



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

TRANSCRIPT OF TRIAL PROCEEDINGS - KAING GUEK EAV "DUCH"

PUBLIC

Case File N° 001/18-07-2007-ECCC/TC

18 August 2009, 0907H

Trial Day 60

Before the Judges:

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

Lawyers for the Civil Parties:

MOCH Sovannary
TY Srinna
KIM Mengkhy
Silke STUDZINSKY
Alain WERNER
Fabienne TRUSSES-NAPROUS

Trial Chamber Greffiers/Legal Officers:

SE Kolvuthy
DUCH Phary
Natacha WEXELS-RISER
Matteo CRIPPA

For Court Management Section:

UCH Arun

For the Office of the Co-Prosecutors:

SENG Bunkheang
Vincent DE WILDE D'ESTMAEL
PAK Chanlino

The Accused:

KAING Guek Eav

Lawyers for the Accused:

KAR Savuth
Marie-Paule CANIZARES
Heleyn UÑAC

INDEX

CIVIL PARTIES

MS. ANTONYA TIOULONG

Questioning by Mr. President commences page 2

MS. HAV SOPHEA

Questioning by Mr. President commences page 41

Questioning by Mr. Werner commences page 45

MS. SO SOUNG

Questioning by Mr. President commences page 66

Questioning by Ms. Moch Sovannary commences page 77

Questioning by Mr. de Wilde D'Estmael commences page 85

MR. NETH PHALLY

Questioning by Mr. President commences page 92

Questioning by Mr. Werner commences page 95

Questioning by Mr. Seng Bunkheang commences page 106

List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MS. CANIZARES	French
JUDGE CARTWRIGHT	English
MR. DE WILDE D'ESTMAEL	French
MS. HAV SOPHEA	Khmer
MR. KAR SAVUTH	Khmer
JUDGE LAVERGNE	French
MS. MOCH SOVANNARY	Khmer
MR. NETH PHALLY	Khmer
MS. SE KOLVUTHY	Khmer
MR. SENG BUNKHEANG	Khmer
MS. SO SOUNG	Khmer
MS. STUDZINSKY	English
THE ACCUSED	Khmer
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MS. ANTONYA TIOULONG	French
MS. TRUSSES-NAPROUS	French
MR. WERNER	English

1

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

2 (Judges enter courtroom)

3 [09.07.02]

4 MR. PRESIDENT:

5 Please be seated. The Chamber is now in session.

6 According to the Trial scheduling, today's hearing is the hearing

7 of the statement of the civil party. Due to some changes, the

8 Chamber will today hear the four civil parties.

9 The Greffier, can you now report on the presence of the parties
10 to the proceedings?

11 THE GREFFIER:

12 Good morning, Mr. President. All the parties to the proceedings

13 are all present and the civil parties who are going to give their

14 testimonies -- Tioulong Antonya, Hav Sophea, So Soung and Neth

15 Phally -- are all present. I have already checked their

16 identities and they are ready to be called by the Chamber.

17 MR. PRESIDENT:

18 I notice the presence of the civil party lawyer. You may

19 proceed.

20 MS. STUDZINSKY:

21 Good morning, Mr. President. Good morning, Your Honours.

22 I would like you to let you know that finally our client, that is

23 E2/77, will not testify. She was scheduled for this week. This

24 is due to a recent incident where she felt badly treated by OCIJ

25 and therefore for the moment she is not able to testify. This is

2

1 what I wanted to let you know. Thank you.

2 MR. PRESIDENT:

3 Thank you, counsel, for the information regarding your client who
4 is not going to appear before this Chamber; E2/77. The Chamber
5 will then try to reschedule the hearings, taking that information
6 into account.

7 Court officer, you can now invite Madam Tioulong Antonya to come
8 before the Chamber.

9 (Witness enters courtroom)

10 [09.12.45]

11 QUESTIONING BY THE BENCH

12 BY MR. PRESIDENT:

13 Q.Is your name Antonya Tioulong?

14 A.(speaking in Khmer) Yes, my name is Antonya Tioulong.

15 Q.How old are you this year?

16 A.(speaking in Khmer) I am 57 years old in October.

17 Q.What is your nationality?

18 A.(speaking in Khmer)I am French.

19 Q.Where is your current address?

20 A.(speaking in Khmer)I live in Drunong in Paris, France.

21 Q.Please speak again. You have to wait until the red light is
22 on before you can speak so that your voice can go through the
23 system for the proper record on the transcript of what you say.
24 Please answer again.

25 A.(speaking in Khmer) I live in France. My address is number

3

1 1, Ernest Renan, Paris 15eme.

2 Q.What is your current occupation?

3 A.(speaking in Khmer) I work for a friend's newspaper,
4 L'Express, and I work at a documentary part of the L'Express.

5 [09.14.56]

6 Q.Where were you born?

7 A.(speaking in Khmer) I was born in France in Antony.

8 Q.What is your father's name?

9 A.(speaking in Khmer) His name is Samdech Chakrey Nhoek
10 Tioulong.

11 Q.What is your mother's name?

12 A.(speaking in Khmer) Her name is Chum Teav Meas Ket
13 Samphotre.

14 Q.How many siblings do you have?

15 A.(speaking in Khmer) I have six sisters.

16 Q.Can you tell the names of the six siblings to the Chamber?

17 A.(speaking in Khmer) They are Visaka, Raingsy, Dala, Sohnura,
18 Keti, and Neara Devy.

19 MR. PRESIDENT:

20 The counsel for this civil party, can you provide the Chamber
21 with a brief information of her identity and the facts relevant
22 to the facts alleged on the accused and the relevant evidence?

23 You may now proceed.

24 MS. TRUSSES-NAPROUS:

25 Thank you, Mr. President.

4

1 Indeed, Antonya Tioulong is coming to testify before you due to
2 the disappearance and execution of her sister, Raingsy Tioulong,
3 spouse Kimari, and she will be speaking as a spokesperson of her
4 family concerning the death, disappearance, execution of her
5 sister and brother-in-law, Raingsy Tioulong and Lim Kimari.

6 Indeed, Mr. President, I take the liberty with regard to this
7 very specific case to ask you to authorize Mrs. Antonya Tioulong
8 who is speaking here in the interest of her family, family which
9 is present in the audience and her mother, Mrs. Meas Ket who is
10 on the bench of the civil parties.

11 So I beg leave that she can speak concerning the disappearance
12 and execution of her sister and brother-in-law, being aware of
13 the fact that in the framework of this trial you have several
14 civil party applications concerning the Tioulong and the Kimari
15 families and, more specifically, Case D25/08 relating to Mrs.
16 Meas Ket, the mother of Raingsy Tioulong and Case D25/28
17 regarding Neva Tioulong, a sister of Raingsy Tioulong, Case
18 D25/26 regarding Kimari Nevinka, daughter of Raingsy and of Lim
19 Kimari, and D2/29, Kimari Visaka, daughter of Raingsy and Lim
20 Kimari.

21 It seems to me important indeed to indicate that there is a
22 connection between these cases that you mentioned yesterday
23 before the Chamber. There is a connection between these cases
24 and I ask your leave, Mr. President, to allow Mrs. Antonya
25 Tioulong to speak on the suffering and the pain that was felt by

5

1 the Tioulong and Kimari families because these cases are
2 intimately connected.

3 [09.20.10]

4 With regard to documentation, of course, we have produced the
5 identification documents for Mrs. Antonya Tioulong as well as the
6 other civil parties. With regard to the relationship between
7 S-21 and the case raised on behalf of Antonya Tioulong, as far as
8 I'm concerned there is no doubt whatsoever that Raingsy Tioulong,
9 spouse of Kimari, was indeed executed in S-21.

10 As a matter of fact, we are in possession of her biography, ERN
11 French 00274780; Khmer ERN 00274785; and English ERN 00274775.

12 I would like to recall also that the documents which we may rely
13 on, since the accused himself mentioned the name of Raingsy
14 Tioulong on the occasion of three depositions, and so the
15 transcript of 29 April, ERN French 00325977; ERN Khmer 00326082;
16 ERN English 00325874.

17 The transcript of 22 June, ERN French 00344341; ERN Khmer
18 00344440; ERN English 00344212.

19 And, lastly, the transcript of 16 June, ERN French 00342140; ERN
20 Khmer 00342030; ERN English 00342808.

21 With regard to the cases relating to Mr. Lim Kimari, spouse of
22 Raingsy Tioulong, his biography can be found at S-21, code ERN
23 Khmer 00088813; ERN English 00344226; ERN French 00211858, as
24 well as a photograph, S-21 ERN Khmer 00211859; ERN English
25 00211859; ERN French 00211859.

6

1 [09.23.40]

2 And in support of the case of Mr. Lim Kimari, we can also refer
3 to Annex B of D44; a list -- this is a list of S-21 prisoners.
4 And we only have the French ERN which is 00209848. I therefore
5 believe that there are no obstacles to understanding the fact
6 that Raingsy and Lim Kimari were, indeed, in S-21 and were,
7 indeed, executed in S-21 and therefore, I do not believe that
8 there can be any problem with regard to the parentage
9 relationship between Antonya Tioulong and her family with regard
10 to these two persons, Raingsy Tioulong and Lim Kimari.
11 Nevertheless, since Mrs. Antonya Tioulong is coming from France,
12 we took this opportunity to ask her to communicate to us a
13 document which we did not have at that time which is her birth
14 certificate. We had her identity documentation, but we did not
15 have her birth certificate. I therefore ask that the Court file
16 this document in the framework of its standard process. This is
17 what I wanted to say in support of the case for which Mrs.
18 Antonya Tioulong is going to be speaking.

19 [09.25.34]

20 BY MR. PRESIDENT:

21 Q.Madam Antonya Tioulong, could you please describe to the
22 Chamber the relationships related to the crimes alleged on the
23 accused, Kaing Guek Eav alias Duch, which leads you to be a civil
24 party? And can you also describe to us the damages inflicted
25 upon you physically and emotionally as a direct result of the

7

1 crimes? And let me remind you that the crimes here are those
2 crimes occurred within the establishment and the operation of
3 S-21 starting from the 17 April 1975 to the 6th January 1979.

4 You can now proceed.

5 A. (speaking in Khmer) Mr. President, I would seek your leave to
6 make my statement in French because my Cambodian language is not
7 fluent as I was exiled and lived in France for almost 40 years.

8 Q. Yes, you are granted the leave because French is one of the
9 three official languages used in the Court so you can proceed.

10 A. Thank you, Mr. President. I would like first of all to
11 specify, as my lawyer has
12 already done so, that I am speaking here before the Court on
13 behalf of my family.

14 [09.27.42]

15 First of all and above all, on behalf of the two daughters of my
16 sister, Raingsy, who was assassinated -- and these two daughters
17 are called Visaka and Nevinka -- as well, on behalf of my mother
18 who was courageous enough to sit in the same room as the accused
19 and of course, she was the first one to file the complaint and of
20 course, on behalf of my other sisters, my sister, Samura, is also
21 in this room in order to express here the grief of our family.

22 I also hope that I'll be able to carry my sister's voice,
23 Raingsy, who is no longer here to express herself in order to
24 defend her and to be her advocate and to tell you who she really
25 was and how much her family misses her.

8

1 We are therefore seven sisters. Please allow me, Mr. President,
2 to describe how our family is made up. We were therefore seven
3 sisters.
4 My father, Samdech Chakrey Nheuk Tioulong, dedicated his entire
5 life to the state and if I want to specify this is because,
6 indeed, this will have an influence in the way the facts
7 unfolded. So he was mandated by Prince Sihanouk to sign the 1954
8 Convention of Geneva to protect the borders of his country. He
9 was a high-ranking official and then he became ambassador,
10 minister, prime minister, head of the royal army and with
11 faultless loyalty to the king father.
12 Raingsy was the second child and she met her husband, Lim Kimari,
13 very early. They got married at a very young age. They had
14 three children together: Visaka, Nevinka and a boy, Metta. My
15 sister, Raingsy, was mainly the representative for a German lab
16 called Merck. She was also an anchorwoman on French radio and
17 then she was producing a program. My brother-in-law, Lim Kimari,
18 was working for the Commercial Bank. So I'm going to take the
19 liberty of drawing up a chronology of their lives.
20 [09.30.46]
21 In March 1970, Lon Nol's republic decreed that the Tioulong
22 family would no longer be allowed to come into Cambodia because
23 of my father's ties with King Sihanouk.
24 My sister, Raingsy, who was called Lim Kimari, remained in France
25 and we always maintained contact. Each year, her husband would

9

1 come to France to visit us. She would come two to three months
2 per year and her husband would come for about a month and between
3 their stay in France -- between the different stays, they would
4 write to us constantly. She would write personalized letters to
5 her parents and we still have kept -- so we always kept up this
6 family tie.

7 In 1973, the civil war becoming more and more intense and the
8 schools were closing for security reasons, so in order to protect
9 her children; she decides to send them to Paris to live with her
10 grandparents.

11 In 1974, seeing that the civil war was really worsening, we asked
12 Raingsy Kimari to come join us in France and they answered us --
13 she answered us, "We have our own profession here in Phnom Penh.
14 In France, we will have no status. We have three children to
15 feed, how could we therefore face the situation? So therefore we
16 will remain in Phnom Penh."

17 And their last stay in France, the last time that we saw them,
18 the last time that we spoke with them, we enjoyed their kindness.

19 It was at the fall and summer of 1974 and it was scheduled that
20 they would come to join us in the summer of 1975.

21 [09.33.03]

22 During this entire year, from '74 to March '75, the
23 correspondence between them and us continued. My sister was
24 getting more and more concerned regarding the schooling of her
25 children. When their grades would fall, they would write to us

10

1 to in order to encourage her daughter, Nevinka. She would say,
2 "I hope the second semester would be better" and she was
3 wondering if she was eating well at the school cafeteria. If she
4 had problems doing her homework, and if she had problems she
5 would have to address herself to her aunt. She was interested in
6 our daily life whereas while there was living under hardship.
7 They were telling us that more and more rockets were falling upon
8 Phnom Penh and that they were trying to draw up a map of where
9 the different rockets had fallen, so that they could avoid them
10 the following day. And that they were hiding under the staircase
11 of their house when they would hear the first rockets fall. And
12 they would express their fear and they would limit their
13 movement.

14 So I'm asking, therefore, the President the leave to read an
15 excerpt from a letter of my sister dated March 28th, 1975.

16 [09.34.40]

17 MR. PRESIDENT:

18 Yes, the Chamber grants you the leave.

19 MS. ANTONYA TIOULONG:

20 This is a letter addressed to my father:

21 "Which advice can you give me? What do you suggest that I do?
22 Must I leave as soon as possible or must I stick to my date of
23 departure as programmed? I no longer know what to do. It would
24 be rather ugly on my behalf to leave my husband behind among all
25 of these rockets falling, especially with his ulcers. If you

11

1 must write confidential information, well, have Daddy ask the
2 Quai d'Orsay, the French foreign ministry, to send me the letter
3 under the cover of the French embassy. I'm working, as I said,
4 in the French Audiovisual Office of Co-operation in Phnom Penh."
5 This was the last news that we received from my sister and from
6 my brother-in-law.

7 In April 1975, we learned in Paris that the Khmer Rouge have
8 taken Phnom Penh and we weren't so much alerted then. The French
9 media were saying -- the socialists calling it a socialist
10 victory, a pink victory in Southeast Asia. And we thought that a
11 communist regime was going to settle in a normal communist
12 regime, so to say. We were far from thinking that there would be
13 a tragedy of such proportions.

14 And between 1975 and 1979, it was a long period of waiting. We
15 did not know where my sister and brother-in-law were. We were
16 hoping.

17 [09.36.37]

18 We tried to face the worries of their children. We said that
19 they would end up coming and my sister said to Nevinka, "Don't
20 worry. When you will be 16 we will be reunited again and we will
21 recreate the family." My niece, Nevinka, who was trustful, was
22 waiting for her 16th birthday, saying to herself that she would
23 see her mummy again.

24 And we tried to correspond. My mother showed my sister's
25 photograph to different international organizations established

12

1 in Thailand to tell them that we were looking for her, and she
2 paid crooks so that they go look for her within Cambodia. And
3 she paid rather high amounts of money for this to people who
4 pretended to having seen my sister in Cambodia.
5 My father was powerless. He who had spent his entire life
6 protecting his country ended up completely caught off-guard. He
7 couldn't do anything for his daughter any longer. He quieted his
8 concern. He kept his strength until the end in order to preserve
9 the well-being of his grandchildren.
10 And we tried to face the situation. We tried to compensate for
11 the absence of these parents, knowing that nothing can replace
12 the absence of parents for their children. And they had to grow
13 up. They were between the ages of 11 and 14 in a country that
14 they knew little of and they had to integrate welcoming family
15 but, however, a family that was only punctuated by letters.
16 There was no Internet. There was no Skype. There was no webcam.
17 [09.38.47]
18 And as far as I'm concerned, in 1979, when the Vietnamese boat
19 people were coming in all over Europe and when the Cambodian
20 refugees also came into the Thai harbours, in France people were
21 speaking mostly of Vietnamese refugees. They were not speaking
22 about the Cambodian tragedy who were trying to cross into
23 Thailand and were being blown up on mines and were dying of
24 hunger.
25 With two other Cambodians, I carried out a hunger strike of about

13

1 12 days in the Buddhist pagoda of the Bois de Vincennes in Paris
2 in order to draw the French authorities to the fact that it was
3 necessary to take in many more Cambodian refugees than the French
4 government had set in its quotas.

5 I, of course, do not have the pretence of saying that my action
6 had an influence on Raymond Barre who was the prime minister
7 then, but a few weeks then the quota of Khmer refugees was
8 increased in a significant way. I believed that I had carried
9 out this action as a citizen regarding my compatriots.

10 But what I understood later, even more so, is that I did so for
11 my sister, and I was hoping that she would be among these
12 refugees. It was my way to help her. I did not know that she
13 had disappeared already. I was constantly thinking about her
14 over those years. I never stopped thinking about her. I was
15 maybe naive. And we are Buddhists in our family and I prayed.
16 I even was so naive as to think that my brother-in-law was a
17 swimming champion. When he was young, he was a karate black belt
18 -- a karate black belt, and I was saying to myself that he will
19 be able to train my sister to stand up -- to walk through
20 Cambodia and escape. It was very naive on my part.

21 [09.41.10]

22 So, therefore, we were without news and I carried out my hunger
23 strike in June 1979.

24 A few weeks later, we received letters that were transmitted by a
25 French television crew that was covering Phnom Penh, and they met

14

1 my cousins -- or cousins who had survived -- and who asked us to
2 help them leave Cambodia and to have them come to France. They
3 were saying that their husband had been killed and that they were
4 the only survivors and there was no word about my sister.
5 And I was saying to myself, well, she is necessarily alive.
6 Maybe they were separated. Maybe they weren't able to find my
7 sister. So she must be somewhere. Maybe she is ill. Maybe she
8 is facing hardship in another city than Phnom Penh and we will
9 end up finding her. I was hoping that.
10 And when my cousins arrived by travelling by ox carts out of --
11 or they arrived at the Thai border and we are able to make them
12 come to France. And we meet them and they are -- they have gone
13 through hell. Their state of health is disastrous. They lost a
14 lot of their weight. They lost their teeth, a lot of their
15 teeth. They are covered with parasites. They are going to have
16 to be treated for several weeks in order to come back to a normal
17 state of health.
18 And what they tell us is horrible. They are the ones who tell us
19 that Raingsy and her husband were assassinated by the accused.
20 [09.43.15]
21 And one of the three cousins, Mrs. Hiem (phonetic), when the
22 Vietnamese was in Prey Veng when the Vietnamese arrived in
23 January in 1979, she went to Phnom Penh and she met Mr. Oeng Pich
24 who was manufacturing the shackles for Tuol Sleng, and she spent
25 a few days with him and she told me that she saw piles of clothes

15

1 and she saw piles of photographs and piles of confessions, and
2 she went to Tuol Sleng where she was told that Raingsy had been
3 detained, and there was still blood in Tuol Sleng. She saw blood
4 and by going through these piles she finds my sister's original
5 confession. It was written in Khmer and she recognized her
6 handwriting. Well, she recognized the Western words such as the
7 name of the lab she was working for, the name of her French
8 friends, and she also found her photograph in one of the piles.
9 And for us it was a tremendous shock. This was at the end of
10 1979. It was devastating and we tried to protect their children
11 but before this quantity of suffering our cousins gave us the
12 details of all of what my sister had gone through before her
13 three children. She said that my sister had undergone
14 particularly harsh torture and they gave details that they had
15 hidden since because it was so horrific. They said this before
16 Metta, who was only 11 years old. Maybe they weren't careful
17 about this because they needed to share their pain and to share
18 their trauma, the trauma that they endured during four years
19 under the Khmer Rouge regime.

20 [09.45.43]

21 And the parents were mute in their grief. My father took upon
22 himself; my mother as well. My mother does not understand.
23 She's still wondering, even today, why? Why did they kill her
24 daughter? What did she do to deserve this?
25 My father later on would take it on himself so much, because of

16

1 his loyalty to King Sihanouk, he will even be brought to
2 negotiate with the Khmer Rouge, with Khieu Samphan, and he will
3 let nothing of his grief transpire. He will work until the end
4 -- his work as a state servant. And nonetheless, he will feel
5 guilty; guilty for not having been able to save his daughter.
6 He, once again -- please forgive me for repeating this -- he who
7 participated concretely in the welfare of his country.
8 And the children grew up as best as they could, uprooted,
9 separated forever from their parents. Nevinka and Visaka are so
10 devastated that they will not find the courage or the force to
11 come to this courtroom. They have designated me to express their
12 suffering.
13 Metta, who has died since, in 1999, suffered from neurological
14 troubles as of the age of 11. He had fits of epilepsy and
15 tetany, and I brought him to see a psychiatrist, who confirmed
16 that the symptoms were directly linked to his trauma and he
17 received medicine for life. And one day -- he is the only one of
18 my sister's children -- well, he decided to come back to Phnom
19 Penh and to work as a certified accountant. And one day, when he
20 was driving over the lunchbreak, he was caught by a seizure and
21 he bumped into the Independence Monument and he died.
22 [09.48.24]
23 His sister Nevinka is suffering from psychosomatic troubles which
24 are recurrent. In her file there is a psychiatrist's
25 certificates showing that she is suffering from sleep disorders

17

1 and from heart problems. Visaka chose to live in another
2 country, in Luxembourg, in order to reconstruct her life and
3 found a family.
4 Since we have been surviving as we can. Samura decided to go
5 ahead, to move ahead, to also participate in the reconstruction
6 of her country. Everyone managed his or her grief as he or she
7 could. I was hoping that there would be a trial. I will get
8 back to this a bit later if you please allow me to.
9 We tried to stick together but, despite everything, we led our
10 own lives individually and, despite everything, my sister Raingsy
11 and her husband are still present. We bring them up in the
12 present tense. We bring up their memories. Our scenes of joy,
13 of jokes, our meals, my brother-in-law's jokes, the nicknames
14 that they would call us, the cakes that my sister liked, her
15 smile, her affection, her laughter, her joy.
16 We spoke about her frequently in order to have her participate in
17 our family life and her granddaughter is also in the room -- she
18 did not know her. I believe that it's important for her as well
19 that we have her get to know her grandmother. My daughter is
20 also in the room and she will not be able to meet her aunt.
21 [09.50.30]
22 We are therefore exiled. In 1994 for the first time I returned
23 to Cambodia and the only evidence I have about my sister's
24 disappearance are the accounts that were related by my cousins,
25 so I will take the liberty of returning to these accounts.

18

1 I know what happened between April 1975 and November 1975. When
2 the Khmer Rouge arrived in Phnom Penh my sister, who was living
3 next to the Independence Monument, was chased out of her home
4 with my cousins and they were able to board three cars with a bit
5 of food and a bit of clothes, jewels, and they were able to stop
6 by Chbar Ampov and they camped there under sapodilla trees, ple
7 lmot, for six weeks. And there they were able to eat more or
8 less correctly because the Khmer currency was still being used
9 and very quickly they had to start bartering in order to obtain
10 food and rice.

11 And six weeks later, after having lived under the trees, the
12 family was chased again by the Khmer Rouge and they had to leave
13 in their haste and they had to walk for days and days in a very
14 -- cross over the Tonle Sap in a very, very painful way and they
15 arrived in the village of Tuol Triey. And during several months,
16 up until November 1975, they were able to live relatively
17 normally, if we can consider the Khmer Rouge regime as being
18 something normal, and they were given summery huts and the family
19 was spread across -- scattered in different places in the
20 village.

21 My cousin, Mrs. Yung, told me that the Khmer Rouge would often
22 listen at night to their conversations and they were saying that
23 they had nothing to eat, that their reserves in order to barter
24 for food was diminishing, and that they were seeing this as a
25 sign. They would see a chicken laying an egg every day in their

19

1 hut as a sign from Buddha. She would lay an egg between all of
2 the family members. And one day she was denounced because they
3 were jealous to see that the family had an egg and she was taken
4 in but thank God somebody said the guards are coming to spy in
5 order to investigate about this egg.
6 And she was able to have enough time to throw the egg in toilet,
7 in the latrines. The egg that could have fed ten people. And
8 she also said that the Khmer Rouge immediately saw that my sister
9 spoke French often. She did so in order not to be understood and
10 they saw immediately that she could not do anything with her
11 hands, that she spoke French very often, too often in order not
12 to be understood. And therefore they wondered who she was and
13 she was sent to work out in the fields in the harshest manner
14 possible like my cousins and she proved herself to be very
15 efficient.
16 [09.54.36]
17 She was taught the right movements. She learned very quickly
18 even though she was a city person. She, who was representing
19 what the Khmer Rouge hated -- she was able to adapt herself very
20 quickly.
21 And after several weeks they were brought to a building that was
22 at the edge of the village and they were told that they were
23 going to be interrogated and that they were obliged to tell the
24 truth, the entire truth. The family members were interrogated
25 one after the other. They were blindfolded and they were brought

20

1 into the building one by one and when she came out of the
2 building my sister said -- not to myself, she said to my cousin:
3 "They told me to tell the truth. I told them that I was called
4 Raingsy Tioulong, that I was the daughter of Nhoek Tioulong who
5 was the head of the army and that I was waiting for his return as
6 well as for the return of King Sihanouk." And she said that she
7 felt that something was wrong, that the Khmer Rouge became stiff.
8 But my cousins, one after the other, gave the details of their
9 identity and then they spent two to three days together in Prek
10 Po, in the village of Prek Po.

11 And one day they were all gathered and they separated the men
12 from the women and they brought away the women. And they called
13 out my sister's name, they cast her aside as well as the name of
14 one of the Norodom princesses and my cousin, Mrs. Yung said that
15 my sister was trembling like a lamb when she left. So therefore,
16 my cousin's testimony stops there. She gives no longer any news
17 of my sister.

18 [09.57.05]

19 The only traces that you will find of my sister will be in the
20 summer of 1979 when they will come to Tuol Sleng and when they
21 will find the photographs and my sister's confessions.

22 In 1994 I returned therefore for the first time to Cambodia and I
23 only have my cousin's account as an evidence that my sister
24 disappeared. We do not have, as we normally should have, a tomb.
25 We did a sautmon, which is a prayer ceremony for her soul to rest

21

1 in peace. We did this in Paris, but however this was not a real
2 funeral ceremony. I wanted to have a tangible proof of my
3 sister's detainment.
4 I went to Tuol Sleng and the archives were not yet completely
5 organized, and I looked for the photographs first on the walls of
6 Tuol Sleng, and of course I was struck by horror by seeing all
7 the photographs of these people who had disappeared, photographs
8 of children, of women who doubtlessly were innocent and I was
9 lucky enough to find the photograph of my sister. I say lucky,
10 because it was however, extremely, extremely difficult. In the
11 second room it is as if I had caught her glance as soon as I
12 walked into that room.
13 And then I went through several folders in order to have a
14 written trace of her detainment and I saw a yellow sheet that was
15 written in Khmer but unfortunately I cannot read Khmer fluently.
16 But thank God, a French professor, Henri Locard was there by
17 chance and he translated what was in that sheet. And the sheet
18 was drawn up for us in the name of Raingsy Tioulong, not Raingsy
19 Kimari which was her family name.
20 And it was drafted that she died on the 31st of April 1976 which
21 is a date that does not exist -- I do not know if this was a
22 typing mistake. And there were the reasons for her death; she
23 was beaten to death. "Reasons for death: beaten to death."
24 That was what was written on the sheet.
25 [09.59.48]

22

1 And later on I asked an American photographer to take a picture
2 of my sister on the walls of Tuol Sleng in order to be able to do
3 a sautmon for the first time, by being able to put my sister's
4 photograph next to the statute of Buddha with candles so that her
5 soul may rest in peace.

6 Her son, who was living in Phnom Penh, did not have the strength
7 to come to Tuol Sleng. It was something that was too traumatic
8 for him. I saw on his face his grief but also the relief that
9 was on his face when he saw his mummy's photograph that I was
10 able to find there at Tuol Sleng.

11 So therefore, for the first time, we were able to pay our respect
12 and our homage to our sister through prayer and to conduct a
13 suitable ceremony even if this was not a complete funeral. We
14 did not know where to recollect ourselves on her tomb as well as
15 on my brother-in-law's resting place.

16 And later on we will find interrogations that were much more
17 detailed written in French, interrogations and for which it
18 transpires that my sister was leading a CIA network. And that
19 she would have been hired by the CIA in 1969 and that she was in
20 charge of spying and that after April 1975 she was in charge of
21 mobilizing the population in order to claim land and oxen and to
22 have a private plane and to encourage the village population to
23 oppose its supreme authority, the Angkar, the devil -- the devil
24 in person, and to instigate the population outside of Phnom Penh
25 to return to Phnom Penh and to take over the capital, and to

23

1 organize demonstrations and to ask for salt and food and clothes
2 and rice. And the same thing is being held against her husband.
3 [10.02.47]

4 So in the interrogation sheet it is mentioned that he died in
5 1976, in May 1976. So my sister survived, between November 1975
6 and April 1976, long months of torture. Thus our horror. Thus
7 our despair. Thus our grief. Thus our pain, the pain to know
8 what she went through day after day, these long months. Maybe
9 she survived her injuries too long. We are disgusted, revolted.
10 We are asking why there was so much cruelty, why so many inhumane
11 methods? Why what happened under Nazi Germany was able to happen
12 again in an even more amplified way because here we're speaking
13 about Khmer killing Khmer without any reason? Khmer who may --
14 day after day Khmer suffer, who would not just stop at killing
15 them with a bullet in the head; who killed their fellow citizens.
16 They enjoyed it. They had fun in having them suffer. My sister
17 and my brother-in-law endured this and this is unbearable.
18 You know, Mr. President, what is haunting us? It is that during
19 this entire time when they were still alive, they must have been
20 asking themselves why they were not being helped by the family.
21 They might have cried for help, maybe out loud or maybe silently.
22 They must have asked themselves why the French, who up until then
23 were so much present who were our closest friends, why they were
24 not able to come to chase the Khmer Rouge away.
25 [10.04.47]

24

1 This is a feeling of guilt and of powerlessness that is -- I
2 imagine that the psychological -- the stress of my sister and I
3 also imagine my brother's incomprehension. This is unbearable
4 for his children and I believe that they express this through
5 their illness, even today through their ill health.
6 My sister was eliminated for nothing and I would like to express
7 my sister's personality to you. I'm here to defend her.
8 She was not a CIA agent, she was Francophone. She had no
9 connection with the Americans. I had, so it's true, I worked for
10 four years in the American embassy as of 1977 in Paris. It's
11 true. She had no link with the Americans.
12 Her friends were members of the American embassy, the French
13 doctors -- her friends were members of the French embassy.
14 That's why she asked us to write to them through the embassy.
15 Her friends were colleagues from the French radio.
16 And, by the way, in the interrogation she included in her network
17 Paul Amar, a French journalist -- Paul Amar, a radio journalist.
18 And they also -- he also said he was never part of the CIA and,
19 on the other hand, her true profession was mainly to represent
20 the Merck Sharp & Dohme Laboratory and also to present the news
21 in French. And then she managed a French entertainment
22 programme.
23 She had no connection with -- and I will repeat this -- with any
24 kind of spying intelligence organization, the KGB, the CIA, the
25 French Intelligence service. She was just leading her life as a

25

1 Khmer citizen, and the same thing for her husband who was a
2 banker.

3 [10.07.36]

4 The feeling of revolt that we have is even stronger that when we
5 think about who they. were we cannot say to ourselves that it was
6 anything else than the most extreme form of injustice.

7 My sister was somebody who was joyful. They represented, with
8 her husband, the ideal couple. It was a united couple, maybe the
9 most perfect couple that they can be, whereas it was not --
10 whereas Khmer couples do not generally demonstrate their
11 affection they would not deprive themselves of this, would not
12 deprive themselves of showing. They were always smiling. They
13 would sometimes quarrel. It was an extremely united couple -- a
14 couple that was very much in love.

15 They were mindful of the well-being of the people around them and
16 they would behave like a brother and an older sister as in the
17 traditional way in the Khmer -- in society, where the older
18 siblings must take care of the younger ones. My sister always
19 took care of me as well as of our sister, Samura.

20 In 1970, when the family was exiled, I was taking my
21 Baccalaureate exam at the Quai d'Orsay and I ended up alone with
22 her in Cambodia, and it was agreed that when I was going to take
23 my Baccalaureate in June, I would join my parents in France who
24 were there since 1969.

25 My sister, even though that she had fallen under the exiled

26

1 decree of Lon Nol and having been the spouse of Lim Kimari, she
2 was able to stay in Cambodia and we shared -- we spent several
3 months together and I must say that in a way she was all to me --
4 all to myself. We were tighter than ever.

5 [10.09.53]

6 We were not living in the same house but we would see each other
7 very often. We were the daughters of somebody who had been
8 banished, but we stood up proud. My grandfather, His Excellency
9 Meas Nal, who himself was a (inaudible) in the country, told us
10 that in honour and in grief you have to stand up tall. We did
11 this. We were both of us -- we were the daughters of Nhoek
12 Tioulong and we were proud of this.

13 And then she would take care of me. She would come pick me up
14 and we would cook and follow the cooking recipes. This is the
15 way we could -- during the civil war and we were suffocating. We
16 were doing what we could to air out our minds. We would spend
17 afternoons together. We would go see the rare films, the rare
18 French films that were being shown, and I cherished these moments
19 that I spent with her and her husband.

20 She took care of my grandfather until the end as well. My
21 grandfather died in 1974 and she watched over him at the
22 hospital. It was someone who was watching over the well-being of
23 the people around her. She protected her children by sending
24 them to live in France.

25 And she protected me because in 1970 when I received -- when I

27

1 got my Baccalaureate, I tried to get an exit visa to come to
2 Paris and the police authorities back then took their time to
3 give it to me. They called me up practically every week to ask
4 me what my father was doing and if he was still with the king, if
5 he was in Beijing. And I would answer always. "No, no, no. He
6 is in Paris."

7 [10.12.03]

8 And after each police interrogation -- I was not even 18 years
9 old back then -- my sister would come with me or my
10 brother-in-law they would come with me. They would always
11 accompany me all the time. All the time, they were always
12 present.

13 And when finally in November 1970 I obtained this exit visa, she
14 came -- rushed over to Air France to buy my aeroplane ticket and
15 I left the next day. She also protected me, but she was not able
16 to protect herself.

17 As I was telling you, she was a radiant personality. She
18 protected us all the time. Her role as a protective elder sister
19 haunts me even though I am today in a position to protect others.
20 I believe that my sisters and myself we try to do what we could
21 for her children, but we were never and would never be able to
22 replace the presence of their parents and we feel guilty because
23 of this.

24 I wish also to insist on the fate that was reserved for her is
25 particularly unjust. I am not ashamed to say that, being

28

1 aristocrats, we were amongst the privileged and in these layers
2 of society people were perhaps pretentious. My sister was humble
3 and simple. She never put herself forward. Though we were
4 riding in a Mercedes car with driver, she continued to drive her
5 deux chevaux. You saw her everywhere in town working with her
6 medicines at the back of the car, in the deux chevaux.
7 She never introduced herself as Tioulong, she always introduced
8 herself as Mrs. Kimari, and this is what is making us suffer. It
9 is the fact that the only time that she claimed her name she
10 should not have done this. Perhaps it would have saved her life.
11 She died for having given her name as Tioulong. It's the only
12 time when she gave her maiden name, and this is what hurts as
13 well.

14 [10.14.42]

15 During all these years we hoped -- we hoped that a trial would
16 take place. As far as we are concerned, there was a genocide and
17 war crimes. We learned in the history books that atrocities were
18 committed in the world: gas chambers, the extermination of
19 children, medical experiments of Dr. Mengele -- terrible things.
20 And we learned what happened in Tuol Sleng and we found that it
21 was the same thing; perhaps worse for some of the prisoners,
22 because sometimes gas chambers managed to kill people after only
23 a few days but here my brother and sister survived six to seven
24 long months.

25 It was worse than what the Nazis imposed on the Jews. It was an

29

1 indescribable, barbaric act and I dare say that the accused has
2 committed an indescribable act of barbarity. When we read the
3 interrogations, they are Machiavellian, where we find a mixture
4 of the truth -- which was the identification of my sister, my
5 parents, the age of her children; all of that was accurate. But
6 it was mixed in with pure invention: the fact that she was
7 alleged to have belonged to a CIA network, that she was spying,
8 that she was inciting the population to rebel. This mixture,
9 mish-mash of reality and invention, is a Machiavellian technique.
10 The Nazis didn't encumber themselves with such precautions. This
11 is a highly-refined attitude in order, until the end, manage to
12 decree that the victims were guilty, to torture them, to make
13 them confess under duress and torture. And therefore, for a long
14 time, we hoped for a trial. We told ourselves there were fair
15 trials for the Nazi war criminals and there was an international
16 criminal tribunal for Yugoslavia, for Rwanda, and we saw nothing
17 emerging on the Khmer side.

18 Is it the case that the Khmer, that the one million -- the over
19 one and a half million Khmer victims -- is it the case that they
20 are so insignificant that there is no will to put their torturers
21 to trial? Are they so insignificant that justice not be
22 required; that their assassins not have a finger pointed at them;
23 that everyone is entitled to such a trial except us? So in our
24 family we were waiting, waiting, and we saw nothing coming.

25 [10.18.05]

30

1 In 1999 the Chilean General Pinochet, travelling through London,
2 was taken into custody by British justice. A foreign court
3 succeeded in charging him, and so I thought perhaps there is
4 hope, perhaps something can be done in France, and with a
5 Khmer-French friend I decided to file a complaint for illegal
6 detention followed by tortures and war crimes against Duch,
7 against Khieu Samphan, Chea Sim(sic), Nuon Chea and Ieng Sary.
8 I was heard by Jean-Paul Vaillard (phonetic), the investigating
9 judge, and after two years the case was thrown out with the
10 reason that the victim was not French. But I corrected that and
11 said that the victim had been born in a French protectorate.
12 This led to nothing. I also expected that the International
13 Criminal Court of the Hague would seize on this.
14 One of the presidents, Louise Arbour, had in fact committed to
15 come in person to Cambodia in order to raise this issue of
16 impunity of the Khmer Rouge leadership. Unfortunately she was
17 not in her position long enough in order to be able to achieve a
18 result.
19 Today, when last year we heard that an international trial was
20 being created, we finally became hopeful again. Please allow me,
21 Mr. President, to express my thanks for this opportunity to be
22 heard as a civil party, to have the opportunity to say that our
23 family is relieved that this extraordinary international chamber
24 has finally been created to try the Khmer Rouge leadership even
25 though they will not all be appearing before you. At least today

31

1 the person who ordered the torture and extermination of my sister
2 is sitting on the bench of the accused.
3 [10.20.50]
4 By authorizing the hearing of civil parties this Tribunal is
5 opening the way to hearing civil parties in future international
6 tribunals dealing with war crimes. It's a tremendous step
7 forward for us from the outside and we appreciate rightly the
8 value of this. Cambodia, which until now had been considered a
9 very small country, is going to be opening the way, setting an
10 example for other trials of this type where civil parties can be
11 heard, and I find this all the more important because of that.
12 The verdict which will be handed down by this tribunal, for me
13 and to my mind, goes far behind the Cambodian problem. The Khmer
14 genocide is not simply Khmer. It is a global massive act of
15 killing which is of concern for the people of the entire world.
16 It must not reoccur. It must not be possible for persons such as
17 the accused to have the ability in the future to repeat their
18 ignominious behaviour.
19 We must teach future generations, the Khmer youth which is
20 lacking information, that crimes -- that this type of a crime,
21 which is absolutely intolerable, cannot remain unpunished. It is
22 not enough to say "I'm sorry" to gain absolution or to be
23 absolved. A sentence must be handed down and I wish that the
24 Tribunal -- and I beg the Tribunal to hand down the most fairest
25 possible judgment which will be commensurate with the crimes

32

1 committed by the accused.

2 I am not a judge myself. I am simply a civil party representing
3 one of the victims. I have an idea as to what I would like the
4 accused to be sentenced to and I will state that later on. What
5 I wish at this level is that my sister, Raingsy, and my
6 brother-in-law, Lim Kimari, be recognized as victims. Until now
7 all we have is a picture posted on a wall; an interrogation where
8 they appear as CIA agents.

9 I wish that they'd be formally recognized as the victims of a
10 genocide perpetrated against them; that their assassin, their
11 murder be designated as such. I would wish that justice be
12 handed down and given to my sister and brother-in-law. I hope
13 that the Court will hear me. I hope that I will have been a good
14 enough lawyer in my pleading for my sister and my brother-in-law.
15 You know, in the 40's people were accused and were tried for
16 crimes of this kind in the West, and these people said, "All we
17 did was obey orders. We did our duty in order to build a
18 country." Well, they were sentenced to death. That happened in
19 Nuremberg. Their names were Goering, Speer, Hess, and I cannot
20 avoid drawing a parallel here. I believe that the responsibility
21 of the accused is as important, perhaps more important even, than
22 these persons who came before the international tribunal of
23 Nuremberg, as far as I am concerned.

24 [10.25.01]

25 The accused expressed his wishful forgiveness. He expressed

33

1 remorse. I would like to remind him in concrete terms about who
2 my sister was. Please allow me, Mr. President, to show him the
3 picture of my sister which we found in Tuol Sleng and the picture
4 of my sister as she was when he probably never then met her.

5 MS. TRUSSES-NAPROUS:

6 Mr. President, if you will allow me. Mrs. Tioulong in fact is in
7 possession of these two pictures. Would it be possible to show
8 them on the retro-projector?

9 MR. PRESIDENT:

10 Yes, the Chamber allows it.

11 The Court officer, can you project those two photos on the Court
12 projector, please.

13 The counsel, you may proceed.

14 MS. TRUSSES-NAPROUS:

15 As the picture of S-21, which is going to be shown by Mrs.
16 Tioulong, is the very small picture that is found in the
17 biography. She had someone take a picture of her sister by an
18 American photographer, as she indicated earlier. This explains
19 to you why we have now an enlarged version of the picture. That
20 picture was with the mother of Mrs. Tioulong. It is in her house
21 and, therefore, Mrs. Tioulong accepted to give us this picture so
22 that we could show it to you today.

23 [10.27.42]

24 MR. PRESIDENT:

25 The Court officer, can you take the photos and have them

34

1 projected on the slide.

2 Please show the second photo.

3 MS. ANTONYA TIOULONG:

4 Thank you, Mr. President.

5 I wanted to show the accused who he had destroyed by his own
6 hand. This picture is one of the last pictures we have of our
7 sister when she came to visit us in France. She's looking at us,
8 and this is a picture which represents a question for me, and
9 this is why I am thankful to the Court to have allowed me to
10 speak and to bring her voice to you.

11 And I was speaking about forgiveness and remorse, which was
12 stated by the accused, and I wish to tell him by way of the
13 President of the Tribunal, that I do not believe in forgiveness
14 in his case. I do not believe that he feels remorse. That it
15 will never be the case that our family or myself will forgive
16 him. I know that he doesn't care.

17 I know that in February when he officially sought forgiveness, he
18 said, "I submitted to the Tribunal and the Tribunal may do with
19 it what it wishes". He expressed this through the voice of
20 Maitre Roux.

21 I know that he doesn't care about what I'm going to tell him but,
22 nevertheless, I wish to say that given the horrific treatment he
23 had inflicted on my sister and my brother-in-law, he should never
24 expect that I could forgive him.

25 [10.30.04]

35

1 What I wish for him, if it is the case that he feels if only an
2 inch of remorse, I wish that the remorse be as great as the
3 totality of the physical, moral and psychological suffering that
4 he inflicted upon his 17,000 victims. That, in fact, is the
5 punishment that he deserves.

6 I believe that the accused is fortunate. He is standing here in
7 front of a tribunal, an international tribunal for a fair trial.
8 His victims did not have that chance. Had his victims been
9 fortunate enough to come before real judges, to sleep on a
10 mattress, to be fed and clothed normally, to not be mistreated;
11 the accused sleeps every night on a good mattress, is dressed
12 adequately, is fed adequately, has an adequate life, and is
13 probably going to spend the rest of his life in a comfortable
14 surrounding. His victims were martyrs and suffered as such and
15 so never, never, will I forgive him.

16 Thank you, Mr. President, for having listened to me.

17 MR. PRESIDENT:

18 Since it is now an appropriate time to take the adjournment,
19 we'll take the adjournment for 20 minutes.

20 The civil party may now take a little bit break and then you can
21 return to the courtroom later after we resume.

22 THE GREFFIER:

23 All rise.

24 (Judges exit courtroom)

25 (Court recesses from 1032H to 1057H)

36

1 (Judges enter courtroom)

2 [10.57.54]

3 MR. PRESIDENT:

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

5 We would like now to allow the civil party to proceed with her

6 remaining of the statement, and of course she is here for the

7 purpose of the civil party claims and accounts.

8 MS. TRUSSES-NAPROUS:

9 Thank you, Mr. President. As far as I am concerned, I have no
10 additional questions for Mrs. Antonya Tioulong. Her testimony is
11 particularly striking and she has, I believe, expressed the
12 suffering and the pain of her entire family caused by the
13 execution of Raingsy and Lim Kimari.

14 [10.59.02]

15 However, Mr. President, if you will allow me, I do know that Mrs.
16 Tioulong would like, through you, to ask a question from the
17 accused and I would like to seek your permission so that she may
18 ask that question.

19 MR. PRESIDENT:

20 The Chamber allows the question to be asked. The accused is also
21 reminded that you should try to understand the question that is
22 going to be put to you by the civil party through the President
23 of the Chamber, that is through me, so that if the Chamber asks
24 you, you can respond directly to the question. It is the same
25 procedure as we did yesterday.

37

1 Madam Antonya Tioulong, you can now proceed with the question.

2 MS. ANTONYA TIOULONG:

3 Thank you, Mr. President. We now know, or rather it has been
4 established that my sister was subjected to several months of
5 torture before she died. This family, as we would like to know
6 what were the orders of the accused? Was she singled out for
7 special treatment and why did he decide to eliminate her?

8 MR. PRESIDENT:

9 The accused, you have listened to the question. Can you respond
10 to the question?

11 THE ACCUSED:

12 Mr. President, I would like to respond to the question as
13 follows. Because Madam Antonya is here representing her whole
14 family, especially her mother, and I would like to respond
15 sincerely to this question.

16 [11.01.58]

17 Raingsy arrived at S-21 since I was the deputy chairman of that
18 office, so the confession was extracted quite some time ago. And
19 when I rose to become chairman, the confession was completed but
20 I did not pay my attention to that confession.

21 From the surviving documents I would say Raingsy died of illness
22 and Lim Kimari, regarding her I did not know about her. I
23 thought actually Lim Kimari was the child of the Mr. Lim and I
24 thought they were cousins. So this is my frank response. And I
25 only learned of these facts at a later stage. However, I

38

1 recognize that both of them died at S-21 when I was the deputy
2 chairman and later on when I was the chairman. And this is my
3 response, Mr. President.

4 MR. PRESIDENT:

5 There is another question that you need to respond, that is, what
6 is the reason for selecting her and why she was detained and
7 killed at S-21. So can you respond to the questions, the reasons
8 for her selection and her in-law to be killed at that centre?

9 THE ACCUSED:

10 The arrest of people and brought to S-21 were the policy of the
11 CPK after the 17 April 1975, and it actually commenced before I
12 arrived in the centre and even before the establishment of S-21.
13 In the countryside they started arresting people and sent to S-21
14 according to the policy of the CPK.

15 Regarding the smashing or to let them die naturally, it is the
16 principle of S-21 that anybody who was arrested and sent to S-21
17 had to be smashed. As I have repeatedly told the Chamber,
18 whoever was arrested and sent to S-21, S-21 would smash them.
19 This is my response.

20 [11.05.03]

21 MR. PRESIDENT:

22 The civil party, do you have any more questions to be put?

23 THE WITNESS:

24 No, Mr. President. Thank you very much for having allowed me to
25 do so.

39

1 MR. PRESIDENT:

2 The Co-Prosecutors, do you have questions for this civil party?

3 MR. DE WILDE D'ESTMAEL:

4 Thank you, Mr. President, Your Honours.

5 As yesterday, the Co-Prosecutors are voiceless before so much
6 suffering, before so much dignity and before so much courage;
7 whose statement is so complete that it does not require any extra
8 questioning on our side.

9 MR. PRESIDENT:

10 The Chamber now would like to give the floor to the defence
11 counsel to put questions to this civil party.

12 MR. KAR SAVUTH:

13 Thank you, Mr. President.

14 [11.06.35]

15 The defence counsel do not have any questions for this civil
16 party. Thank you, Mr. President.

17 MR. PRESIDENT:

18 The Chamber would like to give the opportunity to the accused to
19 make his observations regarding the content of the statement of
20 this civil party, Antonya Tioulong, in addition to your responses
21 to the questions already put by the civil party.

22 THE ACCUSED:

23 Mr. President, first of all I would like to seek your permission
24 to express my deep respect and gratitude to Chum Teav, who is
25 here in the Chamber. This is an honour for me. Chum Teav Meas

40

1 Ket is three years older than my mother and I am thankful for her
2 presence here.

3 Aside from that and Tioulong from the time that I was the deputy
4 chairman I could recognize the voice of Raingsy since I was in
5 prison. I heard the voice on the radio. Therefore, at S-21 I
6 did not go near where he was detained. At that time I only
7 thought that only Raingsy was detained as he arrived from France
8 but then there was another person detained together with him and
9 I was speechless. So this is my personal knowledge of this
10 matter.

11 Regarding the testimony of Antonya Tioulong, it's a live
12 historical documentary event. It is a family who lost two
13 members and this is going to last forever and it is going to be a
14 legacy for the next-generation researchers who is going to study
15 the impact of the loss upon each family and the suffering
16 inflicted upon that family.

17 [11.09.34]

18 I personally still maintain my spirit of responsibility for those
19 crimes and this is my frank and sincere speech to you, Madam Chum
20 Teav and Mrs. Antonya.

21 MR. PRESIDENT:

22 Madam Antonya Tioulong, the hearing of your testimony as a civil
23 party has come to an end now. You are now excused by the Chamber
24 and you can return to your seat.

25 (Witness exits courtroom)

41

1 Next the Chamber would like to call Madam Hav Sophea, a civil
2 party from group 1.

3 (Witness enters courtroom)

4 Please come to the seat before the Chamber.

5 QUESTIONING BY THE BENCH

6 BY MR. PRESIDENT:

7 Q.Madam, is your name Hav Sophea?

8 A.Yes.

9 Q.How old are you this year?

10 A.I am 33 years old.

11 Q.What is your nationality?

12 A.I am Khmer.

13 [11.12.02]

14 Q.Where were you born?

15 A.I was born in Meanchey Balang, Kampong Thom.

16 Q.The Chamber would like to remind you that please do not speak
17 until you see the red light on the microphone is on, so that your
18 voice can go through the system for proper record on the
19 transcript.

20 And where is your current address and what is your occupation?

21 A.I live at Chey Mungkul Balaing, Kampong Thom, and I am a rice
22 farmer.

23 MR. PRESIDENT:

24 I notice the presence of counsel Alain Werner. You may proceed.

25 MR. WERNER:

42

1 I apologize for interrupting. I have just noticed that my client
2 does not have her headset and I was wondering if she could
3 properly hear you.

4 BY MR. PRESIDENT:

5 Q.What is the name of your father and is he still alive?

6 A.His name is Chen Sea, alias Han. He is deceased.

7 Q.And your mother, what's her name and is she still alive?

8 A.Her name is Nhem Sophat and she is living.

9 Q.How many siblings do you have?

10 A.I do not have any.

11 MR. PRESIDENT:

12 Madam Hav Sophea, you are a civil party from group 1. The
13 Chamber would like now to invite the counsel for civil party
14 group 1 to make a brief presentation on the identity of the civil
15 party and related events and facts which lead to her application
16 to be the civil party to this case and all the evidence connected
17 to the facts and crimes alleged on the accused.

18 MR. WERNER:

19 Thank you, Mr. President. Good morning, Your Honours.

20 My client, Hav Sophea, is as she told you, the daughter of Chen
21 Sea also known as Han or Hav Han. Chen Sea was detained and
22 killed at S-21. His name appears on the revised S-21 prisoner
23 lists, document E68/1, page 64. His name also appears on the
24 second prisoner list which, according to the DC-CAM database, is
25 also an S-21 prisoner list and both these lists show that the

43

1 father of my client was killed on the 15th of May, 1976.
2 We did file the second prisoner list and the attestation of the
3 database of DC-CAM with our motion last week. Now, what we did
4 also is to provide a birth certificate of our clients and on that
5 birth certificate the name listed as her father is Hav Han.
6 And as we explained in detail in the filing last week, the reason
7 why the name of the father of my client on her birth certificate
8 is Hav Han and not Chen Sea also known as Han, is that this birth
9 certificate was made in 1982. And at that time the mother of my
10 client, the wife of Mr. Chen Sea knew her husband to be Hav Han.
11 It's only later through family members that the name, one of the
12 names of her husband, was actually Sea.
13 [11.17.46]
14 We also have a prisoner biography of Chen Sea and on this
15 prisoner biography he has mentioned the name of the wife of Chen
16 Sea. This name is Nhem Phat and Nhem Phat is the name that the
17 mother of my client used during the Khmer Rouge regime as her
18 name. Today, her name is Nhem Sophat.
19 So in our submission, and I do not believe that this is
20 contested, there is no doubt whatsoever that Chen Sea also known
21 as Han or Hav Han, is indeed the father of my client Hav Sophea.
22 So with this explanation we do believe that we answered the
23 preliminary questions.
24 And may I just inform Your Honours how we would like to proceed?
25 My client doesn't wish to make a statement. I will ask her

44

1 questions to go with her through her evidence and at the end she
2 -- we would request the leave of Your Honours for her to ask
3 three questions to the accused.

4 Thank you.

5 BY MR. PRESIDENT:

6 Q.Is the statement of your counsel correct; that is, you reserve
7 your right to make a statement before the Chamber?

8 [11.19.35]

9 Can you respond to this question, Madam Hav Sophea?

10 A.That is correct.

11 MR. PRESIDENT:

12 The Chamber would like now then to give the floor to counsel,
13 Alain Werner, who is representing the civil party group 1, to put
14 questions to your client. You may proceed.

15 MR. WERNER:

16 Thank you, Your Honours.

17 First, I would request that one picture that I have here, if I
18 could give that to your officer, for that picture to be put on
19 the screen? It is a picture of the father of my client.

20 MR. PRESIDENT:

21 Court officer, can you take the photo from counsel and have it
22 shown on the projector?

23 MR. WERNER:

24 This picture is a picture which appeared on the biography which
25 was filed with our application as a civil party.

45

1 QUESTIONING BY CIVIL PARTY COUNSEL

2 [11.21.26]

3 BY MR. WERNER:

4 Q.Madam, can you confirm that that is a picture of your father?

5 A.Yes.

6 Q.Thank you.

7 Madam, could you tell this Court what your father did during the
8 time of Democratic Kampuchea?

9 A.My father was a soldier in the Unit K-92.

10 Q.And according to what you know, what happened to your father
11 during the time of Democratic Kampuchea?

12 A.In 1975 his unit transferred him from Kampong Thom to Phnom
13 Penh. He stationed in Phnom Penh at the Boeng Trabaek base until
14 the 15th of January 1976 when he was arrested.

15 Q.And is it correct, madam, that at that time, at the time of
16 his arrest you were not born yet? Can you confirm that?

17 A.Yes.

18 Q.And can you tell us, if you can remember, according to what
19 your mother told you, if before his arrest your father said
20 anything to your mother about what your mother should do in case
21 of arrest, of his arrest?

22 A.Before the arrest of my father he told my mother that she
23 should strive to leave and survive.

24 Q.And if you can remember, did he say anything else to your
25 mother?

46

1 A.He told my mother to marry another man. And one day there was
2 a meeting but the Vietnamese language was spoken and my mother
3 was behind him and he was not aware of that. In a meeting people
4 talking about a split within the Party and that his group would
5 not survive if that happened and they would die under the flag of
6 the Party.

7 [11.25.11]

8 Q.Madam, how long after the arrest of your father were you born?

9 A.My father was taken away and I was born 21 days later.

10 Q.And according to what you learned later, do you know why your
11 father had been arrested?

12 A.My mother never knew the reason for his arrest.

13 Q.Now, Madam, concerning your date of birth; is it correct,
14 Madam that your date of birth which figures on your birth
15 certificate which is September '76 is not correct? Can you
16 confirm that?

17 A.In my birth certificate the month was wrong. In fact, I was
18 born in February. In my voter registration card, the month was
19 correct but it is a mistake made by the registrar.

20 MR. WERNER:

21 And Your Honour, we did make effort to get that document, the
22 election card, and we have it now, with the correct date of birth
23 and I am proposing, as I was proposing yesterday, to coordinate
24 with your Greffier and to file it for it to be placed on the case
25 file. And I'm proposing to do everything at the same time -- the

47

1 document of yesterday and the document of today -- with your
2 leave.

3 [11.27.27]

4 Thank you, Mr. President.

5 BY MR. WERNER:

6 Q.Madam, can you explain to this Court what happened according
7 to what your mother told you? What happened after the
8 disappearance of your father?

9 A.When I grew up, my mother always tells me about his
10 disappearance. She told me from the time that they were living
11 happily together until the day he disappeared forever.

12 Q.And Madam, can you tell this Court how long after the arrest
13 of her husband, how long did your mother wait for him?

14 A.My mother was waiting always for my father until the day she
15 learned that my father was killed at Tuol Sleng in 1976.

16 Q.And when was that, Madam, if you can remember?

17 A.She had waited for my father since 1976 until she delivered
18 me, and then we moved to live at Kbal Chroy. She carried me in
19 her hand and waited for my father near the river bank. I was
20 born for nine months and then Angkar said that -- Angkar told my
21 mother that her husband was smashed.

22 [11.29.59]

23 She had been waiting from 1976 and cradling me to search for the
24 news of my father. And in 1991 there was a repatriation process
25 and my mother could be seen waiting for the news of my father but

48

1 to no avail.

2 She could only see the relatives of hers but she never came to
3 see my father again, although she knew that my father could have
4 been killed, but she could still have hope, hope that one day he
5 could be reunited with the family to give the warmth, the love,
6 to the members of the family. But our dream and expectation
7 failed.

8 Later on we learned that my father died at S-21.

9 MR. WERNER:

10 Your Honour, her mic is not activated.

11 MR. PRESIDENT:

12 The Court officer is now instructed to assist her with her
13 microphone because we have found it difficult to listen to her
14 testimony or statement.

15 BY MR. WERNER:

16 Q.Madam, can you repeat the last few sentences please, for the
17 Court?

18 A.My mother had waited for my father's returning home from 1976
19 until 1991 and during the time when there was a repatriation
20 process, then she could be seen waiting, expecting his return.
21 And later on it was shock to learn that my father was executed at
22 S-21, the notorious death camp.

23 [11.33.12]

24 Q.Madam, you mentioned the date, beginning of 1990 and the
25 repatriation. Did your mother had still some hopes after 1991,

49

1 -2 or -3?

2 A.Yes, she had lived with hope and expectation. She believed
3 that one day she could see her husband again but her expectation
4 and dream failed. And later on, after learning that her husband
5 died at S-21, she was deeply -- and she had been deeply
6 depressed. When she learned of the news that her husband died
7 she burst into tears. She came home with so much distress. She
8 really missed her husband, the very loving husband and father who
9 died without any guilt.

10 Q.And, Madam, can you confirm for the Court that it is only in
11 2006 that when DC-Cam and that you learned during the -- seeing
12 the confession, that your father had been at S-21. Is that
13 correct?

14 A.Yes, it is.

15 [11.35.42]

16 Q.Madam, can you tell this Court why your mother today is not
17 even a civil party in this case?

18 A.The main reason that she is not a civil party in the process
19 is that she does not want to face the accused.

20 Q.And can you tell this Court if your mother got married again?

21 A.No, she has not married. No, she had not married and she
22 never wants to get married with any other man.

23 Q.Now, Madam, if I may, I would like to ask you some questions
24 about yourself. Can you explain to this Court what for you how
25 was -- what was the effects of the absence of your father in your

50

1 life, if you can, Madam?

2 A.I have become an orphan and life was not or is not as happy as
3 the families in which they can live with their father. And
4 during this kind of hardship and with the absence of my father
5 and against all odds -- and we have been struggling to hold onto
6 life. And financially, physically, emotionally we are in a very
7 desperate position.

8 I try to study hard, as I was advised by my mother repeatedly,
9 because she kept telling me that when my father returned then
10 life would be better, but my father never returned and we did not
11 really have the money to financially support my further
12 education, so life of hardship intensifies and we are in a deep
13 suffer. I can only deal with life by way of doing a very small
14 business.

15 [11.39.00]

16 Q.Is it correct, Madam, that you stopped school at grade 7?

17 A.Yes, it is correct.

18 Q.And can you explain to this Court quickly why did you stop
19 school at that time and how old were you when you stopped school?

20 A.The reason I stopped school, because we had no money to
21 continue my schooling because the family was in big poverty. She
22 did not even have 1,000 riel in the house. How could she afford
23 to send me to school? I had to stop school and I could remember
24 crying all days and nights because I really missed the school
25 playground, the moments we enjoyed at school together with my

51

1 peers. I missed my teachers. At that time I was about 16 and 17
2 years old.

3 However, with my perseverance I would like to continue my
4 education. I stopped school at grade 4 but because I was really
5 loved by my teacher then the teacher asked that I could study
6 without paying extra money for the extra classes, then I could
7 continue the education without the teacher support. I could
8 never have come that far to grade 7; I could already drop the
9 school at grade 4. And life is hard.

10 Q.Can we continue or do you need a break? Do you need me to
11 request a break?

12 A.I'm fine. Please proceed further.

13 [11.41.52]

14 Q.Can you confirm the fact that your dream indeed was to become
15 a teacher?

16 A.I dreamed to become a Khmer literature teacher because I
17 really loved this field of education, but it was just a dream
18 because I stopped school and I never, ever returned to school
19 because of financial difficulty.

20 Q.Now, Madam, can you tell this Court the fact that in 2006 you
21 learned that your father was detained and killed at S-21 -- not
22 somewhere else, at S-21 -- what does that mean for you; can you
23 tell this Court?

24 A.Upon receiving the news that my father was detained at S-21 I
25 was so moved. I was about to cry all days but I had to compose

52

1 myself.

2 I really missed his loving and affectionateness and he was a
3 great father, and my mother kept telling me about his affection
4 toward the family and, having heard that, I really missed him.
5 And I really miss him because he died in a place which was very
6 cruel.

7 Q.Madam, is it correct that yourself and your mother came to
8 Phnom Penh and visited Tuol Sleng? Can you confirm that?

9 A.On the 9th of January 2007 my mother -- having heard that my
10 father was detained and executed at S-21 -- came to Phnom Penh
11 and asked my uncle to take her to the S-21 compound and she paid
12 a visit to the Building A and the room in which my father could
13 have been detained. She was so shocked and moved, she could be
14 seen standing full tears in the eyes and we could do nothing but
15 to hug one another to just console each other in such a moment.

16 [11.45.32]

17 Q.And Madam, if it's not too difficult for you -- only if it's
18 not too difficult for you, can you tell this Court what happened
19 at Tuol Sleng when your mother saw the place where the clothes
20 are in a pile? Could you tell this Court what happened then?

21 A.When she reached the building in which the rag clothes were
22 stored, she was so distressed that she asked if she would be
23 allowed to really ransack those clothes so that she could really
24 locate the clothes which could have been worn by my late father,
25 but she was not allowed to do so.

53

1 Q.And Madam, if it's possible for you, could you tell this Court
2 about the dreams that you had in the two months following the
3 visit of Tuol Sleng?

4 A.Having paid a visit and witnessed the view of the Tuol Sleng
5 compound, I wanted to file a civil party application and I went
6 to DC-Cam so that my father's original photo could be copied and
7 I could obtain the copies to support my application form because
8 I have learned that the hybrid Court has been established and
9 that I know the brutality and the barbaric acts that could have
10 been inflicted on to the victims at S-21 and that my father was
11 among them. That's why I had to file such complaints.

12 Q.Thank you for this answer, Madam.

13 Is it correct that after the visit of Tuol Sleng, for some time
14 at night you had dreams about your father? And if it's possible
15 for you and if it's correct, can you describe these dreams to the
16 Court please?

17 [11.48.38]

18 A.After returning home from the visit to Tuol Sleng, I find it
19 extremely distressing and at night I had dreams -- dreams of my
20 father because although I never seen his face when he lived, I
21 just could see him through the photo and I -- in my dreams he was
22 holding my hand, running away from the S-21 compound -- running
23 for life -- and I then woke up.

24 Q.Madam, is it correct that the picture that was displayed is
25 the only one that you and your mother have today of your father?

54

1 Can you confirm that fact?

2 A.Yes, it is correct.

3 Q.And is it correct, Madam, that that is the case because the
4 Khmer Rouge ordered your mother to burn all the photos and
5 pictures she had? Can you confirm that?

6 A.Yes, the Khmer Rouge, when it came to the time when the
7 Vietnamese was about to invade Cambodia, then they asked my
8 mother to burn down all the documents and photos of my father and
9 otherwise she would be killed.

10 Q.Madam -- and that would be my last question -- can you confirm
11 to this Court that you are happy to leave your claim for
12 compensation to your lawyers? Could you confirm that?

13 A.Certainly, yes; I will give the opportunity to my counsel to
14 work with the claim for compensation on my behalf.

15 [11.51.27]

16 MR. WERNER:

17 Your Honours, we do not have any further questions for our
18 client.

19 As I mentioned earlier, our client would request the leave of
20 this Court to ask, I believe, three questions to the accused
21 through you, Mr. President.

22 Thank you.

23 MR. PRESIDENT:

24 The Co-Prosecutors, do you have any questions to put to the civil
25 party?

55

1 MR. SENG BUNKHEANG:

2 Thank you, Mr. President. The prosecution does not have any
3 questions to put to the civil party.

4 MR. PRESIDENT:

5 The defence counsel, would you wish to put any questions to the
6 civil party?

7 MS. CANIZARES:

8 No, Mr. President, the defence does not wish to put any questions
9 to the civil party.

10 MR. PRESIDENT:

11 Madam Hav Sophea, do you still want to put three questions
12 through the Bench to the accused?

13 MS. HAV SOPHEA:

14 Yes, I do, Mr. President.

15 [11.53.11]

16 MR. PRESIDENT:

17 You may now proceed with your questions, but please put one
18 question at a time.

19 MS. HAV SOPHEA:

20 Question number one. Who were the masterminders who actually
21 took my father to S-21?

22 MR. PRESIDENT:

23 The accused, we hope you have already heard the question. Now
24 you can respond to it.

25 THE ACCUSED:

56

1 Mr. President, Boeng Trabaek was under the supervision of the
2 S-71 Committee. S-71 Committee was under the supervision of the
3 Party Centre. So Mr. Chen Sear, who was the former cadre from
4 Hanoi, was decided to be sent to S-21 by the Central Committee.
5 It was not the authority of the S-21 to do that.

6 MR. PRESIDENT:

7 Madam Civil Party, could you please put the next question to the
8 accused?

9 [11.55.00]

10 MS. HAV SOPHEA:

11 The next question is where did my father die? Was he killed at
12 S-21 or Choeung Ek?

13 MR. PRESIDENT:

14 The accused, could you please now respond to the question.

15 THE ACCUSED:

16 Mr. President, Mr. Chen Sear was executed, obviously, but I don't
17 know whether he was killed at Boeng Choeung Ek or at S-21.

18 MR. PRESIDENT:

19 Madam Hav Sophea, could you please proceed with your last
20 question?

21 MS. HAV SOPHEA:

22 The third question: the accused has already acknowledged and
23 expressed his feeling that he is responsible for all the crimes
24 he committed, legally and emotionally. My question is how can
25 emotionally he can really heal the wounds of the victims who lost

57

1 their loved ones?

2 MR. PRESIDENT:

3 The accused, if you are able to respond to this question, you
4 take the floor.

5 THE ACCUSED:

6 Mr. President, my psychological responsibility, as I already have
7 expressed, I will exhaust the capacity to actually use -- to be
8 responsible for all the dead souls of the people who perished at
9 S-21, because those people died under tortures and hardship.

10 [11.57.26]

11 And I am solely responsible emotionally for these barbaric acts
12 and the very unfortunate deaths of those people.

13 The civil parties, including Madam Bou Thon and the later civil
14 parties, are here to express, to share their accounts of
15 sufferings with the Court and the suffering which I
16 psychologically and emotionally be responsible, and I really
17 recognize all the sufferings.

18 MR. PRESIDENT:

19 Next the Chamber would like to give the opportunity to the
20 accused to make his observation in relation to the statement by
21 civil party Hav Sophea.

22 You take the floor.

23 THE ACCUSED:

24 Mr. President, the victim named Chen Sear, the former cadre from
25 Hanoi and who was also the former cadre of K-92, and later on he

58

1 was detained at Boeng Trabaek before he was sent to S-21, and I
2 really acknowledge that he was detained at S-21, without any
3 denial.

4 I would like to also tell the Court about the brief account of
5 the school called K-92, because when my former chief or boss was
6 still there, he was in charge of the location. And the reason
7 I'm telling this is to just indicate that Mr. Chen Sea was
8 actually killed at S-21 and I am emotionally and legally
9 responsible for his death and crime committed at S-21.

10 [12.00.15]

11 However, when it comes to whether Hav Sophea is the daughter of
12 Mr. Chen Sea or not, I would like to leave it to the Chamber to
13 consider this.

14 MR. PRESIDENT:

15 The proceedings to hear the statement of civil party Hav Sophea
16 comes to an end and it is also convenient to take the adjournment
17 for lunch break, so we will now take the adjournment and resume
18 at 1.30 p.m.

19 Madam Hav Sophea, we have already heard your statement fully, so
20 this afternoon onwards you can either participate in the
21 proceedings in the courtroom or you can feel free to go home or
22 anywhere you would wish to go. It is your right to do so.

23 (Witness exits courtroom)

24 The security personnel are now instructed to take the accused to
25 the waiting room and bring him into the courtroom by 1.30 p.m.

59

1 The Court is adjourned for lunch.

2 THE GREFFIER:

3 All rise.

4 (Judges exit courtroom)

5 (Court recesses from 1201H to 1335H)

6 (Judges enter courtroom)

7 [13.35.24]

8 MR. PRESIDENT:

9 Please be seated. The Chamber is now back in session.

10 We are continuing to hear the testimony of another witness,

11 another civil party.

12 I notice the presence of the civil party counsel group 2. You

13 may proceed.

14 MS. STUDZINSKY:

15 Yes, thank you, Mr. President.

16 [13.35.51]

17 Given that the testimonies of the civil parties so far went

18 faster than expected, I would like to inform the Chamber about

19 our civil parties and the situation if and when they can testify.

20 Tomorrow morning, Mr. Seang Vandy could and would be able to

21 testify. This is on the last schedule number 18 and D-25/13.

22 Ms. Chhin Navy feels at the moment dizzy and expects to go at

23 least tomorrow or today to check her health state and is perhaps

24 expected to be able to testify on Thursday this week, but of

25 course dependent on her health state, which is at the moment not

60

1 so well. She was this morning in the courtroom but I spoke just
2 during lunch with her and as I said she feels dizzy at the moment
3 and could even not attend the session here in the afternoon.
4 Regarding Ms. Im Sunthy and Ms. Phung Sunthary, both of them have
5 not yet finalized the final statement so that they prepared it to
6 be able to do it on 24th of August which they cannot get before.
7 Mr. Chum Sirath is not in town before Monday, but could be
8 flexible then on Monday or Tuesday but he only would like to
9 start his testimony in the morning.
10 And so far from our civil parties and their availability -- and I
11 would like to add, as explanations for all of our clients, that
12 this is a very exciting moment for them to testify before this
13 Court. And of course it is also very difficult for them to
14 prepare a statement and when they get back to all these memories,
15 they are not able to work, as I would say, or to elaborate on the
16 statement that they want to present, in a manner that is
17 feasible, let's say, with a flexible court schedule.
18 [13.39.36]
19 That means they are overwhelmed within preparing their
20 statements. They cannot continue as they want. They have times
21 in which is also the consequence of their suffering and shows and
22 demonstrates their suffering that they are not able like a
23 healthy person to continue in a normal working schedule when they
24 are going back to their memories of their beloved.
25 That is the reason why the first schedule or the last schedule,

61

1 let's say, where the civil party statements were expected to be
2 next week, was that what the civil parties prepared on and
3 therefore this information I went back to them to try to get
4 another solution but this is what I can so far inform the
5 Chamber.

6 I further would -- this does not concern our clients in group 2
7 -- but inform the Chamber that my colleague Hong Kimsuon had an
8 operation on his teeth and I am not exactly aware which day, but
9 it's already a health problem or a problem what has been for
10 several days, two weeks around -- I'm not sure about the exact
11 date -- and told me this morning that he got now an infection and
12 is at least today or in the coming days not able to work and
13 cannot say or predict until when, but is just not available.

14 What it means for group 4 that the assistant, Jessica Finelle,
15 who has to be present for group 4 during the video-conference on
16 the schedule for the 20th of August in the afternoon, is there
17 present in Paris and comes only after, or can start from Paris
18 only after this conference, can also not be available during this
19 week for this Court schedule.

20 [12.42.40]

21 So far that -- what it means that during or due to this problems
22 for lawyers or assistants of group 4 and health reasons, I do not
23 or cannot predict if the civil parties from group 4 are able to
24 testify this week without being represented by their lawyers who
25 of course also ought to or should be present and when their

62

1 clients testify.

2 So far, the information from our side, mainly from group 2 and as
3 far as I know from group 4 for the Chamber, and to be considered
4 and of course I think in the interest of the health situation of
5 all civil parties who have to testify, and to deal with them
6 sensitively. I think the current health situation or current
7 preparation status should be taken into consideration.

8 Thank you for your attention and, of course, I'm prepared for
9 further questions if I could respond.

10 MR. PRESIDENT:

11 Judge Cartwright, please take the floor.

12 JUDGE CARTWRIGHT:

13 Thank you, Mr. President.

14 [13.44.06]

15 Yes, thank you for that lengthy explanation of the problems faced
16 by the civil parties that are represented by civil party group 2
17 and, of course, I am concerned by the difficulties that are
18 faced.

19 However, I'm not quite sure you propose by way of a solution to
20 the problems. Are you able in a few words to give us a solution
21 to the various problems that you face, Ms. Studzinsky?

22 MS. STUDZINSKY:

23 As I said, I don't want to repeat. Tomorrow, Mr. Seang Vandy is
24 prepared and would testify in Court at nine if there is nothing
25 else scheduled so far. I don't know if the civil parties from

63

1 today will finish today or not. but then Mr. Seang Vandy is
2 prepared. There is only one maybe small problem that we
3 submitted yesterday, a supporting document which as far as
4 lunchtime was not yet notified, but I think it can be explained
5 and it's only the translation of a confession; but that only to
6 announce it may be until tomorrow it is -- although the -- will
7 be notified.

8 Then I think the other time that could be used for either the
9 challenges by the defence or -- and additional information that I
10 announced to give to the Chamber about our client, Nam Mon, and
11 to use the rest of the time for other matters that also should be
12 covered or -- and discuss them -- brought before the Chamber. I
13 think there are still -- except for witness or civil party
14 statements -- other items that must be brought before the Chamber
15 where the leaving time in this week could be used.

16 I have no other concrete proposition or proposal to submit. I
17 hope very much that Ms. Chhin Navy, as I said, who feels at the
18 moment not so well, but that she is prepared on Thursday morning
19 to testify although she also thought she will testify next week.
20 But at the moment when she is feeling better, she could do it
21 this week so far.

22 [13.47.26]

23 JUDGE CARTWRIGHT:

24 Thank you. So, in summary, you are able to have D25/13, Seang
25 Vandy, tomorrow morning and possibly Ms. Chhin Navy -- is that

64

1 right -- on Thursday morning? And it's proposed by you that we
2 spend the rest of the time on unknown topics.

3 Are there any other civil party lawyers who can bring forward
4 civil parties?

5 MR. WERNER:

6 Your Honour, good afternoon.

7 As far s group 1 is concerned, we had only four civil parties.

8 We expect the third to be heard today by Your Honours. The last
9 one, which is E2/86, as you are aware, is an American citizen and
10 arrangements have been made by WESU for him to arrive. My
11 understanding is that he should arrive on Sunday or Monday in
12 Phnom Penh.

13 As you will understand -- I mean, I was not able to meet my
14 client before, so I would need at least -- I would say at least a
15 day. I don't know if arrangements could be made for him to
16 travel before, of course, we could be ready to -- we could make
17 sure to be ready very quickly, but that's the best we can do,
18 Your Honour.

19 MR. PRESIDENT:

20 Thank you very much for the information in regards to the
21 participation by the civil parties who are supposed to be
22 providing the testimony or statements before the Chamber.

23 [13.50.08]

24 And thank you for the civil party counsel of group 2 as well as
25 group 4, however, it is the Chamber's decision to hear the

65

1 testimony of the civil parties, and in that respect, yesterday's
2 hearing and today's hearing of those civil parties, the Chamber
3 is now in a position to amend the scheduling order for the civil
4 parties. And there are certain civil parties who waived their
5 rights to appear before this Chamber, as announced by their legal
6 representative. Therefore, the scheduling of the civil parties
7 as issued by the Chamber is going to be amended.

8 Since the proceedings are more expeditious than we expected,
9 therefore, the Chamber will make its best effort to further
10 expedite the proceedings.

11 And due to the time constraints yesterday morning, the Chamber
12 made an announcement regarding certain applications to become
13 civil parties which have been affected by the defence counsel,
14 and we do not yet have a fixed time allocated for such a debate.

15 And the Chamber has a view that if the hearing of the testimonies
16 of the civil parties as scheduled is more expeditious than we
17 expect, then the Chamber will inform the parties to the
18 proceedings tomorrow, or after tomorrow, the amended scheduling
19 and the debate on the contested civil parties by the defence
20 counsel, so that we would not waste time in our proceedings.

21 [13.53.00]

22 And the Chamber is hopeful that the civil party counsel
23 understand the situation and can coordinate with their clients to
24 have them participate in the proceedings. The Chamber believes
25 this is the opportunity the civil parties have been waiting for

66

1 so long to appear before this Chamber to express their sorrow,
2 their sufferings, which have been hidden for so many years and
3 the Chamber is still hopeful that the civil party counsel can
4 facilitate with those civil parties so that they're able to
5 appear in person before this Chamber as scheduled, due to the
6 aforementioned reasons.

7 Next the Chamber will put this matter aside and during the break
8 or tomorrow morning, once the Chamber receives concrete
9 information regarding the participation of the civil party, then
10 we will inform you accordingly.

11 Now we are going to hear the statement of the civil party So
12 Soung.

13 Court officer, you are instructed to bring the civil party before
14 the Chamber.

15 (Witness enters courtroom)

16 [13.55.41]

17 QUESTIONING BY THE BENCH

18 BY MR. PRESIDENT:

19 Q.Madam Civil Party, is your name So Song or So Soung?

20 (No interpretation)

21 Q.What is your name then?

22 A.My name is So Soung.

23 Q.How old are you?

24 A.I am 55 years old.

25 Q.What is your nationality?

67

1 A. I am Khmer.

2 Q. Where is your place of birth?

3 A. I was born at Chang Chaek, Chakkrei Ting, Kampot, Kampot
4 province.

5 [13.57.09]

6 Q. What is your current address?

7 A. At present I live at Phum Pir, Sangkat Muoy, Mittapheap,
8 Sihanouk.

9 Q. What is your occupation?

10 A. My husband was a construction worker and I stay at home.

11 Q. What is your father's name and is he alive or not?

12 A. Both my parents are deceased.

13 Q. How many siblings do you have and what are their names; can
14 you describe to the Chamber?

15 A. I have two siblings, my elder sister and myself. We both live
16 together.

17 Since I was seven years old my parents separated and I started to
18 live with my uncle, then my other sister got married in 1967 so I
19 came to live with her and, in 1970, during the time of the
20 fighting between the Lon Nol and the Khmer Rouge soldiers then my
21 brother-in-law asked me to live with my mother at the Liberated
22 Zone.

23 Q. What is the name of your elder sister?

24 A. Her name is Em Saun.

25 [13.59.35]

68

1 Q.You just indicated that your sister got married. What is the
2 name of her husband?

3 A.His name is Meas Sun.

4 MR. PRESIDENT:

5 Next we would like to give the floor to the civil party lawyer,
6 group 3, to briefly tell the Court the identity of the civil
7 party and the grounds and the reason why the civil party has
8 joined as the civil party and also the damages that the civil
9 party has suffered from the alleged crimes.

10 You take the floor.

11 MS. TRUSSES-NAPROUS:

12 Thank you, Mr. President.

13 Indeed we are dealing here with a particular case, it is case
14 E234 involving Ms. So Soung, who joined as civil party because of
15 the disappearance of her brother-in-law -- that is to say the
16 husband of her older sister -- and he disappeared at Tuol Sleng.
17 And she joined as civil party in this case, given her sister's
18 inability to face this process because of her illness.

19 And Ms. So Soung is perfectly legitimate in joining as a civil
20 party, as she's going to explain in her testimony, as since she
21 lived with her sister from the age of seven she was protected and
22 brought up by her sister and she continued living with her sister
23 when she got married.

24 [14.02.23]

25 So in these conditions she can consider her sister as her mother

69

1 and her sister's husband as her father. So she lived with her
2 sister, and she will explain this to you, after the events in
3 1979 and she is still helping her sister.

4 In the documents that we have I'm just saying here that it seems
5 to me that her joining as a civil party is perfectly admissible,
6 given the practice directions of 2007, Practice Direction 2
7 involving the participation of victims that notes in Article 3
8 regarding the joining as civil parties. The Article 3-2, part C,
9 is that psychological harm can involve the people who have been
10 victims of these crimes.

11 So Ms. So Suong has lost her brother-in-law at S-21 and we were
12 able -- she found Mean Suon's (phonetic) photograph at S-21. It
13 is -- the photo was included in the case file under ERN 00282315.
14 And lastly, we filed -- very recently -- new documents that
15 apparently have not been notified to the parties yet, but we
16 decided to officially transmit these documents to the defence so
17 that we can respect the adversarial hearing. And we have also
18 presented these documents to the Chamber.

19 These documents -- it is the certificate of the mayor of the
20 commune where her older sister lives, which certifies and which
21 proves the kinship between Ms. So Soung and her sister and the
22 kinship between Ms. So Soung and her brother-in-law, Meas Sun and
23 in the same way, the mayor of this commune has -- with different
24 witnesses stated his -- officially, his acknowledgement of Meas
25 Sun's photo at S-21 that was given to him and he's stamped this

70

1 photograph and, therefore, he gave it to us.

2 [14.05.16]

3 So this case allows me to speak about an important difficulty
4 here; that is to say the cases of the people who are -- who have
5 the least amount of means and who do not have the possibility of
6 providing registration documents because they do not exist or
7 because they no longer exist. We no longer have her sister's
8 marriage certificate with her marriage with Meas Sun. We do not
9 have any registration documents from her, therefore, the only --
10 the major of this commune, who knows the family well -- for
11 years, in fact -- was able to officialize (sic) this testimony
12 and stamped the documents.

13 So if you give me the leave, Mr. President -- because you have
14 not yet received notification of this document that was filed --
15 we can eventually present it through the screen so that you may
16 become aware of it. We can display it on the screen, if
17 necessary.

18 MR. PRESIDENT:

19 The Court official is now instructed to take the documents from
20 the civil party lawyer and put them on the projector to be on
21 display, so that the defence counsel is able to look at them and
22 share their observations.

23 The defence counsel, could you please look at this document which
24 is new before the Chamber? And the civil party lawyer of So
25 Song has requested that the document be put on display.

71

1 The Court official is now instructed to take another available
2 copy of that document to be given to the defence counsel so that
3 they can see a better view of the document.

4 The civil party lawyer, group 3, you may proceed.

5 [14.09.45]

6 MS. TRUSSES-NAPROUS:

7 These are the documents that I gave yesterday morning in two
8 languages.

9 MR. PRESIDENT:

10 The defence counsel, we note you're on your feet.

11 MS. CANIZARES:

12 Thank you, Mr. President. Indeed, these documents were given to
13 us yesterday in order, indeed, to respect the principles at
14 adversarial hearings. And the defence indicated yesterday that
15 -- regarding this particular civil party -- well, that it was no
16 kinship that allowed us to link this person with this victim.
17 And my esteemed colleague indicated that there is no birth
18 certificate nor marriage certificate, however, the civil party is
19 putting before the Chamber an affidavit that was established by
20 the mayor of the commune that is relating facts that happened
21 more than 30 years ago. So the defence has no specific
22 observations to formulate regarding the probatory (sic) value of
23 such a document.

24 MR. PRESIDENT:

25 Judge Lavergne, you take the floor.

72

1 JUDGE LAVERGNE:

2 Thank you, Mr. President.

3 [14.11.23]

4 I must confess that I don't really understand Cambodian
5 legislations in terms of registration papers, but I know that in
6 France a mayor is considered as being an official civil servant
7 or, in any case, he is in charge of registering and he is able to
8 provide copies of registration papers.

9 So can the defence tell us if they verified these documents or if
10 they are able to tell us what the mayor's power is in this
11 regard? Is he -- like in France -- is he an official officer --
12 civil servant or is it just the simple affidavit of some kind of
13 preferential witness here?

14 MS. TRUSSES-NAPROUS:

15 We have not considered this as the certificate of a simple
16 witness because, indeed, it is an act that has an official value
17 because he is a state officer. This is why we asked for this
18 affidavit. That's why we asked the mayor to provide this
19 document to us and he was the one who took the decision to
20 include -- with this affidavit -- the signature of three
21 complementary witnesses who would confirm what he is stating.

22 MR. PRESIDENT:

23 The civil party lawyer, group 3, you may proceed further.

24 We note that civil party lawyer, group 3, is on her feet, so what
25 you wish to do? Would you wish to make any comments? So if you

73

1 wish to do so, the floor is yours. And we would like to make
2 sure that this matter is settled now as scheduled and we don't
3 want this problem to be left unresolved.

4 MS. TRUSSES-NAPROUS:

5 Yes, Mr. President. Yes, indeed. I believe that it is indeed
6 very important because, as we are part of these proceedings and
7 given the hardship that we are facing right now in order to
8 obtain these registration papers from some of our civil parties
9 or from the victims of S 21, it is indeed extremely important
10 that decisions be taken in a proper way and if it is -- indeed it
11 might be necessary to refer to the mayors of the communes where
12 people are who have the power to give the official guarantee of
13 these documents, whether it be in France and it is the same thing
14 in Cambodia.

15 [14.15.34]

16 The co-Cambodian lawyers here have confirmed that it is possible
17 to do so in Cambodia and it is under the circumstances that I
18 believe that it's important that the Chamber can let us know if
19 we can continue in this direction and, finally, allow through
20 this the officialization of the documents which would certify the
21 kinship link between the civil party and the victim.

22 It is extremely important that the people who may not have these
23 papers -- and these are generally people without any means, the
24 poorest people in Cambodian society -- these people should be
25 able to have access to justice and should be able to have also

74

1 access to your Court, and this is why we want Ms. So Soung to be
2 heard today. Thank you.

3 MR. PRESIDENT:

4 We note Mr. Kar Savuth is on his feet. You take the floor.

5 MR. KAR SAVUTH:

6 Thank you, Mr. President, Your Honours.

7 Regarding the civil party, we the defence counsel have found it
8 difficult to prove whether she is really the member of the family
9 of the dead person at S-21 because, if we refer to document E2/34
10 with ERN 00274461, there has been some discrepancies in the
11 document itself because she stated that Bakan was in Pursat
12 province and then she stated in the same document that Ms. Soung
13 lived in Trapeang Chrab in Kampot province.

14 [14.18.19]

15 So there has been a lot of discrepancies in the document, which
16 makes it difficult for the defence counsel to accept that she has
17 established a kind of proved kinship link.

18 MR. PRESIDENT:

19 We have not heard the statement of the civil party and we seem to
20 have already concluded her statement. I think it should be the
21 other way around, that we should have listened to her statement
22 first and then we can make our conclusion later as to whether the
23 statement is genuinely true or not.

24 After only having heard the statement of the civil party, then
25 the parties to the proceeding can come to the conclusion based on

75

1 the statement. So the Chamber will now decide to hear the
2 statement of the civil party first.
3 Mrs. So Sung, could you please briefly tell the Court the
4 relationship of your story as opposed to the accused; the reason
5 that makes you join as a civil party to seek civil claims for
6 reparation? So you may be now given the floor to tell the Court
7 those damages and the affects of such damages, physically,
8 emotionally, the sufferings of course that endured during the
9 entire period of S-21 starting from the 1975 to the 6th of
10 January 1979.

11 So please, if you are able to tell the Court about this, you now
12 take the floor.

13 MS. SO SOUNG:

14 Yes, of course I can, Mr. President.

15 [14.21.45]

16 In 1975 he lived in Chakkrei Ting, Kampot, and I lived in Srae
17 Ambel, Koh Kong. And I actually lived with him when he was the
18 chief of the commune in Chakkrei Ting. Later on he was
19 transferred to the north to Pouk district in Siem Reap. That was
20 the last time we saw each other and we could see one another
21 again only later years. When I met my sister again she told me
22 that her husband was already killed and that he had been detained
23 for 10 days in Siem Reap and then detained in Battambang before
24 he was transferred to Phnom Penh to be detained further and
25 executed.

76

1 In 1980 Uncle Ny (phonetic), who already died actually back then,
2 saw the photo of Brother Sun at Tuol Sleng and then he told about
3 this to my sister. But she would not want to pay a visit to Tuol
4 Sleng because she would be afraid she could not stand seeing the
5 photo of her dead husband.

6 Later on we had to struggle to hold onto life and in 1987 I got
7 married and I departed from her and I lived in Kampong Som and I
8 could manage to set aside some of the income I earn from my
9 business to support her. And after 1979 because of the poverty
10 ridden in the family itself, brother Sun's family and kids could
11 not manage to go to school and they had no one to support their
12 education. So there was no school for them.

13 When she was encouraged to file an application to join as a civil
14 party at the Court she was reluctant to do so because she was
15 afraid she too would die but I was strong enough to act on her
16 behalf to file an application to join as a civil party. I dare
17 no -- I was afraid of no death.

18 MR. PRESIDENT:

19 Does the civil party lawyer, group 3 -- would you wish to put
20 questions to the civil party to support her civil party
21 application.

22 MR. MOCH SOVANNARY:

23 Mr. President, thank you for giving me the opportunity to put
24 questions to my client.

25 [14.24.58]

77

1 QUESTIONING BY CIVIL PARTY COUNSEL

2 BY MR. MOCH SOVANNARY

3 Q.Good afternoon, Aunty So Soung. I have some questions to be
4 put to you on top of what you have already stated before the
5 Chamber in relation to the death of your brother-in-law at S-21.
6 In the case file there appear to be two names used by your
7 brother-in-law. Did he have two names or did he only use one
8 name?

9 A.There are two names. I was told that his photo was found at
10 Tuol Sleng and then ad hoc organization asked us whether I
11 belonged to the family of the dead person and whether I would
12 like to join as the civil party. I did not know whether he
13 changed his name to Teng Sun because his original name was Meas
14 Sun but his father's name was Teng. I think he could have taken
15 after his father's name as Teng Sun instead of Meas Sun when he
16 was detained at Tuol Sleng.

17 Q.Thank you, Aunty, for giving the clarification in relation to
18 this matter.

19 Just now when the person asked you in relation to your account
20 when you were seven years old and that you had lived with your
21 sister until the day you got married, could you please tell us
22 more about the situation in the family?

23 [14.27.10]

24 I mean back in the early days when you started living with the
25 family until your sister got married to your brother-in-law?

78

1 A.I had lived with them since I was seven years old because my
2 father allowed me to live with them. And then my sister got
3 married to brother Sun and I Ioved them very much because they
4 were the caring or loving brother and sister. So they supported
5 me financially, they supported me for education and for
6 everything.

7 And I treated them as my real brother, my blood brother, although
8 he was my brother-in-law, and I treated --I have treated his
9 family and relatives as those of mine. So this is how I could
10 tell the Court about my account when I lived with them.

11 And the reason that I filed this application to join as a civil
12 party because I really missed by brother-in-law because he and my
13 sister had been working very hard to support the members of the
14 family and even though I am now working at Srey Ampel I still
15 have to manage to financially support my nieces and nephews.

16 However, with the absence of my brother-in-law my nephews and
17 nieces cannot go far at school because the family is very poor
18 and desperate.

19 So all my nieces and nephews are illiterate and I am very sorry
20 for them. It has been the cause of the loss of their father.

21 That's why they have suffered such a phenomenon.

22 At present my other sibling built a hut for my nephews and the
23 nephews have been supported by the money that he earned.

24 [14.30.37]

25 And I myself also has been supported by my other sibling. I'm

79

1 also from a poor background. So both my cousins and myself are
2 in poor conditions.

3 And my other sister saw the photograph of my brother-in-law. She
4 kept crying and she was speechless. And during the time that I
5 lodged my application to join the civil parties she was not well.
6 She has been sick for more than a year. I actually wanted to
7 lodge her application as well but due to her poor health I
8 decided not to.

9 My current situation as well as the situation of my cousin and my
10 other sister is very poor. We regard ourselves as living under
11 one roof. We share what we have and we take care of each other.
12 Thank you, Aunty, for providing the information to the Chamber.
13 Let me go back a little bit. During the time that you had lived
14 with your elder sister and your brother-in-law you would have the
15 image of the close relationship between you and them and you were
16 a part of their family.

17 As you have described to the Chamber you had your parents but at
18 the age of seven they were separated and you and your other
19 sister were sent to live with your uncle and aunty. So you did
20 not have the comfort of the parents.

21 And later on when you started living with your sister and your
22 sister got married and they provided good treatment to you, they
23 provided you with the comfort and they were treated as parents to
24 you.

25 [14.33.03]

80

1 Is this a fair assumption of your regards towards them?

2 A. My sister as well as my brother-in-law I loved them and
3 treated them as my real blood brother, or I regarded them as my
4 parents. I was provided with everything: clothing, schooling
5 fees, books, study materials. Although I was an in-law to him, I
6 was well treated, and only in mid-1970 when the situation was
7 chaotic and difficult, we moved around quite a bit as the place
8 was lived was borderline to the Liberated Zone.

9 So then I -- due to such difficulty and he was afraid that the
10 Lon Nol soldiers would arrest me. That's why he sent me to live
11 with my mother and I loved him as my father and I treated him so.

12 Q. Thank you. You said in 1970 he sent you away to live with
13 your mother due to his concern that you would be arrested by Lon
14 Nol, and what would happen if you were arrested by the Lon Nol
15 soldiers?

16 [14.34.56]

17 A. In 1970, there were examples of what happened, but they're all
18 dead. On one side, there was the Liberated Zone; on the other
19 side, there was a zone controlled by the Lon Nol soldiers. So
20 during those times, when the Lon Nol soldiers saw any girl or
21 woman, regardless of their status, they would rape that girl or
22 woman, and my brother-in-law was very concerned regarding this
23 matter. That's why he sent me; he was afraid that the soldiers
24 would come up and arrest me and he sent me to live with my
25 mother, so that I do not have to run here and there because the

81

1 Lon Nol soldiers dared not to go into the Liberated Zone.

2 Q.Thank you. After you left his family in 1970, what happened
3 to you? What was your living condition upon your departure until
4 the Liberation Day of 7 January 1979? Did you maintain contact
5 with his family or what happened?

6 A.After I went to live with my mother in 1970, I still kept my
7 contact with my brother-in-law; I kept coming to visit him. He
8 was still involved with the Lon Nol soldiers. I still kept
9 coming to visit him and the situation kept going on until
10 mid-November 1974, when Angkar assigned me to Srey Ampel in Svay
11 Tong subdistrict, Kampong Trach district, and then I lost contact
12 with him during that time.

13 However, in 1976, although at the time I was still living in Srae
14 Ambel, I had a disease and I requested Angkar to come home for
15 the treatment and then I met him, and in 1977 he was transferred
16 to Siem Reap by Angkar. So I lost contact with him since then
17 and in 1979 I met his wife and I was told that he's dead.

18 So we kept crying upon hearing the news and we tried our best to
19 raise the cousins until later I got married in '87 and went to
20 live in Sihanoukville.

21 [14.38.08]

22 Q.Thank you. You said when you reunited with your other sister,
23 you tried to raise your cousins. Can you tell the Chamber what
24 job did you have in order to earn enough money to support those
25 cousins -- or nephews?

82

1 Let me ask you again. During the time that you tried to earn
2 money to feed that family, what did you do? Can you tell the
3 Chamber?

4 A. At that time, after we left the forest, I went to dig potato
5 or manioc in order to earn the money to feed them. Sometimes I
6 dug the banana stumps to sell them. And we tried very hard and
7 sometimes we could not find anything, so I had to grind the trunk
8 of the banana in order to feed my nephews.

9 And when there was an opportunity for me to work in the salt
10 field I wrote my biography and I lodged my application, and in
11 the village at the time there was an announcement for people to
12 work in the salt fields, so I and my other sister applied for
13 that job.

14 First, once we started the job, we were not given any money yet.
15 We were given rice and with those rice we fed the nephews.
16 Although my parents did not live with us, we supported them
17 financially and materially.

18 MR. PRESIDENT:

19 The civil party counsel, you only have two more minutes, and
20 please try to put questions to the exact facts of the reason for
21 her to be a civil party to this case, as you are well aware of
22 the facts alleged on the accused. And if your questions do not
23 point directly to the facts, then it's a waste of time for you.

24 [14.40.45]

25 MS. MOCH SOVANNARY:

83

1 Thank you, Mr. President, and I would use these two minutes to
2 ask my last questions.

3 BY MS. MOCH SOVANNARY:

4 Q.After your brother-in-law died and now, what is the situation
5 of your other sister and your situation? Is the sufferings gone
6 or still living inside your heart and your mind?

7 A.After he died and after we learned of his death and when we
8 saw the photos -- let's put it this way.

9 After 1979, her living situation was deteriorating and the
10 children could not go to school because there was no breadwinner
11 in their family, and I tried my best to support the family. And
12 the suffering inflicted upon my other sister, the nephews and
13 myself are still ongoing, and everybody just hoped if he was
14 still alive then the situation would be different.

15 And now in a situation in a family where there is no father to
16 support the family, the situation is just hopeless. We all just
17 feel regret and that we would not be able to forget it for the
18 rest of our lives for the loss of a dear husband, a dear father
19 and a dear brother. During that time, we just could not imagine
20 the suffering inflicted upon him before he was executed.

21 Before we saw the photo we did not cry much, but after we saw the
22 photos every one of us just kept crying, weeping. Even the
23 neighbours, they all kept weeping, feeling sorry for him and the
24 suffering he received.

25 [14.43.09]

84

1 And Ta Choy, who was the village chief, also cried for the loss
2 of this dear person. He was a very humble and docile person and
3 he never mistreated anybody or said any strong words to anyone.
4 Everyone was just missing him and felt sorry for the loss.
5 Although we were living in suffering stage, our mind is still
6 with him.

7 And even at present we do not have a house to live in; we are
8 living in a hut.

9 MS. MOCH SOVANNARY:

10 Thank you. That is the end of my questions.

11 MR. PRESIDENT:

12 It is now appropriate for a break and the Chamber will take 20
13 minutes break until three o'clock when we will continue to hear
14 this civil party.

15 The civil party, you may now have a break for refreshment and
16 please return to the seat by 3 p.m.

17 THE GREFFIER:

18 All rise.

19 (Judges exit courtroom)

20 (Court recesses from 1452H to 1510H)

21 (Judges enter courtroom)

22 MR. PRESIDENT:

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

24 Next we would like to give the floor to the Co-Prosecutors to put
25 questions to the civil party if they would wish to do so.

85

1 MR. DE WILDE D'ESTMAEL:

2 Thank you, Mr. President. Thank you, Your Honours.

3 [15.10.36]

4 We have two to three questions to put to Ms. So Sung and I
5 believe that I understood that this civil party has a photograph
6 of her brother-in-law which was taken at S-21, so I would like to
7 ask for the leave to display this photograph so that we may form
8 an idea of who her brother-in-law was.

9 MR. PRESIDENT:

10 The international Co-Prosecutor, could you please assist the
11 Chamber with the ERN reference number so that the AV Unit can be
12 instructed to put the document as requested up on the screen.
13 Without any proper reference to the document we are afraid that
14 such a document cannot be put up on display.

15 MR. DE WILDE D'ESTMAEL:

16 Thank you, Mr. President. Indeed.

17 The index of the photograph, ERN 00282315, and since I have here
18 a copy I do not know if it might not be a better idea to use the
19 slide projector.

20 MR. PRESIDENT:

21 The Court official is now instructed to put this document on the
22 projector so that it can be put on display.

23 QUESTIONING BY THE CO-PROSECUTORS

24 BY MR. DE WILDE D'ESTMAEL:

25 Q.I would like to ask, Mr. President, if the civil party can

86

1 recognize the photograph of Mr. Meas Sun.

2 A.Yes, of course, I recognize his photo, the photo of my
3 brother-in-law.

4 Q.Thank you very much. I would like to put two questions to
5 you, two other questions, which are not linked to this photograph
6 so I think now it is possible to remove it, with your leave, of
7 course.

8 Ms. So Soung, did you obtain in any way information on why your
9 brother-in-law was arrested on the reasons why he was arrested?
10 You said that he was a member of the Pouk district. In any case,
11 you mentioned this in your application. Were you able to gather
12 any information regarding the reason why he was arrested?

13 A.I don't exactly know the reason he was detained or arrested.
14 Only after when we came back from Pouk district and we met at our
15 home town, and my sister told me that my brother-in-law died at
16 S-21. And I learned that, of course, his photo is in Tuol Sleng
17 and I was confirmed by an uncle.

18 [15.15.43]

19 In 2007, ADHOC seek information in relation to the relative of
20 the dead persons so that anyone who would like to join a civil
21 party can do so through them. Then we filed the applications and
22 then we were taken to pay a visit to the Tuol Sleng Prison and to
23 see that photo. I was so shocked and moved to see the photo.
24 I actually loved and treated my brother-in-law like my father,
25 and wherever he lived or whether he perished already, I could

87

1 still feel that he be close to us because he was the very loving
2 person.

3 Q.Do you know during which period he was arrested? Do you have
4 any information regarding this specific period, this period when
5 he was arrested?

6 A.When my brother-in-law was arrested, it was the time when my
7 sister did not have any information of his whereabouts after he
8 was off duty at work. She asked where he could have been but she
9 did not remember the date. But she actually wrote with a
10 charcoal that moment, the moment she did not see him come home,
11 which was on the 28th of November 1978.

12 Q.Ms. So Soung, I have a last question for you. After the
13 announcement of the death of her husband, did your sister -- was
14 she still the same? Was she able to confront life or did she
15 completely fall into deep depression? Basically speaking, how
16 did her suffering and how did her sadness manifest itself on a
17 daily basis? Thank you.

18 [15.19.19]

19 A.My sister, having heard that my brother-in-law was taken to
20 attend study session, she could not stop crying and weeping, but
21 she did not make this known to others because she was afraid that
22 she too would be arrested. After she gave birth to her child,
23 for a few months then she was made to carry the pigs' waste until
24 the 1979.

25 MR. PRESIDENT:

88

1 Next, the Chamber would like to give the floor to the defence
2 counsel to put questions to the civil party if they so wish.

3 MR. KAR SAVUTH:

4 Mr. President, thank you.

5 Mrs. So Sung, could you please clarify for us whether your
6 brother was the member of Bakan district and if he was so, when
7 was he the member and when he became the member of Pouk district
8 committee?

9 A.He worked in Pouk district, Siem Reap. Bakan district was the
10 location when we were evacuated to, so I was the one who went to
11 Bakan district and my brother-in-law did not go there. He
12 actually worked in Pouk district. I am sorry if I made a mistake
13 by making this unclear.

14 [15.21.50]

15 Q.Thank you, because in your application you said Meas Sun was
16 the member of Bakan district committee and, later on, you stated
17 that he was the member of Pmar (phonetic) Pouk of Siem Reap
18 province. That's why I would like to ask for further
19 information.

20 Thank you for your clarification, and I would like to share the
21 floor with the international co-colleague.

22 MR. PRESIDENT:

23 The defence counsel international colleague, you can take the
24 floor.

25 MS. CANIZARES:

89

1 Thank you, Mr. President.

2 BY MS. CANIZARES:

3 Q.Ma'am, a few moments ago at the request of the Co-Prosecutor,
4 we saw a picture of the person that you have stated as being your
5 brother-in-law. Could you tell us under what conditions and
6 circumstances you obtained this picture?

7 A.I obtained this photo in 1999 because after I have lodged my
8 applications then I was taken by the TPO to Tuol Sleng and then I
9 saw the photo then.

10 Q.Excuse me, Ma'am, you received this picture in 1999? Who gave
11 it to you? Could you tell us who gave you this picture at that
12 time?

13 A.No, I didn't want to say 1999. I could have said 2009. I'm
14 sorry for making this mistake. I saw the picture in 2009 and
15 that's the date when I found the photo, not 1999. Thank you.

16 Q.But you tell us that this picture is a picture from S-21.
17 That is a statement that is challenged by the accused. Did you
18 undertake other research in S-21 in order to find the name of
19 your brother-in-law?

20 A.Having heard that we could file our application to join as
21 civil party and that we would be able to find our lost relatives,
22 of course, I asked the human rights organization in Phnom Penh,
23 including the ADHOC organization,, to assist me with the
24 searching of this photo because I heard that my brother-in-law
25 died at S-21, and I asked them to do me a favour by searching for

90

1 the photo because I could not afford to come to Phnom Penh to see
2 the photo or to search any information.

3 [15.25.54]

4 But with the assistance of the people and my lawyers, then I
5 could locate the picture and then gave it to my sister and my
6 nieces and nephews. We were happy actually, although moved, to
7 see the photo.

8 Q.This will be my last question.

9 May I conclude, Madam, from that statement that in fact the
10 picture is the only means you have of ascertaining that your
11 brother-in-law was detained in S-21?

12 A.Yes, that is the only evidence to prove that my brother-in-law
13 did perish at S-21, and I took the advantage of obtaining the
14 photo to produce it before the chief of the commune to help
15 certify that my brother-in-law -- the person in the photo -- was
16 actually my brother-in-law and that later on I got the affidavit
17 to prove it.

18 MS. CANIZARES:

19 The defence has no further questions, Mr. President.

20 MR. PRESIDENT:

21 Next, we would like to give the opportunity to the accused to
22 make his observation in relation to the statement by the civil
23 party.

24 You take the floor.

25 [15.28.10]

91

1 THE ACCUSED:

2 Mr. President, first I would like to talk a little bit about the
3 historical event.

4 In 1977, there was a purge of the central cadres at the Special
5 Zone in Siem Reap, Angkar Wat. At that time, the Central
6 Committee ordered Ta Mok to do that and this is a very convincing
7 historical event.

8 Number two, I would like to make comment in relation to the
9 photo. My position is still the same. I never accepted the
10 photo before having seen the documents before me, otherwise the
11 photo cannot be used to prove; for example, in the case of E2/80
12 in relation to the person named Chin Met.

13 I also would like to ask the permission from the Chamber to put
14 Document ERN 00329839 -- be put on the screen, please.

15 MR. PRESIDENT:

16 The Court officer is now instructed to put the document under ERN
17 00329839 up on the screen or on the projector -- on the screen;
18 not on the projector.

19 THE ACCUSED:

20 Mr. President, there are two names of Meas Sun. One is Meas Sun,
21 alias Sao, a soldier of Battalion 450; and, number two, Meas Sun,
22 deputy secretary of Krous in Svay Rieng East Zone.

23 [15.31.04]

24 So the complaint by this madam is the Meas Sun who was a deputy
25 secretary of the Pouk district, and there are two Meas Suns

92

1 received by S-21 as they were arrested per order of the upper
2 echelon, Angkar, and that they were smashed. And this case is
3 different from the case of the complaint made by the civil party.

4]

5 My observation is based on the surviving documents of S-21, with
6 respect, Mr. President.

7 MR. PRESIDENT:

8 Madam So Soung, the hearing of your statement has come to an end.

9 You can now return to the seat reserved for the civil parties and
10 you can either participate in the trial proceedings or you can
11 return to your residence or wherever you wish. You are now
12 excused.

13 (Witness exits courtroom)

14 MR. PRESIDENT:

15 Next, the Chamber would like to invite the civil party, Neth
16 Phally, to come before the Chamber.

17 (Witness enters courtroom)

18 QUESTIONING BY THE BENCH

19 BY MR. PRESIDENT:

20 Q.Mr. Civil Party, is your name Neth Phally?

21 A.Yes, my name is Neth Phally.

22 Q.How old are you, Mr. Neth Phally?

23 A.I am 52 years old.

24 Q.Where is your place of birth?

25 A.It's Tuol Trach, Kong Chey, Ou Reang Ov, Kampong Cham.

93

1 [15.34.39]

2 Q.Where is your current address and what is your current
3 occupation?

4 A.Currently I live at the same village, Tuol Trach, and I am a
5 farmer.

6 Q.What is your father's name and is he still alive?

7 A.My father's name is Neth Chhaet. He is deceased.

8 Q.What is your mother's name and is she still alive?

9 A.Her name is Nguon Touch. She is living.

10 Q.How many siblings do you have?

11 A.I have three siblings.

12 Q.Can you describe the names of your siblings to the Chamber?

13 A.My other brother, Neth Bunthy; two, Neth Phally, that's
14 myself; and my younger sibling, Neth Raly Aun.

15 MR. PRESIDENT:

16 The Chamber would like to give the floor now to the counsel for
17 this civil party to make a brief statement regarding the
18 identification of this civil party, the reasons for the seeking
19 of reparations which are connected to the facts and crimes
20 alleged on the accused, as well as any evidence and the damages
21 inflicted upon this civil party.

22 [15.37.22]

23 MR. WERNER:

24 Good afternoon, Mr. President, Your Honours.

25 The brother of my client, whose name is, as he just told you,

94

1 Neth Bunthy, was detained and killed at S-21. Last week with our
2 filing we provided both his S-21 biography of Neth Bunthy and a
3 declaration from Chey Sopheara, head of Tuol Sleng Genocide
4 Museum, certifying that the original copy of the prisoner
5 biography of Neth Bunthy is to be found at S-21.

6 Last week in our filing also we provided a copy of the Carnet de
7 résidence, that's the name on the book, Carnet de résidence, of
8 my client. Now, his name on this Carnet de résidence appears as
9 Chhaet Phally, not Neth Phally, and I will ask my client to
10 explain to you why on his Carnet de résidence his name is Chhaet
11 Phally.

12 But in any case, if you look at the Carnet de résidence that we
13 filed of my client, on this Carnet de résidence you can find his
14 father exactly as he told you, which is Neth Chhaet and his
15 mother, who is Nguon Touch, and this name exactly exactly match
16 the name listed as the father and the mother of Neth Bunthy
17 contained in Neth Bunthy's biography.

18 So our submission is quite simple. These documents independently
19 verify that both the civil party Neth Phally or Chhaet Phally and
20 the deceased S-21 detainee Neth Bunthy share the same parentage,
21 the same father and the same mother, and therefore they are
22 brothers.

23 [15.40.02]

24 So having explained that, we do believe that we have answered the
25 three questions, Your Honours, that are requisite. And can I

95

1 just tell you that we intend to proceed as follows. I will ask
2 questions to my client and then at the end of these questions, my
3 client would have one request that he would like to express
4 himself and one question, through Mr. President's leave, to the
5 accused.

6 So that's the way we are proposing to proceed.

7 MR. PRESIDENT:

8 Does it mean that your client Neth Phally waives his right to
9 make his statement? Is this correct?

10 MR. WERNER:

11 Your Honour, he will talk, answering my questions. But of course
12 you can verify that with him.

13 BY MR. PRESIDENT:

14 Q.Mr. Neth Phally, is the statement made by your legal
15 representative appropriate and correct?

16 A.Yes.

17 [15.41.48]

18 MR. PRESIDENT:

19 The Chamber then would like now to give the floor to the civil
20 party group 1 counsel to put questions to their client, Mr. Neth
21 Phally.

22 MR. WERNER:

23 Thank you, Mr. President.

24 QUESTIONING BY CIVIL PARTY COUNSEL

25 BY MR. WERNER:

96

1 Q.Good afternoon, sir. My first question. Can you explain
2 briefly to this Court why on your documents, your identity card
3 and your Carnet de résidence, why is your name not Neth Phally?

4 A.Regarding the name, during the time that I studied up to the
5 year 1975 I used the name Neth Phally, and after the liberation
6 of 1979 I was busy trying to earn my living and my wife was not
7 really that literate when she responded to the authority for
8 making the family book. So she used the names as she knew and
9 therefore she put the name Chhaet Phally as my name. However, my
10 original name is Neth Phally.

11 Q.Thank you, sir.

12 Sir, can you tell this Court what you did yourself during the
13 Democratic Kampuchea regime?

14 A.During the regime of Democratic Kampuchea, especially in 1974,
15 I was a soldier in Sector 22 in No 124 in the East Zone.

16 Q.Could you tell this Court what your older brother -- during
17 the same time -- during the Democratic Kampuchea regime what was
18 your older brother, Neth Bunthy, doing?

19 A.During the DK period my brother had served the army since 1970
20 in the zone until the day he was detained and killed.

21 Q.And during the -- starting in '75, do you know more precisely
22 what was his assignment?

23 A.In 1975 I myself was in Phnom Penh. Also in 1975 my brother
24 was in the same military unit.

25 [15.45.28]

97

1 Q.And what about in the years later; '76, '77?

2 A.In 1978 I received the news that he was still in the military
3 unit and he went to the battlefield and he was wounded. He wrote
4 me a letter and it was sent to me through the soldier who was
5 wounded and who was sent to hospital. I received that letter
6 then with the permission -- with that letter, I went to the chief
7 of the unit to seek permission to go and visit him. Then the
8 chief of the unit authorized me to go and visit him.

9 Q.And sir, could you describe what happened when you went to the
10 hospital to visit him?

11 A.When I arrived I saw him as a wounded patient. I saw that he
12 was seriously wounded. One of his jaws was broken and he could
13 not say anything much to me. And I was so pitiful of him that he
14 went to the battlefield to serve the nation and he was wounded
15 and that he could not speak much to me due to his serious wound
16 on his jaw.

17 After I spoke a bit with him I could not say much because of the
18 seriousness of his wound. About an hour later I said goodbye to
19 him and I returned to my unit.

20 Q.And is it correct, sir, that this hospital was the 17 April
21 Hospital, today called the Russian Hospital in Phnom Penh? Is
22 that correct?

23 A.Yes, it was the 17 April Hospital, which is currently known as
24 Russian Hospital.

25 [15.48.25]

98

1 Q.And after this first visit did you see your brother again?

2 A.I met him for the second time when I -- while I was working in
3 the unit. I lied to my unit. That day, the 10th of the month,
4 was a resting day and that we had to do labour production in the
5 Kambol area, and I pretended to be sick and I did not go.

6 So during that time I took the opportunity to secretly go to
7 visit my brother. If I were to ask for the permission I would
8 not be allowed to visit him. During that time the contact
9 between family members was very, very limited; that's why I
10 decided to lie to them in order to have a chance to visit him for
11 a second time.

12 During this visit I spoke quite a lot with him. I told him that,
13 "You were seriously wounded and your jaw was broken. Once you
14 are discharged from the hospital you should ask permission from
15 your unit's chief to be in the handicap unit." We also talked on
16 the second point and he said that he would do it when he returned
17 to his unit.

18 He also told me a new point, that he would get married with Seang
19 Lorn, a woman who lives in the neighbouring village. He talked
20 about missing that lady quite a lot. He talked about his misery
21 and suffering and that he was thinking of his future wife.

22 He also told me that upon his return he would get married with
23 that woman, Seang Lorn, because the biography that he already
24 made and left with my mother -- Angkar would permit him to get
25 married, based on that biography. So I talked for about one and

99

1 a half hours with him then I returned to my unit.

2 [15.51.55]

3 Q.And sir, did you see your brother again?

4 A.Later on I went for the third time and I, of course, secretly
5 went to visit him and that happened 10 days later. I pretended
6 to be sick again and I could not go and do the labour and I went
7 to visit him.

8 When I reached his room I did not see him and I asked the medics
9 there where he was; whether he was discharged or he was relocated
10 to another room. The medics there told me that he was relocated
11 but the person did not know where he was.

12 At that time I had suspicions. First, I thought that he was
13 relocated because his wound became better or that he was sent to
14 Samrong. Or the third option, I did not know where he was sent
15 to.

16 Q.And is it correct, sir, that you did not see your brother
17 again after that. Can you confirm that?

18 A.That is correct. Later on, I tried to observe and tried to
19 find my brother, whom I had been missing him for so long.

20 Q.And before the end in January 1979, before the end of
21 Democratic Kampuchea regime, can you tell this Court, if
22 anything, what you did still during the Democratic Kampuchea
23 regime to try to find your brother?

24 A.After the Liberation Day of 7 January 1979, I tried to locate
25 my brother in various locations. I went to Amleang and down to

100

1 Leach District, Bakan District, Moung District, Koh Krala
2 District, Pade Mountain, Veay Chab Mountain, Samlot Mountain, et
3 cetera, and despite my efforts to try to locate him by asking
4 people, I was not successful to locate him or to know his
5 whereabouts.

6 [15.55.42]

7 Q.And you told us where you went or the locations you went for.
8 How long, sir, did you look for your brother actively, for how
9 many months or years?

10 A.I tried to find my brother gradually and persistently. I
11 moved to various districts in order to find him. It took me more
12 than 10 months. It started from February '79 and I returned to
13 my village in October '79.

14 Q.And at that time, sir, after that journey, did you still have
15 at that time some hope that your brother could be alive?

16 A.In trying to locate my brother I, myself, am still hopeful
17 that I could find him and that he was still alive because during
18 that time family members were scattered everywhere. It was my
19 idea that he was still alive and that he probably joined the
20 Khmer Rouge Army or joined another military unit of another
21 section at the time or faction. Because at that time, there were
22 many political factions and probably he was concealing himself in
23 one of those factions, and it was still my hope.

24 Q.And, sir, can you tell this Court, until when did you keep --
25 did you maintain this hope?

101

1 A.My hope ended in 2004, in June 2004. It happened after the
2 Documentation Centre of Cambodia brought me a copy of his
3 biography. That was the time I realized he died at the Tuol
4 Sleng Prison.

5 [15.58.54]

6 Q.So is it correct, sir, that you genuinely -- for 25 years you
7 hoped that your brother could be alive. Is that the case?

8 A. Could you please repeat your question?

9 Q.Of course. Of course. Is it correct then, sir, that you
10 hoped for more than 25 years that your brother, Neth Bunthy,
11 could still somehow be alive. Is that correct?

12 A.Yes, it is correct because I had hoped he could be living
13 somewhere.

14 Q.And could you tell this Court how did you react when in 2004
15 DC-Cam came to your place and told you that your brother had been
16 killed at S-21. How did you react?

17 A.At that time my family, my parents and I myself, were moved
18 and deeply depressed because we learned that our loved brother
19 was detained and tortured at S-21, and we know for sure that
20 people would endure great suffering before they were being taken
21 away to be killed.

22 All kinds of tortures were known to have been used at S-21,
23 including having the finger nails of the detainees pulled out,
24 detainees being drowned, plastic bags were being used to cover
25 the detainees to suffocate them, and electrocution. So having

102

1 heard that such tortures had been employed at S-21, and knowing
2 that my brother died at this camp, we felt that it was very
3 unfortunate for him to die at the location because he had to
4 endure so much pain before he was killed.

5 [16.01.55]

6 Q.And is it correct, sir, that you knew of S-21 before DC-Cam
7 came in 2004 to tell you that your brother had died there. Is
8 that correct?

9 A.I learned from the radio broadcast and through people who came
10 to Tuol Sleng to search for the information of their loved one,
11 and I heard of this location before I saw the photo of my
12 brother. And they told us about the brutality and what happened
13 at the location and because of these I am so much depressed
14 because having learned that my brother's life ended up being
15 tortured and killed at that location.

16 Q.Sir, you told us about how you yourself reacted when in 2004
17 DC-Cam came to tell you that. Can you tell us as well how your
18 own father reacted when DC-Cam came?

19 A.After we were given the biography of our deceased brother at
20 Tuol Sleng by the DC-Cam my father -- my parents actually were
21 broken and they fell seriously ill afterwards because they had
22 been missing their son and they kept expressing their sorrow and
23 sadness and sympathy towards my brother who unfairly was treated
24 as S-21. They couldn't believe that such a nice person and loyal
25 person who joined the revolution, devoted his life for the

103

1 revolution, after all ended up being detained and executed at
2 S-21. His illness could never recover and a few years later he
3 died along with my brother.

4 This suffering intensifies with time and this is, of course, the
5 brutality of the Democratic Kampuchea regime and I myself took
6 part in the army.

7 [16.05.30]

8 But after all we were betrayed and my brother died and we had
9 nothing left except sadness and sorrow.

10 Q.So it's not the first time today that you're in Court. And
11 over the past few months you have been a few times sitting behind
12 me in the civil parties' seat for civil parties and you were
13 there where some of the former S-21 interrogators came and told
14 this Court about what was happening over there and the inhumane
15 torture and condition of detention.

16 Can you tell this Court how you felt when you are sitting there
17 listening to these witnesses?

18 A.Having heard this testimonies of the former interrogators of
19 S-21 I had come to realize that tortures were severely inflicted
20 onto the detainees at S-21, including my brother. It really
21 makes me feel so emotional for the people who had suffered from
22 such brutal acts because we have even learned that some of the
23 detainees were burned alive, a kind of very barbaric act.

24 Q.And am I correct, sir, that end of last year you yourself went
25 to Tuol Sleng?

104

1 A.Yes, it is correct that I paid a visit to Tuol Sleng. I
2 walked from the left building to the middle building and I
3 witnessed the scenes which used to be the place where detainees
4 could have been tortured. And I was so moved.
5 I saw the instruments of torture being put on display. It's a
6 kind of terrifying moment because it recalls the moment -- the
7 last minute that my brother could have been crying or be dying
8 while having been inflicted such kind of torturing techniques on
9 him.

10 [16.09.03]

11 And I am very angry for such brutal acts that have been inflicted
12 onto detainees including my brother.

13 I climbed upstairs to Room 33, the room in which my brother was
14 detained. It was more like a pigpen, a place where animals could
15 have been kept, not a place for a human being. It was like a
16 place where a human body could have been used for human -- you
17 know when the dead body was -- the crematorium and people could
18 be shackled to the wall.

19 And I could imagine how difficult anyone could experience when it
20 comes to having a wash, for example, or relieve themselves.

21 Q.Thank you, sir.

22 Sir, before you told us that the last time you saw your brother
23 alive in the hospital in Phnom Penh he told you that he was in
24 love with someone called Seang Lorn and then he was sending his
25 biography hoping that the regime would allow for him to get

105

1 married to that woman.

2 Could you tell this Court what happened to that woman?

3 A. My brother talked to me about the woman he had been in love
4 with. The woman had to wait for him for one month -- for one
5 year hoping to be able to get married with my brother and her
6 hope was not realized.

7 [16.11.55]

8 The woman was heartbroken. She had to remove herself from social
9 interactions because she had to isolate herself for this kind of
10 effect and that she remained inside the home being very quiet
11 because she expected that she would be able to get married with
12 the person whom she loved. But after all she could never ever
13 see him. And her hope was fractured.

14 And she has been in deep sorrow and depressed ever --

15 (Microphone not activated)

16 For me, I personally have been affected by this regime. One day,
17 I went to work at the rubber plantation to chop down the rubber
18 trees. At about 9 a.m. we took a break. During the break, the
19 workers exchanged conversation and they told us that people would
20 have been executed en masse at that location, and I was moved to
21 hear that because if it was the place where people would have
22 been smashed, it would be the same as the place where my brother
23 was killed.

24 After a few minutes then we could resume our work as usual. Then
25 we started to chop down the rubber trees and I could not hold

106

1 back the memory of my brother who was killed at the S-21, and
2 when the rubber tree was falling then because of -- I was
3 thinking too much of my brother. I could not really run away
4 from the falling tree and it severed my left arm, so I am now
5 forever handicapped.

6 [16.15.58]

7 In my whole life I never forget the moment. I have been living
8 with great suffering. My father died, my brother perished and I
9 am becoming an amputee and very helpless. So I have been living
10 with this great suffering and with the hopelessness.

11 Q.(Microphone not activated)

12 A.Yes, I confirm now.

13 MR. WERNER:

14 (Microphone not activated)

15 MR. PRESIDENT:

16 The Co-Prosecutors, would you wish to put questions to the civil
17 party?

18 MR. SENG BUNKHEANG:

19 Thank you, Mr. President.

20 QUESTIONING BY THE CO-PROSECUTORS

21 BY MR. SENG BUNKHEANG:

22 Q.Good afternoon, Mr. Neth Phally. Having met your brothers on
23 several occasions, did you learn that what was actually the
24 reason behind the arrest of your brother and detention at S-21?

25 [16.18.23]

107

1 A.No, I didn't.

2 Q.Thank you. Who actually introduced your brother into the
3 revolution? Did you know that?

4 A.The commune chief, Im Thorn, who introduced him.

5 Q.Thank you. Do you know the person named Sao?

6 A.I know Chhouk Sao, of course.

7 Q.What is the relationship between Chhouk Sao and your brother?

8 A.Chhouk Sao had no relationship with my brother, but in 1970 or
9 '71 my brother actually stayed in a village and then they made
10 friends.

11 Q.Thank you.

12 MR. SENG BUNKHEANG:

13 Mr. President, I have no further questions.

14 MR. PRESIDENT:

15 Next, we would like to give the floor to the defence counsel to
16 put questions to the civil party if they so wish.

17 MS. CANIZARES:

18 The defence has no questions to put to the civil party, Mr.
19 President.

20 [16.20.10]

21 MR. PRESIDENT:

22 Just now we have already heard from Mr. Alain Werner and Mr. Neth
23 Phally in relation to the request -- one request and one question
24 that the civil party would like to put through the Bench to the
25 accused.

108

1 Does the civil party want to proceed with the question and
2 request?

3 MR NETH PHALLY:

4 Yes, I do.

5 MR. PRESIDENT:

6 Now you are allowed to put this question and request to the
7 accused but please be reminded that, as a civil party, be ethical
8 and professional as a civilized person. Please avoid using this
9 venue as the place where you seek vengeance. Do you understand
10 this?

11 MR NETH PHALLY:

12 Yes, I do, Your Honour.

13 MR. PRESIDENT:

14 You now may proceed with your question and request.

15 MR NETH PHALLY:

16 I would like to ask a question to you, the accused.

17 [16.21.51]

18 What did my brother do wrong or what was the mistake that led to
19 the arrest of my brother?

20 MR. PRESIDENT:

21 The accused, you can now be conveyed this question to you through
22 the Bench. Are you able to respond to the question? So you can
23 now take the floor.

24 THE ACCUSED:

25 Mr. President, I would like to talk about the historical nature

109

1 of the Democratic Kampuchea in relation to the armies from the
2 east. The DK regime did not trust those soldiers. Chann
3 Chakkrei was removed from the division and was put idle at the
4 General Staff for quite a long time, and it is one of the matters
5 to be considered. And the people from the east were arrested
6 gradually, and after the incidence of a grenade thrown near the
7 royal palace, then until the date of Chann Chakkrei was being
8 arrested, more and more people were being arrested from the east
9 to be smashed at S-21.

10 They were sent en masse and executed en masse. This is a
11 historical event that I need to reiterate.

12 Having reviewed the card produced at S-21 in relation to the
13 person Bunthy who entered at S-21 on the 24th of December 1978,
14 it was the final phase in which the DK conducted the purges of
15 the east soldiers.

16 MR. PRESIDENT:

17 Mr. Phally, would you wish to proceed with further questions or
18 requests?

19 THE WITNESS:

20 I would like to show a photo of my brother. Here it is like he
21 is now sitting close or next to me. I hope he is now with me and
22 knowing that the accused is being trialed, and I believe that my
23 brother will be at peace, having learned that justice is achieved
24 through this Court.

25 [16.25.04]

110

1 And may the dead soul of my brother who perished at S-21 realize
2 that and know that now justice is done for you. At that time you
3 were taken to S-21 while you were being blindfolded and when you
4 were taken out to be killed you remained blindfolded. Now the
5 Court revealed the faces of those people who committed the
6 atrocity.

7 So please, the soul of you be here with me and in the photo
8 forever so that I can pay homage to you and dedicate the
9 offerings whatsoever to you. I can never find the dead body of
10 you and this is only the photo, the photo which really represents
11 the ashes and the body of you.

12 So that's all, Mr. President. Thank you.

13 MR. PRESIDENT:

14 The Court officer, could you please take the photo from the civil
15 party and put it on the projector so that it can be put on
16 display so that the parties and the public can view the photo.

17 The picture has been shown to the parties and the public. Let it
18 now return to the normal screen.

19 The Chamber would like now to provide the opportunity to the
20 accused to make his observation regarding the statements of this
21 civil party. You may proceed.

22 [16.28.16]

23 THE ACCUSED:

24 Mr. President, first of all I would like to reiterate that I
25 acknowledge that Comrade Neth Bunthy suffered and died at S-21.

111

1 He entered S-21 on the 24th of December '78 and that is the fact.
2 The historical movement and policy between the CPK and the
3 military from the east, I had provided a summary on this just
4 then, so I did not have to touch up on this. The suffering of
5 the cadres and combatants who were in the operation at East Zone
6 was in a large scale. And the suffering inflicted upon Neth
7 Phally alias Chhaet Phally before this Chamber is a portion of
8 the greater sufferings inflicted on the combatants from the East
9 Zone.
10 From the 17th April 1975 until the 6th of January '79 I have
11 observed the testimonies for those periods are fundamentally
12 correct. However, the testimony of Mr. Neth Phally is hearsay
13 and it's not direct and this is another matter to be considered.
14 In conclusion, the testimony of Neth Phally is in that two
15 portions as I just stated, Mr. President.

16 MR. PRESIDENT:

17 Mr. Neth Phally, the hearing of your statement as a civil party
18 has come to an end now. And as a civil party, the Chamber would
19 like to inform you that you have the right to participate in the
20 trial proceedings from tomorrow or you can return to wherever
21 place you wish.
22 Before the Chamber adjourns today's hearing we would like to make
23 an oral announcement on the amendment to the scheduling of the
24 hearing of the testimonies and statements of the civil parties
25 who have been selected by the Chamber to appear before this

112

1 Chamber to make their statements.

2 [16.31.10]

3 Due to the progress in the last few days of the proceedings of
4 hearing the testimonies of the civil parties, it has been
5 expeditious in comparison to our pre-scheduling of the sitting.
6 In addition, certain civil parties have waived their rights to
7 participate and appear before this Chamber to make their
8 statements in order to expedite the proceedings as well as to
9 inform the parties to the proceedings and the public of the
10 changes to the Scheduling Order of the hearing of the remaining
11 civil parties to appear before this Chamber regarding their
12 statements and the expressions of their sufferings.

13 So the changes are as follows:

14 For tomorrow's hearing, the Chamber will hear three civil
15 parties: one, Seang Vandy; two, Im Sunthy; three, Phung Guth
16 Sunthary. They are civil parties from group 2, so they will be
17 summoned to appear before this Chamber to make their statements
18 before the Chamber.

19 And on Thursday the 20th, that is the day after tomorrow, the
20 Chamber will invite civil parties as follows: one, Chhin Navy;
21 two, Chum Sirath; and the third civil party is Ou Savrith.

22 This is going to be a videoconferencing which will be held in the
23 afternoon on the 20th of August. For next week's scheduling, on
24 Monday the 24th the civil parties as follows will be invited.

25 One, Touch Monin, Ros Men and Chum Neou. They are from the group

113

1 4. And another civil party, who is American, the Chamber will
2 also hear that statement. That is Jeffrey James on the 26th of
3 August 2009.
4 Accordingly, may the parties to the proceedings and the public be
5 informed of the amendments to the scheduling order of the hearing
6 of the civil parties and the Chamber hopes to receive full
7 co-operation and facilitation of the civil parties by their
8 counsel for their appearance before this Chamber as scheduled and
9 amended by the Chamber.

10 [16.35.08]

11 The Chamber is now going to adjourn and it will resume tomorrow
12 morning and we will hear the testimonies or statements of the
13 civil parties as announced.

14 The security guard, take the accused back to the detention
15 facility and bring him back at 9 a.m. tomorrow morning.

16 The hearing is now adjourned.

17 THE GREFFIER:

18 All rise.

19 (Judges exit courtroom)

20 (Court adjourns at 1635H)

21

22

23

24

25