bones into the new memorial
25 stupa.

23

1 And again, I'm referring to her report, same page, 18, and this
2 is what intrigues me, Mr. Expert, she says the Vietnamese or the
3 Viet forensic put identification numbers on many of the skulls.
4 The identification numbers, for example, IK4110, IK443 and IK3283
5 are not referenced to any catalogue that has been found. But
6 what's interesting is that those Vietnamese forensic workers only
7 went up to the number of 4,576.

8 Can you explain that the identification of the crania by the
9 Vietnamese in 1988 only went up to 4,576?

10 [09.55.32]

11 A. I have told already that there was the code number used by the
12 Vietnamese medical doctors and that code numbers were large in
13 amount compared to those used by Nancy. She came for just a
14 month, so she did not have time to find out all the code numbers.
15 The <> figure used by Nancy is <> over 4,000. I made the contact
16 with the Vietnamese medical doctors and I asked them why they had
17 to put the code number and why didn't they cleanse everything at
18 the time <and why there was mud on the remains that were cleaned
19 by them>. <We> have <studied> the video clips <made by them. The
20 way they cleaned the remains. And we found out the way they
21 numbered the remains.> Those Vietnamese medical doctors came in a
22 group of three and four. They came to count the bones, not to
23 make the analysis.

24 [09.56.54]

25 <Those> Vietnamese medical doctors came to see if the remains

24

1 were consistent with those who died at Tuol Sleng. <That was
2 their purpose.> They cleansed the bones. They shook the bones to
3 get the dust and dirt out, but some bones still had <a bad smell>
4 at the time. <They did that not for the sake of preservation.
5 There was mud in most parts of the crania. Therefore, the way
6 they put numbers on the remains, from what I found out in the
7 video documents and> documentaries at the Ministry of Fine Arts
8 and Propaganda and Culture <of Kandal province, they said that
9 those> medical doctors came to <count the remains in a short
10 period of time. When they counted the remains that had stench,
11 they washed them. They put the remains in the basket, then put
12 them in the pot of water. Once the bones were cleaned, they dried
13 them> in the sun. After that, they <counted and> put the numbers.
14 And <perhaps> the reason that those medical doctors put the
15 number on the skull is that they were afraid that they would
16 confuse the skulls and bones when they counted those again. <This
17 is the finding from what we studied the way Vietnamese doctors
18 counted the remains.>

19 MR. PRESIDENT:

20 Let me inform the parties that yesterday, I told the greffier to
21 prepare the documents for the expert, but since <the> documents
22 are large in number, so we cannot prepare the documents ready for
23 the expert. Therefore, the Chamber advises parties to use the
24 approaches that they have complied with in the previous times.
25 <If the parties want to refer to or use any documents or photo,>

25

1 they should print the concerned pages of documents and then give
2 them to the expert to get the answer. And also, if possible, they
3 can ask to show those pages of document on the screens.

4 [09.59.09]

5 <In relation to the use of the photos in the earlier session,> I
6 understand that the expert refers to the documents which are
7 <available in the books but> not in the case file for the basis,
8 and I advise that the expert should not use those documents if
9 they are not in the case file. In addition to that, for the clear
10 basis of your evidence, the expert can use the photos, for
11 example. And those photos should be given to the Chamber. After
12 you have shown those photos, the Chamber will then give the
13 number to those photos <for the record of this hearing. These are
14 the solutions>.

15 And now the floor is given back to the Counsel Koppe to resume
16 the questioning.

17 [10.00.07]

18 BY MR. KOPPE:

19 Q. I believe, Mr. Expert, you were referring to Vietnamese
20 documents that are not only on the case file, but seems that
21 nobody knows where they are. But to finish the subject, this
22 report from this New Zealand scientist refers to her conversation
23 with you about the unclarity (sic), and she writes:
24 "This catalogue with the numbers may not exist, or it may be that
25 the catalogue is among lost documents from the time."

26

1 She says: "There's no way to understand what the identification
2 numbers refer to. According to Mr. Voeun Vuthy experience, when
3 each of the crania" -- let me summarize it.

4 She is saying that her information that they only went up to
5 4,576 is based on what you told her, and she writes that the
6 confusion about the number of crania was also cited in papers by
7 foreign researchers like Hughes, Hinton and another one.

8 So she is saying that she talked to you and that it is unclear
9 why it stops at four thousand, five hundred and something, where
10 the catalogue is, how the Vietnamese did it in '88, etc. Is that
11 correct?

12 [10.01.59]

13 MR. VOEUN VUTHY:

14 A. At the time, she came for a fortnight and we had discussions,
15 sometimes we were asked questions, but those questions were not
16 complete and we did not know how she made such a conclusion. For
17 example, she asked about when the crania was cleansed, and then
18 we told her on that day, for example, the highest numbers was
19 over 4,000. So she did not ask about everything within the entire
20 context. She only picked some parts of the context during her
21 visit.

22 In fact, <when> we removed <the remains> from the stupa, <they>
23 were removed shelf by shelf so that this would not interrupt the
24 flow of visitors to the stupa. And sometimes for each shelf,
25 there could be 300 to 400 remains, where other shelves could have

1 700 remains.

2 And when she came to visit in later part of the year, she asked
3 only about that particular number of remains on that day, and I
4 agree with what <I discussed with her.>

5 [10.03.22]

6 And allow me to add, the President said if I want to show any
7 evidence, it shall be part of a book or a document. When we work
8 at Choeung Ek, there is a photo indicating the number of pit, 129
9 pits, and the number of victims, that is, 8,985. And this photo
10 depicts the number of pits and the remains. And this is a copy,
11 and it's not the original, as the original is still maintains at
12 Choeung Ek.

13 And as I said, this photo shows the number of pits as well as the
14 number of remains which was stored at the wooden stupa.

15 JUDGE FENZ:

16 In which case, I suggest to put on the record that this photo
17 will be annexed -- a copy of this photo will be annexed to the
18 record as Annex or Exhibit A. And please, one of the greffiers
19 takes the photo, puts an A on the back and we attach it to the
20 record.

21 [10.04.38]

22 BY MR. KOPPE:

23 Q. My last question about numbers in relation to Choeung Ek, Mr.
24 Expert, not only did you preserve 6,426 crania, in your report,
25 for instance, at E3/10765, you also indicate that a total number

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1 of 63,112 other skeletal elements were preserved. Let me repeat
2 that number, 63,112.

3 Now, as I said before, I am a simple lawyer, and certainly not
4 anyone who has any knowledge of anatomy. But if it's correct what
5 I'm saying, and please correct me if I'm wrong, a human body has
6 206 bones all together. Now, if 6,426 human remains were found,
7 that would lead to, theoretically, a number of bones that should
8 have been found, 1,323,344 bones.

9 Now, if you take --

10 MR. PRESIDENT:

11 Counsel, please repeat the number again.

12 BY MR. KOPPE:

13 Q. Yes, 6,426 times 206 is 1,323,344. That is only 4.77 per cent
14 of all the bones that could have been found, if my calculation is
15 correct.

16 Could you explain why such a small percentage of skeleton remains
17 was only found?

18 [10.07.25]

19 MR. VOEUN VUTHY:

20 A. In fact, it is not 206 bones. As I said, after the forensic
21 analysis and preservation, we found 6,426 remains, and then we
22 also found other skeleton remains, that is, 63,112. And this
23 number is already included in the summary list.

24 As for the discrepancy of the number of bones and the skulls,
25 indeed, each human body composes of various bones. And as I

1 testified yesterday, during the excavation, only large bones and
2 skulls were excavated and the smaller bones, including phalanges,
3 that is, those small finger bones or ribs, and if you refer to
4 the list, you could see that there were only a small number of
5 rib bones. And if you refer to the number of rib bones, it means
6 that the total number of human remains would be small.

7 Later on, the government prohibited any further excavation, and
8 to present, we actually tried to excavate one pit, but we have
9 not obtained the permission yet. So the number of the bones that
10 you mention is different from the number that we have because of
11 this factor.

12 [10.09.11]

13 And we also made the analysis of left and right side of the human
14 remains, and all this figure is included in the list. For
15 example, the thigh -- the right side, that is 6,717. As for the
16 left thigh bones, the figure is only 6,673. So you can see the
17 discrepancy because for each human body, there should be the
18 approximate figures for the left or the right femur, but in fact,
19 we have a discrepancy in the number.

20 Q. Thank you for that explanation, Mr. Witness -- Expert.

21 Now, the underlying assumption of all your work, which you
22 started in 2013, is that the crania and the bones that you found
23 were, in fact, from graves at Choeung Ek. Correct?

24 Just say yes or no. That will speed up things.

25 A. All the bones after the forensic analysis were exhumed from

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1 the pits at various locations within the Choeung Ek crime site.

2 [10.10.50]

3 Q. But that's not correct, is it, because you took the crania
4 from stupa. You didn't take the crania or the -- or the bones
5 from the actual graves. They were already in the stupa; correct?

6 A. Indeed, we took those bones from the stupa. However,
7 yesterday, I testified before this Chamber that those bones had
8 mud stains. Besides the crania cleansed by the Vietnamese medical
9 team, there was still traces of mud, mud from the area. And we
10 actually compared the mud sample as what I testified yesterday.
11 I, myself, did not take those crania from the graves, but we
12 conducted our analysis in order to avoid being lied or cheated by
13 other or who would bring skulls or remains from elsewhere because
14 I, myself, was one of the victims. That's why we had to be very
15 careful in our forensic analysis.

16 And for those remains we took from the stupa, and if you refer to
17 our digital database, we had photographs of those remains or
18 skulls before we washed and after we cleansed them.

19 [10.12.42]

20 Q. But let me give you an example. It's a hypothetical example,
21 so I am not saying it is -- it's true at all. But let's presume
22 the following.

23 If Vietnamese communist troops were involved in executions before
24 1975 of Lon Nol soldiers and they buried all the bodies from
25 these Lon Nol soldiers in one particular mass gravesite, then in

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1 1980 or '81, they excavated those skulls and remains and
2 subsequently added them to the skulls and remains that they found
3 at Choeung Ek.

4 Now, is that something that your study could preclude?

5 MR. LYSAK:

6 The question is objectionable. I'm not -- counsel can put
7 hypotheticals to the expert witness, but they have to have some
8 basis in reality. There's absolutely no basis to put to this
9 expert that Vietnamese people killed Lon Nol soldiers before 1975
10 and put them in Choeung Ek. It's absurd.

11 So he can put hypotheticals, but they have to have some basis in
12 reality.

13 [10.14.28]

14 BY MR. KOPPE:

15 I didn't say that executions took place. I said it was a
16 hypothetical example. Mass graves, not at Choeung Ek, but
17 somewhere else, before '75.

18 Q. My only question is, could the study that you did preclude the
19 possibility that Vietnamese authorities added skulls or bones
20 from wherever to Choeung Ek? You said yourself this is an issue
21 of great concern for yourself as well, so my question is, can you
22 scientifically exclude that possibility and, if yes, how?

23 MR. VOEUN VUTHY:

24 A. Thank you.

25 In order to clarify the matter once and for all, our team was

1 even more careful than you because Choeung Ek Centre was a former
2 gravesite for Chinese. The Chinese Association has their
3 gravesite there, and that's brought into our careful attention.

4 [10.15.50]

5 And in your hypothesis that if people were killed outside and
6 then the bones were included, then the question that you would
7 ask me, how would I know. And our analysis was based on the
8 formula, not just something of fantasy.

9 Regarding a human remains yesterday regarding a person without
10 any torturing -- without traces of torture or mark, we actually
11 invited an expert from outside to analyze why there was no such
12 mark on that skeletal remain.

13 As for the remains of all victims during the Khmer Rouge regime,
14 they had marks or wounds, that is, marks of being killed and
15 marks of being tortured. In particular, at Choeung Ek Centre, the
16 majority of the remains of the victims, they were killed as a
17 result of being hit at the base of the neck. And in order to
18 ensure that the victims would be dead, then they would hit the
19 victims somewhere else, namely, by slitting the throat.

20 [10.17.18]

21 And that after the victims were killed, they slit the throats of
22 the victims as well. Initially, we did not believe that. Then we
23 called Him Huy to ask whether such events took place, and Him Huy
24 confirmed that, after the victims were killed, in order to ensure
25 that they were really dead, then their throats were slit and the

1 clothes were removed.

2 And that is the evidence that no other corpses could be brought
3 in from outside.

4 And you may ask me if the people would be killed and their
5 throats slit from outside and were brought in. Then we could also
6 analyze that, whether those were newly marked.

7 Q. To follow up issues, if I may, Mr. President, first of all,
8 you haven't answered the question as to how we can verify these
9 chemical results from the earth.

10 But my question was not only prompted by mere fantasy, as the
11 Prosecution seems to indicate; it's also prompted by something I
12 read in one of your documents, E3/10765 because, in that
13 document, you describe the various forms of violent trauma that
14 was discovered.

15 [10.18.53]

16 And under point 8 and point 9, you write that there were 1,686
17 marks of shooting with bullets and cleaning rod of rifles, and
18 point 9, 990 marks of piercing with bayonets.

19 Now, you spoke to Him Huy. You just mentioned him. He never
20 mentions anything about killing at Choeung Ek through gunfire or
21 bayonets, nor does Tay Teng, who was the person who actually did
22 the killing and who testified here.

23 So my question remains how can you scientifically, based on
24 chemistry analysis of the ground, that skulls or bones were not
25 added either by the Vietnamese or somehow belonged, in fact, to

1 the Chinese burial site?

2 [10.20.12]

3 MR. LYSAK:

4 Mr. President, I'd ask that counsel ask clear questions here. He
5 started this very long question by saying that the witness hadn't
6 answered his prior question.

7 His prior question wasn't at all asking the witness to explain
8 this testing -- the process for testing the mud samples. That's
9 not what he asked at all. He's never even asked the witness that,
10 so he shouldn't be saying you didn't ask that.

11 If he wants to ask the witness to explain how they analyzed the
12 mud samples, that's a very simple question. If he wants an
13 explanation of the number given that is not just shootings, but
14 is also -- references evidence of the use of cleaning rods of
15 rifles, he should ask him for an explanation of that. But he
16 shouldn't throw this all up and then put to him some conspiracy
17 question about the Vietnamese.

18 He should ask clear, simple questions to this witness.

19 [10.21.16]

20 MR. KOPPE:

21 In itself, I agree with the Prosecution. However, in your wisdom,
22 Mr. President, you've decided to only allot one and a half
23 session to us, so the question is a bit convoluted. I agree. But
24 in the time that I have, I try to be as efficient as possible.

25 JUDGE FENZ:

35

1 That doesn't help, necessarily, with the results.

2 MR. KOPPE:

3 True. Certainly not with these objections. But I have no problem
4 in breaking it down, and maybe we should do that after the break,
5 Mr. President.

6 MR. PRESIDENT:

7 It is now convenient time for a short break. The Chamber will
8 take a break now and resume at 20 <past> 11 a.m. (sic).

9 The Court is now in recess.

10 (Court recesses from 1022H to 1040H)

11 MR. PRESIDENT:

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

13 You may proceed first, Anta Guisse.

14 MS. GUISSSE:

15 Yes. Thank you, Mr. President.

16 I am rising on my feet right now because I just spoke with my
17 colleague from the Nuon Chea team, and we came to the same
18 conclusion, that is to say, that there's going to be a problem in
19 terms of time to examine the expert.

20 I'd like to specify first that I had requested yesterday for the
21 expert to be heard on Krang Ta Chan later only. The Chamber
22 <partially> rejected this request, <explaining that we adjourned
23 yesterday.> <Yet>, however, the initial scheduling of the expert
24 was designed without expecting this new report. And I see now how
25 the examination is unfolding and the fact that we might have also

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1 lost time in the discussions. But I see that there's going to be
2 a real problem regarding the sharing of time, in any case, with
3 regard to the defence teams.

4 And we deem that we will need an extra session for all defence
5 teams, so as of now, I'm requesting the Chamber to take into
6 consideration --

7 [10.42.00]

8 JUDGE FENZ:

9 It was a bit unclear in English.

10 One session for both or one session each?

11 MS. GUISSÉ:

12 One session for both, at least, so I'm making the request as of
13 now because we see how the proceedings are unfolding <very
14 slowly> and we see that <little by little> there are many points
15 are being raised. And based on the answers we obtained this
16 morning, there are other points that the defence team wishes to
17 deepen, in particular in our team, so I would like to make this
18 request as of now so that the Chamber may consider it as of now,
19 too.

20 [10.42.56]

21 MR. LYSAK:

22 Mr. President, we have no objection to that if it's possible to
23 do with the witness' schedule.

24 This is obviously, I think, important evidence. I don't know
25 about his availability should you wish to extend him for half a

1 day tomorrow.

2 My understanding from my colleagues is the witness who's going to
3 testify by video, I know that's something that's set up. We won't
4 have a lot of questions, so that's someone who we expect can be
5 done fairly briefly, but if the Chamber is able to find
6 additional time for this expert, we would have no objection.

7 JUDGE FENZ:

8 But you're not asking for the same extra time, or I'm not quite
9 clear now.

10 [10.43.46]

11 MR. LYSAK:

12 I'm not sure. I don't think I need additional time, but I have no
13 objection to them having an additional session.

14 I'm not saying that I might not need time, but I don't anticipate
15 at this time that I can't do my questioning in two sessions.

16 MR. KOPPE:

17 Mr. Expert, before the break I asked you a very long and
18 complicated question --

19 MR. PRESIDENT:

20 Please hold on, counsel.

21 And Lead Co-Lawyers for civil parties, you have any thinking
22 about time?

23 [10.44.28]

24 MS. GUIRAUD:

25 Thank you, Mr. President.

1 No specific objections to the request of the Defence to have an
2 extra session, and I share the Co-Prosecutors remarks a priori.
3 We would not need extra time as well.

4 MR. PRESIDENT:

5 Mr. Vooun Vuthy, the issue before us here is that you have very
6 tight schedule appearing before the Chamber. And now the question
7 to you is that if the hearing of your testimony goes into
8 tomorrow and if the hearing <> continues up until 10.00 a.m.
9 tomorrow, is that possible for you?

10 MR. VOEUN VUTHY:

11 Tomorrow I will have a meeting at the Environment Ministry. I do
12 not have time for tomorrow morning. <I am available this
13 afternoon.>

14 <>I cannot cancel my schedule <because it is the
15 Inter-Ministerial Meeting>. But I can testify today, the whole
16 day.

17 And for all parties, please put one question at a time. If you
18 put many questions at the same time, I will not get all your
19 questions.

20 [10.46.17]

21 MR. PRESIDENT:

22 And what about the first or second week of January starting from
23 4th of January?

24 Again, what about <>the second week of January? We need you only
25 one session.

1 Are you available?

2 MR. VOEUN VUTHY:

3 I have a tight schedule for the first week of January, but I am
4 available for the second week of January.

5 MR. PRESIDENT:

6 Thank you very much for the information.

7 Judge Lavergne, you may now proceed.

8 [10.47.04]

9 JUDGE LAVERGNE:

10 I apologize for interrupting, but can you tell us if, by chance,
11 you would be available on Friday?

12 MR. VOEUN VUTHY:

13 I will go to Prey Veng on Friday <because I have an appointment
14 with the provincial authority.> That is the urgent task that I
15 have to carry out. I need to go to Prey Veng on the <>16, 17,
16 <18> and 19 because one historical <evidence> is gone. I need to
17 go there and carry out the task.

18 (Judges deliberate)

19 [10.49.35]

20 MR. PRESIDENT:

21 One session is added for the two defence teams.

22 Koppe, you may now resume your questioning.

23 BY MR. KOPPE:

24 Thank you, Mr. President.

25 Q. Mr. Expert, I will reformulate my questions into very short

1 questions.

2 Let me do the following. Let me refer you to one sample -- one
3 particular cranium that you investigated.

4 That's the example, Mr. President, the translation -- where a
5 translation is off, E3/10646; English, ERN 01240562; and Khmer,
6 01240564.

7 Now, this, Mr. Witness, is number 6,201. This is a female between
8 20 and 34 years old. You described other details of the skull
9 measurement, etc., and in the part that says, "Overview", you say
10 the following:

11 "A chemical substance stained the cranium, and mud and dirt
12 stained the outer and inner skull, and insects ate its surface."
13 Now, let me concentrate on mud and dirt that was found on this
14 particular skull.

15 How can I verify that the mud and dirt that was stained on this
16 skull is from a victim of a killing in 1977 or '78 and not the
17 skull belonging to someone who was buried at the Chinese
18 graveyard?

19 [10.52.20]

20 MR. VOEUN VUTHY:

21 A. For the analysis of mud and dirt <is completely different>, I
22 am the archaeologist. The dirt usually is on the skull.

23 I would like to go back a little bit to the book that I gave to
24 the Chamber. That is the inventory book. It is not the evidence
25 book to reflect everything. We are now mobilizing. We are now

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1 doing the fundraising for having the evidence book collected and
2 published. <The conservation project could only compile an
3 inventory book.>
4 <To the counsel's question,> the mud and dirt <> are two
5 different things. <For example, this is the photo of> the skulls
6 <which were> placed in the wooden stupa. <There were no> proper
7 covers, so usually there is dirt on skulls. There's dust on
8 skulls <which can be cleaned by just wiping it by our hand.> But
9 for mud, <there are some black marks on this photo. They are> the
10 mud <that sticks to the bones> and we cannot clean it with our
11 simple hand; we need water to clean it. <There is a special way
12 to clean it.> Dust usually is on the surface of the skull and for
13 mud, usually it firmly <> stays on the <bones>.

14 [10.54.12]

15 MR. PRESIDENT:

16 So <these two photos that you showed> to the Chamber will be
17 placed in the evidences and <Mr. Expert,> please also use the
18 serial number for it and <you already used Exhibit A, and now
19 please put> B and C <>.

20 BY MR. KOPPE:

21 Q. Mr. Expert, I'm not sure if you answered my question. My
22 question is: How can we verify that cranium 6,201 was, in fact, a
23 victim of a 1977 or 1978 execution at Choeng Ek?

24 MR. VOEUN VUTHY:

25 A. I do not really understand your question; could you repeat it,

1 simple and short one?

2 Q. You spoke about chemical analysis of the mud or dust on the
3 skull. My question is: How did your team verify that that skull
4 with that mud was, in fact, coming from a gravesite at Choeung
5 Ek?

6 [10.55.56]

7 A. Lawyer, <> the dust usually appears on the skulls <when the
8 remains were put on the wooden stupa or concrete stupa without>
9 proper cover on the skulls.

10 And you want to know how could we verify whether the skull
11 belongs to the victim of the Khmer Rouge. Yesterday, I informed
12 the Chamber, already, that we analyzed the components of the
13 sample <carefully>, so usually we have the different points of
14 analysis or criteria. For instant, we would know the gravesites,
15 where exactly they were, <the elements in the gravesites> and
16 usually we have analyzed the components from different
17 gravesites. <I do not want to go into details about the analysing
18 technique of those samples. I would like to inform you about the>
19 mud on <on each remain, it> came from the graveyard. At Choeung
20 Ek, usually there was rain, so the mud there is different from
21 that of different places, so we <were> very careful. The mud at
22 Choeung Ek usually consisted of <mixed sticky soil>.

23 [10.57.50]

24 Q. Mr. Expert, I do not doubt that you and your team were
25 careful. I am trying to find out how you excluded the possibility

1 that the skulls were either coming from the Chinese graveyard or
2 from another mass execution site altogether; how did you
3 scientifically exclude that?

4 A. We have three points of criteria. <First,> the marks of
5 killings. So the Chinese remains do not consist of marks or
6 traces of killings.

7 And <the second criterion is> the mud on the remains, <on the
8 skulls and other parts of the bones> and number 2, we <analysed
9 what happened at the same time i.e. to> compare the traces and
10 the periods that those remains died. For instant, <> the Chinese
11 body was buried within a proper coffin and a well-build concrete
12 hole, so <the mud and water could not get into the bones,> the
13 bones were white and clean. When we cut the bone, there's no dirt
14 or dust within that bone.

15 [10.59.54]

16 Q. Let me try it differently and then I think I'll move away. You
17 and your team arrived 34 years after the crime was committed. You
18 weren't, yourself, involved in the excavation; you just found the
19 skulls in the stupa. You have no idea how they ended up in the
20 stupa because you weren't there.

21 My question again is: Where can I verify the chemical analysis
22 that allows you to conclude that this specific female, number
23 6,201, was, in fact, executed at Choeung Ek in '77 or '78?

24 MR. LYSAK:

25 Mr. President, my objection. We've heard the same question now a

1 number of times, let him rephrase it.

2 The witness has answered this question many times; he's given the
3 very specifics as to the basis for the conclusion and how they
4 determined that these were people that came from Choeung Ek and
5 Counsel just doesn't want to accept it, so he keeps asking the
6 same question and adding in his own arguments on top of it.

7 So this is a repetitive question. It's been asked and answered
8 many times.

9 [11.01.34]

10 BY MR. KOPPE:

11 I believe this is forensic pathology 101, Mr. President. I'm just
12 trying to establish the chain of custody. It's not disputed that
13 the witness wasn't -- or the expert wasn't involved in the
14 excavation; he just came in 2013 and saw those skulls. He says
15 there was a verification of mud that was attached to those
16 skulls. That is true, but I don't read it anywhere.

17 Q. So my question again is: How do we know, in this very specific
18 case -- and I think that's a very valid question -- that this
19 particular female was, in fact, executed in Choeung Ek and wasn't
20 someone who was buried at the Chinese graveyard or the victim of
21 another execution?

22 [11.02.41]

23 MR. VOEUN VUTHY:

24 A. I actually responded to your question once. We relied on three
25 points: First, that is the mark of the killing; second, what was

1 attached to the bones, including mud, and <earlier I gave an
2 example> if there were Chinese bodies at the grave, <> we could
3 analyze whether <> there was any mud attached to the Chinese
4 remain, but there wasn't. And I hope <> the counsel understand;
5 if the bones were soaked in the water, the bone would be
6 different from the bones on dry land.

7 We did further than that. We cut open part of the bones that we
8 have and we actually looked through the microscope and I actually
9 have some photos to show you, but because of the number of
10 photos; I can show them to you later. We actually enlarged each
11 cranium in order to see those small holes where the mud retains
12 itself there before we made our conclusion.

13 [11.04.07]

14 MR. PRESIDENT:

15 Counsel, you should move on and please avoid repetitive questions
16 and that would mean that it conforms to the extension of time
17 that you requested as well.

18 BY MR. KOPPE:

19 Fine, we will draw our own conclusions later, Mr. President.

20 Q. But let me refer to what I also addressed before the break,
21 E3/10765; that is to -- that's a -- another report from you. It
22 says that you analyzed those 6,426 human remains and under point
23 8 and 9 of that document, you said that you identified 1,686
24 marks of shooting with bullets and cleaning rod of rifles and
25 also 990 marks of piercing with bayonets.

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1 You indicated yesterday, already, you spoke to Him Huy; is it
2 correct that in your conversation with him, Him Huy never
3 mentioned anything about people being shot with bullets or being
4 pierced with bayonets?

5 [11.05.56]

6 MR. VOEUN VUTHY:

7 A. The figures are based on our individual analysis and we
8 actually interviewed Him Huy, who still said that victims were
9 not killed with rifles; mostly, they were hit with clubs.

10 Let me show you one photo; this is a marked of a bullet. And
11 another photo that I'd like to show -- and I cannot find it, but
12 we have many photos that we maintained in our electronic database
13 and as I said, if there is an opportunity, we will produce <>
14 another book speaking about the evidence and our analysis.

15 It has been almost two years, so far, but we could not obtain the
16 funding for its publication and these photos are from those
17 database.

18 And <> in your question, <Mr. Him Huy> said that victims were not
19 pierced with bayonets, but I have many photos, in particular, the
20 annexes at the back; you would see --

21 [11.07.28]

22 MR. PRESIDENT:

23 Please hold on.

24 MR. KOPPE:

25 That that might be a --

1 JUDGE FENZ:

2 Just want to put on the record that the photo he has now
3 repeatedly been referring to will be annexed as Exhibit B, I
4 believe.

5 BY MR. KOPPE:

6 I did mention 990 marks of piercing with bayonets, but again, Him
7 Huy also, in this courtroom, never testified to having seen
8 executions by rifles or guns; neither has Tay Teng, who testified
9 in this Court, who was the actual executioner.

10 Q. So my question is the following: How can you explain, in the
11 light of their testimony, that you have identified 1,686 marks of
12 shooting with bullets?

13 [11.08.40]

14 MR. VOEUN VUTHY:

15 A. Just that I showed you a photograph illustrating the bullet
16 mark and we could even identify the type of <> the bullet that
17 was used, but I do not want to delve into details. And these are
18 the evidences showing that the skull was pierced with a bullet.
19 And this photo illustrating the skull was pierced with a bayonet,
20 before the victim was killed, since the wound remains there for
21 two to three weeks before the victim died. <This is the evidence
22 that I would like to present to the Chamber.>

23 Q. Let me move away, but just to understand, are your conclusions
24 that 1,686 crania showed signs of bullet penetration?

25 [11.09.53]

1 MR. LYSAK:

2 Mr. President, just an objection because the number in here is
3 not just a bullet shootings; it also includes the use of cleaning
4 rods of rifles and there's an actual photograph of that, so
5 counsel should -- needs to clarify with his question here.

6 BY MR. KOPPE:

7 No problem, I'll be specific.

8 Q. Mr. Expert, is it correct that 1,686 crania showed marks of
9 shooting with bullets and cleaning rod of rifles?

10 [11.10.41]

11 MR. VOEUN VUTHY:

12 A. Yes, that is the figure. We examined it and re-examined it and
13 you may refer to the 32 inventory <books> that we have. But I
14 cannot remember the different figures due to the number of over
15 6,000, but you may refer to the inventory <books> and it will
16 indicate each number and that would consistent with the total
17 numbers that I <told the Chamber.>

18 As for the <> mark of piercing with cleaning rod, we actually
19 have a photograph in the <appendix of the> inventory <books>.

20 MR. PRESIDENT:

21 These photos that you showed <the Chamber> would be annexed and
22 Mr. Expert, you may also write down the exhibition number on
23 these photos. It's a bit difficult to prepare in advance, so
24 please write down the continuous number of the exhibition.

25 [11.11.55]

1 BY MR. KOPPE:

2 Q. Let me move to the issue of trauma detected on the crania or
3 the bones and let me make it concrete because I think that will
4 be easier; again, this very same example, E3/10646, female,
5 number 6201.

6 You describe cracks in the skull of this particular individual.
7 For instance, you say, "First crack 13 centimetres; crack in the
8 right skull, hit with a hard object" and a bit down, you repeat
9 this, "A hard object broke the bone"; that I can follow. But in
10 that same description of this particular individual, you say,
11 "This victim was found to be brutally tortured before being
12 killed." Now, that is something I don't understand. I understand
13 the killing by a hard object on the skull, but what I don't
14 understand is why the conclusion is here that this victim was
15 found to be "brutally tortured before being killed".

16 Can you enlighten us, please?

17 [11.13.45]

18 MR. VOEUN VUTHY:

19 A. Because I do not have the inventory list with me, please refer
20 to it and you refer to the photos indicating the evidence, that
21 is, how the victim was pushed against an object and it is on the
22 second column in the description and which shows the evidence
23 there, how many times the victim was pushed against an object,
24 for example, or whether the person was tortured several times
25 before the person was killed.

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1 Due to the large volumes of the documents, I cannot bring
2 everything with me, but please refer to the inventory list that I
3 mentioned a while ago.

4 Q. Let me try differently. I believe the -- that the correct
5 forensic term is "blunt force trauma"; the expert referred to --
6 the New Zealand expert refers to it on page 20 of her report.
7 This particular individual seems to have been the victim of blunt
8 force trauma; a hard object hit at her; presumably, leading to
9 her death.

10 But my question is: How are you able to establish, in general,
11 but also, in particular, that this person was also tortured? That
12 -- that's something I just don't follow.

13 [11.15.24]

14 JUDGE FENZ:

15 If you -- I think if you want a particular answer, perhaps,
16 really either show him because I don't think he knows which case
17 you are talking about.

18 BY MR. KOPPE:

19 Q. Can you, Mr. Expert, have a look; I'm not sure you have it
20 with you, but we only have a translation of the description of a
21 female, 6,201. What I can do is I can read it to you.

22 "The skull show four cracks; one of 13 centimetre, one of 9, one
23 of 6 centimetre, and one of two-and-a-half" And all cracks, you
24 -- it said, are caused by a hard object.

25 Now, this is what it says: "After the analysis and based on the

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1 evidence of the cracks in the skull, for example, the first crack
2 in the right skull; hit with a hard object, breaking the bone,
3 the second crack in the left skull; hit with a hard object,
4 breaking the bone, the third crack in the forehead; hit with a
5 hard object, breaking the bone, and the fourth crack in the right
6 skull line; hit with a hard object, breaking the bone. This
7 victim was found to be brutally tortured before being killed."
8 Why is the conclusion that this person was brutally tortured
9 before she was killed and not that, in fact, the death was the
10 result of those four blows?

11 [11.17.25]

12 MR. VOEUN VUTHY:

13 A. Thank you. For every analysis of mark of killing or torture,
14 we relied solely on the technical aspect. Since I do not have the
15 evidence of this victim with me and I don't have the documents
16 that you refer to in front of me, I can give you another example.

17 MR. PRESIDENT:

18 Please hold on.

19 Court officer, please take the document from the counsel to the
20 expert.

21 And please, as I stated this morning, before you refer to a
22 document, please indicate the document and <> hand a copy to the
23 expert.

24 [11.18.21]

25 JUDGE FENZ:

1 May I just make a suggestion in order not to get caught up in
2 language?

3 The question: Witness -- Witness, could you listen? Witness, not
4 easy to get your attention. Okay.

5 Witness, if a person is hit four times on the head with a blunt
6 object, do you call this torture?

7 MR. VOEUN VUTHY:

8 Because of the trauma on the skull; although the depth was
9 shallow and we could only see the dent, it means that the victim
10 did not die straight away. This is my short answer. And if the
11 victim was hit and died <immediately>, you could see the hole on
12 the skull.

13 JUDGE FENZ:

14 So if I understand you correctly, your analysis is that those
15 fractions came at a different time; did I understand that
16 correctly or not? Not all four blows were dealt at the same time
17 or is this not what you are saying?

18 [11.20.00]

19 MR. VOEUN VUTHY:

20 Please see the third mark, that is, the third crack. You could
21 see this side was hit and it could means a serious hit, but the
22 person did not yet die.

23 And when I see this photo, it jogs my memory that another
24 important aspect is that when the victim was hit and there was an
25 internal bleeding, the blood would seep through the bone and that

1 makes the victim sick or the blood could go through to the brain.
2 Since this is a black and white photocopy, if you see it in
3 colour; you could see the image is a bit darker in colour.

4 JUDGE FENZ:

5 To sum up, the reason you called it torture in this case was
6 because the witness (sic) didn't die immediately after the blows
7 were -- after the blows were executed, but suffered for a longer
8 period of time; is this the reason why you called it torture?

9 [11.21.44]

10 MR. VOEUN VUTHY:

11 What Madam Judge says is correct. The victim suffered quite a
12 long time and that's why I conclude that the victim was tortured
13 because when the victim was killed immediately, the blood would
14 not remain there and the area became darker. The interaction for
15 the changing in colour only happened after three to five days.
16 And I might also be asked why this victim died. We could not say
17 that the person died because there were blows on the skull. This
18 is only an analysis on the cranium or the person could be hit on
19 different parts of the body, for example, on the neck, but our
20 analysis only focus on the analysis of the cranium. So and it led
21 to the conclusion the person was tortured before the person died.

22 [11.22.53]

23 MR. PRESIDENT:

24 Regarding the document that you handed to the expert, Counsel, do
25 you have the document number or the ERN number of that document?

1 BY MR. KOPPE:

2 Yes, that is the Khmer equivalent of E3/10646 and the Khmer is
3 01240564.

4 Q. But let me -- let me follow up, Mr. Expert. Aside from the
5 question whether these conclusions are within your expertise, as
6 an archaeologist, let me read to you something that Dr. Nancy
7 Beavan said or wrote in her report, E3/10643. This is in her
8 executive summary on page -- English page 5, on the top; English,
9 ERN 01235385,;in Khmer, 01235440. This is what she said and let
10 me read it to you:

11 "It was important that the evidence of trauma was recorded before
12 the cleaning and consolidation because the method of the work to
13 clean and consolidate could have produced markings that could be
14 mistaken for evidence of trauma." End of quote.

15 Let me first ask you: Do you agree with this?

16 [11.24.51]

17 MR. VOEUN VUTHY:

18 A. Yes, that is correct. That's fine for the utilization of our
19 tools. In the laboratory, we had to be very, very careful with
20 them. We could not use tools that would introduce new marks on
21 the remains.

22 Q. Now, if -- you have to be very careful in your work method
23 because that already could lead to markings that could be
24 mistaken for evidence, isn't it correct that skulls that have
25 been lying there for 34 years at least, since you came, could

1 have all signs of trauma not caused by the actual killing?

2 [11.25.54]

3 A. That is correct. Our research and analysis over these 6,426
4 remains, we found marks which <were> not the marks of the killing
5 and we excluded those marks. Let me give you an example; when
6 people exhumed the remains, those marks were new and we excluded
7 them or separated them from the marks on the remains and we did
8 not count those new marks.

9 Q. And I understand. Is it correct when I say that you -- that
10 one can identify marks which were produced; in Latin, ante mortem
11 -- before death, peri mortem -- during the death, and post mortem
12 -- after the death; is that correct?

13 A. Yes, that is correct. Let me show you an example. This is a
14 photo of a victim before the victim died. These marks were before
15 the victim <died. In Khmer it is called bone wounded> and you
16 could see this wound was partly healing <before the person died>
17 and it took <at least> two weeks for the victim to have this
18 wound before the victim died. So the <> evidence of the killing
19 <and torture> was different.

20 [11.27.50]

21 Q. Now, let me focus, first, on signs of ante mortem -- before
22 death. If I have a look at your report, E3/10765; English, ERN
23 01336753 -- I will present the Khmer ERNs shortly, Mr. President
24 -- under mark 12, I read, "As a mark of torture being inflicted;
25 1,630 marks of slamming against hard stuff, could be walls or

1 concrete floors."

2 My question, Mr. Expert is: How did you determine that those
3 marks were the result of torture; why not somebody had fallen in
4 completely different circumstances and still had that mark? Can
5 you expand; can you explain why these signs must necessarily be
6 the result of some form of torture?

7 A. Thank you. In relation to marks under number 12 and indicates
8 that there were 1,631 marks, they were marks of slamming against
9 a hard surface and that leads to the different colour of the
10 bones. The bones become darker if <we> enlarged it.

11 [11.30.00]

12 And you might ask <> if the person fell down elsewhere and why
13 could I say it <was> torture; in fact, we examined it and
14 re-examined the condition or the status of the victim. Before the
15 victim was arrested and detained at Tuol Sleng, we asked Him Huy
16 how long would the person be detained before the person was
17 killed and he said the shortest period was for two to three weeks
18 if the prisoner wasn't involved in any ongoing investigation. So
19 some victims would be detained for three months, while other
20 would be detained for a year or two before the person would be
21 killed.

22 If the person fell down while under detention, we would say that
23 that is a form of torture. If the person had freedom, the person
24 would not <> fall down; that would be fall down elsewhere or in
25 the rice field and would not have this crack in the skull.

1 MR. PRESIDENT:

2 Mr. Expert, regarding the photos that you have shown in your
3 response, please annex <them> into the transcript of the record
4 and put <> the serial numbers of the exhibition from the previous
5 exhibitions<>.

6 [11.31.41]

7 BY MR. KOPPE:

8 Q. But Mr. Expert, presumably, many of these victims had been
9 soldiers engaged in heavy combat and all kinds of other
10 activities; isn't it true that you are speculating, now, that
11 marks of slamming against hard stuff is the result of torture?
12 Aren't there, in fact, many other reasons or causes for such
13 trauma?

14 MR. VOEUN VUTHY:

15 A. In reference to our conclusion, it is a conclusion based on
16 evidence. And allow me to clarify the matter to you, Counsel; we
17 had a separate committee who would come to review our work on a
18 monthly basis, whether our analysis is consistent, so it was not
19 only our group of 16 crew members who could freely made our
20 personal analysis, but there were <two or three> different <>
21 committees who came to have their monthly inspection.
22 And the committee members sent the information to the government,
23 that is, to the municipality, then they invited another expert;
24 it's Nancy Beavan, who, subsequently, produced the book, and that
25 is to avoid any mistake and confusion. And that is the result why

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1 <an expert from> New Zealand was brought in rather than a Khmer
2 citizen, so that the standard would be internationalized. So our
3 work <had been> examined <> four <times before it was finalised>.
4 [11.33.41]

5 MR. PRESIDENT:

6 Counsel, please try to avoid using any word to means speculation
7 by an expert; you may refer to the conclusion made by the expert,
8 not as speculation made by the expert.

9 JUDGE FENZ:

10 One question which pertains to what counsel just asked. He was
11 mentioning slamming marks meaning marks left on the body
12 attributed to slamming against a hard object. Now, is it possible
13 to determine how long before death these slamming marks occurred?
14 Is it possible to say that it was two weeks before his death or
15 two years before his death or is it not possible or does it
16 depend on the case?

17 [11.34.55]

18 MR. VOEUN VUTHY:

19 This is an interesting question because <> I have been asked this
20 question on several occasions. Allow me to clarify; there are
21 different kinds of marks, for example, the marks that happened or
22 appeared before the person was killed and what was its status.
23 This is a mark of being pierced with a bayonet and that happened
24 before the person died and if you look at the bone here, you
25 could see wounds. So you could see wounds on those bones and that

1 could mean that <> it had happened before the person died.
2 And to answer your question, I cannot respond to you. <For> your
3 question, <we> need another expert <> on <the analysis of the>
4 sickness of bones. In this book, it indicates about the analysis
5 of the types of sickness of the bones and <we> need that kind of
6 <analysis in order> to answer your question.

7 JUDGE FENZ:

8 So to summarize, you are in no -- you, personally, are in -- are
9 in no position and not able to say how long before the death of a
10 person slamming marks occurred; this is correct; we would need
11 other experts for that?

12 [11.36.59]

13 MR. VOEUN VUTHY:

14 Yes, that is correct. For our team, we only analyzed the marks of
15 torture and the marks of killing. As for the duration of the
16 torture or wounds before the person died, we did not have the
17 ability or the appropriate laboratory to conduct such analysis.
18 We try to find prehistoric remains; for example, the remains that
19 was 2,500 year ago, we did not have the ability to do it; we had
20 to send it to South America or to France or to Australia for the
21 analysis since we did not have the proper laboratory to make such
22 analysis here because the equipment is very expensive.

23 [11.37.55]

24 BY MR. KOPPE:

25 Q. Mr. Expert, let me ask you a very concrete example. In that

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1 same document about torture-inflicted marks, under number 15, you
2 indicate 11 marks from steel support head of the photo chair.
3 Now, my question is: Is that something that you concluded on the
4 basis of the examination of the cranium or is that something that
5 you wrote down because you knew, either because of Him Huy
6 telling you or you having visited Tuol Sleng, that such a photo
7 chair existed?

8 MR. VOEUN VUTHY:

9 A. Regarding the 11 marks, we made our analysis, and we actually
10 measured the steel support head of the photo at Tuol Sleng and we
11 compared it to the marks on the back skull of the victims. So we
12 actually analyzed the size and the impacts that led to the dent
13 on the skull and whether the size of the mark matches the steel
14 support head of the <chair for taking> photos <>.

15 [11.39.31]

16 Q. That's very interesting. But what about the tools that you
17 said were used? In your report, that is, E3/10647; English, ERN
18 01240474; and Khmer, 01240479; we see an overview of all weapons
19 or - or, tools being used in the killing. We see, for instance, a
20 bamboo stick; we see a photo of a wooden stick; we see a photo of
21 a bayonet, a knife, etc. My question is: Where are these tools
22 coming from; where did you find these tools that were used for
23 the killing?

24 A. The answer is simple and as I just explained to you about the
25 mark of the steel support head <for taking photos>, these tools

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1 were reconstructed in order to see whether they matched the
2 <dent> on the skull. For example, this photo, which exist as the
3 annex at the back of the book, whether the mark here is
4 consistence with the blow <> by the back of the hoe, so we made
5 the comparison, for example, whether the mark was a result of
6 being hit with a square wooden stick.

7 [11.41.47]

8 <We> cannot find those <tools> used by the killers, <because the
9 place was abandoned after the fall of Khmer Rouge and there were
10 many people. Supposed it was hit by a square wooden stick like
11 this>, if we do not use a sample of a square wooden stick, we
12 cannot make any comparison. <Counsel, please be informed that>
13 the tools that we used for comparison are newly-made, not the
14 tool from the era; although, they exist in similar shape and
15 form. If you see the crack and the dent on the skull and if I
16 omit the middle image, then you cannot conclude that it is from a
17 square wooden stick. And sometimes, we cannot distinguish whether
18 it was the mark from a wooden stick or from a bamboo stick;
19 except only when we see the actual marks, did we make such a
20 conclusion. <That is the comparison in order to find marks.>
21 Q. Before the break, Mr. Expert, is it correct if I say that many
22 of the conclusions of either killing or torture could only be
23 reached because you had additional information, either coming
24 from Him Huy or from other information; in other words, would it
25 be fair to say that you wouldn't be able to reach these

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1 conclusions if you didn't have that corroborating additional
2 evidence from people like Him Huy?

3 A. Yes, that is correct. In our forensic analysis, we cannot only
4 rely on one <person's word> as our conclusive evidence. We have
5 to synthesize the relevant information <that we were told and
6 what you have found. And how true they were. Based on these
7 contexts>, we made our conclusion. If only Him Huy spoke about
8 victims were not killed with bullets, then how could we relied on
9 his evidence when we saw the bullet marks on the skulls? Of
10 course, it is beneficial to elicit information from him, but we
11 cannot rely on his testimony, solely, for our <judgement>.

12 [11.44.45]

13 MR. PRESIDENT:

14 Thank you. And thank you, Mr. Expert.

15 It is now convenient time for our lunch break. We take a break
16 now and resume at 1.30 this afternoon to continue our
17 proceedings.

18 Court officer, please assist the expert during the break time and
19 invite him back into the courtroom at 1.30 this afternoon.

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

23 The Court stands in recess.

24 (Court recesses from 1145H to 1331H)

25 MR. PRESIDENT:

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

2 Before the Chamber gives the floor to parties to put question to
3 the expert, the Chamber wishes to inform the parties that the
4 extract of the documents concerning Krang Ta Chan used by experts
5 are admitted <as evidences> by the Chamber <this morning> and the
6 Chamber assigned number <E3/10,769>.

7 I do not know the time arrangement between the two defence teams
8 and <> the defence teams will have to arrange the time and I do
9 not know if <the additional time is given to the defence team for
10 Khieu Samphan after other parties>.

11 [13.32.53]

12 BY MR. KOPPE:

13 All the time, Mr. President. Khieu Samphan team has kindly
14 granted us 10 or 15 more minutes --
15 10, sorry, minutes for questioning on Krang Ta Chan.

16 Q. Good afternoon, again, Mr. Expert. I had wanted to -- I wanted
17 to ask you some more questions about Choeung Ek, but that's
18 impossible, I'm afraid.

19 [13.33.22]

20 MR. PRESIDENT:

21 Please hold on. The expert, I wish to remind you that this
22 morning, <> it was a bit difficult to arrange the presentation of
23 <> the photographs used by you, so in order to have a smooth
24 proceedings and to have the proper record, I instruct you to
25 identify the alphabet <or number> that the Chamber has assigned

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1 its identity, for example, A or B; that is the reminder for you,
2 Mr. Expert.

3 You may now resume your questioning, Koppe.

4 BY MR. KOPPE:

5 Yes, thank you, Mr. President.

6 As said, Mr. Expert, I will be moving to Krang Ta Chan with some
7 questions and my questions are mostly about numbers.

8 There's a few things I'm not quite sure if I understand from your
9 introduction, that we have a translation of now. That is Document
10 1076 -- 69 (sic) that you just referred to, Mr. President.

11 Q. Is my conclusion correct that at Krang Ta Chan, a total of
12 1,904 human remains were identified?

13 MR. VOEUN VUTHY:

14 A. Counsel, <at Krang Ta Chan> we made the forensic analysis on
15 1,909 remains.

16 [13.35.35]

17 Q. We have in the English translation, I believe, for instance,
18 on page 10 of the English version, 1,904 remains and in the next
19 page, it says, "1,904 pieces of bone", but 1,904 or 1,909; is
20 that correct, are we talking about the remains of 1,904 or 1,909
21 individuals?

22 A. The figure of 1,904 is the actual figure. <Perhaps there was a
23 technical error. I apologize for that. In fact, the <total>
24 figure <> is 1,904 <remains>; that is the number that we have
25 conducted forensic analysis <and considered as one victim not as

1 pieces of any dead body>.

2 Q. I was asking this question because on page 11 of this
3 introduction, in English at least -- and maybe the translation is
4 not correct -- you are referring or the report is referring to
5 "1,904 pieces of bone"; so you're not referring to crania -- to
6 skulls, but rather to 1,904 pieces of bone; hence, my question
7 whether you have identified and examined 1,904 crania or rather
8 bones.

9 A. The <forensic> analysis that we conducted on the bones <at
10 Krang Ta Chan,> we conducted forensic analysis on 1,904 crania
11 and 3,158 skeletons or remains.

12 [13.38.38]

13 Q. I understand, but can you then explain to me why, in this
14 table that one can read in English on pages 8 and 9 under number
15 13, it says, "Cranium, 105"?

16 A. I have not yet obtained the translation version of the
17 document. I do not know which page are you referring to, counsel.

18 MR. PRESIDENT:

19 (Microphone not activated)

20 (Short pause)

21 [13.39.49]

22 MR. VOEUN VUTHY:

23 <Now> I am able to answer your question. The skeletal remains of
24 105 <not 104, > consist of the pieces concerning the crania
25 <that> we could not combine all those pieces together to become

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1 one individual cranium. <It meant we did not have enough time to
2 look for other pieces of bones to combine with them.> The 105
3 bones could not be fitted together or glued together because
4 <those parts or pieces do not have signs of connection, that's
5 why> we could not combine <them> together.

6 BY MR. KOPPE:

7 Q. That is good. Thank you for that clarification, Mr. Expert.
8 One additional follow-up question: These 1,904 crania or skulls,
9 are they the ones that you can see in the stupa at the Krang Ta
10 Chan site similar to that stupa one can see at Choeung Ek?

11 MR. VOEUN VUTHY:

12 A. Concerning the figure of 1,904, which my team conducted
13 forensic study, we took all those <> skeletal remains from the
14 stupa <in Krang Ta Chan, like what we did at Choeung Ek>.

15 [13.41.45]

16 Q. So any visitor now visiting Krang Ta Chan and sees that stupa,
17 he will see those 1,904 crania, correct?

18 A. I focused on the analysis; I did not focus on what you
19 mentioned and we transported the bones and then placed at <the
20 laboratory centre in> Choeung Ek <because> there were no
21 equipment <and tools> for conducting the <forensic> analysis <at
22 Krang Ta Chan>.

23 Q. Let me move on. Mr. Expert, we have here, at the ECCC, in the
24 library, one of the books describing those 1,904 crania and in
25 this book, there is a reference being made to a document that we

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1 also have on the case file; that's what I will be using now.

2 Mr. President, it's the same. It's an excerpt from DC-Cam mapping
3 project E3/2763. English and Khmer ERN is the same, 00379115 and
4 French is 00796897.

5 This is an overview in an Excel sheet of all the gravesites or
6 execution sites, whatever you would like to call it. And
7 specifically I'm interested in the numbers 384 and 385 because
8 these numbers refer to respectively Wat Krang Ta Chan and Krang
9 Ta Chan.

10 [13.44.13]

11 Now, in number 384, it says in respect of Wat Krang Ta Chan, a
12 number -- or indicates a number of deaths of total 10,042.

13 Apparently -- it is unclear to me where exactly this number is
14 coming from, but you have put the exact same document in one of
15 your books and report.

16 Q. Can you -- are you in a position to explain where this number
17 of 10,042, where it comes from?

18 MR. VOEUN VUTHY:

19 A. <> I informed you this morning about my research. Before I
20 made the forensic analysis, I had to conduct the field study.
21 That figure of 10,042 was given by the villagers there who
22 experienced and witnessed the bones. There was a community with
23 the adults, the old adults who used to work <there after the fall
24 of Khmer Rouge. Those people are Yin Soeun (phonetic), Ta Nom Rin
25 (phonetic), Rim Kong (phonetic)> Roeurn Kin (phonetic)<> and six

1 other individuals.

2 [13.46.01]

3 <Regarding this figure, we> did not <focus mainly> on the
4 <analysis of> the existing list, because that <it> does not
5 correspond to the skeletal remains in the stupa. <Therefore, we>
6 did not verify <the names> recorded in those books. <For example,
7 we received> that figure <and it> was given <to us> by those <>
8 old <grandfathers. In reality, we conducted the study on 1904
9 remains only>. I asked them to give me a copy <of the names of
10 the people> who were killed at Krang Ta Chan and <> there is only
11 one existing book, which sometimes is incomprehensible. <In fact,
12 I got that copied book from the Office of Culture of Phnom Penh.
13 > So I recorded the figure based on what I was given by those
14 people.

15 Q. I understand. But one question and then I will move on.
16 Here we have a number of 10,042. The so-called Closing Order of
17 the Indictment against Nuon Chea and Khieu Samphan even speaks
18 about 15,000 people who allegedly died at Krang Ta Chan.
19 Can you give an explanation as to the huge difference in the
20 number of crania that you examined and these other two numbers?

21 [13.47.44]

22 A. My team conducted the study and we met a venerable monk who
23 <requested to be anonymous. He> used to be a militiaman at that
24 location. <In relation to the two or three different stages of
25 figure.>

1 First, I would like to mention the figure of 10,042 <>
2 individuals, rather <because there> was an exhumation or
3 excavation in <1980, similar to what was done at Choeung Ek in
4 order> to search for <new clothes and pieces of gold that
5 remained with the dead bodies. They counted the graves especially
6 the common mass grave that was used to bury many times. Based on
7 the terrain, we>, at the time, dug a <> grave <in order to study
8 the layers of the soil>. So the figure of 10,042 <> was obtained
9 from <Mr. Yin Thoeun (phonetic)>, who used to be the head of the
10 community over there. <He received the figure when the remains
11 were counted after the gravesites were excavated.> In fact,
12 <based on my research> that head of community obtained that
13 figure from others.

14 If we counted the actual individuals, the figure could arrive at
15 a different one since there were still six remaining grave pits
16 which were not yet excavated.

17 [13.49.35]

18 MR. KOPPE:

19 I am afraid I have to finish now. I am not done with my questions
20 at all, Mr. President, just for the record.

21 MR. PRESIDENT:

22 Thank you.

23 And now the Chamber gives the floor to the Co-Prosecutor to put
24 questions to the expert. You may now proceed.

25 (Short pause)

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1 [13.50.15]

2 QUESTIONING BY MR. LYSAK:

3 Thank you, Mr. President.

4 Q. Good morning -- good afternoon, Mr. Witness. I am going to be
5 asking you some questions this afternoon on behalf of the
6 Co-Prosecutors.

7 And I wanted to start with a few -- a few questions about the
8 original exhumation that took place at Choeung Ek back in the
9 early 1980s.

10 Were all the mass graves at Choeung Ek exhumed in the 1981 to '83
11 exhumation or were only a part of the graves exhumed?

12 MR. VOEUN VUTHY:

13 A. There were more than 100 gravesites and among those
14 gravesites, only 86 <gravesites> were exhumed.

15 [13.51.30]

16 Q. Just to help you, refresh you on the numbers, reading from a
17 document that is the preface -- appears as the preface to each of
18 the 30 volumes of your study, and this is E3/10645, E3/10645, the
19 first page states, and I quote: "After 7 January 1979 liberation
20 and early 1981, 129 pits were discovered at this genocidal
21 centre; 8,985 bodies were exhumed from 86 pits." End of quote.

22 Is that correct? Were there a total of 129 mass grave pits and
23 only 86 of them exhumed; is that correct, Mr. Expert?

24 A. There are more than 100 mass grave pits, as you said 129. And
25 where are the remaining mass grave pits, which are not yet

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1 exhumed?

2 Those mass grave pits, <located in the lower land of the area,
3 they> were flooded during the rainy season. That's why they were
4 not exhumed. <After 7 January 1979, a> part of those graves, mass
5 grave pits were dug to become <ponds. But they were not exhumed>.
6 <And as of now 7 of the> 86 mass grave pits, <that> were exhumed,
7 <had disappeared. Therefore, only 86 mass grave pits were
8 exhumed>.

9 [13.53.40]

10 In fact, there are other mass grave pits outside the fence based
11 on the indication by some witnesses. And those areas were
12 ploughed to become farm fields already. <The mark of the mass
13 grave pits had disappeared.> In the future, if we want to find
14 out we can go there and do the research.

15 Q. I'll come back to the location of the un-exhumed or the
16 unearthed graves in a little bit. Who was it, to your knowledge,
17 that performed the exhumations in 1981 to '83?

18 A. Based on the study and based on the project that I conducted,
19 ordinary people went to exhume those graves to search for
20 hammocks, strings and new clothes since they were indigent. <Some
21 people exhumed the graves in order to search for some small
22 pieces of gold that came with the victims.> In fact, it was
23 ordinary villagers who exhumed the graves and, later on, <the
24 local authorities came to count the gravesites and remains.>

25 [13.55.25]

1 Q. And when you refer to the "authorities", can you be more
2 specific?

3 Do you know which organization, which ministry or department
4 actually came and conducted the exhumation?

5 A. I was referring to the authorities. I am referring to the
6 provincial Office of Culture and Cult in the Peoples Republic of
7 Kampuchea.

8 At the time <> the Office of Culture and Cult was not yet
9 transformed into the <Ministry of Culture. And Choeung Ek was not
10 a part of Phnom Penh either.>

11 Q. And in the evaluation reports that counsel has cited from this
12 morning -- this is E3/10643, E3/10643; English, ERN 011235382;
13 Khmer, 01235436; this is the document that was written by Dr.
14 Beavan. It states: "The Department of Culture and Propaganda,
15 Kandal province's record of the number of skeletons from their
16 excavations between 1981 to '83, according to counting cranium,
17 was 8,985." End of quote

18 [13.57.33]

19 Do you know whether the Department of Culture and Propaganda from
20 Kandal Province has a record with this number? Have you ever seen
21 that document?

22 A. I have not seen the actual documents, but I met the one who
23 was in charge of that location, <Mr.> Neang Say and <Madam> Tith
24 Kim (phonetic). These two individuals were there and were in
25 charge of the task.

1 MR. LYSAK:

2 I want you to look at one document that we do have, and I
3 apologize. It's an original English publication dated 1989 that
4 appears to come from Choeung Ek. It's document E3/8063.105,
5 E3/8063.105.

6 May I provide this to the witness, Mr. President?

7 [13.58.55]

8 MR. PRESIDENT:

9 Yes, you may proceed.

10 BY MR. LYSAK:

11 Q. The reason I am asking you -- I am asking if you could just
12 take a look at it -- do you know where this came from? Have you
13 ever seen this publication before? It's dated 1989. Can you give
14 us any indication of where this may have come from?

15 MR. VOEUN VUTHY:

16 A. I used to see the folding book which was published at Tuol
17 Sleng Prison <at that time>.

18 Q. Now, in regards to the exhumation one -- one photograph that I
19 wanted to ask you about that was of particular interest to me is
20 Figure 3 in Dr. Beavan's evaluation report. You'll find this on
21 Khmer page -- this is document E3/10643; Khmer, page 01235461;
22 English, 01235398.

23 And the copy we have of this photograph is not very good.

24 Nonetheless, if we can, Mr. President, if we could show this on
25 the screen so people can have a rough sense of what I am talking

1 about with your leave?

2 And this is at slide number 1.

3 [14.01.00]

4 MR. PRESIDENT:

5 Yes, you may.

6 BY MR. LYSAK:

7 Q. Mr. Expert, while I am waiting for that to come on -- yes,
8 there it is -- this is a photograph that appears to show many
9 rows of skulls that have been lined up. My question to you, do
10 you recognize this photograph and are you able to tell us where
11 it came from? Who took this photograph?

12 MR. VOEUN VUTHY:

13 A. Regarding this photo, my team also conducted the research on
14 it and the skulls were lined up for <exhibition purposes. It was
15 not photographed immediately when they exhumed the mass graves.
16 At that time> I asked Mr. Neang Say, who is still alive now, and
17 he is the deputy director of Choeung Ek Centre. I asked him about
18 <it and he told me that the officers from> the Ministry of
19 Propaganda and the Fine Arts <went to take that> photo. <It was
20 his words. We did not have any evidence to verify it either. He
21 also received the photo from others, i.e. the Ministry of
22 Propaganda and the Fine Arts at that time.>

23 [14.02.58]

24 And I also asked him why those crania were put together and there
25 were so many and he said, that's why the figure consists of

1 <8,985> crania. The <crania were counted and photographed> before
2 they were stored on shelves in the wooden stupa.

3 Q. And a copy of this photograph was used for Dr. Beavan's
4 evaluation report. Do you have a better quality copy of this
5 photograph which you -- and if you do, would you be able to
6 provide it to the Court?

7 A. The original photo is maintained at the Tuol Sleng museum or
8 archive and is not under our management or my department.

9 <Therefore, I cannot supply it.> And if the Chamber wishes to
10 have it, the Chamber has to contact the Tuol Sleng archive. They
11 should have the original photo.

12 Q. Thank you. Thank you very much for that information.

13 So I want to now turn back to the graves -- 43 graves out of the
14 total of 129 that were not exhumed.

15 And I want to provide, with your leave, Mr. President, a diagram
16 of Choeung Ek site that has been put together by OCIJ. It's
17 document E3/2160, E3/2160, if I may provide this to the witness?

18 [14.04.53]

19 MR. PRESIDENT:

20 Yes, you may.

21 MR. LYSAK:

22 And if we could also show this on the screen, this is slide
23 number 2?

24 MR. PRESIDENT:

25 Yes, you can do that.

1 BY MR. LYSAK:

2 Q. Now, the diagram I provided to you and provided that the
3 diagram is in English and I have provided the Khmer translation
4 in case you need it on the back -- it comes from OCIJ; it's
5 described as having been taken from the photo of the map at the
6 Choeung Ek location. And it indicates -- it has a particular line
7 around the area of not yet unearthed graves, and that's the area
8 that you'll see on the right-hand side that covers the entire
9 length of Choeung Ek.

10 [14.06.09]

11 Are you familiar with that area and is that the same place that
12 you were talking about earlier that you said there was flooding
13 and that at least part of that lake has been built there?

14 MR. VOEUN VUTHY:

15 A. As I have stated earlier, the unearthed graves were towards
16 the flooding area. And during the times, that is, before the
17 stupa was built, they did not yet build a dam to prevent the
18 water flooding.

19 And the sketch on this photo was the one shown from what we saw
20 earlier, including what was witnessed by <Mr.> Neang Say <and
21 Madam Tith Kim (phonetic)>. And at the time, it was a bit
22 confusing because <> the mud that was moved flowed to the area
23 and currently parts of the area is still a pond. And the Phnom
24 Penh municipality actually built a long pond in that area. Part
25 of it was based on the original pond from the Pol Pot era.

1 [14.07.44]

2 The executioner, Mr. Chhum Teng (phonetic) told Him Huy that
3 after the execution, he would wash the killing equipment in that
4 pond.

5 So the sketch here is rather accurate but, on the other side,
6 there were also a muddy area because a dam was built across it
7 <to prevent the flood.>

8 Q. Did you ever yourself have a chance to look at the area where
9 any of these non-exhumed graves are, or had they already become
10 inaccessible by the time you started your work at Choeung Ek?

11 A. In fact, we did it before we conducted our forensic analysis.
12 Our research took 13 months. We had to study the area carefully
13 before we proceeded with our forensic analysis.

14 Regarding the unearthed pits, some of them were outside the
15 fence, and we also had to examine it. We actually made a request
16 to the government to exhume those pits, but they did not allow us
17 to exhume any more pits.

18 [14.09.14]

19 So, for us, <> we could not proceed with the unearthing of those
20 pits. We could go to see each of those pits but, in fact, we
21 could only see remnants of two or three pits only at the time and
22 we could <conduct> our research in 2013. <It was a bit too late.>
23 And before that in 2010, I went to look at the unearthed pits
24 since, in our team, we had people who had skills in finding those
25 unearthed graves or the semblance of unearthed graves.

1 And we knew <> our prehistoric background, we knew which area
2 might contain unearthed graves.

3 Q. Based on your observations and research, was there any
4 difference in size or anything else of significance between the
5 43 graves that were unearthed and the 86 that were exhumed?

6 MR. KOPPE:

7 I object to this question, Mr. President. I don't think the
8 expert is capable of answering this question. He just mentioned
9 that there were only two possible unearthed or gravesites, so he
10 cannot possibly say anything about whether the other 40-something
11 or 30-something had similar features, I don't think. He can only
12 say something about what those potentially two sites indicated.
13 That's all.

14 [14.11.10]

15 BY MR. LYSAK:

16 Let me ask the question in a different manner, Mr. President.

17 Q. I want to read to you an excerpt from your interview of Him
18 Huy. This is E3/10767; Khmer, 01319503; English, 01336776;
19 French, 01336800; and in your interview you asked -- well, let me
20 ask you this first.

21 Did you personally interview Him Huy or was this one of your
22 staff who interviewed him?

23 MR. VOEUN VUTHY:

24 A. I interviewed Him Huy twice by myself and there were six of my
25 colleagues who took record and audio recorded the interview. And

1 the audiotape has been given to the Chamber.

2 [14.12.28]

3 Q. So in the interview you conducted you asked the following
4 question:

5 "Among the 100 graves, do you think they were all full of bodies
6 or were there cases in which only four to 10 bodies were buried
7 in some graves?"

8 And Him Huy's response, answer: "There was -- there was no such
9 case. All of them were full." End of quote.

10 So Mr. Him Huy indicated that there were not graves that
11 contained only small numbers of bodies. In the course of your
12 research of Choeung Ek, did you come across any information that
13 would suggest that the unearthed graves were smaller in size or
14 would have fewer bodies on average than the graves that were
15 exhumed?

16 Do you have any reason to believe that those graves are smaller
17 based on the research that you did?

18 [14.13.50]

19 A. Based on the interview with Him Huy, as I stated this morning,
20 when we interviewed the people who encountered or witnessed the
21 event or who were involved in the event, we could not rely 100
22 per cent on it and we had to conduct further investigation or
23 research. And throughout the course of our research, we found
24 that a grave could be filled for one- day execution based on the
25 marks on the earth. But we did not do that for the one big pit

1 consisting of 450 bodies.

2 In some pits, they executed the people, then they covered it with
3 earth, then they killed another group of people and they covered
4 it with another layer of earth.

5 But since we could not be allowed to <dig> the pit diagonally, we
6 could not analyze the layer of earth.

7 And regarding the numbers of victims for each pit, we did not
8 conduct such research.

9 We only asked the people around since the remains were already
10 exhumed and stored in the stupa. For that reason, we could not
11 make a conclusion as to how many bodies each pit contained, and
12 in order to do that, we had to exhume all the pits.

13 Even if we did that, there is no guarantee that we know the exact
14 numbers of the victims in each pit.

15 [14.15.35]

16 Q. Fair enough, Mr. Expert.

17 I want to -- you mentioned this morning that you had studied some
18 of the photographs and film from the exhumation. I want to play a
19 short video clip for you and show you a few photographs to see if
20 you can identify them.

21 We'll start with the -- well, let me provide you with -- put the
22 film -- photographs on the record and have them provided to the
23 witness.

24 And if the AV booth can get ready, I'd like you to play the clip
25 number 2 that we provided to you, clip number 2. And this is from

81

1 the "Die Angkar" film, E3/3095R, E3/3095R. The clip is from 42.17
2 to 42.41.

3 While they are getting ready, I have some photographs I'd like to
4 provide to the witness, Mr. President, with your leave. I'll
5 identify them on the record as they are being provided.

6 [14.17.08]

7 MR. PRESIDENT:

8 Yes, you may do that.

9 MR. LYSAK:

10 For the record, the photographs that I have provided to the
11 witness are document -- four of them are from document E3/8116,
12 E3/8116 at pages 00360042, 045, 046 and 043. The fifth photograph
13 is E3/8063.136, E3/8063.136.

14 If we can start with the video clip if the booth is ready to
15 play that?

16 [14.18.15]

17 (Audio-visual presentation - (video))

18 (End of audio-visual presentation - (video))

19 [14.18.43]

20 BY MR. LYSAK:

21 Q. Let me ask you first in regards to this film clip we just saw.

22 Do you recognize the location that was shown?

23 MR. VOEUN VUTHY:

24 A. Based on the images in the video, we could clearly see the
25 location at the time and it is the Choeung Ek crime site.

1 MR. LYSAK:

2 And now, Mr. President, if I can -- I'll display on the screen so
3 that everyone can see the five photographs that were provided to
4 the witness. With your leave, if we can show these photos on the
5 screen; they are slides 4 through 8?

6 MR. PRESIDENT:

7 Yes, you may proceed.

8 (Short pause)

9 [14.20.16]

10 BY MR. LYSAK:

11 Q. My first question, do you recognize the location shown in
12 these five photographs?

13 MR. VOEUN VUTHY:

14 A. Please go to the first photo and I can provide you an
15 explanation as from which direction we view this photo.

16 This is <> a view <from the corner of an ancient furnace and the
17 other side was the Banyan tree. The photo was taken> towards
18 where the Chinese graves were. And you could see a concrete stupa
19 and the stupa remains until today. As I said, this is a view from
20 the perspective where the <Banyan> tree was.

21 And for the second photo, this is the view from the lower part to
22 the eastern part, and it is taken from a "snay" (phonetic) tree.

23 And you could see smaller two "snay" (phonetic) trees at present.

24 And this is part of the Choeung Ek site.

25 [14.21.43]

1 And I apologize. It is not directly opposite the east direction,
2 but it's a bit to the side.

3 And as for the third photo, I received this photo but we did not
4 do the analysis because, based on this photo, we could not see
5 the surrounding area and for that reason we could not identify
6 from which direction the photo was taken at the Choeung Ek site.

7 And the graves here seem to be arranged in such a way that it was
8 elongated, and that is a bit different from the other graves.

9 So we actually studied these photos and we asked the people
10 living in the surrounding areas but we could not make our
11 conclusion based on what they told us due to the different
12 features of this gravesite and what we saw at the present time.

13 As for the fourth photo, it is a photo taken at the Choeung Ek
14 site, taken from the eastern part of the current (sic) stupa,
15 with a perspective towards the southeast direction and where you
16 could see again the Chinese stupa and graves. So we could
17 identify this gravesite from the photo.

18 [14.23.23]

19 Q. If we could briefly go back to the third photograph, it's
20 slide 6. And for the record, this photograph is E3/8116 at ERN
21 00360046, if we could put that back on the screen?

22 In this photograph and in a number of the others, there are signs
23 or markers that have been planted where the bones have been
24 collected.

25 And if we put this one on the screen, you can actually see in

1 this photograph there is a number that appears on the sign, the
2 number 145, if we are able to put slide 6 back on.

3 My question to you, from your research, Mr. Expert, these signs
4 that we see including this one that has a number on it, do you
5 have any idea of what those signs were used for during the
6 exhumation?

7 A. The <> signs that are posted at the rim of the <two>
8 gravesites indicated the number of the remains that were counted.
9 For example, the first one is 145 <remains>. However, the photo
10 was taken after the bones were removed from the mud. <We also
11 studied and analysed the signs.> So the signs again showed the
12 number of bones <especially> the crania that were <counted>.

13 [14.25.39]

14 Q. Thank you, Mr. Witness. I just had a few questions on another
15 subject.

16 In the course of your research, did you become aware of whether
17 the Tuol Sleng, the S-21 prison had used other places for
18 execution before Choeung Ek, and did you do any research on what
19 year it was that S-21 began to use Choeung Ek?

20 A. At Tuol Sleng prison, and based on Him Huy's interview, he
21 stated that initially people were not taken <> to be killed at
22 Choeung Ek, but due to the number of prisoners who were killed or
23 who died from sickness, they were buried <them> within the
24 vicinity of the Tuol Sleng prison.

25 And when I was studying, I went to look at those concrete houses

1 in the vicinity of Tuol Sleng prison and I saw many skeletal
2 remains. I went there because I had a friend who was living in
3 the area. The area was full of banana plantations. And that
4 happened in 1998.

5 [14.27.27]

6 And I asked him even more questions. I asked him, "Besides those
7 people from Tuol Sleng who were killed at Choeung Ek, whether
8 other people from other areas were killed at Choeung Ek?"

9 And <> I asked him whether people might be taken from Boeng
10 Trabek prison and killed there, but he said that no prisoners
11 were taken from Boeng Trabek prison and killed there. But he did
12 not give an absolute guarantee about that because he was not sure
13 about Prey Sar prison or Boeng Trabek prison since he was only
14 responsible for the prisoners at Tuol Sleng.

15 Q. Now, one of the reasons I asked you this is, there is a
16 reference in your Him Huy interview -- and I'm looking at
17 E3/10767; Khmer, 01319514; English, 01336790; and French,
18 01336809. The following exchange appears:

19 A question from you: "We have discovered bones buried around Tuol
20 Sleng. Did they bury many there?"

21 Answer: "Yes, right at the back."

22 Question: "Were there many?"

23 Answer: "Yes. Yes, there were; there were."

24 And then he goes on to explain how they later or eventually had
25 to also use Choeung Ek.

1 [14.29.20]

2 But what I am interested about is you seem -- you indicate here
3 that you had discovered some bones around Tuol Sleng.

4 Can you explain what you were referring to here? Did you or your
5 team find some bones around Tuol Sleng or were you referring to
6 this period back in 1998 where you saw bones -- remains in the
7 area?

8 A. What I saw was <not the surrounding of Tuol Sleng but> outside
9 the vicinity of Tuol Sleng prison. My friend lived in a wooden
10 house in the banana plantation and when he dug the earth, he saw
11 several bones. <He had dug in different places.> At the time, I
12 did not pay attention to those bones because my main study and
13 focus was on <the bones in> the prehistoric era.

14 And when he dug the earth for house construction, he found a lot
15 of bones, that is, small skeletal elements and only a few crania.
16 And when I asked Him Huy whether people were buried in the area
17 around Tuol Sleng, and he told me in the interview in detail that
18 people were buried there but due to the stench <that effected
19 them and they did not want to lose the secrecy of their work,>
20 they no longer buried the prisoners' bodies there but they took
21 them to Choeung Ek.

22 [14.31.09]

23 And a few years ago, before a stupa was built at Tuol Sleng, they
24 actually dug <> a sewage canal through the west part of Tuol
25 Sleng and they found some skeletal remains of a woman <>.

1 Q. So -- just so we're clear when -- in your interview with Him
2 Huy when you referred to having discovered bones around Tuol
3 Sleng, you were referring to back in 1998, the incident you just
4 described; is that correct?

5 A. Yes, and based on what I saw I asked him, and I told him that
6 during that year when I <> visited my friend's house, I saw those
7 bones and that happened at a time that I saw those bones years
8 ago. And I told him the location that I saw the bones and his
9 response was what was contained in the transcript of the
10 interview.

11 [14.32.43]

12 Q. And so we're clear, the 6,426 skulls and the 63,000 other bone
13 types that you and your team analyzed as part of your study,
14 these were remains that came exclusively from Choeung Ek. Your
15 study did not include any remains that came from the Tuol Sleng
16 area or other places S-21 may have used for execution sites; is
17 that correct?

18 A. The figure, 6,426, <> is from Choeung Ek. <This figure does
19 not include the remains at Tuol Sleng> and there are 400 more
20 that we have not yet conducted the analysis and preserved.

21 Q. Now, I'd like to ask a few questions about -- the Chinese
22 graveyard came up a few times this morning.

23 For persons who were performing the exhumation back in 1981 to
24 '83, would it be easy or would it be difficult to distinguish the
25 Chinese graves from the mass graves that had been used by the

1 Khmer Rouge?

2 [14.34.25]

3 MR. PRESIDENT:

4 Please hold on.

5 You may now proceed, Koppe.

6 MR. KOPPE:

7 Yes, Mr. President. I object to this question. The expert's guess
8 is as good as anyone's guess. He wasn't there. He wouldn't know.

9 Only the people who were present can give answers to this
10 particular question.

11 MR. LYSAK:

12 Mr. President, I don't think that's correct. This expert has
13 spent extensive time at Choeung Ek. I am asking him based on his
14 familiarity and research: Is there a clear distinction between
15 the Chinese tombs and graves at the site, and the mass graves
16 that were used by the Khmer Rouge?

17 [14.35.11]

18 MR. KOPPE:

19 He can answer that, what the situation is now, but he cannot
20 answer that how the situation was in 1981. So I maintain my
21 objection.

22 BY MR. LYSAK:

23 I will follow up with some questions as to whether the Chinese
24 has been using it as a burial site since then. My understanding
25 is they haven't. So I can't imagine how it has changed since

1 then. But I will follow up if appropriate.

2 Q. Mr. Witness, is there -- based on your knowledge, is it able
3 to easily distinguish -- are you able -- is one able to easily
4 identify the Chinese graves that are located at Choeung Ek?

5 [14.36.02]

6 MR. VOEUN VUTHY:

7 A. Concerning the forensic analysis of victims and skeletal
8 remains, we have not yet found the remains of the Chinese. The
9 grave pits were dug not at the location of the Chinese tombs. Two
10 <> graves were destroyed in fact and the question is where <were>
11 the bones <taken> to? I do not have the answer. <My study was
12 based on the people who witnessed the event. Based on Him Huy's
13 account, the> ones who buried the bodies was a different group
14 and there <was another group> who <exhumed> the bones.
15 <Therefore, we did not know where the bones were taken to.> After
16 the analysis, we have never found the Chinese bones.

17 Q. I'll come back to that in a bit. I want to turn -- turn back
18 to the focus of my question, which is whether there is markers
19 that identify the Chinese graves.

20 MR. LYSAK:

21 Mr. President, with your leave, I'd like to provide two
22 photographs to the witness. The first is -- comes from E3/7991,
23 E3/7991. It's photograph 14 from a reconstruction at Choeung Ek.
24 The second photograph comes from E3/8116, E3/8116. It is a much
25 better quality photograph. It is at 00360034. May I provide these

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1 to the witness and display them on the screen?

2 MR. PRESIDENT:

3 Yes, please.

4 [14.38.50]

5 MR. LYSAK:

6 While the witness is looking at these photographs, if we could
7 show slide 9, slide 10 and then slide 31?

8 (Short pause)

9 [14.39.15]

10 BY MR. LYSAK:

11 So this is the first slide. And then if we go to the next slide,
12 we attempted to zoom in. You can see it on the copy. It's hard to
13 see on the screen.

14 So if we could go to slide 31?

15 Q. Now, you can see much better in this photograph, Mr. Witness.

16 My question to you: The Chinese graves that are at Choeung Ek, do
17 they have tombstones like this with symbols marked on them?

18 MR. VOEUN VUTHY:

19 A. The Chinese tombs at Choeung Ek is marked <by these> symbols.

20 But some tombs do not have these kinds of symbols <or Chinese
21 characters on them either>. In fact,<> this Chinese tomb <in the
22 photo> was located close to a grave pit and consisted of <450>
23 individuals' skeletal or crania.

24 [14.40.49]

25 Q. Do you have any information on whether the people who were

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1 buried in the Chinese graves, whether they were buried in
2 coffins?

3 A. Based on the information in our study, we found four or five
4 coffins. And from the eight grave pits, you could see the coffins
5 and also we could see the concrete grave at that location. <In
6 addition, there are some pieces of cement that was used to build
7 the tombs.> So we can conclude that the grave is the Chinese
8 graves <that existed before the incident>.

9 Let me add, how could we conclude that? It is because we
10 conducted the study <analysis> on the marks or scars on the
11 grave, concrete grave, <for archeologists, we conducted the study
12 thoroughly> and <from the different layers of the soil> we could
13 identify and establish the age of them and which ones existed
14 first>.

15 [14.42.28]

16 Q. And you made a reference to this, this morning, but it came by
17 very quickly so I wanted to come back to make sure I understood.
18 The defence counsel asked you quite a few questions on how you
19 would be able to tell whether or not the remains had actually
20 instead come from one of the Chinese graves and you, as I
21 understood it, indicated that there would be differences in the
22 bones that would have come from the Chinese graves. Can you
23 explain to the Court how the remains recovered from the Chinese
24 tombs would be different from the bodies buried in the ground in
25 mass graves?

1 [14.43.31]

2 A. I explained to the Court already this morning. The remains of
3 the Chinese descents could not be located. And earlier I have
4 also explained that I do not know where the remains of the
5 Chinese descents were taken to during the process of exhumation.
6 For the body which was buried within the coffin is different from
7 the body buried in the ground. I have explained already about
8 that. <There were three cases.>

9 In relation to the remains of the Chinese descents, the remains
10 have no scars on the crania. Again -- and again, I have to
11 emphasize that we have not found the remains of the Chinese
12 descent. The remains of <6,426> have scars at the back of the
13 crania and on the side of the skulls.

14 I told the Court already that we also made the analysis on the
15 mud attached to the skeletal remains <in order to avoid the
16 confusion>. And we also studied the identity of the bones. <If
17 the remains were the bones of the Chinese descents, they would
18 remain> in the coffin, usually, the mud could not go inside the
19 bones. <I already clarified the methods of our study.>

20 THE KHMER INTERPRETER:

21 [Correction from the interpreter]: The remains mentioned by the
22 expert is 6,426.

23 [14.45.52]

24 MR. PRESIDENT:

25 You may now proceed, Judge Fenz.

1 JUDGE FENZ:

2 I just have one question because I didn't quite understand your
3 answer from two questions ago.

4 You said -- at least that's what I heard in English -- you
5 determined the age of Chinese graves by the symbols. What did you
6 mean by that? Did you mean the stone, the age of the stone in
7 which the symbols were written or the text or what did you mean
8 by that?

9 MR. VOEUN VUTHY:

10 There may <be> a misunderstanding. I said that we have not yet
11 found the remains of the Chinese descents after the analysis of
12 the 6,426 individuals or crania.

13 And a while ago I was asked about the location of the grave pits.

14 [14.47.11]

15 MR. PRESIDENT:

16 Mr. Expert, the hearings may not be able to conclude today, so
17 the Chamber needs to know your availability for the next
18 scheduled hearing.

19 So the question to you is that: Are you available on 9 January
20 2017, and if you are not available on that day, when should be
21 the appropriate time for your next testimony? The Chamber has to
22 conclude the evidentiary hearings as soon as possible.

23 We do not need your prompt answer, but we give you time to tell
24 us about your availability. <Then the Chamber can decide it
25 publicly.>

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1 The Court will take a short break now until five past 3.00.
2 Court officer, please assist the expert in the waiting room
3 during the break time and please invite him back into the
4 courtroom at five past 3.00.

5 (Court recesses from 1448 to 1509H)

6 MR. PRESIDENT:

7 Please be seated.

8 The Court is now back in session and again the floor is given to
9 the International Deputy Co-Prosecutor to put further questions
10 to the expert.

11 BY MR. LYSAK:

12 Thank you, Mr. President.

13 Q. Mr. Witness, I want to talk now about one of the main reasons
14 that you've given for the decrease in the number of skulls at
15 Choeung Ek from the original exhumation figure of 8,985.

16 You said this morning that, you know, while the skulls were still
17 on the ground before going into any stupa that some had fallen
18 back into the grave and others had been eaten by cows. My
19 question, do you know how long the skulls and other bones were
20 laying on the ground before they were put into the stupa?

21 [15.11.02]

22 MR. VOEUN VUTHY:

23 A. Based on our inquiry and research, I am not a hundred per cent
24 certain about the period but those bones remained on the ground
25 for two to three years. We were told by Mr. Neang Say <that> two

1 or three years later those bones were picked up and stored in a
2 wooden stupa. And they remained there for three to four years
3 before they were moved in late 1987 or early 1988 into a concrete
4 stupa.

5 So the bones remained on the ground for one to two years and
6 nobody actually gave a concrete number on the period of years
7 that the bones <remained> on the ground.

8 Q. Okay. I want to ask you a few questions about the original
9 wooden stupa that the bones were first moved to after they had
10 been on the ground for one to two years.

11 With your leave, Mr. President, I'd like to provide to the
12 witness and display on the screen three photographs. Those
13 photographs -- well, I'll identify them for that record while the
14 witness is looking at them, with your leave.

15 [15.12.44]

16 MR. PRESIDENT:

17 Yes, you may proceed.

18 MR. LYSAK:

19 And if we can also display on the screen -- these are
20 photographs, slides 11, 12 and 15.

21 For the record, these three photographs are E3/8063.103,
22 E3/8063.103; E3/8063.70; and E3/8144, 8144. If we can display
23 these on the screen?

24 And my first question to you, Mr. Witness, do you recognize this?

25 Is this the wooden stupa that was first used for the storage of

1 the Choeung Ek remains?

2 A. I examined this photo although I did not see this stupa myself
3 because during that period I did not go to pay my respect there,
4 I was in Siem Reap in the 1980s.

5 So after my examination of this photo and after I asked questions
6 of the nearby villagers, I was told that indeed that was the
7 photo of a wooden stupa <at Choeung Ek.>

8 [15.14.25]

9 Q. And so is it correct then that after being on the ground for
10 one-to-two years, that over the next three-to-four years they
11 were in this open wooden structure. Is that correct?

12 A. Yes, that is correct. The bones were moved to be stored at the
13 wooden stupa, but it was not well maintained, and when you see
14 this colour photo, you could see the deterioration of those
15 bones. And probably that is the result that led to the decreased
16 numbers of the bones. Also, there was no protection mechanisms to
17 protect the bones from being eaten by animals.

18 Q. And you referred -- you indicated that probably sometime in
19 1988, the bones were moved from that wooden stupa to a concrete
20 stupa.

21 And, Mr. President, with your leave, I could provide another
22 photograph to the witness and display this on the screen. This is
23 E3/8116, ERN 00360020.

24 [15.16.25]

25 MR. PRESIDENT:

1 Yes, you may.

2 BY MR. LYSAK:

3 And if we could show this on the screen? This is slide 14.

4 Q. This is a structure where -- well familiar with, but I just
5 wanted to confirm with you, was this the structure that was first
6 built in 1988 that you referred to a few minutes ago?

7 MR. VOEUN VUTHY:

8 A. Yes, that is the stupa that was built in the 1980s; that is in
9 late '87 or early '88. I've made this claim because I reviewed a
10 documentary on the construction of this stupa.

11 Q. And can you tell the Court, even after the bones had been
12 moved into this encased, enclosed stupa in 1988, was there still
13 further loss of the remains to animals or insects? Were rats or
14 insects able to get inside this stupa before the time that your
15 team commenced its work?

16 [15.18.00]

17 A. Regarding the loss of bones, as I testified this morning, I
18 did not know that when the bones were removed to the concrete
19 stupa they counted the bones properly or not.

20 And I'd like to show you a photo in which it shows that insects
21 actually destroyed the bones and the bones also decayed and there
22 was no proper maintenance of the bones. That is, <the bones were>
23 not kept according to a proper standard since they were not
24 enclosed in a proper glass walls, so insects <and dirt> could
25 enter <> and destroy<> the bones. And also due to the dry and

1 humid condition of <weather in> Cambodia, as well as the rain,
2 the bones start to decay as indicated in this photo.

3 As for the number of bones, there is no clear confirmation when
4 the bones were moved to the concrete stupa whether there were any
5 losses occurred.

6 And only when we commenced our <conservation project>, our figure
7 did not match the original figure that we were given.

8 [15.19.48]

9 MR. PRESIDENT:

10 Mr. Expert, also please put the exhibit letter <G> on the
11 document that you have just shown.

12 BY MR. LYSAK:

13 Q. Now, I understand from the evaluation report that in order to
14 prevent further deterioration or loss of bones, your team made
15 some -- recommended some changes to the structure, the memorial
16 stupa.

17 My question for you is: What year these improvements that are
18 described in the report that were intended to keep out rats and
19 insects, for example, what year were those changes made to the
20 Choeung Ek stupa?

21 MR. VOEUN VUTHY:

22 A. I do not understand your question. Are you're talking about
23 the transfer of bones from the wooden stupa to the concrete stupa
24 or the changes of how the bones were maintained so that they
25 conform to the standard and to keep the insects or rats away?

1 <Please repeat your question.>

2 [15.21.10]

3 Q. I'm referring to the latter and, specifically, the report by
4 Dr. Beavan indicates that the glass panels used to be in three
5 parts, which allowed the insects and rats to enter and that a
6 change was made to the glass panels.

7 So what I'm specifically interested in is what year were these
8 improved glass panels put in to keep out the insects and rats?

9 A. In fact, the <construction of the> stupa began <since the year
10 it was constructed> and <the> four corners had glass panels.

11 <There were three panels of glass in each corner. However,> the
12 glass was not properly sealed and some glass was broken, so the
13 rain got through to the bones and the bones got decayed.

14 And, later on, we only built one glass panel for one corner of
15 the four corners, and we also have some <velour or velvet> cloth.
16 We used it and we put a mechanism to exhaust the humidity. And
17 that happened since 1988. That is based on the photos <that were
18 given to me> and the video that I viewed.

19 [15.22.52]

20 Q. Let me turn to one other matter I wanted to just add a few
21 follow-ups.

22 Defence counsel asked you about some information that was in Dr.
23 Beavan's report about the Vietnamese identification numbers, and
24 I wanted to make sure I understood your testimony correctly.

25 Are you saying that the number that appears in her report

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1 indicating that the identification numbers of the Vietnamese only
2 went up to 4,576, that that is incorrect? And, if so, do you
3 remember, based on your team's examination of the skulls, how
4 high did the Vietnamese identification numbers go up to?

5 A. I responded to the counsel's question this morning that the
6 figure used by Nancy Beavan, that the highest number went up to
7 over 4,000 is incorrect because there was another figure, which
8 ran over 7,000. And <I think perhaps> the conservation team at
9 Choeung Ek said the number was <7,500>, and <the figure was
10 written on the remains is over 7,500. When we conducted> our
11 project for the forensic analysis, we used that figure, that is,
12 7,500.

13 [15.24.44]

14 Q. And - now, I want to turn to the numbers of remains that your
15 team found. You've talked already about this extensively. You've
16 testified that your team found 6,426 complete skulls or cranium
17 and a significant other number, 63,000, other bone types.

18 If we can -- I'm going to ask you about some of the figures in
19 E3/10766, E3/10766.

20 With your leave, Mr. President, if I can show this on the screen?

21 This is slide number 15, and this is the chart of yours, Mr.

22 Expert, that has the other bone types that were found.

23 And defence counsel made a very quick reference to this this

24 morning, but it is something I think that is quite important so I

25 wanted to come back to it.

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1 In the chart we're looking at, at the screen, the third line
2 represents the number humerus bones that your team counted, and
3 your chart indicates that you found 7,708 right humerus bones and
4 7,673 left humerus.

5 My question for you is a very simple one. Does this not mean that
6 there were at least 7,708 bodies in the Choeung Ek graves that
7 were exhumed in 1981 to '83?

8 [15.27.00]

9 A. Thank you. That is the analysis of other skeletal elements. As
10 I indicated this morning, sometimes the remains only consisted of
11 one humerus or one left humerus and for that reason, we did not
12 use that figure to form part of individuals because some of those
13 bones did not have any mark on it so we did not know how the
14 person was killed or tortured. We only focused or concentrated on
15 the <marks> on the crania.

16 And, of course, <> if you counted the limbs part, the humerus
17 part, you could say that <> could compose or become the number of
18 individuals, but we made our inventory list with the main focus
19 on the accounting of the crania because those crania had marks of
20 execution or marks of torture.

21 [15.28.19]

22 Q. I understand entirely the reason for examining the cranium,
23 but one more question on this.

24 Based on your expertise, is there some reason that you can think
25 of why there was more of a deterioration or loss in the number of

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1 skulls which, if we take the original exhumation count of 8,985,
2 it appears that over the -- over 30-year period, approximately,
3 before you did your review, there was a reduction of a couple of
4 thousand in the number of skulls down to 6,426, but that there
5 were still 7,708 right humerus in these remains?

6 Is there some reason, in terms of bone preservation, to expect
7 that there would be more losses of cranium than humerus?

8 [15.29.43]

9 A. Allow me to inform the Chamber. If we look at the table, you
10 could see different figures and you might ask me why I did not
11 use the highest number, that is, 7,113 or 7,708, which is the
12 highest number to indicate the actual number of victims.

13 If Your Honours look from the top down to number 4, that is at
14 row 4, these figures do not correspond to one another. For
15 example, we found over <6,717> femur, but then for humerus, right
16 humerus, we found only 7,708 or something, so these figures do
17 not correspond. For that reason, we could not use these figures
18 precisely.

19 As for the second part of your question why the number of crania
20 are <less> than the numbers of other skeletal elements,
21 throughout my research and forensic analysis such questions
22 popped up, including questions from the National Assessment
23 Committee as well as the International Assessment Committee, and
24 there are three possible answers.

25 And number 1 is those crania were used to <> form <the map of

1 Cambodia> at Tuol Sleng Prison.

2 Second, some scarves fell back into the grave pits. Several
3 months ago a skull was not picked up and put into the stupa and
4 this indicates that the collection of crania was not a complete
5 work because of the volume of mud some crania would remain under
6 the mud.

7 And the third answer is that some skulls were borrowed for the
8 exhibition purpose but they were never returned <by some
9 experts>. Although the number was in small amount <based on the
10 description of the centre> and <some skulls were borrowed for the
11 exhibition. For example,> there is <a> record that some skulls
12 were borrowed for the exhibition in Vietnam to show the crimes
13 committed during the Khmer Rouge regime. And there were other
14 borrowings that we do not have a <specific> figure <of> them.
15 And these three possible answers indicates why the number of
16 skulls were <less> than the number of other skeletal elements.

17 [15.32.56]

18 Q. Thank you for that answer, Mr. Witness.

19 I want to spend some -- a little bit of time now asking you about
20 the results of your team's examination of the skulls for evidence
21 of trauma.

22 And the first thing I wanted to make sure was clear, you've been
23 asked some questions already about the lists of the different
24 numbers of marks of various trauma that you noted.

25 I just want to confirm that, is it correct that your analysis was

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1 limited just to looking at the skulls or cranium? So, for
2 example, when you were asked about number 12, finding 1,631 marks
3 of slamming against something hard, are we talking here
4 exclusively about skulls or does this include other parts of the
5 body also?

6 [15.34.20]

7 A. Point 12 in the table or the summary report of the evaluation,
8 we counted only the scars on the crania. As for the scars or
9 traces on the other parts of the bones, we did not include them.
10 We counted and included only traces of the skulls <in the list>.

11 Q. So would it be correct then that these are not people who took
12 a fall and maybe hurt their body, these are people who had
13 significant evidence of trauma to their head? Is that correct?

14 A. If I am not mistaken the question is about the trauma on the
15 crania or skulls.< Are they the marks of torture or what? Sorry,>
16 I do not really get your question, Mr. Co-Prosecutor. You want to
17 know about the trauma on the crania or are you asking me if the
18 trauma of the skull resulted from the <torture or the> falling
19 down of the victim?

20 [15.36.00]

21 Q. My apologies. My question was too complicated. It's actually a
22 very simple question.

23 When we talk of these 1,631 cases, we're talking about evidence
24 of injury to the skull, to the head; correct?

25 A. That is correct. <It is the evidence of the> injury to the

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1 skulls; not the evidence of the killings.

2 Q. Now, I want to go through a few of the types of markings of
3 trauma that you found and if we can display some of these on the
4 screen.

5 I want to start with the evidence of beatings from -- injuries
6 from wood or bamboo sticks. And you've included in E3/10647 --
7 that's the one that has the photographs of the instruments and
8 some examples of injuries to the skulls -- you've included some
9 photographs of this.

10 And with your leave, Mr. President, if I can display this on the
11 screen? This is slide number 17.

12 MR. PRESIDENT:

13 Yes, please.

14 [15.37.58]

15 BY MR. LYSAK:

16 Q. Now, in your lists of the total numbers that your team found,
17 number 1 you have 9,802 marks of beating to necks with wood and
18 bamboo sticks and then you also have 2,435 marks of beating with
19 square sticks.

20 Am I correct that this was the most common form of trauma that
21 you found in your examination of the 6,400 cranium? Was this the
22 most common form for evidence of trauma you found in your review
23 of the skulls from Choeung Ek?

24 MR. VOEUN VUTHY:

25 A. The figure of markings that the team included in the <total>

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1 lists is 9,802 <and we also counted the signs of the square
2 wooden stick.>

3 Now, concerning the bamboo stick or stick, that is the <marking>
4 of beating to death. The photo on the screen is small, but here
5 is the bigger one. We could see that the skull is <1 or> 2
6 centimetres deep as the result of beating <of the executor>.

7 Concerning the figure of 9,802, it is the marking or trauma of
8 execution not torture, <the serious mark or trauma that caused
9 death.>

10 [15.40.20]

11 MR. PRESIDENT:

12 Mr. Vuthy, <> please assign the number and <put an alphabet for>
13 that document as well.

14 MR. VOEUN VUTHY:

15 Concerning the second markings, the square <wooden> club or
16 stick, as we can see on the screen, it is the evidence showing in
17 the kind of markings or trauma <caused by the square wooden
18 stick>. In fact, what we have found is that the markings are
19 result of the <execution> not <torture>.

20 MR. PRESIDENT:

21 And <please put> "H", the alphabet for that photo.

22 [15.41.30]

23 BY MR. LYSAK:

24 Q. Now, one thing I wanted to ask you about, when you add up the
25 numbers of marks of beatings or trauma to the skulls that are

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1 recorded, it is a -- it comes to in total 28,000.

2 Am I correct that the reason for that is that you found, with
3 almost every skull, you found multiple evidence of trauma? Is
4 that correct?

5 MR. VOEUN VUTHY:

6 A. That is correct. On each cranium, at least there are two
7 markings and <> the maximum number is nine <including the
8 markings> of torture.

9 [15.42.49]

10 Q. If I could turn next to -- and put on the screen, this comes
11 from the same collection of photographs in E3/10647. It is slide
12 number 18 and it is the photograph that is titled "Evidence of
13 Killing By Iron Tool".

14 Mr. Expert, the next highest number in your chart is what's
15 listed in number 3. You found 5,806 marks of beatings with steel
16 bar or axle bar.

17 And I wanted to show you this photograph. Is this an example of
18 what you mean with beatings with steel bar or axle bar? And, if
19 not, do you have -- or can you point us to which photographs
20 reflect an example of a skull that was beaten with a steel bar or
21 axle bar?

22 A. That photo reflects point 13. The photo on the screen
23 corresponds to point number 4. That <steel> bar is the bar of the
24 <leg> shackle and as you can see, <there were two hitting places.
25 On the right side, the dent was just a few millimetres. On the

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1 other side, it was broken. It was the marking of the execution
2 from the right side>. And at the back of the skull is the mark of
3 the <first> beating <of> torture <by the steel bar of the
4 shackle. In relation to the 13th marking, it was a torture by a
5 curving tool>.

6 And <there were> 38 markings, you can see another photo attached
7 to the annex. That is the <steel> bar or iron tool used to hit
8 the victim <and it became curved> and <the bone was broken. But
9 it did not always appear like what is in photo>. Some victims
10 were hit from the <middle, the> back and some were hit from the
11 side <of the skulls>.

12 [15.46.14]

13 Q. Thank you. Do you happen to have with you in your photographs
14 any examples from number 3, group number 3, which is the 5,806
15 marks of beating with a steel bar or axle bar? And if you're not
16 sure, you can -- we can deal with this later, but if you have an
17 example handy, please let us know.

18 A. I have brought for you the examples from annex of the book.
19 This is the photo showing the marks, which is the result of the
20 <axle> bar, and this hole is the result of the sharp end of the
21 <axle> bar.

22 JUDGE FENZ:

23 Can you identify the photos, somehow, for the record?

24 BY MR. LYSAK:

25 Yes, I think he will mark them, but also this -- the photograph

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1 he just showed it appears in -- on the second page of E3/10647.

2 It's the photograph that is at the very bottom left of the second
3 page.

4 Q. I heard -- one thing I wanted to ask you about with regard to
5 the slicing, cutting of the throats that Him Huy and others have
6 indicated was common practice.

7 Is this something that you were able to see through your
8 examination of craniums or is this something that you're not able
9 to find based on an examination of the skull?

10 [15.48.36]

11 MR. VOEUN VUTHY:

12 A. Each and every victim based on Him Huy was killed by slitting
13 the throat. Usually slitting the throat will cause the cut-off
14 the veins. <However, the cut would not reach the bone of the
15 neck.> As for the mark <> on the bone in the throat, perhaps the
16 victim were slits very severely almost the head was cut off.

17 <That's why there were markings on the bone of the neck. I cannot
18 find a photo to show you about this case because of the time
19 constraint. I said it was slitting, but why I don't use the word
20 chopping.>

21 Chopping and slitting are two different way -- Chopping and
22 slitting are two different things because slitting usually we can
23 see the marks, the repeated scars. <As for chopping, there are
24 only one or two scars. Every victim who had their throat slit,>
25 there was no scar on the bones <of their neck>.

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1 Q. So do I understand correctly that whether you would be able to
2 see it from the cranium would depend on the severity with which
3 the person's throat or head was cut? Is that correct?

4 A. My apology for not being clear enough. <The analysis about the
5 throat slitting depended on the findings on some bones of the
6 victims. The throat was nearly cut off from the head that's why
7 it damaged the bone on the neck. Therefore, from our analysis we
8 cannot say that those over 6,000 victims were killed by having
9 their throats slit>. Only some victims' throats were <cut>
10 severely <that's why there were> scars on <their bones>.

11 [15.51.06]

12 Q. Thank you. Thank you for clarifying that.

13 Now I want to come back to one of the items that counsel asked
14 you about extensively and that's number 8 on your list of
15 markings of trauma, which is that there was 1,686 marks of
16 shooting with bullets and injury by cleaning rod of rifles.

17 And if we could show on the screen slide 21? Your Honours, this
18 also comes as a photograph that comes from E3/10647 and you'll
19 find that on the first page, the bottom right photograph entitled
20 "Evidence of Killing by Cleaning Rod". If we could show that on
21 the screen?

22 My first question to you is: You have grouped together in number
23 8 skulls that showed either shooting with bullets or use of
24 cleaning rods.

25 Is this an example of a skull that was injured, in your

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1 assessment, by the cleaning rod of a rifle?

2 [15.52.47]

3 MR. VOEUN VUTHY:

4 A. This is a photo that we <used to> explain to those who have no
5 skills in making analysis.

6 The victim will not die instantly by that cleaning rod, but the
7 head will be severely injured with that kind of rod.

8 Those who have no skills and expertise do not believe us if we do
9 not have this photo to show them and this photo it can show that
10 the rod was used to pierce into the bone <when the victim was
11 tortured> until the victim died. And usually the victim do not
12 really die instantly, there are other marks, which are the
13 results of the rod. This photo, again, is to show to those who
14 have no expertise in making analysis <the marks caused by the
15 cleaning rod.>

16 [15.54.00]

17 Q. In your chart, Mr. Expert, you have a total of 1,686 marks of
18 shooting with bullets or damage from the cleaning rod of rifles.
19 Do you have -- do you know or do you have for us -- are you able
20 to tell us how many of the 1,686 marks were from bullets and how
21 many were from cleaning rods, or do you not have that
22 information?

23 A. Regarding the marks by the cleaning rod or bullet, <I would
24 like to inform the Chamber that> some remains had two holes on
25 both sides; that's why we count them two marks.

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1 <Only> one bullet was used to kill the victim but there are two
2 holes on both sides <of the skull>.

3 And as for the evidence of bullets and cleaning rods, yes, we can
4 make the distinction on some remains but some other remains could
5 not be established whether or not they were the result of the
6 bullets and cleaning rods. <Therefore, we put them to together.
7 Some holes were caused by both the bullets and cleaning rods.>

8 [15.55.55]

9 Q. Okay. The next photograph from the same exhibit that I wanted
10 to show and ask you about is the photograph titled "Hand Tied
11 With Wire".

12 And if we can show this on the screen, it's slide 22. It also
13 comes from E3/10647, the second page.

14 My first question to you, the wires that are shown in the top
15 photo, are these examples that your team made to show, display,
16 what was done to these victims or were these actual wires that
17 you found or that were recovered at the Choeung Ek site?

18 A. In the photo, <these are the hand tying strings. They are the
19 original strings from the real incidents except one string that
20 our research team used a new one. In the photo below, there are
21 strings attached to the bones of the victims. There are many
22 strings that were still tied to the remains of the victims. We
23 have kept them as they were evidence to show to the young
24 generation.>

25 And, again, <I would like to clarify that there is only one

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1 string used by our conservation team to show how it was tied
2 because we found many strings that were still tied to the remains
3 as showed in the list. There are face string and hand string.>

4 [15.57.54]

5 Q. And if we could go back to that photo on the screen, the photo
6 that's on the bottom left side that looks to be a photo from the
7 graves, where did you obtain that photograph from?

8 A. I obtained it from Choeung Ek Centre. The Centre copied that
9 photo from Tuol Sleng <archive>.

10 That photo was taken when the remains were exhumed. <They found
11 the strings came with the remains. Then they took this photo. It
12 is a genuine photo> which was taken from Choeung Ek <Crime
13 Centre>.

14 Q. The next photo I wanted to ask you about from the same
15 exhibit; and this is something that the President asked you about
16 yesterday. It's a photograph on the first page of E3/10647. It's
17 titled -- my apologies, the second page -- "Evidence of Ear
18 Cutting".

19 And if we could show this on the screen? It's slide number 23.

20 Now, yesterday when you were asked about this by the President,
21 you indicated that in some cases there was a mark left on the
22 cranium from which you concluded that this person -- the person's
23 ear had been cut.

24 Is that -- in the middle photograph on the bottom, is that an
25 example of what you were talking about?

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1 [16.00.10]

2 A. Yes, that is true. The victim with the identity of 453 showed
3 the trauma of <chopping> and <below this trauma, >there is a mark
4 of <cutting by a> knife perhaps. <It is not deep; this> evidence
5 shows that the victim maybe chopped first and then cut. <There
6 are three to eight cutting marks on other remains.>

7 MR LYSAK:

8 Mr. President, I have some questions now for Krang Ta Chan, but
9 the civil parties have indicated that we can use all the time. I
10 can continue today or I can use the first 10 minutes or so when
11 we resume; your discretion.

12 (Short pause)

13 [16.01.25]

14 BY MR. LYSAK:

15 Q. Mr. Witness, I want to ask you a few questions related to
16 Krang Ta Chan.

17 Counsel today asked you about -- he cited the DC-Cam report that
18 in the original exhumation there had been 10,000 victims at Krang
19 Ta Chan.

20 We also heard testimony from a witness here, Kev Chandara, in
21 reference E3/ 5837; English, 00223457; Khmer, 00163462; French,
22 00178095.

23 He testified in his OCIJ interview that he was the chief of one
24 of the communes in the area of Krang Ta Chan in '79 and he was
25 personally involved in the exhumations. He testified that there

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1 were eight pits dug up at the time and said, and I quote:
2 "Eight pits, 10,045 persons from the actual count of skulls, but
3 there were many other pits which had not yet been dug up." End of
4 quote.

5 My question is: First, were you able to speak to any of the
6 people who had been commune chiefs at that time who were involved
7 in the exhumation that took place after January 1979?

8 [16.03.30]

9 A. First, I would like to give my answer as to the figure and if
10 we base on that figure, we do not have the basis for it. If he
11 had exhumed the grave pits, I think he, together with others, may
12 not <count the remains.> They were looking for other belongings
13 in fact. <He mentioned that there were eight mass grave pits and
14 I do not really know how he counted them. Nowadays, there are
15 some marks in a ceremonial hall which cover three mass grave
16 pits. Therefore, he said that there are eight mass grave pits but
17 our team have found 11 mass grave pits. We did not count the pits
18 outside of the fence where two or three people were buried in the
19 rice field.

20 He did not include a long pit which was a trench>.

21 The figure <that he mentioned was> based on the information
22 <that> he got from others.

23 <I asked eight people who used to live in that area especially> I
24 met with <grandfather> Norm Rin (phonetic), the current commune
25 chief, <he has been> living at the location <since that era>.

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1 That commune chief <said> that no one was in charge of the
2 location and there was bad smell at the location. <The dogs
3 pulled and ate the bones all over the place. > Some <dried>
4 remains were <also> eaten by cows. <Hence, I am not sure how he
5 counted the remains.>

6 Based on the picture shown to me, the number of remains was in
7 large amount when they were placed under a small hut.

8 Your question is whether or not I met with that person. I did not
9 go to see him. It was very difficult to locate him since he was
10 not willing to <meet and> give statements to us.

11 I had to spend much time with other people in order to obtain
12 useful information on some cases.

13 [16.06.07]

14 Q. You referred to a military barrack location. Can you explain
15 what you meant by the military barrack?

16 A. Based on the photo of His Excellency <Chi Phoeung> (phonetic)
17 when he made a field visit in 1980s, he saw a trench in parallel
18 with the monks' <quarter. It is seven to eight metres long>. His
19 Excellency <Chi Phoeung> (phonetic) is <still alive>. He is one
20 of the eyewitness. Victims were killed and dumped into the trench
21 or the canal. A long canal was dug and that canal was <> used for
22 battle and <later on it was used to dump the bodies of the
23 victims who were killed. This is the statement of the witness who
24 is still working for the Ministry of Culture and Fine Arts. He
25 also saw an underground prison there.>

1 [16.07.29]

2 Q. For the record, in the same OCIJ interview of this witness, he
3 goes on to say that there was an initial count when the bodies
4 were exhumed in '79. He then says that there was some additional
5 diggings by families in 1981, '82 and '83, and then he says that:
6 "After the stupa was built, I counted again and found 10,011."
7 End of quote.

8 Do you know when it was that bones were placed into a stupa in
9 Krang Ta Chan? What year, based on the research you conducted?

10 A. I did not ask about when the stupa was built. I want to go
11 back a little bit about the figure of remains <that you
12 mentioned,> the figure could not reach 10,000 to my
13 understanding. I would like to bring a real example. Before I was
14 involved in <forensic analysis> project, I was told that there
15 were only around <700> skulls remaining from the wooden stupa and
16 then that those skulls were transferred to the concrete stupa.
17 Later on, <from the forensic analysis,> I found that there were
18 more than 1,000 skulls <>, <that was the reason that> the project
19 <at Krang Ta Chan took longer time> and we ran out of funds <in
20 the middle of the project. Therefore, the project was delayed. I
21 can say about it. However, I cannot give you substantial
22 information without evidence. I have many interviews and figures.
23 But they are not eligible.>
24 That figure is not really scientifically <or historically> based,
25 so I cannot say anything about it.

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1 [16.09.48]

2 MR. LYSAK:

3 With your leave, Mr. President, I'd like to show a photograph to
4 the witness. This is photograph E3/8153, E3/8153, and if we can
5 display this on the screen as well; it's slide number 25.

6 MR. PRESIDENT:

7 Yes, please.

8 BY MR. LYSAK:

9 Q. Do you recognize the wooden structure that's shown in this
10 photograph, Mr. Witness?

11 MR. VOEUN VUTHY:

12 A. I am not familiar with this wooden structure. That wooden
13 structure was destroyed. There were a small <hut and> there were
14 a few small <pillars> remaining at the time and I could only see
15 the huts on the photos, <and this photo did not capture the hut
16 with remaining pillars today.>

17 Q. We talked extensively about how at Choeung Ek because the
18 bones weren't properly sealed, there was significant losses in
19 the 30-year gap between when they were exhumed and when you were
20 able to review them.

21 Were you able to determine whether the same problem took place at
22 Krang Ta Chan, where the bones were never put into a sealed stupa
23 equivalent to what exists at Choeung Ek?

24 [16.12.00]

25 MR. KOPPE:

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1 I object to this question because I don't think that is correct.
2 The photo that was just shown was a wooden structure, now there's
3 a stone structure. I don't know how long that is there, but the
4 question is not correct.

5 BY MR. LYSAK:

6 Let me ask him then.

7 Q. Do you know, based on your research, Mr. Witness, how long the
8 bones at Krang Ta Chan were stored in an open, wooden -- a
9 hut-like shown in this photo here? And do you know if at any time
10 the bones were removed to a more secure location? And, if so,
11 what year was that?

12 [16.12.50]

13 MR. VOEUN VUTHY:

14 A. I went to conduct my study on different locations and I have
15 included <the year> in my report. Now I would like to inform you
16 of my <research> study before the preservation project.
17 The remains at Krang Ta Chan were left unattended <longer than
18 the remains at Choeng Ek Crime Centre> because, at the time, no
19 one really understood about the importance of the remains and
20 there were few tourists going to that site. <It was also
21 difficult for researchers to go there.> It wasn't until 1998 that
22 there were guards standing at the foot of the mountain.
23 The remains at Krang Ta Chan were left unattended for quite a
24 long period of time. To my recollection and based on the
25 confirmation of old adults, that was the third <stupa. The first

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1 stupa was just a few centimetres from the ground>, and the
2 remains could not be gathered up, all of them. And those remains
3 were not really in the interests <like the remains in Choeung
4 Ek>. <The reason that I said so because one> of the officials of
5 the <> Office of Culture and <Fine Arts of Phnom Penh had the
6 list of victims and he also had his parents and grandfather who>
7 died at the location. He annually went to celebrate the Buddhist
8 ritual there <for his relatives>. He made mention that before
9 1996, no one did dare to go to the location <because they were
10 scared of it>, but most people could only arrive at Wat Angrun
11 (phonetic), <a former detention centre. Krang Ta Chan> was first
12 left behind and it was like a haunting place. <That's why many
13 remains were lost.>

14 [16.15.08]

15 Q. It's been a long day, but if I may ask you one more question
16 before we finish.

17 I just wanted to briefly touch on your findings regarding the
18 markings, evidence of trauma with respect to the skulls at Krang
19 Ta Chan.

20 And I'm looking at the translation of your report. That's page 10
21 on the English and I think it corresponds to the Khmer, page
22 01359103, section titled "Analysis of the Markings".

23 Similar to what you found with Choeung Ek, Mr. Expert, here the
24 most common form of evidence of trauma you found, number 1, 2,623
25 marks from breaking of the nape of the neck with a wooden stick

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1 or bamboo; and the second most common form of trauma, number 3,
2 1,933 marks from being beaten by a round iron or a cartwheel
3 iron.

4 Is it correct that the evidence you found of trauma, the most
5 common forms of trauma to the skull -- skulls at Krang Ta Chan
6 was similar to the evidence that you found at Choeung Ek in terms
7 of what the most common markings of force were?

8 [16.16.58]

9 A. This is an interesting question <for both> the international
10 and national <researchers>. We comply with the standardized
11 criteria in the table.

12 The <actual> evidence showed the same. <At the beginning, we also
13 doubted about it when we conducted our study at> Wat Thipakdei,
14 <bamboo stick was not used in most of the killings. They used a
15 different tool.> And <the main prisons used the same tools.> I do
16 not know if the torture methods were copied from one place to
17 another, but the way of torture was systematically used.

18 I am in doubt, as well, if the method of <killing people at that
19 time was instructed to follow the same system. So far, we have
20 pondered whether the method of killing was copied from> Krang Ta
21 Chan,<> Kampong Speu, <> Choeung Ek <or from somewhere else>. The
22 answer has not yet found.

23 MR. LYSAK:

24 Okay, thank you, Mr. Witness. Thank you, Mr. President.

25 [16.18.20]

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1 MR. PRESIDENT:

2 Thank you.

3 The hearing of the expert has not come to an end yet. Since it is
4 now time for the adjournment, the hearing of the expert is
5 adjourned now and the Chamber will continue hearing his testimony
6 on any day in <the second week of> January <> 2017. <The Chamber
7 will inform all parties and the expert about the exact date in
8 due course.>

9 The hearing is now adjourned. The Chamber will resume its hearing
10 tomorrow at 9 a.m.

11 Tomorrow, the Chamber will <continue the hearing of the witness,
12 2-TCW-971> via video-link from Ourdor Meanchey, and there is a
13 reserve witness, 2-TCW-1042. Please be informed and please be on
14 time.

15 The Chamber is grateful to you, Mr. Voeun Vuthy. The hearing of
16 your testimony as an expert has not come to a conclusion yet. You
17 are; therefore, invited to come and conclude your testimony on
18 any day in <the second week of> January <> 2017.

19 [16.19.41]

20 Court officer, please work with WESU to send the expert back to
21 his residence.

22 And security personnel are instructed to bring Nuon Chea and
23 Khieu Samphan back to detention facility of the ECCC, and please
24 have them returned into the courtroom before 9 a.m. tomorrow.

25 The Court is now adjourned.

1 (Court adjourns at 1619H)

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Corrected transcript: Text occurring between less than (<) and greater than (>) signs has been corrected to ensure consistency among the three language versions of the transcript. The corrections are based on the audio recordings in the source language and may differ from verbatim interpretation in the relay and target languages.