



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

19 August 2009, 0907H

Trial Day 61

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
Silke STUDZINSKY
Alain WERNER
Fabienne TRUSSES-NAPROUS

Trial Chamber Greffiers/Legal Officers:

SE Kolvuthy
DUCH Phary
Natacha WEXELS-RISER
Matteo CRIPPA
James WALTON

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 UNAC

INDEX

CIVIL PARTIES

MS. IM SUNTHY

Questioning by Mr. President commences page 4

Questioning by Ms. Studzinsky commences page 19

MS. PHUNG GUTH SUNTHARY

Questioning by Mr. President commences page 25

MR. SEANG VANDY

Questioning by Mr. President commences page 76

Questioning by Ms. Studzinsky commences page 87

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. IM SUNTHY	Khmer
MR. KAR SAVUTH	Khmer
JUDGE LAVERGNE	French
MS. MOCH SOVANNARY	Khmer
MS. PHUNG GUTH SUNTHARY	Khmer
MS. SE KOLVUTHY	Khmer
MR. SEANG VANDY	Khmer
MR. SENG BUNKHEANG	Khmer
MS. STUDZINSKY	English
THE ACCUSED	Khmer
THE PRESIDENT (NIL NONN, Presiding)	Khmer
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 [09.07.31]

4 MR. PRESIDENT:

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

6 Today, the Chamber is going to hear the statement of civil party
7 group 2, three civil parties as scheduled, according to the last
8 revised schedule.

9 The Greffier is now instructed to report the attendance of the
10 parties to the proceedings and the persons concerned.

11 THE GREFFIER:

12 Mr. President, the parties to the proceedings today are all
13 present. The civil parties, Madam Im Sunthy, Madam Sunthary
14 Phung Guth and another civil party are all present awaiting call
15 from the Trial Chamber.

16 MR. PRESIDENT:

17 Mr. Alain Werner, you take the floor.

18 MR. WERNER:

19 Thank you. Good morning, Mr. President (microphone not
20 activated).

21 I am hearing in Khmer in channel 2.

22 MR. PRESIDENT:

23 Mr. Alain Werner, could you please repeat your statement because
24 we only heard just very little translation from your previous
25 statement.

2

1 MR. WERNER:

2 Yes, Your Honour. I will have a very, very short request for
3 you, Mr. President.

4 Yesterday, when my last client, Mr. Phally, talked to this Court,
5 he told you about his arm -- what happened to his arm -- and I
6 should have and I did not, and that is my mistake, I should have
7 asked you for the record to be flagged that indeed his left arm
8 has been amputated.

9 [09.10.20]

10 Because he was not sworn in and because he's here today, can I
11 ask your leave simply -- and he could maybe stand up -- simply
12 for the record to reflect that indeed, as he told you, indeed his
13 left arm has been amputated at the elbow.

14 Can I just ask your leave for the record to reflect that fact?
15 That's everything I'm asking. Thank you.

16 MR. PRESIDENT:

17 The Chamber allows you to do that.

18 So Mr. Neth Phally, could you please rise and please show your
19 amputated left arm.

20 So we can now see that your left arm was amputated, and yesterday
21 we already heard your account in relation to the problem,
22 actually what happened to you that caused your left arm to be
23 amputated. Thank you.

24 MR. WERNER:

25 Thank you very much, Your Honour.

3

1 MR. PRESIDENT:

2 Ms. Silke Studzinsky, you take the floor.

3 [09.11.52]

4 MS. STUDZINSKY:

5 Yes. Good morning, Mr. President. Good morning, Your Honours.

6 Good morning to everybody.

7 I would like to make first a request to the Chamber regarding the
8 order of the appearance of the civil parties today, and I would
9 like to ask and agree -- and the civil parties agree upon this,
10 of course, that we hear first Mrs. Im Sunthy, and then second Ms.
11 Phung Sunthary and then Mr. Seang Vandy. That is my first
12 request.

13 And then, regarding the time allocated to Mrs. Im Sunthy, who has
14 30 minutes, and her daughter, Ms. Phung Sunthary, I would like to
15 make a request to the Chamber to allow us to take this time for
16 both as one portion because already the introduction and the
17 documents to which I refer concern both civil parties and are
18 rather time-consuming to note all the ERN numbers and so on.

19 So I would appreciate if you allow us to take this time for those
20 civil parties as one portion together, and not to separate it in
21 30 minutes and three hours and 30 minutes, so that we can deal on
22 our own with this time allocated.

23 These are my two requests. Thank you.

24 MR. PRESIDENT:

25 Your request is granted and the Chamber hereby allows you to

4

1 follow the requested order. There is no procedural defect in
2 relation to the hearing of the statement of the civil parties in
3 any orders.

4 The Court officer is now instructed to call Madame Sunthy Im.
5 (Witness enters courtroom)

6 [09.15.52]

7 QUESTIONING BY THE BENCH

8 BY MR. PRESIDENT:

9 Q.Good morning, Madam Sunthy Im. Is your name Sunthy Im, as I
10 already said?

11 MS. STUDZINSKY

12 I'm sorry. I did not get the answer. Could you please repeat
13 your question -- or I don't know if your answer was not
14 translated or what happened, but to start again. Thank you.

15 MR. PRESIDENT:

16 I, myself, have not heard from her because she appears not to
17 have responded to my question yet. So I will ask her again.

18 BY MR. PRESIDENT:

19 Q.Madam Im Sunthy, is your name Im Sunthy?

20 A.(Microphone not activated)

21 MR. PRESIDENT:

22 The Court officer, could you please make sure that we can hear
23 from her because -- could you please move the mike a little bit
24 away from her face because -- actually to make sure that she can
25 actually see the red light and I, myself, or the Judges of the

5

1 Bench can also see the red light.

2 [09.18.09]

3 BY MR. PRESIDENT:

4 Q.Madame Sunthy, please respond to my question.

5 A.Good morning, Mr. President and Your Honours. My name is Im
6 Sunthy.

7 Q.How old are you?

8 A.I'm 70 years old.

9 Q.What is your nationality?

10 A.I am Cambodian.

11 Q.Where were you born?

12 A.I was born in Phnom Penh, Sangkat number 6.

13 Q.Where do you live now?

14 A.I now live with my children at Tuol Kok.

15 Q.What is your occupation?

16 A.In 1979, I worked at the Ministry of Public Transport, but now
17 I am a pensioner.

18 [09.20.00]

19 Q.From the 17th of April 1975 to the 6th of January 1979, where
20 had you lived? What did you do?

21 A.From the 17th of April 1975 I, like other people in the
22 country, were evacuated from the city and were made to work hard.
23 We were separated from our family members. We were not given
24 enough food and we were made to work very hard and, as the
25 President already knows, the work during this black-clothed

6

1 regime was brutal and intensive.

2 Q.What is your parents' name?

3 A.My father's name was Im Tuy (phonetic). He was the principal
4 of the Ecole Annexe Normale. He died.

5 Q.What is your mother's name?

6 A.She is Mom Trastos and she was a teacher in Phnom Penh.

7 Q.Can you tell the Court about your marital status?

8 A.I got married to Professor Phung Ton on the 15th of June 1955.
9 He was a professor who was executed by the Pol Pot people. In
10 1975, the 17th of April, I was evacuated along with my children
11 and relatives.

12 MR. PRESIDENT:

13 Could you please hold on? You may proceed with the account of
14 your story later on. We only need to ask further information in
15 relation to your identification and some basic information needed
16 at this stage, and you will be allowed the floor to tell the
17 Court in detail about the accounts.

18 We would like now to give the floor to the civil party group 2,
19 to briefly tell the Court about the identity of Madam Im Sunthy
20 and the reason she has joined as a civil party, and also the
21 grounds for claims for civil reparation in relation to the
22 alleged facts in which the accused, Kaing Geuk Eav, alias Duch,
23 is the accused before the Chamber.

24 [09.24.41]

25 MS. STUDZINSKY:

7

1 Thank you, Mr. President.

2 I will make this introduction for Ms. Im Sunthy and for Mrs.

3 Phung Sunthary, the daughter, together because it's related.

4 Madam Im Sunthy has submitted already a copy of her identity card

5 to the Chamber and same for Mrs. Phung Sunthary, who has as well

6 the French consular card.

7 The background of this civil party, Mrs. Im Sunthy, and her

8 daughter will appear after Ms. Pung Sunthary, is the following:

9 Ms. Im Sunthy lost her husband during the DK period and learned

10 later that her husband was killed in S-21. She was not aware

11 during the DK period because of the separation of families that

12 her husband was already killed.

13 For her daughter, who represents then the whole family as well as

14 Ms. Im Sunthy, she lost her father, the professor Mr. Phung Ton

15 who was the former dean of the University of Phnom Penh and a law

16 professor. She as well, the daughter, Ms. Phung Sunthary, was

17 not aware during the DK period what happened to her father.

18 The interest to become a civil party for both is to preserve the

19 memory of the husband and the father and to find the truth

20 concerning the fate of Mr. Phung Ton which is until now still

21 hidden. And although several witnesses were asked, and including

22 the accused, to disclose information, those civil parties and the

23 whole family is still left without any knowledge what happened

24 exactly to their husband and father.

25 [09.27.59]

8

1 Concerning the reparations, both civil parties, Ms. Im Sunthy and
2 Ms. Phung Sunthary, will leave these questions to their lawyers.
3 I will now give the Chamber documents that were submitted to
4 support the civil party application and these documents are all
5 on the case file and can be grouped as follows.
6 There are, first, different prisoner lists where Mr. Phung Ton
7 appears at different times and shows that he was -- when he was
8 still alive; if it can be called alive -- and then a biography --
9 now to be autobiography -- and different letters that he wrote
10 and who are preserved.
11 I will give as far as possible the ERN numbers and I start with
12 document D25/5/7. The Khmer ERN is 0018847 through 00188850.
13 Sorry, I forgot one 8 in the first number. I repeat the Khmer
14 ERN number. It is 00188847 through 00188850. The English ERN
15 number is 00274957 through 00234960. This is one prisoner list.
16 Another prisoner list is the document number -- it has document
17 number D25/5/8. The Khmer ERN is 00188853 through 00188856. The
18 English ERN is 00234961 through 00234962.
19 The next prisoner list is the document with number D25/5/11 with
20 the Khmer ERN 00188870 through 00188875 and the English ERN is
21 00239745 through 00239750.
22 [09.31.19]
23 Then the next prisoner list is D25/5/9 with the Khmer ERN
24 00188858 through 59 and with the Khmer -- sorry-- with the
25 English ERN 00239014 through 00239016.

9

1 And then the next prisoner list is D25/5/12 with only the Khmer
2 ERN number which is 00188877 through 00188879.
3 And then the last prisoner list where Mr. Phung Ton appeared and
4 it is in the document with the number D25/5/13, and this has the
5 Khmer ERN 00188881 through 00188882, and the English ERN is
6 00335539 through 00335542.
7 Then another document to support the application and the civil
8 party application of these two civil parties is a biography from
9 S-21 which is the case file on the document number D25/5/9, with
10 the Khmer ERN 00188857 through 00188859 and the English ERN is
11 00239013.
12 Then on the case file is another document, which is an
13 autobiography; that this document is from S-21, but was written
14 during already the detention outside of S-21 and can be found
15 under the French ERN 00188817 through 00188822 and Khmer ERN
16 00188832 through 00188838.
17 Then there are supporting documents which are letters written by
18 Mr. Phung Thon when he was abroad and which will -- where the
19 civil parties will refer to later on. These letters can be found
20 under the document numbers D25/5/1 and through with the French
21 ERN number which is original -- it was original, written in
22 French -- 00188811 through 00188812 and the Khmer translation,
23 00224277 through 78.
24 [09.35.41]
25 The next letter from May 1975, also written abroad, can be found

10

1 under the document number D25/5/2 and is also written in French
2 -- the original -- and to find under the ERN number 00188813
3 through 00188814.
4 And then the last document and letter is the document number
5 D25/5/3 from 23rd of December 1975 and also written abroad under
6 the -- in the original language, French, and to find under the
7 ERN number 00188815 and in Khmer 00284318.
8 So far these documents and these documents, of course, refer --
9 or are the basis and supporting documents for both civil party
10 for Mrs. Im Sunthy and Mrs. Phung Sunthary.
11 I would like to inform the Chamber that first Mrs. Im Sunthy will
12 give her statement and refer to her personal suffering as wife of
13 Professor Mr. Phung Thon and she will give this statement also to
14 preserve the memory of her husband, and this will be rather short
15 statement and more detailed will be then the daughter, Mrs. Phung
16 Sunthary.
17 And I only want to inform the Chamber that Mrs. Im Sunthy is in a
18 rather weak health state and as the Chamber may be aware, she
19 already collapsed once in the courtroom. And I think so far Mrs.
20 Im Sunthy would like to give only the statement and -- so far --
21 read it out and she feels not able to respond then to questions
22 and so I would suggest to leave this more to the daughter who
23 then represents the family comprehensively and can be questioned
24 then.
25 [09.38.55]

11

1 And so, also to inform the Chamber about the proceeding with Mrs.
2 Phung Sunthary. She has prepared as well a statement and will
3 present this statement then to the Chamber and, of course, will
4 be open then for further questions.

5 And Mrs. Phung Sunthary has also questions to the accused at the
6 end and will put them then through the President to the accused
7 or directly, as you find it appropriate.

8 So far my introduction and I hope -- although you didn't mention
9 it again -- but that you agree upon my request to consider the
10 time for both civil parties as a whole because only the
11 introduction now needed sometime to mention all the documents we
12 are referring to, and then I would like to give the floor to Mrs.
13 Im Sunthy. Thank you.

14 MR. PRESIDENT:

15 Madam Sunthy Im, you can now make your statement to the Chamber
16 related to the events and facts which leads you to becoming the
17 civil party to this case, and the facts and crimes alleged on the
18 accused, Kaing Guek Eav alias Duch.

19 MS. IM SUNTHY:

20 Mr. President, I would seek your permission for my medical
21 assistant to sit next to me.

22 MR. PRESIDENT:

23 The medical assistant, you're instructed to sit next to this
24 civil party.

25 MS. IM SUNTHY:

12

1 In 1975, my family and I were evacuated from our home. We were
2 walking together with my parents as the rest of the people in the
3 country. My husband was abroad; he was on a mission in
4 Switzerland. He was a law professor specializing in
5 international law and he was also an expert in the law of the
6 sea.

7 [09.42.03]

8 On the 16th of March 1975, there were several bombardments in the
9 vicinity of Chum Chao and Pochentong and I would not be able to
10 follow him at the Pochentong Airport. My two younger siblings
11 farewell him off at the Air Cambodge's office south of Phsar
12 Thmei at 3.30 p.m. because of the tremendous bombardments at the
13 time.

14 I was anxious at the time too, and during that period we had no
15 mobile phones. I sat at his office waiting for his telephone
16 call whether he reached the Pochentong Airport. I was so
17 concerned due to the serious bombardment at the time.

18 I was waiting for his call until 7 p.m. and finally he called me.

19 It was the 16th of March, as I said, he arrived in Bangkok. He
20 spoke at length, asked me to take care of myself and the family
21 as I had not been well. My health was poor at the time.

22 He told me again and again to take care of myself and that I
23 should not force the children to go to school because he knew
24 that I wanted the children to be well educated, and he begged me
25 not to force them to school because of the unpredictable

13

1 bombardments in the city, and that I myself should only focus on
2 my health and that I should observe the situation and make a
3 decision accordingly whether the children should be sent to
4 school or not. He talked at length and I did not want him to
5 waste money on the telephone bill because we were strict on the
6 expense.

7 [09.45.17]

8 During our evacuation at 9.30 a.m. when we were ordered to leave
9 our house, my second-eldest son was not with us, but because we
10 were forced so we had to move.

11 Before the fall of Phnom Penh, I received a letter from him from
12 Geneva. In the letter he reiterated his wish for me to take care
13 of my health and that I should not force the children or be too
14 firm with the children. These are the two main points of his
15 letter.

16 I actually had a son. He got polio, and during the evacuation,
17 Mr. President, it was miserable as he had to drag his leg. There
18 was no support for him and the relatives, they had to take care
19 of their children as well, and my youngest child, who was six
20 years old at the time, was so hungry.

21 When I left, I took along his letter, his last letter, and the
22 voice I heard on the telephone from Thailand was the last voice
23 of him that I had ever heard. His letter was exactly the same as
24 what he spoke on the phone from Thailand. He understood my firm
25 stance toward the children and that's one of the reasons he

14

1 reiterated in his letter and on the telephone.

2 When I left, I also brought along some family photos and also I

3 had a photo in my wallet, but everywhere we passed through we

4 were searched and all the photos -- even a wallet photo -- were

5 seized. I got a photo of my child studying in Germany as an

6 engineer and the connection was with his friend who was on a

7 mission with him in Paris in France.

8 When Mr. Ung Pech made a presentation about my husband, my son

9 stood up and said that, "The person you spoke about was my

10 father", and during that gathering there was an older woman who

11 claimed to be my husband's friend and she gave some photos to my

12 son and there was a photo of my husband. So, in summary, my

13 photos were all gone. They were all confiscated.

14 [09.49.23]

15 My husband's hobby was reading books and researching documents.

16 He did not ever waste any time. His time and scheduling of the

17 day was always strict and precise. Sometimes he had me read a

18 French book or a lecture text, however, I did not really

19 understand well due to my limited French knowledge.

20 And he taught me. For instance, when he asked me to read a law

21 book in French, after my reading he would explain to me what the

22 law was about in Khmer so that my understanding in the legal area

23 would expand and, with that knowledge, then I would be able to

24 educate the children well.

25 I also provided my assistance to my husband to the best of my

15

1 capacity. For instance, when he had to correct homework for the
2 children, then I would classify the homework and I would help him
3 with the ordering of those marks he gave to the homework.
4 So we two were so close during the 20-years period. We had never
5 had any single argument and I would seek his advice on my
6 shortcomings in my character, and he had a knowledge of
7 understanding my character, my psychological habit, and that he
8 would seek a way to explain to me of my shortcomings, and he
9 would tell me the difference between black and white. There
10 would be no grey area. And that was him; that was my husband.

11 [09.52.16]

12 In addition, during his tenure, his contacts with the French
13 embassy or other embassies, then some journalists that -- and the
14 newspapers that he read, then he would collect all those clips
15 and I would arrange them, organize them for him.

16 So, in short, he educated me very well to understand the right
17 from the wrong and to make myself progress. During the time that
18 I was with him, I felt the warmth I received from him and that I
19 was one of the lucky women who had a very kind and understanding
20 husband and who impart his knowledge to me.

21 I also lent him a hand whenever I could so that I would be
22 accustomed to the way the work was done and be familiar with his
23 work. Also, during the time that I had to carry a water, I
24 imagined of his time in Geneva or in France that he was lucky to
25 be there but here in Cambodia I had to carry water from the

16

1 river.

2 I slipped and fell, and I fell on the bank of the river as it was
3 steep. I had to carry the water from the river to fill in the
4 pot, the main pot at the kitchen. I also had to look after my
5 mother because my elder children were separated and they lived in
6 different cooperatives. I only lived with my younger children.
7 And the kitchen was huge for the cooperative and I had to supply
8 it with enough water for the kitchen.

9 [09.54.56]

10 The river bank there was so steep so I had to use a stick to
11 support myself while I carried the water. My elder daughter was
12 also sent to the location where they built the dams and she has
13 to carry the soil. So was my son.

14 I suffered a lot during that time and the food ration given by
15 Angkar was so little. At that time the rice was wrapped, mixed
16 with grass and some mud. It was nothing much in there, very
17 little rice and I had to give that food to my children. We were
18 so mistreated during that regime.

19 Even my mother who had lived through various wars, she learned a
20 few tricks from those wars and she told me to cook rice from the
21 rice that they distributed in the morning so that she could
22 divide those rice into little pieces and then she could give
23 those rice to the children.

24 Sometimes they really mistreated us. The rice-cooking pot that
25 we ate -- there was -- they defecated in that pot. They treated

17

1 us like animals and we dared not to do anything.
2 My father one day went to cut the bamboo and he was not well as
3 well. And on that day it was raining and he had to carry the
4 bamboo back. He had a fever so I went to ask for some medicines
5 from the village medical office. From the medicines I got I gave
6 to my father and he got seizures because that pills were made
7 from a poisonous tree. And then I went again to see that person.
8 I said, "Mr. Chief, could you please send my father to the sector
9 hospital?" He was so ill.
10 And that chief was actually young but I had to call the chief
11 like Mister. My father did not say anything because of the fact
12 of that poisonous pill.
13 [09.58.28]
14 I repeatedly asked permission from the village chief and he said
15 there was no gain to keep and there was no gains to lose or to
16 get rid of and he scolded my father. He was the type of person
17 who did not know any morality. It is not Cambodian culture. And
18 I was so upset because I was so pitiful on my father. I was so
19 angry so I spill out, "If you have parents like this, did you
20 ever think of your parents? If there was no gain to keep them,
21 so it means you do not have to feed your father or mother?"
22 And my younger brother was very afraid that I would be taken and
23 killed so he dragged me away and backed the chief. And he
24 apologized to the person that because I loved my father so much,
25 that's why I was so upset. And if I was taken and killed then

18

1 nobody would take care of my children and I had seven children.
2 And later on I was given some medicine. I was put on a bed while
3 charcoal, hot charcoal was placed underneath and I developed some
4 blisters. Later on my children died, including my mother and my
5 auntie. My aunty was like my biological mother because she had
6 taken good care of me all the way and they all perished because
7 they were given the medicines, a kind of very poisonous medicines
8 that put them to death.
9 And I could imagine how difficult the life of my father would be
10 because having lived in such a regime I experienced these
11 barbaric acts and I talked about this to my relatives.
12 And even during the time when food was deprived, we talked about
13 eating chicken with some kind of ginger sauce. Having said that
14 among our children, then we were taken to be re-educated and we
15 were warned not to even mention about eating such bourgeoisie
16 food like that.
17 [10.02.28]
18 So even the young people like my children who talked about being
19 hungry, about eating delicious or more delicious food were warned
20 not to talk about this again because it represented the idea of
21 the imperialist or the bourgeoisie's regime.
22 Our children actually were educated by I and my husband to be
23 brave, to be able to challenge any tough situation.
24 We were living together in the co-operative, and one day when my
25 children were very sick and I asked the chief of the unit so that

19

1 he could be treated. However, I found it difficult to actually
2 get such information.

3 And another child of mine was good at producing some kind of
4 tortures and he could also go fishing. He was six years old, but
5 he could catch some fish, and because of that he was punished by
6 being exposed to the sunlight because he was accused of damaging
7 the young rice plants in the paddy fields because he caught a
8 fish in those fields.

9 After my child committed that alleged wrongdoing and was warned
10 and punished, I myself was also called to build myself. I didn't
11 understand the words "building myself" because I was told to sit
12 down on the paddy's dyke and that I was told that I was a liberal
13 person. I was ill disciplined. I got used to living in the
14 city. So like father, like son, like mother, like daughter,
15 because you people got used to the city lifestyle so you should
16 now be warned not to behave like that again.

17 [10.05.39]

18 I would like now to make it brief because I feel rather exhausted
19 telling the details although it was telling it, but I would like
20 to skip to the time when we came to Phnom Penh.

21 QUESTIONING BY CIVIL PARTY COUNSEL

22 BY MS. STUDZINSKY

23 Q.I would like to ask you to make it easier, a question that you
24 could describe for the Chamber. When you learned -- the time
25 when you learned first what happened to your husband, and if you

20

1 could start to describe this first and then a little bit about
2 how your suffering until today was.

3 A.Thank you. In 1979, when I returned to Phnom Penh, I felt
4 that my husband could be reunited with us but, later on, I
5 learned that he was detained at S-21.

6 When my father died, I was already deeply depressed, however, it
7 really shocked me and it was a really complete distress when I
8 lost my husband. It's a kind of tremendous grief, and I don't
9 know how I can really put this into words to explain or to
10 describe to the Chamber to understand how huge this suffering I
11 have had having lost my loving husband.

12 It has been more than 30 years, but time only intensifies my
13 grief. I have never been happy and I have been terrified and
14 living with trauma.

15 So every minute of every day I could never forget to think of
16 him, and sometimes I had to sit down and to even find a very
17 quiet moment on my own to think of how I could really manage the
18 lives and the livelihood of my seven children because I was left
19 alone without the support and assistance of my husband.

20 [10.09.11]

21 And I know for sure that my children as they were well educated
22 by my husband, they really want to learn more and they want to be
23 well educated. Having had this in my mind, I started to be
24 feeling even more worried of how I could really cope with this
25 because at the beginning we started from scratch again with seven

21

1 children without a husband.
2 And sometimes I even attempted to commit suicide because I just
3 want to finish off everything and to finish this hardship.
4 It is actually impossible for me not to feel sympathetic for my
5 husband who could have been inflicted some kind of tortures and
6 sufferings in the regime during the time when he was in his
7 captivity. If he lived, he would be of all kinds of assistance
8 when needed because he was a very caring husband and father. And
9 in our family, we had experienced some kinds of difficulties and
10 hardship, but the situation was degenerating when they had to be
11 dealt with without my husband.
12 Now, I can see that my children are brave and everyday they are
13 outspoken people because they were well trained by their father,
14 although many believe that they seem to be aggressive by behaving
15 like that, but the way that my husband would like them to be is
16 to be brave and aggressive like that.
17 [10.11.55]
18 However, I can't stop weeping and crying, but I never make it
19 known to my children. I had to close my bathroom door and then
20 make use of this very lonely moment to cry out loud in that
21 bathroom, but not to make my children heard.
22 I earn very little at the Ministry of Public Transport and I had
23 to be on my own to support my family, and I never wanted to ask
24 any assistance from my relatives, sisters or brothers, because I
25 just would like to shoulder this alone. And I knew for sure that

22

1 my families have been in a very desperate position also.
2 However, I would like to be proud to be alone here anyway to
3 raise the children, although it is very difficult. As a widow in
4 Cambodian society, normally it is well criticized. However, I
5 have been behaving in the way like I perform two roles, as a man
6 and as a woman; a husband and wife at the same time. So I have
7 to teach my children, to cook for them, and also the most
8 important thing is to tell them to be able to struggle, to hold
9 onto life.

10 When I come to these hearings to be part -- to observe the
11 hearings at this Tribunal, I have visualized the brutality of the
12 regime, and when Robert Hamill put the photo of the person who
13 was seen struggling in a pool of blood it really shocked me
14 because I could imagine how difficult life could have been for my
15 husband at that time and I could not really control my feeling at
16 that time, and some time I passed out.

17 [10.15.10]

18 So I can only survive these days because I have to consume
19 medications. One day when I was at home to watch the movie in
20 which I saw the shackles and people were being shackled, and I
21 could not really dare see those footages.

22 Q.Ms. Im Sunthy, I would like to put another question to you and
23 maybe to make a conclusion that you have reported to us how
24 difficult it is to raise the children without a husband and to
25 cope with all the sufferings during the time. Maybe you could at

23

1 the end now summarize for what you are looking here in this
2 trial. Why did you become a civil party? What do you want for
3 your husband and what do you want from this trial? Maybe you
4 could summarize this and then I would suggest to give Sunthary
5 the floor. Thank you.

6 A.Thank you, Ms. Studzinsky. Whenever I have to recall this
7 account I feel even more broken. I am here to actually pay
8 homage to the dead souls of my husband and my father and the lost
9 family members.

10 Some people say that I am here to take revenge but it is not
11 true. I am here to find justice for my husband. I am here to
12 reveal the truth why people were killed, why these barbaric acts
13 were inflicted onto the victims. Was this because of the power
14 enrichment or for the personal gain, or for what else?

15 I would like to tell Your Honours that as a professor or
16 schoolteacher, anyone must be ethical and professional and
17 everyone must think of how to really build a country, not to
18 struggle for power, for personal power.

19 I would like to conclude my deposition now and I apologize for
20 being too emotional sometimes.

21 [10.19.29]

22 MR. PRESIDENT:

23 Ms. Silke Studzinsky, would you wish to put some further
24 questions to the civil party?

25 MS. STUDZINSKY:

24

1 No, I have no further questions at the moment but I would thank
2 Mrs. Im Sunthy a lot that she arrived today here at the Court to
3 preserve memory of her husband but of course to all her family
4 members and Cambodians.

5 And I would thank you that you could have the force to sit here
6 before the Chamber and tell about your sufferings and to give
7 your husband a face.

8 There are no other questions, not from my side. I would then
9 give Sunthary the floor.

10 MR. PRESIDENT:

11 The Co-Prosecutors, would you wish to put any questions to the
12 civil party?

13 MR. DE WILDE D'ESTMAEL:

14 Thank you, Mr. President. As requested, we do not have any
15 questions to put now. If we do have questions we will put them
16 to her daughter but we do thank her for her statement this
17 morning.

18 MR. PRESIDENT:

19 The defence counsel, would you wish to put questions to this
20 civil party?

21 [10.21.38]

22 MR. KAR SAVUTH:

23 Mr. President, thank you but the defence counsel does not have
24 any questions to put to this civil party.

25 MR. PRESIDENT:

25

1 Madam Im Sunthy, the hearing of your statement has now come to an
2 end and, as scheduled and agreed that more times will be
3 allocated to her daughter to give her statement, now you are
4 allowed to sit back at your seat.

5 (Witness exits courtroom)

6 And since it is an appropriate time to take the adjournment,
7 we'll take the adjournment now and resume at 20 to 11.

8 THE GREFFIER:

9 All rise.

10 (Judges exit courtroom)

11 (Court recesses from 1022H to 1044H)

12 (Judges enter courtroom)

13 [10.44.45]

14 MR. PRESIDENT:

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

16 And we are going to hear the statement of the civil party, and
17 now we are going to hear the statement of Phung Guth Sunthary.

18 Please come to the front seat before the Chamber.

19 QUESTIONING BY THE BENCH

20 BY MR. PRESIDENT:

21 Q.Good morning, Madam Civil Party. Is your name Phung Guth
22 Sunthary?

23 A.Yes, Mr. President. My name is Phung Guth Sunthary.

24 [10.46.34]

25 Q.How old are you this year?

26

1 A. I am 53 years old.

2 Q. What is your nationality?

3 A. I have a French nationality but I was born Khmer.

4 Q. What is your place of birth?

5 A. I was born in Sangkat number 6 in Phnom Penh.

6 Q. Where is your current address and what is your occupation?

7 A. At present I live in Chaktomuk in Phnom Penh. I am a former
8 pedagogical trainer in French and the training is for the French
9 teachers throughout the public schools in Cambodia.

10 Q. What was the name of your father?

11 A. His name was Phung Ton.

12 [10.48.09]

13 Q. And what is your mother's name?

14 A. My mother's name is Im Sunthy.

15 MR. PRESIDENT:

16 The Chamber now gives you the opportunity to describe to the
17 Chamber the events and the facts related to the crimes alleged on
18 the accused, Kaing Guek Eav alias Duch, and the impact upon you
19 during the commission of those crimes when the S-21 was
20 established and operated from the 17th April 1975 through the 6th
21 of January 1979, and the reasons for you to be a civil party and
22 the concrete reparations that you wish to seek.

23 Also, you can express your feelings regarding the sufferings,
24 emotionally and physically, from those crimes. You can proceed.

25 MS PHUNG GUTH SUNTHARY:

27

1 Thank you Mr. President. Thank you, Your Honours for giving me
2 the opportunity to make a statement before this Chamber today.
3 First of all, I would like to describe about my memory and
4 sentiment between my father and I from my childhood through
5 adulthood, through adolescence.
6 What I can remember is an innocent and lovely father, and the
7 last time that I saw him I will describe that and, later on, I
8 will briefly talk about the period of the Democratic Kampuchea
9 and the fact that I did not see his returning. I will talk about
10 our suffering and our great loss after we heard the news that he
11 was executed at S-21.
12 [10.51.07]
13 Later on, I will talk about our effort to do the research and the
14 results and the responses we received from the accused.
15 Mr. President, through this statement, I would like to praise to
16 my father's soul as a prisoner wearing serial number 17 at S-21.
17 With Mr. President's leave, I would like to show some photos,
18 some surviving photos of my father and the serial number on my
19 father is number 17.
20 The Court officer, please take the photos from the civil party
21 and have them projected on the slide.
22 Could you try to adjust the reflections of the light on the
23 projector, Court officer, because part of the photo is whitened?
24 Madam civil party, you can now continue with your statement.
25 MS PHUNG GUTH SUNTHARY:

28

1 Thank you, Mr. President.

2 First of all, I just showed you the photograph of my father
3 wearing placard number 17. I would like to pray to his soul.

4 [10.58.55]

5 He was handcuffed and pushed onto a truck on the 16th of March
6 '76 and was sent to Tuol Sleng where he was tortured, dehumanized
7 and, in the end, he was smashed.

8 Mr. President, Your Honours, I wish to describe the personality
9 and the quality of my father as a person and as a father who
10 lived in the Cambodian society, who earned respect from people
11 who knew him; I want to make this as lively as possible.

12 My father was a man who had a strong stance, firm but humble. He
13 listened to his children regardless of what the matter was. He
14 paid attention to the children and he always had time for the
15 children despite his busy work.

16 He never beat any of his children. I have never have heard him
17 even using some kind of strong words towards the children. He
18 taught us to love humankind and dignity.

19 My father taught us how to deal with conflicts and how to avoid
20 taking any revenge against anyone and teaching us how to know the
21 dignity of humankind. And he meant business. He really was a
22 role model. Whatever he did he left the trace of great model, a
23 person with great wisdom and the wisdom that is still well
24 embedded with every -- the mindset of all the children.

25 When we grew up we learned that he was the person who really

29

1 admired and respected. And we received very warm care --
2 attention from him at all times through his attitudes, his way of
3 speaking to us and his kindest affection. It was a huge
4 sentiment towards us and it is priceless.

5 [11.02.28]

6 Always he protected us. So he was like a great shadow to protect
7 us from the outside world of hatred and problems.

8 On one occasion there was a big rain and I was about five to six
9 years old and I went out to play under the rain and then I fell
10 and hurt my chin without the knowledge of my mother. When I came
11 back home I was assisted by my father and he took me to the
12 doctor so that my injury could be treated and I could feel how
13 caring he was towards me and he could really heal my pain, the
14 emotional pain. Although 50 years almost passed by, the moment
15 we had been together still haunts me.

16 On one Sunday evening, we walked at the riverfront and I could
17 recall the moment when he lent me his hand to help me get off the
18 car and then he put his hand into the open mouth of the concrete
19 statue in front of the Royal Palace and then he would joke with
20 me by saying that, "Look, the lion is now biting my hand." I was
21 back then called Ly, which is my alias name, and I cried when I
22 heard that the lion was biting him because I was afraid that he
23 got hurt, but he then laughed at me.

24 [11.05.23]

25 My childhood memory reveals that I had been very close to my

30

1 father and how much care I had also from my father. It is
2 actually my duty now to attest to this Chamber the memory, the
3 dignity, the caring father; the things that had been deprived of
4 him during the time when he was in captivity.
5 He was actually the cornerstone for the whole family. He did his
6 best to support the family and he was the father who educated
7 children to be gentle and humble. He worked a lot. He was a
8 busy rector, the director of the high educational institution.
9 My parents normally had dinner at about 7 to 7.30 p.m. and he
10 would be seen coming to our room to assist us with our homework
11 and he always listened to our problems at school and then he
12 would be able to assist us with all the problems.
13 Sunday would always be reserved for our time together in the
14 family. One day, when my mother was preparing some food for the
15 meal that we enjoyed together during the weekend, then my father
16 would take the opportunity to teach us how to be a good citizen,
17 how to be a good person in society. He would like us, and me in
18 particular as a single daughter in the family, to be highly
19 educated and he really cared for me a great deal.
20 He was the person with open mind; his mind was open to the
21 outside world. However, he really had the idea of the
22 preservation; he preserved the Khmer culture and heritage.
23 I still remember during the 1960s there was a novel, the novel
24 entitled, "The Nature of Women" and then it had been produced
25 into the film and show at the Soriya movie and I sat next to him

31

1 to watch that movie together. The movie reminds us of the event
2 because in the story itself, the author tried to educate the
3 audience of how parents' love could have been towards their
4 children although the mother was departed from the children then
5 she could really showed her loving nature toward the children.
6 After the Khmer Rouge, I tried to locate the movie but to no
7 avail.

8 [11.09.44]

9 My father never forgot to educate us on several other foreign
10 cultures to understand the world. Very often my father had to
11 fill missions in France, Swiss, China, South America and every
12 time when he was there, he would be sending some gifts, souvenir
13 from abroad to the children and the family.

14 As a lawyer, a professor, a rector and the principal of the high
15 education institution, he earned a lot of dignity and he tried to
16 protect the interests of the nation and he tried to protect Koh
17 Puolo Wai of Puolo Wai Island during the time of conflict with
18 the South Vietnam and Cambodia.

19 In 1974, he went with the navy -- the national navy crews to that
20 island and we were anxious because during that time the country
21 was in conflict, and that Lon Nol's regime had a conflict with
22 the South Vietnam government and I could not stop being so
23 anxious although when I was at school because I knew that my
24 father would be on the way to that island. And I had been so
25 anxious until the moment I could see him back home.

32

1 And I would like to also tell the Court that my childhood and my
2 adolescent-hood actually, I have spent the entire period to be in
3 the very good care of my father. When I turned 18, I wanted to
4 study law because I would like to take the footstep of my father
5 and as advised by him and he was a great role model; a very
6 righteous role model. And as a daughter, I would really love to
7 follow his footstep and he never refused to allow me to pursue my
8 education in law.

9 [11.12.36]

10 And I was waiting to be granted a scholarship to continue the
11 education; however, a few months later, my mother told me that
12 actually my plan really worried my father because he told my
13 father that he was afraid that I would not be well treated
14 because if I studied law then I would be close to him and close
15 to the politics.

16 I would like to now proceed with further statement.

17 On the 16th of August 1968, at about 10 o'clock in the evening, a
18 group of police came to arrest me -- I could hear their footsteps
19 -- and they started to search my room, and then I was half awake
20 and I could see my grandparents and I was shocked. I ran to take
21 refuge under the arms of my father while the police kept on
22 searching the room. I remained close to my father but my mother
23 told me to go and be close to my brothers. I tried to be close
24 to my father, of course, because it was so warm. However, I
25 could not really contest my mother's advice that I had to go to

33

1 see my brothers.

2 And in the morning I woke up. I did not see my mother and I
3 could expect that she would be in my grandparents' house. My
4 grandparents' house is close to my house and I went there and saw
5 my mother, and my parents were very saddened and I knew that my
6 father was arrested. I was very terrified because I was afraid
7 that he would be also arrested and killed in Trapeang Kraloung
8 like the other people who had been executed there previously.
9 However, I was consoled by my grandparents. At that time I was
10 12 years old.

11 [11.15.43]

12 A few weeks passed by. Children were allowed to pay a visit to
13 my father, and I still remember the moment when the door opened,
14 we all ran to hug him. My mother and my younger son was cradled
15 my mother when she gave him to my father to continue to cradle
16 him, and at that moment it was so moved that even the guard could
17 not hold back his tears. Next to the bed there was a table for
18 writing and there was a piece of paper in which the writing of my
19 father could have written in it, and no-one could talk anything
20 and then we were separated. Before we left we looked at the door
21 which was closed behind us.

22 A month later, during lunch, my mother was not present, because
23 normally she would be taking the meal to my father at the
24 detention facility located at Tuol Kok. I ate lunch together
25 with my brothers and I heard the footsteps of my father coming

34

1 and I saw him coming back home wearing dark green pants, and I
2 could see a few policemen following him, and the children left
3 the lunch table to greet him because they were -- we all were
4 happy to see him back home.
5 He was still under surveillance of the police and he was put in
6 the house arrest for the following three months. This event
7 really is still in my mind. I don't understand why such a good
8 family, a good father like him, was accused of being the Khmer
9 Rouge. He was a normal man, a noble person who would like to
10 protect the liberty and would like to provide the opportunity for
11 the poor to be able to continue their education, and that's all.
12 [11.18.57]
13 And I would like to proceed to the 16th of March 1975, when my
14 father was departing to Geneva. In the evening of March 1975 I
15 was still reviewing my lessons because students at that time had
16 two shifts at school because a lot of people would be seen
17 running from the liberated zones to Phnom Penh, and school days
18 was reduced.
19 At about 3 p.m. my mother shouted or called me and then I could
20 see my father, who was already at the ready to depart. She
21 looked at me without saying a word. It was a very strange moment
22 of departure. Having noted this moment, I could now see that at
23 that time, my father could have already envisaged the disasters
24 that could have happened to the family during his departure.
25 I and my brother saw him off at the airport. At that time I

35

1 could not concentrate on my study or homework because I was so
2 anxious. And a few years later we learned that he died, and I
3 asked her to recall the accounts of what happened to my father
4 after he finally departed from us.

5 My mother told us that after he was well dressed, his clothes
6 secretary before he was to be leaving, he removed his shirt and
7 lied on his back, and my mother was seen to give the massage to
8 him and she noted that my father did not want to leave the
9 family. It was some kind of omen that he could see that
10 something could happen. So his worries could be well expressed
11 in his facial expression, and it was at the moment that he was
12 speechless.

13 [11.22.13]

14 At about 7 p.m. we were expecting his phone call because he
15 promised that when he reached Bangkok he would then call us. We
16 started to feel very worried already when he left home to the
17 airport because at that time we could hear that there would be a
18 lot of bombardments everywhere in the country. Later on we
19 received the phone call that he was in Bangkok. That was the
20 last words or voice we heard from him -- the last moment that we
21 heard from him.

22 The evening of 16th of March 1975 we were announced -- we heard
23 on the radio broadcast that schools would be closed because there
24 would be severe bombardments and that students were not advised
25 to go back to schools.

36

1 A few days before the 17th of April 1975 my mother received a
2 letter from the Foreign Ministry. In the letter we learned that
3 he would be back home.

4 I would now like to proceed with the 17th of April 1975 event
5 when the population of Phnom Penh was forcibly evacuated. At
6 that time I was so shocked to see such exodus carried out by the
7 Khmer Rouge and it was worse because there was no presence of my
8 father. Fortunately, my grandfather could assist us with the
9 evacuation. However, he could not be the right person suitable
10 enough to replace my father.

11 [11.24.48]

12 We went together on the direction to Kampong Chhnang. My parents
13 were born in Kampong Chhnang and they would like us to move to
14 Kampong Chhnang to do the rice farming as ordered by Angkar.

15 Since we did not have any kind of means of transportation to
16 travel to Kampong Chhnang then we let Angkar decide which
17 direction they would wish us to go to. Then we moved to Sector
18 21 and finally Sector 505.

19 Like the other women I was moved to mobile units and would be
20 made to do farming in various places according to the orders of
21 Angkar.

22 Starvation, forced marriage, these kinds of things I could
23 escape. Luckily, I could avoid being raped or avoid the forced
24 marriage.

25 During the regime I could not stop thinking of my father. I

37

1 wished he were with us to share the moment. I knew that he was
2 in France. He was fine. By having said that I mean first I
3 would like him to be with us but however, after all, I knew it
4 would be better off for him to be there. At least I knew he
5 survived in France.

6 Later of the year there was a big flood at Sector 505 and I did
7 not know why at that time I was so anxious, and I had a vivid
8 nightmare that I saw my father in the dream. His body was
9 swollen. I could not see his face and he was speechless, and I
10 did not know why he did not talk anything in the dream. I could
11 still feel uneasy about this. And I asked permission from the
12 chief of the unit to go home. And when I came home I did not see
13 my mother. I met my grandfather instead. I shared with her
14 (sic) the account of my dream and I told her that I was afraid my
15 father would be in big trouble because I saw him in the dream and
16 he was not in good shape actually in the dream.

17 And a few years later of course that dream came true because the
18 dream gave me the indication that my father would be in trouble
19 obviously.

20 [11.28.04]

21 In Khmer Rouge regime when I saw the old people the same age as
22 my father who had to work under the sun, the baking sun and I
23 could imagine how difficult life could have been. And I thought
24 that it would be very fortunate for my father who would not be
25 there anyway.

38

1 On one occasion I went to the place where I was asked to write my
2 biography and I wrote the details, the truth of my family,
3 myself, my parents, in order to make sure that this information I
4 put in the biography could be communicated to the upper echelon
5 of the Khmer Rouge so that my father could locate us. However,
6 unfortunately I did not know that the biography could end up
7 being in the hands of some bad people maybe and that could lead
8 to the arrest of my father. But I don't know. Maybe it was true
9 that because of that biography that my father was arrested later.
10 I did not know until now whether the biography was torn apart or
11 thrown in the garbage bin, but who knows?

12 During the regime, the Khmer Rouge regime, whenever emergency
13 came, whenever I had to be exposed to the starvation I could not
14 talk because the 17 April people were regarded as prisoners of
15 war, so we were deprived of our freedom, liberty. We were put to
16 plant rice at the rice field and I was left on one occasion in
17 the jungle because the people did not like me; they left me alone
18 in the jungle. Luckily some senior women loved me and then gave
19 me a ride home.

20 [11.30.28]

21 Last time when I was carrying soil on the Seda dam I saw people
22 who were defeating from the battlefields and I dropped the
23 earth-carrying basket and then I ran away together with those
24 flocks of people. I kept running due to fear and excitement
25 until I could not move any further due to the number of people

39

1 who were also running.

2 I did not know where to go. I did not have anything with me. I

3 only had the clothes on my body and I did not know anyone. I

4 lost all my family members. I could not find my mother. I only

5 saw people scattering and running everywhere.

6 At Bos Leav sub-district it was nightfall and I went searching

7 amongst those groups of people and I heard the voice of my

8 mother. I looked into that direction. I saw her carrying a

9 torch shouting for the names of my two younger siblings. I met

10 her and she took me to her group where I saw my handicapped

11 sibling and my grandmother there.

12 I left with them by taking the boat crossing the Mekong River and

13 continued our escape as ordered by the Khmer Rouge who gathered

14 us together with them to go to Boeng Ket Mountain and later as

15 there was a village chief who was nearby and the son of that

16 village chief had a radio and he tuned to the channel of the

17 Democratic Kampuchea but instead they heard the voice from

18 American channel and we learned that Phnom Penh fell.

19 So we went down the Boeng Ket Mountain and I met my aunt who was

20 forced to get married by Angkar. So we together made our journey

21 to Kratie as we had no food to eat and we would starve to death

22 if we keep running.

23 [11.33.10]

24 So we returned to the last village where I stayed but upon our

25 arrival at that village we did not have any rice -- to search for

40

1 any rice and I would like to tell the President and the Chamber
2 that when Angkar evacuated us on the 17th April '75 to our native
3 villages due to the announcement of the fear of bombardment, and
4 my native village was in Phnom Penh and over there I had nowhere
5 to stay, so I had to move by the order of Angkar.
6 And when the Khmer Rouge were defeated, we ran to the village
7 where we used to work and stay there, but they refused to give us
8 anything because everything which was communal at the time,
9 became private property of those villagers. And there was
10 nothing left for us to eat.
11 We had to think deeply on what we had to do next and, finally, we
12 decided to go back to Phnom Penh which was a long journey from
13 Kratie. And we could not walk on our feet for this long journey
14 and we had nothing left, no diamonds or no gold to exchange for
15 the trip, or no transportation.
16 [11.34.35]
17 We then decided to make a bamboo raft and then we made our
18 journey on the Mekong River from Kratie to Phnom Penh and we
19 reached Phnom Penh in February '76.
20 Next, we stopped at Prek Takong and we exchanged the raft for 20
21 kilos of rice, and we stayed at a monk residence in Prek Takong
22 Pagoda. In order to solve our food, then my younger son -- my
23 younger brother worked as a boat carrier, transporting people
24 across the river in order to get rice to feed us. And my mother
25 wanted to look for her younger brother who disappeared.

41

1 And we heard that my father actually came to Cambodia and he was
2 killed, but none of us believed. All of us still had hope that
3 he was still living in France and that one day we will meet him.
4 We did not know the extent and the scope of the killing committed
5 by the Khmer Rouge regime.

6 And I always thought, regardless of what happened, my father
7 would be untouched because he never mistreated anyone. Nobody
8 ever displeased with him. And then I heard that one of his
9 friends was still alive and he came to meet us at Prek Takong.
10 That uncle only spoke of two words, that Brother Ton was lied to
11 and that he gave up his children and family.

12 I was shocked. I was wondering what my uncle was talking about.
13 I was moved. I look at the bucket, the water bucket, and I
14 pretended to carry the water. In fact, I tried not to let them
15 see when I cried. At the river bank, I saw my youngest brother
16 who was 10 years old plus, was also weeping quietly. I tried to
17 hold onto my tears, not to let him see me crying or weeping.

18 [11.27.35]

19 Then I came up and my uncle could not -- he just look at us, his
20 tears dropped because a lot of members of the families were no
21 longer with us.

22 From the departure on the 17th April '75 and on the day that we
23 met him, most -- half of his family disappeared. We live in a
24 situation full of suffering and despair and nobody dared to ask
25 or add anything to such suffering. I only heard of people

42

1 talking about the disappearance, about the deaths, about the
2 starvations; death and death and more death.
3 Bad news kept coming up about the loss of the family members,
4 friends and relatives. We were living and we were trying to find
5 jobs. We were trying to find something to eat and we were also
6 wiping our tears but, at the same time, we were glad that we
7 survived from that dark cloud regime. I was still thinking of my
8 father.

9 On one side, I was still believing that he was still alive. On
10 another side, I thought he might have been killed as they said.
11 But then my hope disappeared gradually from my mind and heart. I
12 was shocked, moved, because I saw my mother and my siblings
13 survived but unfortunately for him who was living abroad came to
14 die in his country.

15 We received subsequent news. Some people said they saw him at
16 the Technological Institution and some said they lived with him
17 at Boeng Trabaek, Talei, and some even said on the day of the 6th
18 of January '79, he was seen carrying a backpack making a journey
19 to Siem Reap. So we were unsure and we were undecided or divided
20 on the fate of my father, but nobody talked or said anything
21 about S-21 at the time.

22 [11.40.06]

23 One day in about October or November '79 after the rainy season,
24 I returned to the house of my mother's cousin at Charles de
25 Gaulle. She left her Kampong Chhnang village to live in Phnom

43

1 Penh. I would like to tell the Chamber that I found a job at the
2 Phnom Penh port and from May -- and when I left with my mother's
3 cousin, it was in either late October or early November and I
4 still can clearly remember that the rainy season was finished.
5 At that time, there was no currency yet and everything was sold
6 on the exchange for rice.
7 After I returned from the house, my mother's cousin and another
8 women who was selling sugar palms so I stopped her and exchanged
9 rice with that sugar palm. That woman wrapped that sugar palm
10 with a piece of paper, so I put it in my bag and made my trip.
11 However, somehow I wanted to see what is on that piece of paper
12 since I did not see anything in writing since 1975. That piece
13 of paper was either in the form of a newspaper or magazine.
14 Along that Charles de Gaulle Street, I unwrapped the sugar palm
15 and on that piece of paper I saw a snapshot of my father along
16 with other victims' photos, and under his photo his name was
17 written, but I could not believe that was his photo. I thought
18 they must make a mistake. And I refused to accept it and I told
19 my mother that it was not my father's photo, but my mother looked
20 at the photo and she acknowledged it was his photo.
21 So my mother and I became pale, speechless, shocked, and we kept
22 making our journey home without saying a single word. We did not
23 know that people were killed everywhere. When I saw that piece
24 of paper, then I realized the existence of S-21.
25 [11.43.11]

44

1 His photo -- he was skinny in his photo. His eyes were hopeless
2 and there was a piece of placard hanging from his neck,
3 displaying number 17. I was still wondering what happened to
4 him, as he knew those Khmer Rouge leadership as they used to be
5 his former students or colleagues, as Khieu Samphan and even Ieng
6 Sary. Their home was not far from ours. So for us, I could not
7 believe that those intellectuals were the ones who were
8 responsible for the death of my father. I still could not accept
9 it.

10 And I would like to continue, regarding my survival after that
11 thrashing moment of learning the news of the death of my father.
12 Later on we learned that the Tuol Svay Prey High School was
13 turned into S-21, or prison of Tuol Sleng which was known later
14 on and at present time.

15 My mother and I went to that location to search for the truth, to
16 make sure whether my father was killed at that location. We
17 walked from the Department of the Municipal Ports to Norodom
18 Boulevard and then to the Mepleun Street and we saw the high
19 rise of those buildings. I was excited and shocked, and it was
20 so quiet and scary as it was the buildings to house the ghosts.

21 [11.45.15]

22 I entered the building, the wooden building, and at that time
23 there were only about 20 people who were looking. I was shocked
24 to see such a scene. I did not go to the location where that
25 group of people was looking at something. I went to Building C.

45

1 I ran upstairs and I saw individual cells next to each other. My
2 mother leaned against the wall and she could not move. I was
3 also shocked by witnessing such a scene and then it came
4 gradually to my mind that my father might have been detained
5 here.

6 I looked and moved from one individual cell to the next and I
7 realized that only one prisoner was detained in each individual
8 cell and there could be plenty of prisoners who were there before
9 and after the detention of my father. My mind was unsettled. I
10 tried to look for anything to identify my father. Unfortunately
11 I found nothing.

12 My mother called me as she saw me running up and down. She
13 called me to return. I left with despair. My body was so light
14 that I could not feel anything. I saw the ammunition boxes. I
15 saw nothing humanized in that location. I saw a pile of clothes
16 of prisoners. I saw the shackles, the long bars, the torturing
17 tools. Despite the many months of the defeat of the Khmer Rouge,
18 S-21 still had the stench of blood, the smell of people dying
19 still lingering in the rooms.

20 My mother and I returned home and along the way nobody spoke any
21 word because we were so shocked beyond our belief. That night my
22 mother and I wept quietly. We slept turning back to each other.
23 We did not want each other to hear our weeping. I did not want
24 her to feel more pain and suffering and she felt likewise.

25 [11.48.08]

46

1 We slept under one mosquito net, one sleeping mat, and through
2 one night we kept weeping and only we were so hopeless.
3 Many years have past and the suffering was still in my mind and
4 it's deepened. Every time I talk about it my throat seems to be
5 stuck by something and I could never fed up with weeping. Only
6 recently that I could speak more about the event, my feeling of
7 scare and fear that I lost my father at S-21 and gradually I
8 could not see him alive any more as he was smashed by S-21 after
9 he was tortured, dehumanized. And even if his skeleton remains I
10 did not know where it was or how he died, and how could I accept
11 that as a daughter? And that I still respect and hold him in
12 high esteem.
13 Many months have passed. Mr. Ung Pech, the survivor from S-21,
14 came to my mother's house and asked for the photo of my father,
15 of him wearing his robe -- his law degree robe -- and also a
16 photo of him wearing number 17. Many weeks have passed and Mr.
17 Pech returned and said that his document was found. It was a
18 preliminary interrogation which contained four pages and the
19 document ER number is 00188839 until 43 in the Khmer language;
20 and in French 00188444 to 46 in French.
21 My younger son made a copy of these documents and these documents
22 are the testimony that my father was sent to S-21. I read the
23 confessions, 0020430810, and the interrogator was Mam Nai who
24 interrogated my father. And Mam Nai himself acknowledged during
25 his testimony before this Chamber regarding the interrogation of

47

1 my father.
2 [11.51.10]
3 After I learned of the death of my father, my uncles took care of
4 my two younger sons and another uncle also took care of my two
5 other brothers in order to help my mother and they were given
6 education. My mother and I lived together and my mother had no
7 ability to raise my children any more. I feel I miss my father
8 so much. I lost the breadwinner of the family, the person whom I
9 always turned to when I had trouble, and my mother was only
10 thinking of committing suicide.
11 My family fell deeper into the tragedy. That is, how could we
12 survive facing the daily living condition with such emotion? My
13 mother reacted so strongly to the loss of my father. She didn't
14 know what to do with the three young children and in her widow
15 status. Previously we all relied upon my father and frequently
16 she thought of committing suicide. Her deep psychological impact
17 was so serious and nobody dared to talk or explain to her because
18 it was so extremely difficult for us and for her. We did not
19 know what to do or which solution we should seek.
20 I look at my mother. She was not in her best status. Her mind
21 was not with her. And my two younger brothers tried to work hard
22 in order to support themselves and I myself continued to live
23 with my mother. I was so frustrated with the situation that we
24 lived. We tried to survive. Although we survived from that
25 regime we have now to face the challenge of being survived in

48

1 such a situation.

2 At that time there was no social assistance or no psychological
3 assistance from any organization. We both tried to comfort
4 ourselves in order to survive and my mother wanted to comfort us
5 so that we could study and should find our future.

6 She talked about the sacrifice of my father, that he gave up
7 everything to return to the country in order to be reunited with
8 the family and that we should study hard to pay respect to my
9 father.

10 In about late 1980 I received a scholarship to study in the
11 former Soviet Union and my other brother also went to the former
12 Soviet Union and another one went to East Germany. The rest
13 tried to find work in Cambodia.

14 [11.54.38]

15 During the five-year period I studied in the former Soviet Union
16 I missed my father every single day. I thought of how he was
17 killed. One night I dreamed of him. I saw only half of his body
18 floating around in the sky near the location where he used to
19 talk to us at our former house. He was floating around and he
20 called my name, "Ole, I already died". I woke up from the dream.
21 I tried to feel the war. I touched the carpet and I realized
22 that now I am no longer in Cambodia. I was in the Soviet Union.
23 But whatever happened to my father back there was still a
24 mystery.

25 For the rest of the night I could not sleep. I wanted to return.

49

1 I wanted to go back to see S-21 but I could not come.

2 I imagined of the times in the afternoon when the cook finished
3 making the coconut juice. Then I would take the juice to him
4 while he was sitting in a hammock in the house. And my dream was
5 reoccurring frequently on that occasion when I would go and get
6 him the coconut juice or the tea.

7 Despite the scope of the gravity that fell upon my family, we
8 tried our best to rebuild our family, to find the new life and
9 new path for our lives. But the loss of my father is the pain
10 and the suffering that cannot be forgotten. One part of my heart
11 with the deep love for my father by now filled with suffering, a
12 wound which cannot be cured.

13 [11.57.23]

14 Mr. President, I am still thinking of my father even at this
15 moment. The older I grow, the more I think of him, and I even
16 think of him more when my children talk to me.

17 When my child talked to me that one of his teeth was about to
18 fall off it reminds me of the time when I talked to my father and
19 at that time he would take me to a dentist. Only later on,
20 several months later, I smiled at him and then I did not like the
21 shape of my teeth. He would smile at me and that would make me
22 comfortable. And when my child opened the mouth and talked to me
23 about the teeth, it kept reminding me of the time that I talked
24 to my father.

25 Mr. President, it is almost 12 o'clock now and I'm still only

50

1 halfway. Would you want me to continue?

2 MR. PRESIDENT:

3 As the statement is long and it is now appropriate time for lunch
4 break, you cannot continue, so the Chamber will now adjourn for
5 lunch.

6 The Chamber would also like to inform the parties to the
7 proceedings and the public that this afternoon we will continue
8 to hear the statement of this civil party and, per our scheduling
9 as amended yesterday, we will also hear the statement of another
10 civil party, Seang Vandy.

11 However, due to the technical problems of the IT Unit, which the
12 Chamber requires to hear the testimony of another civil party, Ou
13 Savrith, who has to participate through videoconferencing which
14 will be held tomorrow starting from 1:30 p.m., the Chamber
15 received the news regarding the technical issues that needs to be
16 resolved and that it needs time to do it.

17 [12.00.42]

18 Therefore, for this afternoon the Chamber decides to only hear
19 the testimony of this Phung Guth Sunthary and if the time is
20 available then we will hear the testimony of the civil party
21 Seang Vandy.

22 But if the time is too short then the Chamber will not proceed
23 with the hearing of this civil party's statement, as we will then
24 hear the testimony of the civil party up to half past three. So
25 please be informed of this.

51

1 Security guard, take the accused back to the detention facility
2 and bring him back this afternoon before 1.30.

3 The hearing is now adjourned.

4 THE GREFFIER:

5 All rise.

6 (Judges exit courtroom)

7 (Hearing recesses from 1201H to 1334H)

8 (Judges enter courtroom)

9 MR. PRESIDENT:

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

11 We are now going to give the floor to Mrs. Phung Guth Sunthary to
12 proceed with her remaining of the statement.

13 MS. PHUNG GUTH SUNTHARY:

14 Thank you, Mr. President. I may now proceed with my statement.

15 I have now come to section number 5 in relation to my research
16 about the information of my father and about my journey to S-21.

17 [13.35.10]

18 There have been conferences that were held in relation to the
19 Khmer Rouge, and whenever there was such an event I and my
20 husband would be attending such conferences. One day an author
21 requested that I gave him the interview in relation to the story
22 of the Khmer Rouge. It was in March which marked the Women's
23 International Day and the moment really made me want to recall
24 the past and to share with the author.

25 Later on we learned of the information about the establishment of

52

1 the hybrid Court and we conducted for the research and then we
2 met some journalists, those who specialized in the studies of the
3 Khmer Rouge. Little by little we had collected some documents,
4 both from Cambodia and in France, and these information can be
5 put together to establish the life story of my father during the
6 Khmer Rouge regime.

7 We have already included this into the case file, including the
8 date when my father came back to Cambodia on the 25th of December
9 1975. He departed Paris on the 23rd of December 1975 through the
10 flight through China and he was on board with other scholars from
11 France to Cambodia.

12 He was convinced by the speeches of some senior leaders of the
13 Khmer Rouge at that time. Actually, previously he had never
14 trusted the senior leaders of Khmer Rouge because through his
15 letters we can read that he said he had a large family in the
16 country and that he could not leave the country behind to live
17 the life based on their faith, so he had to be with them and
18 without being close to the family it would be considered as a
19 kind of crime already for him.

20 [13.38.13]

21 My father continued saying that. He maintained his firm position
22 that he had to come back to Cambodia and to live with the whole
23 family, and he dared challenge all the devils in Cambodia as long
24 as he could be returning back to Cambodia and meeting the whole
25 family again.

53

1 When he immediately arrived in Cambodia, like other people they
2 were transported to K-15 and then to K-6, Talay and Boeng Trabek.
3 Like Ong Thong Hoeung stated in his book, "J'ai cru aux Khmers
4 Rouges" in French, along with other people. On the 12th of
5 December 1976, according to the decision by Angkar, he was
6 transferred by the members of the Security Office to S-21, which
7 was the prison no detainee could come out alive.
8 Other people were sent to Dei Kraham location while my father was
9 sent to S-21 instead, the place where death is inevitable. So my
10 research went further to find out who actually sent my father to
11 S-21 and the reason why he returned from France, even he was
12 convinced by or persuaded by other people to work in France.
13 The answer could be found in other letters he sent to some of his
14 friends in Toulouse University. My father wrote in that letter
15 that:
16 "I met several Khmer friends. Every one of them advised me to
17 join the FUNK and I followed the idea and I wrote a letter to
18 agree that I would be part of the group, and I had no other
19 choice."
20 [13.41.16]
21 Another letter in 1975, in which he said that he did not expect
22 what would happen in Cambodia; however, he was obliged to return
23 to Cambodia. And he was expecting to meet the family whom he
24 missed for the nine months, and the reunion with the family was a
25 kind of obligation for him that led to his arrest, of course,

54

1 after all.

2 Why was he detained at S-21? The documents I obtained at S-21
3 prove that my father was registered on the 12th of December 1975
4 under Document 0018857, with the signature of Suos Thy.

5 MR. PRESIDENT:

6 Ms. Studzinsky, you may proceed.

7 MS. STUDZINSKY:

8 Mr. President, in the English translation I heard "on 12th of
9 December 1975". This is not correct and was not said by Ms.
10 Phung Sunthary, and maybe it's a translation problem. It is the
11 12th of December 1976.

12 MR. PRESIDENT:

13 Madam Phung Guth Sunthary, could you please proceed with your
14 statement?

15 MS. PHUNG GUTH SUNTHARY:

16 I would like to proceed. Suos Thy said that the date was not
17 correct because it stated the 12th of December 1975, but the date
18 was not correct. It was the 12th of December 1976 because my
19 father came to Phnom Penh in 1975, the 25th of December, because
20 at that time, the 12th of December 1975, he was still in Paris.
21 How long had he been detained at S-21? The confession of my
22 father is not found. However, it is no doubt at all that he
23 could have written such confession because he was detained for
24 almost seven months at S-21, and he was the one who was detained
25 that long and that he must have written some confession.

55

1 [13.44.33]
2 Normally, in some confessions of other prisoners, prisoners would
3 be detained for up to two months before they were smashed. In
4 1981 my brother got a written biography found at the former Ieng
5 Sary Ministry of Foreign Affairs which later on turned to be the
6 Cabinet of Ministers for the current government.
7 In that biography my father stated that he requested that he
8 would like to meet the family he missed for the last nine months
9 and he made such writing when he came to Cambodia because he left
10 for Geneva in 1975. However, this biography was not obtained
11 from S-21.
12 The DC-Cam provided with me the four-page document containing the
13 testimony, the writing of Mam Nai, and we've got another piece of
14 document of Ung Pech, which is in the form of the preliminary
15 investigation paperwork interrogated by Mam Nai, but he did not
16 make it clear about the death of my father because he was afraid
17 that he would too be arrested and as warned.
18 And such a warning to him is a kind of obstacle to reveal the
19 truth and to stop a person who has to reveal the truth to the
20 nation because the nation had experienced the very deep sorrow
21 and tragedy during the Khmer Rouge regime.
22 I know that on the 6th of July 1977 my father could still be
23 living because, according to the document obtained concerning the
24 wellbeing of detainees, and in that record I could prove that he
25 was still alive. And the document indicates his wellbeing of his

56

1 numbness, his fatigue health and his heart, his problem with
2 breathing.

3 [13.47.20]

4 So the detainee like my father -- and concerning his medical
5 check-up, the follow-up of such medical check-up would be
6 presented and reported to the accused and the accused could have
7 been well familiar with this. So since he was the very firm and
8 meticulous person, so what else could he do with the report about
9 my father?

10 Later on I never found the name of my father in the record of the
11 medics. And Mr. Kaing Guek Eav, alias Duch, he was a professor,
12 so he could be the person with good sense of analysis and he knew
13 that my father was detained for some period of time but we don't
14 know how long he had been detained because the accused did not
15 make it clear.

16 I would like to move to the next chapter which is section number
17 6, what I am expecting. Since the Trial Chamber started its
18 first hearing on the 30th of March 2009 I had been in the
19 hearings to observe the proceedings. I have heard the
20 testimonies of expert witnesses, the testimony of the accused,
21 the lies, the excuses. And I could see that the accused tried to
22 evade to respond to some particular questions. Until now I have
23 not yet obtained the right information in relation to my father's
24 fate.

25 Mam Nai, the person who wrote the confession of detainee Phung

57

1 Tong and Suos Thy also recalled having registered Phung Tong in
2 the list in the order of number 56. But still everyone who was
3 involved in the process did not know much about the suffering of
4 my father although they had been quite familiar with it,
5 especially Mam Nai. He was the person who knew it very well.
6 Prak Khan, Him Huy, Nhep Hau told me that only the accused who
7 could shed light on how my father could have died because he was
8 the Chairperson at S-21.
9 [13.50.35]
10 S-21 was used as a smashing tool and actually the accused would
11 be the very loyal executioner for the upper echelon or the Khmer
12 Rouge apparatus. He even asked Mam Nai to tell me and my mother
13 and the Court where my father could have been executed. However,
14 we still haven't got the information.
15 I would like to reiterate that. The accused was once the math
16 teacher, so he is the person who is meticulous, who has a good
17 sense of analysis. However, before the Court, many times the
18 accused has to lie to the Court.
19 At the beginning there was some kind of argument that Professor
20 Phung Tong had never been detained at S-21. However, later the
21 accused said that, "My teacher had to suffer the tragedy and the
22 barbaric acts at S-21". And in the same document written by
23 Duch, he said there was no tortures, preliminary tortures, during
24 the preliminary interrogation, because he knew Mam Nai very well;
25 that he could never resort quick to torturing the detainee.

58

1 And the accused had meals with Hor and he knew very well that Hor
2 was a very cruel person but the very loyal person to the accused,
3 the person who was very obedient. So it is true to say that Duch
4 ordered Hor to do whatever Hor would like to do on my father.
5 Duch said openly in the Court that he was the person like a
6 shepherd and that he also was a very absolute tool for the
7 security purpose during the regime. And my father's fate was in
8 the hands of Duch, so Duch knew very well about how he should
9 have been smashed or could have been smashed.

10 Mr. President, I would like to put three questions through the
11 Bench to the accused. Before putting such questions, may I
12 proceed further with the rest of my statement with Your Honours'
13 permission?

14 I have not only received the responses in relation to the
15 activities or the things that committed during the regime. I
16 obtained this information from the accused because the accused
17 said that he was -- or he is willing to cooperate with the Court
18 and the parties to the proceeding, and I have been here in the
19 Court for the last few months; however, I can see how tricky this
20 person is. I did not believe that the accused exhausts his best
21 to ascertain the truth. He's only trying to evade the crimes he
22 committed.

23 [13.54.49]

24 The accused knows, of course, the questions and the responses to
25 my questions, so if he will not be able to respond to the

59

1 question, how could he become the chairman of S-21? He was one
2 -- a chairman -- a chairman of S-21 was not a kind of coward. He
3 would be a very brave person to respond to all the questions. If
4 the accused still does not want to respond to these questions
5 then I think it is better that the accused should never ever say
6 that he is remorseful. I'm not here to seek revenge. I'm here
7 to seek the truth. However, if the accused refuses to answer to
8 my questions then I am not ready to open opportunity for any
9 forgiveness that the accused might ask for.

10 I would wish that the accused live longer enough so that he will
11 witness this suffering and also to look back to the deep, long
12 past and also to see the acts he has one committed toward my
13 father and, of course, this has affected the whole family
14 including the grandchildren of my father.

15 Mr. President, before I conclude my statement, I would like to
16 make it clear to the whole nation that the tragedy, the miserable
17 conditions we have suffered during the Khmer Rouge regime has
18 nothing to do with the theory of karma. I am Buddhist, but the
19 Khmer Rouge regime -- the bloodshed regime -- was based on the
20 idea of killing people and by lying on the theory of Buddhism in
21 term of karma was just like a façade for a person to just cover
22 up their crimes.

23 I would like to also talk to all young people in the country that
24 although beside this kind of strategy, this suffering then there
25 still be a person who is -- who has good wisdom to -- or to

60

1 struggle and to hold on with love.

2 [13.58.01]

3 And my father, Mr. Phung Ton, was among the person who actually
4 was brave and the person with wisdom although he had to endure
5 the very difficult time during the Khmer Rouge regime. However,
6 they could kill him, but they could never smash his wisdom and
7 conscience.

8 I would like to conclude my statement now and I would like to
9 proceed with the questions to the accused with Mr. President's
10 leave.

11 MR. PRESIDENT:

12 Madam Phung Guth Sunthary, you are allowed to put questions to
13 the accused and the accused be prepared to respond to the
14 questions.

15 As we already made it clear, although the questions should be or
16 shall be put through the President of the Chamber, then the
17 President can just convey the questions to the accused or he may
18 repeat the questions in order to make sure that the accused can
19 really follow the questions.

20 So the floor is yours.

21 MS. PHUNG GUTH SUNTHARY:

22 Thank you, Mr. President. I would put the questions through you,
23 Mr. President.

24 First question: Who made the decision to kill my father on the
25 6th of July 1977 or a little bit after that? At S-21, the

61

1 prisoners were not allowed to die naturally, especially in the
2 case of my father.

3 [13.59.42]

4 MR. PRESIDENT:

5 The accused, can you respond to this question?

6 THE ACCUSED:

7 Mr. President, upon my analysis of the civil documents and that I
8 have already reported to the civil party, they're old, what I can
9 do. And if I am asked who made a decision for the killing, I
10 have no documents to base my response on so I cannot really
11 fulfill the anxiety to know this fact. Although I have my deep
12 respect for my former professor, I do not have any appropriate
13 answer to respond at this time and that is the truth.

14 I still did not know the detailed that my professor was detained
15 at S-21 at the time and this is my response.

16 MR. PRESIDENT:

17 The civil party, you can now ask your second question.

18 MS. PHUNG GUTH SUNTHARY:

19 Question number two: What types of tortures were inflicted upon
20 my father; the person who had a progressive idea, who based the
21 judgment on justice and who had dignity and who held the ideology
22 of democracy with his contradicting to the policy of the Khmer
23 Rouge?

24 MR. PRESIDENT:

25 The accused, you already heard the question, sir. You can

62

1 respond.

2 [14.01.53]

3 THE ACCUSED:

4 Regarding the tortures committed upon my professor, I still

5 believe that the -- my analysis on those documents that were

6 given to me, I still stand that he was not tortured during his

7 interrogation. My shock for the fate of my professor was on a

8 different matter because I did not know that he was detained at

9 S-21. I only thought of Chao Seng (phonetic) and another person,

10 but I believed Mam Nai did not torture him. He rarely resorted

11 to torture. And believe me, the confession -- that type of

12 confession was not a result of torture.

13 Also, I would like to take this opportunity to tell Madam Phung

14 Guth Sunthary, the eldest daughter of my professor, the fact that

15 I do not know this matter. As you can examine all those

16 documents sent from S-21 to the upper echelon, I had all my

17 annotations on those. And if I knew there would be my annotation

18 on that document and I would seek answers of clarification from

19 Brother Mam Nai.

20 I very well know the situation of the pedagogical institutions,

21 and I knew that Pol Pot realized that the professor was working

22 in that institute and Chao Seng (phonetic) was the chairman of

23 the association and Mai Man (phonetic) was the professor at that

24 school; actually, he was director of that university. And Sous

25 Nou alias Chou (phonetic), was also a senior professor at that

63

1 school and later on he was the Secretary of Sector 24.

2 So Son Sen clearly ordered me to monitor the activity of Sous Nou

3 alias Chou (phonetic), and through my monitoring activities I

4 learned that he was not implicated in that matter.

5 [14.04.47]

6 So the fact that if I knew the professor was detained there -- if

7 I knew that and the interrogation would then focus on all these

8 links but, as I said, I did not know he was detained. That's why

9 there was no annotation that I made on the confession.

10 And this is my response.

11 MR. PRESIDENT:

12 The civil party, you may proceed with your next question.

13 MS. PHUNG GUTH SUNTHARY:

14 Question number three, which is the last question.

15 Who made a decision to transfer him to S-21? It was said that

16 S-21 came to take him from Psa Daem Thkov. That is the statement

17 of Chanphal Norng (phonetic) and Ham Ham Keng (phonetic) that he

18 was taken from Psa Daem Thkov at that time.

19 MR. PRESIDENT:

20 The accused, can you respond to that question?

21 THE ACCUSED:

22 The arrest of my professor to S-21 or whether he was sent from

23 Boeng Trabek or not, I did not have the knowledge of that. S-21

24 vehicle did not bear any plate number, although I do not deny to

25 the testimony of Ham Heng Kheng and the other person. And I knew

64

1 this person, Ham Heng Kheng. He used to be my former maid.

2 [14.06.45]

3 But the background and history of S-21, as we all know, there
4 were two chairman. Nat was from the establishment on the 15th of
5 August of '75 until March 1976 when he was removed and replaced
6 by me.

7 So I believed all the documents that Brother Mam Nai had probably
8 was done during Nat's period if those documents do not bear my
9 annotation. And I think it was done also based on the order of
10 the Standing Committee. Everything was decided by the Standing
11 Committee and this S-21 was under the direct order of that
12 Standing Committee.

13 Of course, S-21 had people who were ordered or assigned to make
14 the arrest, but it is hard to know who actually made a decision
15 to order that arrest. It is possible that S-21 vehicle was used
16 to transport him during the time or the chairmanship of Nat. And
17 at that time, I was only the Deputy Chairman of S-21.

18 This is my response, Mr. President.

19 MR. PRESIDENT:

20 The Chamber would like now to give the floor to civil party
21 counsel, Studzinsky, to put questions to this civil party.

22 Hold on, Ms. Studzinsky.

23 Judge Lavergne, you may take the floor.

24 [14.08.57]

25 JUDGE LAVERGNE:

65

1 Thank you, Mr. President.

2 This morning, madam, you showed us a certain number of pictures.

3 Could you supply us with a list of these pictures and explain to

4 us what these documents represent, so that they may be filed

5 along with the hearing notes? Otherwise, we will have no trace

6 of what you submitted today.

7 I'm not asking that you show them again, but simply to tell us

8 what has been shown on screen and to explain who was on the

9 pictures and when the pictures were taken, for instance. This is
10 for the record.

11 MS. PHUNG GUTH SUNTHARY:

12 Thank you, Your Honour.

13 The ID photos of the two people, they are my parents. And

14 another photograph, the seven children, that's my siblings and
15 myself.

16 And another photo is a photograph of my parents while they were
17 on a visit to France.

18 And another photo was the photo of my father during the summer
19 after the fall of Phnom Penh. It was taken a few months after
20 his return in '75.

21 [14.11.04]

22 And another photograph was a wedding invitation of my parents.

23 And the last photo was the photo of my father at the S-21

24 Detention Centre.

25 MR. PRESIDENT:

66

1 Civil party counsel for group 2, you can put your questions -- I
2 mean additional questions to the civil party if you have any.

3 MS. STUDZINSKY:

4 Thank you, Mr. President.

5 BY MS. STUDZINSKY:

6 Q. I have only one question after I heard the responses of the
7 accused to your questions. And, therefore, I only want to let
8 you clarify what is the result of your research and the date when
9 your father entered Tuol Sleng, S-21.

10 And maybe you could answer to my question in this way, that who
11 had, at the time when your father entered S-21; who was the
12 chairman of S-21 because after the responses, I have the
13 impression that there is some confusion.

14 And, therefore, my question who was the chairman at the time, and
15 if it is agreed upon by the accused and everybody here in the
16 courtroom.

17 A.Thank you for the question, Madam Counsel. I was also
18 surprised when the accused said that the arrest of my father to
19 S-21 was not under his chairmanship. In fact, he became the
20 Chairman of S-21 in March 1976. Therefore, the arrest of my
21 father on the 12th of December 1976 was in fact unfolded under
22 the leadership of this accused Kaing Guek Eav.

23 Q.Thank you for this response and maybe on later the accused
24 could after this clarification, which he knows very well of
25 course, give further response to your questions.

67

1 I have no further questions and I would like to thank you very
2 much for all the efforts you've gone through and for the very
3 moving and emotional statement that you have given to the
4 Chamber, to the parties, and to the Cambodian people.
5 Thank you very much.

6 [14.15.10]

7 MR. PRESIDENT:

8 Mr. Kaing Guek Eav, can you stand up?

9 Can you verify the point raised by the counsel and the civil
10 party? As you have just heard, the civil party just wants to get
11 clarification regarding the detention of her father and it is
12 true that he was detained and killed there. So there are some
13 issues that need to be clarified.

14 According to the information she received, her father entered
15 S-21 on the 12th December 1976. And you in your response, and as
16 previously you repeatedly said, when it happened during the time
17 that you were the Deputy Chairman and you only became Chairman
18 from March 1976 when Nat was removed by the upper echelon.

19 So the date of the arrest of Phung Thon on 12th of December 1976
20 is not in line with what you said in your analysis of the S-21
21 documents. And that you said the documents do not bear your
22 annotations. So you can see the contradictory views regarding
23 his arrest and the date of you becoming a chairman of S-21. Can
24 you verify this matter?

25 THE ACCUSED:

68

1 Mr. President, this is going to be a bit long. I also would like
2 to clarify the matter to Madam and to her mother that before 1970
3 I had the feeling of being afraid and respected of the six
4 persons.

5 [14.17.44]

6 One was Chuon Nat. He died in 1966. And another person was also
7 a monk. He also died in 1966. And the third person that I
8 respected was Roath Kut, the doctor whom I regard as my senior.
9 And all the students at Monk residence number 3 always respects
10 the previous generation, and he was very respected by the most
11 and Comrade Pon who was with me, he was also a former student of
12 Monk residence number 3. So Dr. Roath Kut was the third person
13 that I respected the most.

14 And Chao Seng was the fourth person that I respected the most.
15 It's because he changed the curriculum of 1958 and he confronted
16 with Lon Nol and he said that he only fight with a pen, not a
17 gun.

18 And the third point or quality of Chao Seng was that he
19 established the pedagogical institution which later on I entered
20 and studied there. So he was the fourth person.

21 And next Khieu Komar, the fifth person. In 1963, '64, the
22 demonstrations were everywhere at the Sisowath school and he
23 defended the progressive students who rebelled at the time. And
24 at the pedagogical institute I, myself, including Chum Nareth and
25 the rest were mistreated by Kao Lun and my professor defended us.

69

1 That's why I respected my professor because he defended us and
2 not to let them mistreat us, the progressive people.
3 [14.20.03]
4 These people I knew. I knew that Khieu Komar was evacuated along
5 Road number 4 and he was executed if he was sent to the south by
6 Ta Mok. So this is the trust that I had. And Roath Gut stayed
7 with me and I protected him and Chao Seng. The Communist Party
8 of Kampuchea sent him to me. I could not do anything. The best
9 I could do was to provide him with sufficient food and proper
10 accommodation.
11 I regretted if I knew my professor was sent there. Of course I
12 would not ask for him to be spared but he would be able to live
13 in a better condition as my gratitude for him. Therefore, later
14 on, in 1993, the VOA broadcast about the production Chhlang Den
15 and the director was Thing Sun. And I heard and I was surprised.
16 How could Thing Sun became the manager of the production of that
17 musical company? But at the Military Court I was asked about
18 Professor Phung Ton. Kar Savuth asked me and I protested that
19 no, he was not there. And that Oeng Pich took the ashes to his
20 kin and later on he went, if Kar Savuth now is representing me I
21 still maintain that he was not there.
22 I even challenge him to test, to have a DNA test of those ashes.
23 But later on when I saw his photo there I was speechless; I could
24 not deny anymore. And when Phung Guth Sunthary gave me the
25 documents, then I learned his fate and yes there were some

70

1 inconsistencies in the dates. Actually there were three dates
2 which are not consistent.
3 [14.22.28]
4 And as I said, the dates on the list of S-21 are not always
5 accurate, as I was asked by the Co-Investigating Judge Marcel
6 Lemonde. So this is regarding the inconsistency of the date of
7 entry. At that time, however, I was not aware that Mam Nai knew
8 you very well and knew the grandfather very well. I only learn
9 that during the proceedings before this Chamber.
10 So the fact was not yet revealed. And I would like to frankly
11 say that all the victims, the people that I really wanted to pay
12 my gratitude and the condolences are three. The two already have
13 done that and the last remaining one was Phung Ton. That is my
14 professor. And of course I do not deny that he was there, but
15 then we can argue or we can question more on the dates which are
16 inconsistent. Maybe only Mam Nai is the only person who can
17 actually shed light on the exact dates of his fate, if he is
18 willing to do so. So please can you preserve your own stance and
19 try to do the research together in order to find out the truth?
20 And I strongly believe you make a complaint to become a civil
21 party here is not in the nature of vengeance, and I believe that.
22 But of course it cannot be left unanswered for all the crimes
23 committed at S-21. And I believe of course you do not come here
24 to seek vengeance but to seek out the truth, and we all should
25 seek out the truth. We need to find out first. So I again would

71

1 appeal you to proceed with your truth-searching and I myself will
2 do my best to reveal the truth.

3 [14.25.04]

4 This is my response and with respect, Mr. President.

5 MR. PRESIDENT:

6 Next the Chamber would like to give the floor to the
7 Co-Prosecutors if you have questions to be put to this civil
8 party.

9 MR. SENG BUNKHEANG:

10 Thank you, Mr. President.

11 The prosecution do not have any question for this civil party.

12 MR. PRESIDENT:

13 Judge Lavergne, you may proceed.

14 JUDGE LAVERGNE:

15 Thank you, Mr. President. I have just listened to the answer of
16 the accused to the question that was put to him and I'm not quite
17 sure that I have understood everything.

18 There was mention of a person named Chao Seng and you stated, it
19 seems to me, that that person was sent to you. So if you say
20 that that person was sent to you, do you mean sent to S-21?

21 That's the first part of my question.

22 The second aspect you said -- but here again I'm not sure I fully
23 understood -- that you were concerned to find decent
24 accommodation for him and that you also tried to make sure that
25 he would have sufficient food to eat. So I don't really

72

1 understand any more. So what are you referring to? Are you
2 referring to conditions of detention in S-21? What is decent
3 accommodation when you're in S-21? And did you effectively have
4 the power to give more food to certain detainees than was given
5 to others?

6 [14.27.10]

7 THE ACCUSED:

8 Thank you, Your Honour, for raising these questions.

9 Chao Seng, he received the first pedagogical degree in Cambodia
10 and I said he also made the curriculum, the 1958 curriculum, for
11 the training of teachers and the National Pedagogical Institution
12 was first established by him. And he also confronted Lon Nol, as
13 I stated, and later on Pol Pot ordered his arrest and sent to
14 S-21.

15 And there was also an order to change his name from Chao Seng to
16 Chen Suon, alias San. He got a doctoral degree in pedagogy and
17 in fact, yes, he was sent to S-21 and after his interrogation I
18 ordered him to be left separately and that he was given decent
19 food and accommodation. I did not know where his accommodation
20 was because I did not go and look.

21 And a few days ago I also stated that occasionally I went to
22 visit Chao Seng and on one occasion he talked about the situation
23 during the Sihanouk regime, and I mentioned that before this
24 Chamber, and that I supported Chao Seng, and it is my idea of
25 paying my gratitude to him.

73

1 And for my professor, I did not know of his detention or that he
2 was suffering from insufficient food or the living condition.
3 That's why I was moved after hearing that.

4 [14.29.45]

5 And this is my response, Mr. President and Your Honour, and if
6 you have more questions regarding this matter I am ready to
7 answer.

8 JUDGE LAVERGNE:

9 What happened to Chao Seng?

10 THE ACCUSED:

11 Your Honour, I already reiterated on several occasions that
12 anyone who was sent to S-21 was regarded as enemy. Enemy had to
13 be smashed. Later on Uncle Nuon -- I want to say it straight --
14 knew that I would like to keep Chao Seng. That's why he ordered
15 immediately that Chao Seng was smashed, and Hor was ordered by
16 Nat to smash Chao Seng. So Chao Seng was killed, Roath Kut was
17 killed.

18 And I am not quite sure how I can really say anything else about
19 my professor, Phung Ton, because I did not know whether he was
20 very sick and died of sickness or he was executed. But he died,
21 of course.

22 JUDGE LAVERGNE:

23 What you're telling us, therefore, it is Nat therefore in the end
24 who ordered Chao Seng's execution. Or was it you?

25 THE ACCUSED:

74

1 I'm sorry, Judge Lavergne, because I made it rather unclear. Nat
2 ordered that Roath Kut, who arrived recently, to be smashed but I
3 received order from Nuon Chea to smash Chao Seng.

4 [14.32.38]

5 JUDGE LAVERGNE:

6 I have no further questions, Mr. President.

7 MR. PRESIDENT:

8 The accused may be seated now.

9 The Chamber would like to give the opportunity to the defence
10 counsel to put questions to the civil party if they would wish to
11 do so.

12 MS. CANIZARES:

13 The defence has no questions to put to the civil party, Mr.
14 President.

15 MR. PRESIDENT:

16 Next the Chamber would like to give the floor to the accused to
17 make his observations in relation to the statement made by Madam
18 Im Sunthy and Phung Guth Sunthary.

19 Please be reminded that this is the rights for you to make your
20 observation; however, you can exercise your right to remain
21 silent if you so wish, but the floor is yours. So please respond
22 to the statement by the two civil party who were the family
23 member of Phung Thon.

24 THE ACCUSED:

25 I would like to make a very brief observation as follows. The

75

1 statements of Madam Im Sunthy and Phung Guth Sunthary are
2 approved in principle and I know that you have not been satisfied
3 yet because you have not obtained all the information you would
4 wish to get.

5 [14.34.53]

6 And I will do my best to make sure that I can be of any assistant
7 to ascertain the truth, without any denial. So I will do my best
8 to help to respond to your request to search for the information
9 of the fate of your father and your husband.

10 Thank you.

11 MR. PRESIDENT:

12 The proceedings to hear these statements of the civil parties Im
13 Sunthy and Phung Guth Sunthary have come to an end.

14 Madam Phung Guth Sunthary, you may now be seated at the civil
15 party reserved seats in the courtroom.

16 (Witness exits courtroom)

17 Next, the Chamber would like civil party, Seang Vandy, to come to
18 the seat reserved for the civil party before the Chamber.

19 The civil party lawyer, Ms. Studinsky, you take the floor.

20 MS. STUDZINSKY:

21 Thank you, Mr. President.

22 Before you start with the civil party, Mr. Seang Vandy, I only
23 seek some clarification about the proceeding today because -- as
24 far as I have understood -- the hearing will be finished at 3.30
25 and do you intend to make a break or -- only to be orientated how

76

1 far we can go with Mr. Seang Vandy today. It would be useful for
2 me because that is what I have learned from your statement before
3 the last break.

4 [14.38.00]

5 MR. PRESIDENT:

6 The reason that the Chamber would be proceeded until 3.30 today
7 that we are not going to take any adjournment and then we will
8 just proceed from now until 3.30 and then we will take the
9 adjournment and the rest of the afternoon will be used for the
10 A-V Unit officers to fix the technical glitch so that we can
11 actually hear the testimony based on the remote participation
12 tomorrow.

13 QUESTIONING BY THE BENCH:

14 BY MR. PRESIDENT:

15 Q.Good afternoon, Mr. Seang Vandy.

16 Is Seang Vandy your name?

17 A.Yes, my name is Seang Vandy.

18 Q.Mr. Seang Vandy, can you read and write?

19 A.Yes, I can.

20 Q.How do you spell your family name?

21 A.Seang in Khmer -- I think in English S-e-a-n-g.

22 [14.39.57]

23 Q.How old are you?

24 A.I am 63 years old.

25 Q.Where were you born?

77

1 A.I was born in Khsach Tob; Chrouy Banteay sub-district, Preaek
2 Prasab district, Kratie province.

3 Q.So where do you live and what is your occupation currently?

4 A.Now, I live in the same village I was born and I have been --
5 I had been a school teacher, primary school teacher, but I am now
6 a pensioner.

7 Q.What is your father's name? Is he still alive or is he
8 deceased?

9 A.My father is Seang Phan. He's deceased.

10 Q.What is your mother's name?

11 A.My mother's name is Khat Yin. She is deceased.

12 [14.41.39]

13 Q.Mr. Vandy, how many brothers and sisters have you got and
14 could you please tell the Court the names of your siblings?

15 A.I have nine siblings; six boys, three girls. I am the first
16 child; number two, Seang Phat; three, Seang Phon; four, Seang
17 Chhun; five, Seang Yoeun; six, Seang Mao; seven, Seang Min;
18 eight, Seang Toeu; nine, Seang Khlok.

19 MR. PRESIDENT:

20 Ms. Silke Studzinsky, since you are now representing the civil
21 party could you please briefly tell the Court the identity -- the
22 reason or the grounds for the claim for reparation in relation to
23 the crimes alleged against the accused, Kaing Guek Eav alias
24 Duch; the crimes committed at S-21 during the period from 1975 to
25 the 6th of January 1979 and other grounds to support such claims.

78

1 You take the floor.

2 MS. STUDZINSKY:

3 Yes, thank you, Mr. President.

4 Mr. Seang Vandy is, as follows, related to the case before this
5 Trial Chamber.

6 Mr. Seang Vandy lost at least one brother -- that is Mr. Seang
7 Phon, at S-21. He became later -- that means recently -- he got
8 knowledge that his brother was imprisoned in S-21, that he gave a
9 confession, and that he was then killed. One of the other
10 brothers of Mr. Seang Vandy, Mr. Seang Phat, disappeared since
11 then, but his fate is unknown.

12 [14.45.06]

13 Mr. Seang Vandy will focus on how his suffering was, and is,
14 which means over 30 years concerning his brother Seang Phon to
15 consider him as disappeared and to have no knowledge about his
16 fate, and this is the focus of the statement of this civil party,
17 Mr. Seang Vandy.

18 The reason for becoming a civil party is the search for justice
19 and also for reparations. Mr. Seang Vandy, however, leaves the
20 point of reparations to his lawyers.

21 Another -- and further reason for becoming a civil party and
22 applying here before this Court, is to preserve the memory of his
23 younger brother, Seang Phon.

24 The statement of Mr. Seang Vandy will be supported by one
25 document, which is already on the case file. It is a confession

79

1 of his brother Seang Phon, where we find the English version was
2 notified yesterday, and was so far only in summary versions on
3 the case file; and to one remark.

4 On the first page of this confession from S-21, we find a slight
5 difference of the name. It is written in English as "I-E-N-G"
6 and not like the family name should be, "S-E-A-N-G". According to
7 other unique facts, Mr. Seang Vandy could recognize that this
8 confession was made by his brother.

9 We will decide later on to refer to this document. I will give
10 you the ERN numbers. That is the ERN in Khmer is 00004458
11 through 00004477 and in English from yesterday, Court document
12 number E141.1 and the ERN 00363590 through 00363605.

13 Then we will also refer to the colour copies of the annotation on
14 this first page mainly, and on this confession, and we will refer
15 to the document then with the ERN 00173881 through 882 in Khmer,
16 and in English 00221765.

17 [14.49.00]

18 I would also like to inform the Chamber and the parties that we
19 intend to proceed as follows. Mr. Seang Vandy has prepared a
20 statement that he will read out and then I will put some
21 questions to him and, at the end, he has four questions to put
22 before the accused, and so I would like to give then, with your
23 leave, the floor to Mr. Seang Vandy.

24 MR. PRESIDENT:

25 We would like to now give the floor to Mr. Seang Vandy, the civil

80

1 party, to make his statement before the Chamber, especially the
2 facts in relation to the alleged crimes and the facts that the
3 accused, Kaing Guek Eav alias Duch, was charged with and that
4 these facts have caused some kind of sufferings, and that you
5 made the decision to join as a civil party to seek civil
6 reparations.

7 The Chamber would like to hear also especially the physical and
8 the psychological damages caused by these acts.

9 MR. SEANG VANDY:

10 Thank you, Mr. President. I would like to briefly tell the Court
11 the suffering of my family during the last 30 years and the
12 suffering that my brothers endured.

13 [14.50.59]

14 My family is a poor family, so we earned the living by chopping
15 firewood to burn the charcoal for making the ends meet. During
16 those regime, my brother, Seang Phon and I went to school and I
17 would like to tell this Court about the life story of my brother,
18 Seang Phon before he joined the revolution.

19 Seang Phon was my second brother who was born in the Year of the
20 Horse. It was in 1953 in Khsach Tob, Chrouy Banteay, Preaek
21 Prasab, Kratié. In the former regime, he could only finish grade
22 8, the old educational system, and he lived with his uncle, Kiev
23 Vuoch.

24 My brother was a very gentle and honest person. He was a very
25 obedient child. He loved his brothers. He was very helpful in

81

1 the family. He was a very determined person. He was the strong
2 brother who could help with the house chores. Another brother
3 Seang Phat, born in the Year of Rabbit, which was the first
4 brother. However, in 1971 he was ordained as the monk in Po
5 Andet village in the home town.

6 In 1972, with the United Nation front under the leadership of
7 then prince Norodom Sihanouk -- and he made the announcement on
8 the radio and to appeal the people, his subjects, to go into the
9 muggy jungle to liberate the country from Lon Nol. And after the
10 demonstrations in my area, in my home town, it was called the
11 Liberated Zone, captured and controlled by the Khmer Rouge.

12 I would like to go back a little bit to 1970 after the coup
13 d'état, as a Liberated Zone, the place where we lived, and after
14 the declaration or the appeal of the Prince Norodom Sihanouk, I
15 joined the local militia in the village.

16 [14.55.15]

17 Later on in 1972, Angkar transferred me to the photography unit.
18 In 1973 Angkar put me to do farming in order to support the unit.
19 After the 17th of April 1975 the upper echelon collected or
20 gathered the cadres who once fought in North Vietnam to go to
21 Phnom Penh, and as a normal combatant I was also requested by
22 Angkar and moved to the fishing unit at Sector 42 in Kampong Cham
23 province. I was put to be tempered at that unit.

24 I would like to go back a little bit too. When I joined the army
25 and to join the revolution, before I departed, my parents and my

82

1 brothers and sisters did not want me to leave them behind but my
2 parents, however, left me with some words that they advised me to
3 be obedient, to show respect to the senior people, and they
4 advised me to be caring.

5 But my brothers and sisters, they came to me and hugged me and
6 they even wept. They did not want me to leave. I asked them to
7 be nice to one another, especially to the second brother, because
8 Seang Phon -- and I asked them to please be helpful with the
9 house chores because the parents were getting older. They were
10 saddened to learn that I would be leaving soon.

11 In 1973 Angkar collected all the young combatants and my father,
12 who was back then a monk, was defrocked. And then he was forced
13 to join the army, including my second brother too, and my parents
14 were left alone to help in the family while the elder children
15 already left to join the army.

16 In 1975 when I came home -- I forget actually the date -- my
17 father told me that the two brothers, who joined the army, on one
18 occasion came to visit the home town and they told them about
19 their being soldiers but they did not tell them in which unit
20 they belonged. But on the 7th of January 1979 the children of
21 the villagers who once joined the Khmer Rouge revolution returned
22 home to be reunited with their families.

23 [15.00.05]

24 So gradually people are returning home, but the two brothers of
25 mine disappeared. So that we were still expecting their return

83

1 and we were very worried about their fate because during the
2 Khmer Rouge regime we only heard about the arrest and execution
3 en masse.

4 Later on in the early 1980s there was Em Siet, a son of a
5 villager, came home and he used to be a soldier in the same unit.
6 He is now 61 years old but he passed away already. He told us he
7 saw the security people calling Seang Phat away and he never
8 returned.

9 MR. PRESIDENT:

10 Mr. Civil Party, can you stop?

11 The Chamber needs a little bit of time for the IT Unit to change
12 the DVD for the record.

13 And the IT officer, please inform the Chamber once the change is
14 over.

15 (Pause for technical reasons)

16 Mr. Seang Vandy, you can continue with your statement?

17 MR. SEANG VANDY:

18 Thank you, Mr. President.

19 [15.02.14]

20 At that time my family as a whole, including myself, were shocked
21 upon hearing the news. Our hope dissipated that my younger
22 brother was arrested and killed. So then we held a ceremony, a
23 traditional ceremony to pray for his soul, and at that time there
24 was no monk yet; only the elder villagers were invited to
25 participate in the ceremony. No currency was circulated at the

84

1 time. Only rice was used as a means of exchange to buy goods for
2 the ceremony.

3 We prayed for the souls of the two brothers and it has been held
4 annually, especially during the Pchum Ben and Khmer New Year
5 periods.

6 We had been holding the ceremony with little hope that they are
7 still alive. The situation at that time was still unstable as
8 the integration of the Khmer Rouge did not take place yet. So it
9 was very likely that they were killed.

10 As my parents, who were elders, they were despaired in losing
11 their children and they were traumatized and both of them now
12 have critical diseases and as a result they passed away one by
13 one.

14 In late 2007 or early 2008 Ngoem Un, the deputy chief of
15 Rokartham village in the same sub-district, brought us a
16 magazine, "Searching for the Truth." He showed us the magazine
17 but I did not pay my attention to the exact publication or serial
18 number of that magazine.

19 [15.04.52]

20 I saw the name of Seang Phon, male in Chroy Banteay, Prek Prasab,
21 Kratie province, age 25 years old was arrested on the 2nd of
22 October 1977 and upon reading that news I was extremely shocked.
23 I could not stand.

24 I felt so terrible because in 1983 I came to Phnom Penh for my
25 eye surgery and my relatives took me to visit the Tuol Sleng

85

1 Genocidal Museum. We went there. We saw the remnants of the
2 barbarity and cruelty left by that regime. Upon receiving that
3 news I subsequently informed my younger siblings and they felt
4 shocked and they felt the pain for the suffering inflicted upon
5 my younger brother.

6 Since then I could not sleep well. I dreamed of him. Sometimes I
7 had like a waking dream to see him calling us for help but we
8 were not able to help him. And my memory was not stable; I felt
9 undecided in doing anything.

10 And later on there was a magazine publishing about the suffering
11 and the trauma by those people who lost their relatives --
12 brothers, sisters, parents -- during that regime to apply to join
13 the proceedings before this ECCC through the open democratic
14 institution KID and then subsequently the application was sent to
15 the Victims Unit.

16 I lodged my application at the time and the KID invited me to
17 Phnom Penh to fill in additional forms and I was accompanied to
18 look for further documents at the DC-CAM centre at the Tuol Sleng
19 Genocidal Museum. And indeed I found certain documents.

20 On the cover of his file the number is 576 Seang Phon alias Pha
21 but the spelling in Khmer is a bit different although the
22 pronunciation in English it is same, Seang, Seang Phon alias Pha.
23 He was an assistant of Battalion 60701, Brigade 601 and he was
24 arrested on the 2nd in '77. And there were two records of his
25 confessions in that folder.

86

1 [15.08.59]

2 In the first record the name was also incorrectly spelt but on
3 the next two pages the names appear to be correct. The
4 interrogators -- there were three of them; namely Phan, Heng and
5 Hong. The record was made on the 28th of October '77 and it was
6 reported on the 5th of November '77.

7 According to the examination of this document he implicated 34
8 other people. By seeing this document it made me -- it gave me
9 more pain and I felt pitiful for my younger brother. I felt
10 shocked, moved, stuck, and my tears dropped. I was speechless.
11 Later on I could speak and I said indeed my brother was killed at
12 Tuol Sleng.

13 After participating in the proceedings before this Chamber on
14 many occasions my feeling has become better in the hope that
15 justice is being found for my brother. And I would pray for his
16 soul to detach from this world and to find a peaceful world.
17 Brother Phan, I truly believed that you are here to listen to
18 the proceedings before this Chamber because this afternoon I
19 prayed to you to come here and to participate in the proceedings
20 so that you can witness and hear and that I have attempted to
21 find the justice for the criminal act committed upon you. So may
22 your soul receive the peace and that you rest in peace.

23 [15.12.05]

24 Thank you, Mr. President.

25 MR. PRESIDENT:

87

1 The Chamber would like to give the opportunity to the civil party
2 counsel to put additional questions if there is any.

3 MS. STUDZINSKY:

4 Yes, thank you. Thank you, Mr. President.

5 QUESTIONING BY CIVIL PARTY COUNSEL:

6 BY MS. STUDZINSKY:

7 Q.First, thank you very much, Mr. Seang Vandy, for this very
8 moving and very emotional statement that you have given. I would
9 like to put some questions, very few questions, to you.
10 Can you describe what is your feeling on having such an
11 incomplete family left for you through losing your brother Sieng
12 Thon?

13 A.I would like to express my feeling towards my younger brother.
14 Naturally brothers are always close, so when the two brothers
15 disappeared my feeling -- I had a feeling of being despaired, of
16 hopelessness. The separation was indescribable. I felt weak and
17 the pain not only inflicted upon me but also upon my parents
18 until they became seriously ill and passed away. So the loss of
19 the brothers were the greatest loss and suffering upon the
20 family.

21 In addition to this I've been trying to find justice for my
22 brothers and that the soul would be peaceful and detach from this
23 world and move on to the next peaceful world.

24 Q.Thank you.

25 [15.15.05]

88

1 Mr. Seang Vandy, you have already heard during your attendance in
2 these hearings the apologies of the accused. What is your
3 opinion in relation to your sufferings? What is your opinion on
4 these apologies of the accused?

5 A.Thank you, Madam Counsel. Every time I attend the hearing the
6 accused always acknowledges his guilt before the public. He puts
7 his hands together before the television to show the world. This
8 is a part on his action to relieve our suffering. However, the
9 crimes cannot be forgiven. It can only be judged by the Tribunal
10 and by the Constitution and the law of the Chamber.

11 Q.I'm not clear, Mr. Seang Vandy; did you want to continue or
12 was your answer complete?

13 A.That is the response to your question.

14 Q.Thank you very much.

15 MS. STUDZINSKY:

16 I have now no further questions but there are still questions of
17 Mr. Seang Vandy to put to the accused, and one question is
18 related to the first page of the confession, and I would like to
19 ask Mr. President's leave to advise the AV to show a document
20 with the ERN 00173881 so that the civil party, Mr. Seang Vandy,
21 could ask his question related to this document -- this is one of
22 the questions -- and then to put it to the accused.

23 Thank you.

24 MR. PRESIDENT:

25 Court officer, can you change the headset for this civil party?

89

1 Court officer, can you show the document 00173881 on the screen?

2 [15.20.17]

3 Mr. Seang Vandy, what question would you like to ask the accused?

4 You can put the questions through the President of the Chamber

5 and then it can be conveyed to the accused to respond.

6 MR SEANG VANDY:

7 Thank you, Mr. President.

8 My first question: Does the accused know the name Sieng Thong,

9 alias Pha, as a detainee at S-21?

10 MR. PRESIDENT:

11 The accused, can you respond to this civil party question?

12 THE ACCUSED:

13 Mr. President, this document clearly states that. Of course I

14 would not know more than 10,000 people who diminished (sic) there

15 but I recognize by this document.

16 MR. PRESIDENT:

17 Mr. Seang Vandy, please move on to your second question.

18 MR SEANG VANDY:

19 Thank you, Mr. President.

20 My question number two: Regarding the confessions of Sieng Thon,

21 alias Pha, who is my brother, did you read and annotate that

22 confession?

23 [15.21.48]

24 MR. PRESIDENT:

25 The accused, can you respond to the question of this civil party?

90

1 MS. STUDZINSKY:

2 Maybe the AV could now show the document on the screen and maybe
3 the Greffier could read out the annotation on this document.

4 MR. PRESIDENT:

5 The counsel, can you state clearly your intention? Which portion
6 of that document you wanted to be read out, or you want the
7 entire confession to be read out?

8 MS. STUDZINSKY:

9 Thank you, Mr. President.

10 No, I want to clarify. It is the first page and that is exactly
11 the ERN number that I have read out and the document was already
12 on the screen but it disappeared now, and it is from this first
13 page. The handwritten -- all is handwritten, sorry, but the
14 annotation and which must mean one copy for Brother -- that is
15 the centre of this page -- and then one copy for Brother Nuon to
16 deliver to the Central Zone, and then follows the date, 11th of
17 November '77. And this part should be read out and then
18 translated. I'm sorry I cannot say it in Khmer.

19 And I would like that then the accused answers to the question of
20 Mr. Seang Vandy regarding to this part of the confession and that
21 is what I want. Thank you.

22 MR. PRESIDENT:

23 The accused responded clearly to the questions, so there is no
24 need for the Chamber to ask the accused to respond again. Of
25 course, the request for the annotation to be read is possible.

91

1 It's granted.

2 [15.24.41]

3 Court officer, can you project that document again?

4 The Greffier, can you read the writing on the document shown on

5 the screen? This is in addition to what has been said by the

6 civil party in order to satisfy the civil party counsel. And if

7 you cannot read it out, report to the Chamber so that the Chamber

8 can instruct the counsel to read it by herself.

9 THE GREFFIER:

10 "Record. Confession of Sieng Thon alias Pha. A farmer before

11 arrested. Assistant of the Battalion 701, Division 174, Central

12 Zone."

13 The annotation is illegible.

14 MR. PRESIDENT:

15 Civil party counsel, it cannot be read and I myself cannot read

16 it. What do you want to propose next? But the Chamber already

17 instructed you that the accused clearly acknowledged this is the

18 document from S-21.

19 MS. STUDZINSKY:

20 Thank you, Mr. President.

21 I only would like to clarify then the question to be put from Mr.

22 Seang Vandy concerning this annotation and to be put to the

23 accused, so that the accused should be asked if he can read and

24 recognize what annotation is on this first page, and if he knows

25 who has written this annotation and what does it mean.

92

1 That is what Mr. Seang Vandy wanted to know. Thank you.

2 [15.27.31]

3 MR. PRESIDENT:

4 Mr. Seang Vandy, is the statement made by your counsel is what
5 you want? But I do not hear what you said regarding this matter
6 when you spoke to us in the Khmer language. So what is your
7 intention in reading the writing on the screen?

8 I want exactly what your intention is. Can you tell the Chamber?

9 MR. SEANG VANDY:

10 My counsel is correct, but that is related to my third question.

11 I want to ask him regarding the annotations on the sending a copy
12 to the Central Zone and a copy to Brother Nuon, whether this is
13 in fact the handwriting of the accused.

14 MR. PRESIDENT:

15 The accused, can you respond to the three handwritten lines, with
16 the last line indicating "11 November '77", and respond to the
17 question of the civil party?

18 THE ACCUSED:

19 Mr. President, the 28th of October 1977 is the date written by
20 the interrogator. Regarding the annotation, I stopped annotating
21 at that time because I had no time to do it and Brother Nuon did
22 not need my annotation at that time. This is the handwriting of
23 my superior, Son Sen alias Khieu, dated 11 November '77.

24 This is my response, Mr. President.

25 [15.29.59]

93

1 MR. PRESIDENT:

2 Can you please read the contents of the annotation, the two lines
3 in shortcuts?

4 THE ACCUSED:

5 Mr. President, it is read as:

6 "Attention: one copy to be sent to Brother Nuon to be sent to
7 Central Zone."

8 And that's all. The last note was just to make sure that no one
9 could add to the annotation except superior Son Sen.

10 MR. PRESIDENT:

11 The AV Unit is instructed to change to the normal view and the
12 civil party can proceed with the last question.

13 MR. SEANG VANDY:

14 Thank you, Mr. President.

15 I would like to put another question through the Bench to the
16 accused.

17 The accused said he followed the political line, the Party's
18 line, and he said he is a patriotic person. How could he claim
19 that if he only killed Khmer nationals?

20 [15.31.25]

21 MR. PRESIDENT:

22 The accused, are you able to respond to this question?

23 And the accused can be informed that in case you would like to
24 remain silent, then you can exercise your right to remain silent.

25 It doesn't mean that whenever I refer the question to you and

94

1 then you have to answer, so you can still enjoy your rights to
2 remain silent.

3 THE ACCUSED:

4 Mr. President, I would like to reiterate that I have never
5 claimed that I was a patriotic person. I never stated this.
6 That's all.

7 THE PRESIDENT:

8 The civil party, would you have any further questions?

9 MR SEANG VANDY:

10 Mr. President, I have no more questions. Thank you.

11 MR. PRESIDENT:

12 The accused, you may be seated.

13 The Chamber would like to give the floor to the Co-Prosecutors to
14 put questions to the civil party if they so wish.

15 MR. DE WILDE D'ESTMAEL:

16 Mr. President, we have no questions to put to the civil party.

17 We only wish to thank him for his statement. Thank you.

18 [15.32.11]

19 MR. PRESIDENT:

20 Next, we would like to give the floor to the defence counsels to
21 put questions to the civil party if they so wish.

22 MS. CANIZARES:

23 The defence has no questions to put to the civil party, Mr.
24 President.

25 MR. PRESIDENT:

95

1 The Chamber would like to now give the opportunity to the accused
2 to make his observation in relation to the statement recently
3 made by the civil party Seang Vandy.

4 The floor is yours.

5 THE ACCUSED:

6 Mr. President, I would like to reiterate that I agree with the
7 statement of Mr. Seang Vandy and that's all. Thank you, Mr.
8 President.

9 [15.34.27]

10 MR. PRESIDENT:

11 It is now coming to an end in relation to the testimony -- the
12 hearing of the civil party, and it is now also appropriate time
13 to take the adjournment because the AV officials would like to
14 make sure that they can test the IT system which is hooked to the
15 system in France so that we can hear the civil party from France;
16 concerning civil party Ou Savrith, who is to testify in the
17 afternoon session at 1.30 tomorrow. So we need time for them to
18 make sure that the technical glitches can be fixed so that the
19 hearing can be proceeded tomorrow.

20 We would like to adjourn the hearing now and resume the session
21 at 9 a.m. tomorrow. We are going to hear three more civil
22 parties, including the civil party who will be heard from France
23 through a remote participation.

24 Mr. Seang Vandy, the Chamber has already heard the complete
25 statement of yours and from now on, as a civil party, you can

96

1 either join the proceeding by sitting here in the reserved seats
2 for the civil party or you may go to your residence as you wish.

3 (Witness exits courtroom)

4 The security personnel are now instructed to take the accused
5 back to the detention facility and return him to the courtroom by
6 9 a.m.

7 The Court is adjourned.

8 THE GREFFIER:

9 All rise.

10 (Judges exit courtroom)

11 (Court adjourns at 1536H)

12

13

14

15

16

17

18

19

20

21

22

23

24

25