



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

ព្រះរាជាណាចក្រកម្ពុជា  
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អង្គជំនុំជម្រះសាលាដំបូង  
Trial Chamber  
Chambre de première instance

**ឯកសារដើម**  
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TRANSCRIPT OF TRIAL PROCEEDINGS  
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Case File N° 002/19-09-2007-ECCC/TC

4 December 2012  
Trial Day 134

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

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IENG Sary  
KHIEU Samphan

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**List of Speakers:**

Language used unless specified otherwise in the transcript

<b>Speaker</b>	<b>Language</b>
MR. ANG UDOM	Khmer
JUDGE CARTWRIGHT	English
MR. IANUZZI	English
MR. KARNAVAS	English
MR. KONG SAM ONN	Khmer
JUDGE LAVERGNE	French
MR. LYSAK	English
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. PAUW	English
MR. PICH ANG	Khmer
MR. SAM SOKONG	Khmer
MS. SIMONNEAU-FORT	French
MR. SMITH	English
MS. TOENG SOKHA (TCCP-188)	Khmer

1

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

2 (Court opens at 0906H)

3 MR. PRESIDENT:

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

5 As scheduled, today the Chamber will hear the testimony of the  
6 civil party, TCCP-188.

7 Mr. Duch Phary, could you report the attendance of the parties  
8 and individuals to the proceeding?

9 [09.07.47]

10 THE GREFFIER:

11 Mr. President, all parties to this case are present, except the  
12 accused, Ieng Sary, who is present in the holding cell downstairs  
13 due to his health reason.

14 The civil party who will testify today -- that is, TCCP-188, is  
15 present and waiting to be called by the Chamber. As for the  
16 reserved civil party, there is TCCP-108, is available. Thank you.

17 MR. PRESIDENT:

18 Thank you.

19 Today, as decided by the Trial Chamber in the document dated 26  
20 November 2012, that Ieng Sary can participate in the proceeding  
21 from the holding cell downstairs pursuant to Internal Rule 81.5  
22 -- that is for the benefit of fair justice. And yesterday,  
23 through his defence counsel, Mr. Ieng Sary withdrew his waiver to  
24 be present in the courtroom and instead to follow the proceeding  
25 from the holding cell, in particular, during the hearing of the

1 testimony of civil parties.

2 [09.10.33]

3 However, this morning before the commencement of the hearing,  
4 Chhea Kuntheavy, the treating doctor of the Accused at the ECCC  
5 Detention Facility, examined the health of Mr. Ieng Sary and that  
6 -- found that he is easily fatigued due to slight movement; he  
7 has trouble with his chest and that he could not eat much and  
8 that he vomits.

9 He also made a recommendation that Mr. Ieng Sary cannot  
10 participate directly in the courtroom, and that he should be  
11 allowed to follow the proceeding from the holding cell downstairs  
12 so that the doctor can monitor his health.

13 For that reason, and based on the request, and that his request  
14 to exercise his right if it is not consistent with the existing  
15 rules and procedure, the Chamber ordered the Accused to follow  
16 the proceeding from the holding cell downstairs through  
17 audio-visual means.

18 [09.12.15]

19 Defence Counsel, you may proceed.

20 MR. KARNAVAS:

21 Thank you, Mr. President. Good morning Your Honours and good  
22 morning to everyone in and around the courtroom.

23 First, there was a wrong translation, so let me -- at least it  
24 came out in English that way. So let me make very clear our  
25 position.

1 Yesterday, Mr. Ieng Sary filed a withdrawal of his waivers and is  
2 insisting, is insisting on being present in Court and not  
3 participating indirectly downstairs, in the holding cell. So  
4 there was a mistranslation, I want to make sure that everybody  
5 fully understands the position. Along with the withdrawal of the  
6 waivers, a notice was also filed where we indicated what the law  
7 is on this issue.

8 Today, we did meet with Mr. Ieng Sary, and we spoke with the  
9 doctor, and we will be asking that the doctor come, and give  
10 evidence because we asked the doctor, "Is Mr. Ieng Sary, capable  
11 of following the proceedings all day long", as was indicated to  
12 us by Dr. Campbell, and he laughed.

13 [09.13.30]

14 I was with my case manager. I leave it to you to interpret what  
15 the laughter meant, but when we look at this rule, 81.5, it says:  
16 "Where due to health reasons, or other serious concerns, the  
17 accused cannot attend in person before the Chamber, but, but is  
18 otherwise physically and mentally fit to participate." And there  
19 is the crux of the problem, that's the rub of our argument, is  
20 the "but otherwise physically and mentally fit"; and we have  
21 maintained that he is not mentally fit because he's unable to  
22 concentrate.

23 Now, if the Trial Chamber will insist on him being downstairs, we  
24 have a couple of choices. One, we have the monitor on him at all  
25 times, so everybody, including his lawyers, and the public can

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1 see exactly his state of affairs. We do not wish to participate  
2 in the proceeding where our client is downstairs; he's fatigued,  
3 he's asleep, he's semi-conscious and yet, we're pretending, we're  
4 pretending that he's actually following the proceedings and he's  
5 assisting in his own defence.

6 [09.14.51]

7 We, on the part of the Defence, do not wish to participate in  
8 this sort of an enterprise. The other option is to bring him into  
9 Court, which is what exactly what Mr. Ieng Sary, wishes. Now, I  
10 can understand the Trial Chamber not wishing to have the public  
11 view Mr. Ieng Sary, or for there to be a record of his actual  
12 state of affairs.

13 So, the other option is, is for one member of the defence team to  
14 be down there, to be videotaping him because one way or the  
15 other, one way or the other, no matter what, we will be making a  
16 record. That's what we tried to do when we requested, when we  
17 made a request to the Trial Chamber, that you issue an order at  
18 the Detention Unit, so that we can monitor how he is, and  
19 instead, you held a secret meeting without the Defence, but  
20 included the Prosecution.

21 And that meeting had to do with something totally different. We  
22 were not invited at the meeting where you had a conversation with  
23 the Prosecution, DSS, the Administration about the facilities. We  
24 had made a request that he be allowed -- well, the caretaker be  
25 allowed to either tape record what she was able to observe, or to

5

1 have somebody at the Detention Unit write down what she observed  
2 because she's illiterate, and you took that request and then went  
3 on to hold a secret meeting. And I use the word "secret" because  
4 the Defence was never invited.

5 [09.16.43]

6 And so for these reasons, we think that before we go on, we hear  
7 from the doctor, and I intend to question the doctor. I want to  
8 make a record. We want a complete record. We understand the Trial  
9 Chamber's dilemma; finishing the trial while Mr. Ieng Sary is  
10 still alive. I understand that. My function is to make sure that  
11 he gets a fair trial, and he cannot get a fair trial, he cannot  
12 exercise his rights if he's down there semi-conscious, in pain;  
13 he can concentrate, he can hardly breath, and we're pretending  
14 that he's actually participating in the events. It's a charade.  
15 So, my request, first and foremost, is to have the doctor come.  
16 We will then see what the Trial Chamber does; we've already  
17 discussed the matter with Mr. Ieng Sary, and if necessary, we're  
18 prepared to walk out of this courtroom because we certainly do  
19 not wish to substantially contribute to this affair, unless his  
20 rights are fully and fairly protected and we make a record, at  
21 all times, as to his actual state of being. Thank you.

22 [09.17.57]

23 MR. PRESIDENT:

24 Thank you, Counsel.

25 The floor is now given to the Prosecution to respond to what has



6

1 been said by Ieng Sary's defence. You may proceed.

2 MR. IANUZZI:

3 I'm on my feet.

4 MR. PRESIDENT:

5 The floor is now given first to the Prosecution to respond to  
6 what has been said by the defence team.

7 Defence Counsel, please be seated. You will be given the floor  
8 later, before we commence the hearing of the testimony of the  
9 civil party, of course, we notice that you were on your feet, but  
10 we will deal with the issue of Mr. Ieng Sary first, as his  
11 defence counsel stood on his feet and made certain remarks, and  
12 the floor is then given to the other side to respond to what has  
13 been raised by Ieng Sary's defence. And let me deal with that  
14 issue first.

15 [09.19.35]

16 The Prosecution, you may proceed.

17 MR. SMITH:

18 Thank you, Mr. President. Good morning. Good morning, Counsel.

19 Your Honour, firstly in relation to the Defence application that  
20 and the Accused be brought into the courtroom, as Your Honours  
21 have correctly noticed or observed, in your decision on the 26th  
22 of November, you noted that Professor Campbell stated that Mr.  
23 Ieng Sary would be more comfortable in the holding cell; more  
24 comfortable because the holding cell has a bed, as opposed to a  
25 chair in the courtroom. More comfortable as he has quicker access

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1 to bathroom facilities and his care will be greater, more greatly  
2 looked after if a doctor was present with Mr. Ieng Sary.

3 [09.20.32]

4 And certainly, I think it's not the submission of the Defence  
5 that bringing Mr. Ieng Sary into the courtroom would make his  
6 conditions more comfortable for him and certainly, I think by  
7 bringing him into the courtroom, it would just actually make his  
8 health condition more difficult because of the accommodations  
9 that Professor Campbell said that should be in place for him. So,  
10 it would not be the right thing to do, to do that.

11 But the fundamental issue which the defence counsel rightly  
12 discusses, in a sense, is whether or not Mr. Ieng Sary has the  
13 ability to follow the proceedings substantially. And it's not a  
14 question of whether he follows the proceedings in the courtroom,  
15 or in the holding cell; it's just - largely, it's the question as  
16 whether or not he can substantially follow the proceedings  
17 through audio-visual means, as allowed for under Rule 81.5.

18 That's the key issue. Your Honours have heard expert evidence on  
19 this matter and that's what your decision refers to, that there  
20 being three experts in the last three months that have examined  
21 Mr. Ieng Sary, and they have all said that he's mentally fit, and  
22 physically fit despite being frail, to participate in this trial,  
23 whether it be in the courtroom or in the holding cell, and their  
24 recommendation was that it would be in the holding cell.

25 [09.22.24]

8

1 It's normal to expect that someone of that age needs extra  
2 facilities to assist with his health condition, but one thing is  
3 clear is that your decision has been made on the basis that he  
4 could fully and meaningfully participate at trial. And what  
5 unusually, what occurs often, we hear from the Bar table from the  
6 Defence, one state of affairs and then in their pleadings, we  
7 hear another state of affairs, and in the evidence we hear  
8 another state of affairs.

9 [09.23.07]

10 Nothing that counsel has put forward today is really consistent  
11 with the evidence that you have heard and Your Honours must base  
12 your findings on evidence, not on a party's submission -- party  
13 submissions. In fact, when we look at the Request for  
14 Reconsideration, which all the parties received yesterday, asking  
15 Your Honours to reconsider the decision, I quote at paragraph 32,  
16 where the defence for Ieng Sary state: "There has never been any  
17 allegation that Mr. Ieng Sary is mentally ill. This is simply not  
18 the issue".

19 So, they're certainly not claiming that he mentally can't follow  
20 the proceedings, and if you look at paragraph 31, contrary to  
21 what was put forward today, it was written yesterday, it states:  
22 "If Mr. Ieng Sary does not lie perfectly still during the  
23 entirety of each trial session, but instead turn his head  
24 slightly, shifts his position or must get up, he will not be able  
25 to concentrate." But certainly, this is very consistent what the

1 Ieng Sary defence are putting forward with the assessment of the  
2 doctors, that if Mr. Ieng Sary does lie still, doesn't move  
3 around, and is put under the best and the most optimum  
4 conditions, which would be in the holding cell, he can follow the  
5 proceedings for an hour and a half and then have a break, and  
6 then he can follow the next session.

7 That's what the doctor said, Dr. Campbell said. Dr. Campbell said  
8 he interviewed him for an hour and a half in November, and he was  
9 able to follow the conversation and he came back in the afternoon  
10 and interviewed him again, and he was still able to follow the  
11 conversation.

12 [09.25.02]

13 And that, in fact, is what Ieng Sary has put forward in their own  
14 pleading yesterday, that if he does lie still, he can follow the  
15 proceedings, and certainly in the courtroom wouldn't be the  
16 appropriate place, at this point in time, certainly based on what  
17 Professor Campbell said, and what the doctor said this morning.  
18 As to this issue of the Ieng Sary defence speaking to the doctor  
19 and the doctor laughing, it's really unclear what that amounts  
20 to. I assume that Your Honours have received enough information  
21 on the doctor to be able to conclude that he would be able to  
22 follow the proceedings from the holding cell today.

23 [09.25.52]

24 And certainly that's a prerequisite or a fundamental in Rule  
25 81.5, that the accused be able to follow the proceedings whether

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1 it's in the courtroom or in the holding cell. So, all we would  
2 ask, the Prosecution would ask, is that Your Honours satisfy your  
3 minds that the doctor today, has provided enough information for  
4 you to conclude that he's able to follow the proceedings today,  
5 then obviously the trial should continue today.  
6 And as long as Your Honours have received that information, we  
7 would submit, based on the evidence that you received so far from  
8 the doctors, that that would be enough to continue today's  
9 hearing. You know, the Prosecution has always said that Mr. Ieng  
10 Sary's health is fragile and the doctors have said that, as well,  
11 but it must be looked at on a day-by-day basis. And certainly, as  
12 long as Your Honours are happy, are confident that you have  
13 enough information that he can follow the proceedings for the day  
14 from the holding cell, it is in the interest of justice that -  
15 whether Ieng Sary gives a waiver or not, that the proceedings  
16 continue because his presence in the holding cell is in fact a  
17 virtual presence and before the Court because he has access to  
18 his lawyers; he has access to the hearing; he's got counsel  
19 defending him. That's the international standard and that's the  
20 standard under Rule 81.5.

21 [09.27.48]

22 So, as long as Your Honours can assure yourself that the doctor  
23 has given enough information to say he can follow from the  
24 holding cell today, we would submit that the hearing continue  
25 today.

11

1 Thank you.

2 MR. PRESIDENT:

3 Thank you.

4 Now the floor is given to the Lead Co-Lawyers for civil parties.

5 You may proceed.

6 MS. SIMONNEAU-FORT:

7 Thank you, Mr. President. And good morning to you, sir. Good  
8 morning to the Bench and to the courtroom. Very briefly, to add  
9 to what has been said by the prosecutor; my first point concerns  
10 the change in Ieng Sary's position yesterday, because suddenly  
11 he's decided no longer to waive his right to be present.

12 [09.28.50]

13 The participants and the witnesses are the same and yet suddenly,  
14 Ieng Sary has decided that he wishes to be present while hitherto  
15 fore he had renounced that right. So I think the first thing we  
16 should do is ask why there has been a U-turn in his position in a  
17 trial of this kind.

18 My second point that I would like to make, as the prosecutor has  
19 said -- and I would like this to be expressed from the civil  
20 parties, as well -- that on the 26th of November last, the  
21 Chamber taking account of all concerns and taking account of the  
22 rights of Mr. Ieng Sary, the Chamber provided for special  
23 arrangements, and I believe that is totally in keeping with  
24 international case law in this area. I think it's perfectly  
25 normal for the Chamber to have made this decision after hearing

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1 the experts who gave us an overview of the situation and I think  
2 it's very clear that Mr. Ieng Sary is able -- it has never been  
3 said that he was half unconscious as the defence seems to be  
4 saying today.

5 [09.29.57]

6 And I think that, therefore, we can abide by the decision taken  
7 by the Chamber; we've heard the view of the doctor, we don't need  
8 to hear it once again in the courtroom. The Chamber has taken due  
9 account of that, and I believe, therefore, that we can continue  
10 our discussions as things stand.

11 It is in the interest of the civil parties that the discussion  
12 and debates be continued up to their conclusion. Thank you.

13 MR. PRESIDENT:

14 International Counsel for Mr. Ieng Sary, you may now proceed.

15 MR. KARNAVAS:

16 Just let me get a couple of other points that were made.

17 First of all, Mr. Smith misstates and misleads the Trial Chamber  
18 when they claim what our position is. We have never stated that  
19 Mr. Ieng Sary is mentally ill, in a sense that he has dementia.  
20 What we have claimed is that because of his physical illnesses,  
21 he's unable to follow the proceedings.

22 [09.31.01]

23 That has been our position; it's been consistent and we don't  
24 know why the Prosecution continuously tries to mislead the Trial  
25 Chamber into believing otherwise. They say it's a day-to-day

1 situation; I agree. In fact, we would say it's an hour-to-hour or  
2 moment-to-moment situation. When Dr. Campbell was here, that was  
3 weeks ago. Part of the reports that he relied on by the other  
4 doctors, was months ago. What is he today? How is Mr. Ieng Sary  
5 feeling today? When I asked the doctor and he laughs, that was  
6 enough for me, but we can hear it from the doctor.

7 That's what's most important. Because the fundamental issue here  
8 is, how do we monitor and how do his lawyers monitor? Because the  
9 lawyers are there to protect the client's interest. I don't rely  
10 on the Trial Chamber, I'm sorry. As a defence lawyer, I've always  
11 maintained that it is counsel's duty and responsibility to  
12 protect their client's rights.

13 [09.32.08]

14 So, how do we monitor, from moment-to-moment, hour-to-hour,  
15 day-to-day, whether our client is capable and, indeed, able to  
16 follow the proceedings? It is not sufficient to say he's  
17 downstairs, he's in the presence of the building, we have a  
18 television monitor there and therefore, he's able - he is present  
19 and he's following the proceedings.

20 That is insufficient. It's like me, on my couch asleep with the  
21 television on; I'm not watching what's on the television. Am I  
22 present in the living room? Yes, but that's what we're talking  
23 about. We have maintained that because of physical illnesses, he  
24 is unable to follow the proceedings. And we met with him; we're  
25 the only one in this room, by the way, unless the doctor's here,



14

1 who's actually met with Mr. Ieng Sary, who actually have seen him  
2 and talked to him to see what his condition is.

3 Whether Mr. Ieng Sary takes a U-turn or not, it matters not. The  
4 Constitution doesn't say, well you only have one time and one  
5 time only to exercise your rights; it's a continuing right. And  
6 if the Trial Chamber is going to insist that our client, 24/7 is  
7 capable of assisting his defence, then we are insisting, and the  
8 client is insisting that we monitor the situation in a way that  
9 you can actually see it.

10 [09.33.39]

11 If he's in the courtroom and if he's asleep, then you can see  
12 that he is unable to follow the proceedings. So, then I can make  
13 my application that, based on 81.5, he is not physically or  
14 mentally able to participate; that's what this is all about. And  
15 what the Prosecution would like is to just have him in the  
16 building; it doesn't matter whether he's able to participate, but  
17 let's try to finish this case, get the conviction and be done  
18 with. That's what this is all about. Now we either give him his  
19 rights, or don't give him his rights; we can't have it both ways.  
20 So, if you don't want him physically present, then you have  
21 capabilities so that there's a video-cam on him at all times so  
22 we can see him, the public can see him. The alternative is for us  
23 to be down there and to be videotaping him so we have a record,  
24 otherwise, we're being accused by the Prosecution of giving  
25 evidence, but that's what has to happen. Otherwise, it is a trial

15

1 in absentia, that's what it amounts to. It is a trial in  
2 absentia; being physically present isn't enough.

3 [09.34.58]

4 And so we would ask, at this point, that the doctor come because  
5 contrary to what the Prosecution claims today – and, again,  
6 another misleading and mischaracterization of the doctors pithy  
7 report -- the doctor never made an assessment as to whether the  
8 client is capable of following the proceedings throughout the  
9 day.

10 He merely states that it is more comfortable for him to be down  
11 there. Comfort is one thing; capability of following the  
12 proceedings is something else. And so the doctor never made that  
13 assessment and we don't even know whether the doctor is capable  
14 of making that assessment. We don't know whether he has the  
15 expertise, but he certainly can give us a medical opinion as to  
16 his state of affairs and whether he is, in fact, able to follow  
17 the proceedings throughout the day, with the breaks that we have.  
18 Thank you.

19 (Judges deliberate)

20 [09.37.40]

21 MR. PRESIDENT:

22 Next, the Chamber would like to hand over to counsel for Mr. Nuon  
23 Chea because he appears to have something to say.

24 MR. IANUZZI:

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

16

1 First of all, I'd just like to say what I tried to say--

2 MR. PRESIDENT:

3 Counsel for Mr. Nuon Chea, if you have something to say relevant  
4 to the health condition of Mr. Ieng Sary, you are allowed to do  
5 so in the ambit of Internal Rule, subparagraph 5 of Rule 81 only.

6 MR. IANUZZI:

7 Thank you, Mr. President. Again, good morning, everyone.

8 I have nothing to say about the health of Ieng Sary. As he's not  
9 my client, I simply wanted to support the submissions that were  
10 made by our colleague, Mr. Karnavas. The larger issue of active  
11 participation, effective participation in these proceedings,  
12 obviously, is an issue that affects everyone, and as I have said  
13 before, I, personally, do not think that this Court should be in  
14 the business of keeping up appearances. We really, really ought  
15 to look at the reality of the situation. If somebody is not able  
16 to participate, as Mr. Karnavas says, very clearly stated, that  
17 person has rights; those rights need to be defended and protected  
18 and that's all I have to say about that.

19 Are you going to be making a ruling on this issue now because I  
20 do have some other comments about other issues?

21 [09.40.04]

22 MR. PRESIDENT:

23 Thank you, Counsel.

24 Indeed, we have to rule on this before we proceed to another  
25 issue. The Chamber is seized of this matter and we have to rule

17

1 upon it immediately, so the Bench will retire for 30 minutes so  
2 that we deliberate on the issue raised by counsel for Mr. Ieng  
3 Sary, concerning the health condition of him.

4 The Court will adjourn until 10 past 10.00.

5 THE GREFFIER:

6 (No interpretation)

7 (Court recesses from 0941H to 1026H)

8 MR. PRESIDENT:

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

10 We would like to now hand over to Judge Silvia Cartwright to read  
11 out the decision.

12 Judge Cartwright, you may now proceed.

13 [10.27.54]

14 JUDGE CARTWRIGHT:

15 Thank you, President.

16 The Trial Chamber has deliberated and makes the following ruling  
17 concerning the various applications concerning Ieng Sary's  
18 fitness to participate in trial made today by international  
19 counsel on his behalf.

20 The Trial Chamber has, as its starting point, the decision on the  
21 fitness of Ieng Sary to participate in the trial. That decision  
22 was based on consideration of all the relevant expert testimony  
23 and evidence, and after having granted the parties an opportunity  
24 to present submissions. With that as its starting point, however,  
25 the expert indicated that Ieng Sary's physical condition may well

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1 change from time to time and the Trial Chamber is conscious of  
2 that and of its responsibility to keep his physical condition  
3 under constant consideration.

4 With that in mind, the doctor treating Ieng Sary issued a medical  
5 report this morning to the Trial Chamber based on his examination  
6 of the Accused today, and in English, the summary is, that Ieng  
7 Sary cannot follow the proceedings from the courtroom. The doctor  
8 went on to request that he be permitted to follow proceedings  
9 from the holding cells which would enable the doctor to more  
10 readily monitor Ieng Sary's physical condition.

11 [10.30.11]

12 In considering the applications made today by international  
13 counsel, the Trial Chamber must make the preliminary point that  
14 in assessing Ieng Sary's fitness to stand trial it can rely only  
15 on medical opinion. It has decided that in accordance with the  
16 provisions of Rule 81.5, the difficulties caused by having Ieng  
17 Sary come to the courtroom or his -- the difficulties in allowing  
18 -- in providing that Ieng Sary come to the courtroom would reach  
19 a level that might cause substantial delay to the trial and for  
20 that reason it has decided to direct Ieng Sary to participate  
21 from the holding cells. In making this decision, it also takes  
22 into account that all technical support to facilitate his  
23 participation is available in the holding cells, including a  
24 direct telephone line to his counsel.

25 [10.31.37]

1 The Trial Chamber also bears in mind that participation from the  
2 holding cell was recommended by the expert for that reason,  
3 namely that there are the technical facilities to enable him to  
4 participate, but as importantly that the physical facilities  
5 recommended by the expert make the holding cell more appropriate,  
6 given Mr. Ieng Sary's physical circumstances, more appropriate  
7 than the courtroom itself.

8 As to its on-going obligation to monitor Ieng Sary's fitness, the  
9 Trial Chamber will rely on the treating doctor to alert it to any  
10 substantial change in Ieng Sary's physical condition, and it  
11 needs to be emphasized that it is medical monitoring that is  
12 required, not monitoring by the Judges or defence counsel  
13 personally or by the public.

14 For that reason, the Court declines to rule that Ieng Sary be  
15 videotaped while he is in the holding cells. It will rely on his  
16 treating doctor to bring any concerns about Ieng Sary's physical  
17 condition to its attention.

18 [10.33.20]

19 The other application that was made by the Ieng Sary  
20 international counsel is that the doctor be called to be examined  
21 in Court today -- that is, the treating doctor. The medical  
22 report is sufficiently clear for the Trial Chamber it has decided  
23 that there is no need to call his treating doctor to elaborate on  
24 that report in any way.

25 President, I hope that that has conveyed the entire decision of

1 the Trial Chamber.

2 MR. PRESIDENT:

3 Thank you, Judge Cartwright.

4 Counsel Karnavas, you may now proceed.

5 MR. KARNAVAS:

6 Thank you, Mr. President and Your Honours. I just want to have a  
7 point of clarification before we have to make a decision which we  
8 don't take very lightly.

9 It is our understanding that the Trial Chamber does not want any  
10 monitoring of Mr. Ieng Sary other than by the doctor so that, for  
11 instance, if Mr. Ieng Sary is asleep the doctor can just watch  
12 him but then we don't have a record.

13 [10.34.41]

14 That is our concern, and it appears that the Trial Chamber is  
15 deliberately trying to create -- to avoid a situation where we  
16 would have a record upon which to make further applications as to  
17 why Mr. Ieng Sary should either be severed from the case or we  
18 should have the proceedings delayed.

19 So with your ruling, are we to understand it that you are  
20 preventing the Defence from videotaping Mr. Ieng Sary down there  
21 while the proceedings are going on? We will do it on our own. We  
22 want a record. We want a contemporaneous record. We don't want a  
23 doctor who is going to be writing something down, we want a  
24 video. The video would speak for itself. That's what we are  
25 asking. We understand you don't want him in Court. God forbid the

21

1 public see him. You don't want to use the equipment that you  
2 have. The telephone, he cannot reach for the telephone anyway,  
3 and if he's semi-conscious that doesn't do us any good.

4 [10.35.55]

5 So we have one simple request, and that is: May we be allowed to  
6 have a representative of the Ieng Sary defence team to videotape  
7 him as the proceedings are going on so we have a record and we  
8 know exactly his state of affairs?

9 If the answer is no, I understand your position, but frankly, I  
10 cannot participate in this proceedings if the whole purpose is to  
11 make sure that a record is not being made, because we don't think  
12 a doctor's -- the doctor monitoring his health is the same of  
13 monitoring whether he's following the proceedings. There is a  
14 vast difference.

15 I think what we're asking is not intrusive. It doesn't affect the  
16 parties in any way. It won't slow down the proceedings. It won't  
17 cost anything to anyone, especially the donors, and I see no  
18 reason why we should not be allowed to videotape so in the event  
19 he is unable to follow the proceedings we have a record, we can  
20 make further applications, and if the Court denies those  
21 applications we'll at least have a record for the Supreme Court.

22 Thank you.

23 (Judges deliberate)

24 [10.40.17]

25 MR. PRESIDENT:



22

1 International Co Prosecutor, you may now proceed.

2 MR. SMITH:

3 Thank you, Your Honour. Just briefly, I mean, of course the

4 Prosecution has no objection and thinks it's wise that the

5 Accused be monitored in the cells, that's what the professor has

6 said. And as Your Honours are aware, in the detention facility

7 there is a health report book where incidents can be monitored or

8 incidents can be recorded, and certainly the Prosecution's

9 position is that Ieng Sary's health should be monitored.

10 As to whether it's done by video or whether it's done by the

11 doctor or an assistant and recording any deterioration in health

12 or any problem like that, information like that should be

13 recorded, and that's always been our position.

14 As to whether or not, you know, the utility of a video recording,

15 whether the Accused is asleep, one can only question whether that

16 is of much use, bearing in mind that the doctor, the professor

17 hadn't complained, or the -- Ieng Sary hadn't complained to him

18 that he would fall to sleep on -- throughout the day, the

19 complaints with issues of dizziness and issues like that.

20 [10.41.42]

21 So the professor, as Your Honours have heard, the professor has

22 said whether the Accused chooses to participate in the

23 proceedings, chooses to follow the proceedings, that's really a

24 question for him, but what the professor said was that he was

25 capable of following the proceedings all day. If the Accused

1 chooses to fall asleep for an hour or two hours, decides to go to  
2 sleep rather than follow the proceedings, that really isn't the  
3 issue. So Your Honours have to think about the value of that  
4 videotape of a sleeping accused, bearing in mind the expert  
5 evidence stating that he has the ability to stay awake throughout  
6 the day. If he chooses to fall asleep that's really a matter for  
7 him and he's waived his right to follow the proceedings.

8 [10.42.37]

9 But as far as monitoring the Accused health, that is important,  
10 and we would submit that certainly there are facilities enough  
11 there with the health report book in the detention facility  
12 centre and any deterioration of health should be recorded. As to  
13 whether or not he should be videotaped, Your Honours, we will  
14 leave that to you, but we would just ask you to consider the  
15 utility of videotaping someone who perhaps may voluntarily decide  
16 to go to sleep. That's really not the issue of whether or not  
17 he's got the ability to follow the proceedings.

18 Your Honour, just one last matter whilst I'm here. The  
19 Prosecution didn't get an opportunity to respond to the Defence's  
20 reply, but the Prosecution takes exception to the remarks by the  
21 Defence that the Prosecution are not concerned as to whether Ieng  
22 Sary participates or not in the proceedings, they just want to  
23 get a conviction. Those remarks are offensive, they're  
24 objectionable. The practice of the Prosecution office over the  
25 last year should be clear that the Prosecution is concerned about

24

1 presenting the evidence of the allegations and ensuring a fair  
2 trial. If that wasn't the case, the Prosecution wouldn't have  
3 supported in the end the severance of Ieng Thirith from this  
4 case.

5 [10.44.04]

6 Those types of remarks are not appropriate for this Court and the  
7 public should not think that that sort of slanderous  
8 unsubstantiated behaviour by any counsel before this Court is  
9 acceptable behaviour. The Prosecution don't accept it and we  
10 would ask that Your Honour, in the future, admonish the Defence  
11 for those types of unsubstantiated remarks. It's a privilege and  
12 a responsibility to appear before this Court and our roles, we  
13 should not abuse our roles by making submissions that are not  
14 based on evidence and are offensive. Thank you.

15 MR. PRESIDENT:

16 Counsel Karnavas, you may now proceed.

17 MR. KARNAVAS:

18 Thank you, Mr. President.

19 Well, let me respond to the Prosecution's outrage by merely  
20 pointing out that here they go again. On the one hand, they say  
21 we can monitor his health but we cannot monitor to see whether  
22 he's following the proceedings. He chooses to fall asleep. He's  
23 an 88-year old man who's hyperventilating by merely being  
24 transported over here.

25 [10.45.26]

1 So, obviously, we don't want to have any record, any record that  
2 would interfere with some sort of an analysis at the end that he  
3 had a fair trial. And there is where we draw the distinction, and  
4 that's why we say that the Prosecution is not necessarily  
5 interested in our client's rights, we are. If they were they  
6 would be supporting us to monitor by video what he's doing. It  
7 can be up to you or some other expert to decide whether he is  
8 willingly sleeping or whether he's simply incapable of staying  
9 awake because of his heart problems because of the fatigue and  
10 what have you.

11 Why is the Prosecution or anyone else for that matter in this  
12 courtroom afraid of a record? Why not have a little sunshine? If  
13 the gentleman was here, if Mr. Ieng Sary was here, we could see  
14 it, I could intervene, because if Mr. Ieng Sary is in the holding  
15 cell and is falling asleep, I will be making interventions.  
16 That's why we want to have one of our team members and we want to  
17 monitor the proceedings by video.

18 [10.46.41]

19 MR. PRESIDENT:

20 Counsel Karnavas, please do not reopen this Pandora's Box again.  
21 You only are allowed to reply to what the prosecutor has just  
22 indicated, and please limit your observation to that confinement.

23 MR. KARNAVAS:

24 Thank you, Mr. President. Again, I simply want to restate our  
25 position that monitoring the health is different from monitoring

1 whether he's capable of following or is following the proceedings  
2 -- hence why we want to make sure that we have a recording. So,  
3 if we are not permitted to be in the holding cell and to record  
4 our client's state of being, then I'm afraid we cannot  
5 participate in these proceedings because it would be essentially  
6 a trial in absentia.

7 [10.47.47]

8 MR. SMITH:

9 Your Honour, if I could just make one brief response to correct  
10 the record, the Prosecution did not state that we object to the  
11 videotaping of Ieng Sary in the cells; the Prosecution said we  
12 would leave it up to Your Honours. So that's one  
13 misrepresentation of the evidence and of the submission.  
14 And, secondly, the Prosecution did not state that the Accused  
15 shouldn't be monitored. The Prosecution has said the Accused  
16 should be monitored by the doctor or the carer and that should be  
17 recorded in the book.

18 So, again, counsel seems to forget the evidence and goes off on  
19 some tirade of his own, and we would ask that counsel speak to  
20 the evidence, listen to the submissions, and then perhaps his  
21 submissions would be more effective for Your Honours to take note  
22 of.

23 (Judges deliberate)

24 [10.51.58]

25 MR. PRESIDENT:

1 The Chamber would like to hand over to Judge Cartwright to  
2 continue on the ruling by the Chamber and hopefully once and for  
3 all the issue will be ultimately resolved.

4 Judge Cartwright, you may now proceed.

5 JUDGE CARTWRIGHT:

6 Thank you, President.

7 The Trial Chamber has already ruled that it will not direct the  
8 videotaping of the Accused in the holding cells and it does not  
9 intend to amend that ruling in any way. Normally, the Chamber  
10 does not allow counsel to seek clarifications or to raise or  
11 repeat arguments concerning a ruling that has been made. On this  
12 occasion, exceptionally, it allowed it. The primary issue for the  
13 Trial Chamber is the medical assessment of Ieng Sary's fitness to  
14 participate at trial. Therefore, medical monitoring by his  
15 treating doctor is important as a means of keeping the Trial  
16 Chamber and the parties informed of Ieng Sary's medical  
17 condition, should it change. That is the reason -- that is one of  
18 the reasons why it's more appropriate for him to remain in the  
19 holding cells where the doctor is better able to keep him under  
20 careful review.

21 [10.53.43]

22 The Ieng Sary team may, if it chooses, have a staff member of its  
23 defence team in the holding cell. That staff member is entitled,  
24 should he or she think it appropriate, to draw any concerns about  
25 Ieng Sary's physical condition to the treating doctor. However,

1 no videotaping will be permitted.

2 I hope that's covered the Trial Chamber's ruling, President.

3 MR. PRESIDENT:

4 Thank you, Judge Cartwright.

5 Next we would like to hand over to counsel for Mr. Nuon Chea, who  
6 was willing, actually, to raise some concern this morning. The  
7 floor is yours.

8 MR. IANUZZI:

9 Thank you, Mr. President. Again, good morning, everyone.

10 [10.54.48]

11 Your Honour, just some unfinished business from the week prior to  
12 last week -- that is with respect to the civil party, Or Ry,  
13 TCCP-105. As usual, at the conclusion of that party's testimony,  
14 you opened the floor, Mr. President, for comment by all the  
15 parties on the statement of suffering by the civil party. I was  
16 on my feet and attempted to take the floor several times, but I  
17 was not given permission to do so and if I'm not mistaken at some  
18 point, Judge Cartwright was overheard telling you to eject me  
19 from the courtroom. I'm not sure what that was all about. But in  
20 any event, in any event, I have three points that I'd like to  
21 make with respect to the statement of suffering of the civil  
22 party, Or Ry, from the week prior to the recess.

23 [10.55.45]

24 And my first point, very simply, is that we, the Defence -- the  
25 Nuon Chea defence team -- take absolutely no exception to civil

1 parties putting questions to the Chamber, putting requests to the  
2 Chamber that they be permitted to ask questions of an accused  
3 person. Of course, we accept that the civil parties are full  
4 parties to the proceedings. They are allowed to make requests to  
5 the Chamber, just like any other party. So, of course, whether or  
6 not those requests are granted is a separate issue. They may make  
7 such a request and we have no issue with that.

8 Again, their rights as civil parties stop there. Stop at the  
9 point where they are allowed to make that request. If accused  
10 persons have made it clear that they do not wish to submit  
11 questions, that they exercise their right to silence, then of  
12 course the civil parties' right to ask those questions is  
13 curtailed at that point. And this takes me to my next point, and  
14 it's very much related to the point that I've just made, and  
15 again, let me take us back to Friday, the 23rd of November --  
16 that was the last time we sat before the recess.

17 Mr. Or Ry put a question to you, Mr. President -- a request to  
18 you through his counsel to put a question to Khieu Samphan. You  
19 indicated that that question could be put indirectly by you, Mr.  
20 President, at which point my colleague, our colleague, Ms.  
21 Guissé, was on her feet to inform you and the Chamber of Khieu  
22 Samphan's position. You, Mr. President, at that stage -- quite  
23 inappropriately, in my submission -- instructed Ms. Guissé to sit  
24 down and announced that you were speaking directly to Khieu  
25 Samphan.



30

1 [10.57.48]

2 There was a bit of a back and forth and, in the end, again in my  
3 submission, you, quite unreasonably -- quite unreasonably -- told  
4 Ms. Guissé to sit down, that it was not her time to speak, at  
5 which point, Khieu Samphan was forced to his feet to tell you  
6 that, of course, he served his right to remain silent, as we all  
7 knew he would, as Ms. Guissé was about to tell you.

8 So my point -- my point on this issue is, when one of us -- me,  
9 Ms. Guissé, Mr. Karnavas, my colleagues -- any of us stand up and  
10 make submissions on behalf of our clients, we're telling you our  
11 client's position, we're speaking for and on behalf of our  
12 clients. There's absolutely no reason -- no reason -- and I can't  
13 even imagine an exceptional circumstance where perhaps you could  
14 intervene. There's no reason for you to drive a wedge between  
15 counsel and parties.

16 [10.58.48]

17 Parties are represented by counsel because it is their right.  
18 It's a right they've exercised. Every one of these individuals  
19 has exercised that right, and we're here to defend those  
20 individuals. So I personally take great exception to the  
21 treatment that you handed out to Ms. Guissé last week and I would  
22 -- I would suggest that you, perhaps, have a look, perhaps  
23 reacquaint yourself with the Code of Judicial Ethics, both the  
24 ECCC Code and the Cambodian Code of Judicial Ethics that applies  
25 to you.

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1 I think the treatment of Ms. Guissé last week was utterly  
2 unacceptable, and I did try to say that on the record last week.  
3 And before you tell me that this doesn't concern me or it doesn't  
4 -- because Khieu Samphan is not my client, I just want to make it  
5 very clear that we're all here to do a job, to represent our  
6 counsel -- our clients, and we would appreciate it if you  
7 respected that.

8 [10.59.50]

9 And, finally--

10 MR. PRESIDENT:

11 Thank you very much, Counsel. We have heard you enough.

12 However, you already reviewed the document, and I believe you  
13 made some mistakes. It was not the civil party by the name of Or  
14 Ry, it should be Chau Ny. Even if -- even just a name of a civil  
15 party you can't even recall.

16 The floor is enough for you, and we thank you very much.

17 MR. IANUZZI:

18 It was indeed Chau Ny. It was an oversight on my part. If you  
19 were trying to imply that I was doing that for deliberate reason,  
20 I would just like to make it clear, was simply an oversight.

21 And I had one last point to make, my third and final point with  
22 respect to the statement of suffering--

23 [11.00.57]

24 MR. PRESIDENT:

25 As I indeed said, we already took note of your remarks, and it is

1 a lesson for the Bench and in order to improve the management of  
2 the proceedings in the near future.

3 And, of course, I only made a remark regarding the relevant civil  
4 party that you cited in your remarks, that you can't even make a  
5 proper name of that civil party and that is the point.

6 If you have any other matters to raise you may proceed.

7 MR. IANUZZI:

8 Thank you, Mr. President, for being courteous.

9 One last point related to what I've been saying all morning, and  
10 I assure you again as I said, this will be my last point.

11 At the conclusion of that exchange that was then had between Ms.  
12 Guissé and Judge Lavergne as to the issue of whether or not --  
13 whether or not, for example, a civil party, in making a statement  
14 of suffering raised a new issue -- a new issue -- that, perhaps -  
15 perhaps, depending on the circumstances, implicated an accused  
16 person in some manner, Ms. Guissé raised the point: would it be  
17 acceptable, would it be allowable, would she, in fact, be allowed  
18 to recall that civil party to put additional questions? And she  
19 had what I considered at that point to have been a very courteous  
20 exchange with Judge Lavergne, and then, finally, put the  
21 question.

22 [11.02.48]

23 Judge Lavergne, as I recall it, was engaged in that debate and  
24 seemed quite interested, I have no idea what his position on it  
25 is obviously, but he seemed quite interested in discussing that

1 with his colleagues. As he stood up, Judge Cartwright was heard  
2 telling Nil Nonn, the President, "No, no, no, the request  
3 shouldn't be allowed." At which point, you, Mr. President, said,  
4 "No, the request is not allowed", before there was a proper  
5 debate.

6 So that leads me to my question, my final question, my request:  
7 Are we appearing before a Trial Chamber or are we appearing  
8 before what at times seems to me, to be a Nil Nonn-Silvia  
9 Cartwright clique? And I think it's a very important question to  
10 ask. It's a very important question to ask. There are five of you  
11 up there and there are five of you for a reason. We expect a  
12 debate on all the issues and we expect the Chamber -- the  
13 Chamber, not individual Judges -- to issue decisions.

14 Thank you.

15 [11.03.55]

16 MR. PRESIDENT:

17 I thank you, Counsel.

18 In fact, there are two practices that we have done so far: one is  
19 the discretion of the President of the Trial Chamber, and another  
20 one is the Bench decision, and this practice has also been used  
21 in the Domestic Court.

22 For example, regarding the adjournment or the recess, it is at  
23 the discretion of the President of the Chamber. There is no need  
24 for a Bench decision on these procedural matters. And of course,  
25 there are times when there needs to be a decision by the Bench as

1 a whole, and so far I have tried my best to adhere to the  
2 proceedings and the procedures practised in this Court and in the  
3 domestic court. I have tried our best. Of course I acknowledge  
4 there could be a mistake made in the practice of certain  
5 discretions, and, of course, I strictly follow the procedures and  
6 the options that I have. One is the discretion of the President  
7 and the other one is the combined decision of the Bench. And I  
8 thank you very much for your observation on this matter.

9 [11.05.35]

10 The floor is not given again to you and we will take an early  
11 recess and -- my apology.

12 Defence Counsel, do you have any other matter to raise?

13 MR. IANUZZI:

14 Yes, Mr. President, I just wanted to thank you for that very  
15 candid response and just to note for the record that if the  
16 seating arrangement were different, I suspect the discretion of  
17 this Court would be exercised in a very different manner.

18 MR. PRESIDENT:

19 In fact, the time is now only five past 11.00. We will continue  
20 to hear the testimony of the civil party. Court Officer, could  
21 you invite TCCP-188 into the courtroom?

22 (Ms. Toeng Sokha enters the courtroom)

23 [11.08.45]

24 QUESTIONING BY THE PRESIDENT:

25 Q. Good Morning, Madam Civil Party. What is your name?

1 MS. TOENG SOKHA:

2 A. My name is Toeng Sokha.

3 Q. Thank you. What is your date of birth, if you can recall it?

4 A. Yes, I can recall it. I was born on the 25th of February 1947.

5 Q. Thank you. Can you tell us your place of birth, where were you  
6 born?

7 A. I was born at Svay Ta Noan village, Rumdeng commune, Srei  
8 Santhor district, Kampong Cham province.

9 Q. Thank you.

10 [11.09.50]

11 Where is your current address?

12 Please wait until you see the red light on the microphone.

13 A. I live at Phum Bei, Sangkat Chrouy Changva, Tonle Mekong  
14 Street, Khan Ruessei Keo, Phnom Penh.

15 Q. Thank you. What is your current occupation?

16 A. I am a retiree.

17 Q. What is your father's name?

18 A. His name is Toeng Kuy.

19 Q. And your mother, what is her name?

20 A. Her name is Ly Pach.

21 [11.11.12]

22 Q. Are you married?

23 A. My husband passed away. I am a widow.

24 Q. How many children do you have?

25 A. Now I have two children under my care and, in fact, I have

1 three, but one died during the Khmer Rouge regime.

2 MR. PRESIDENT:

3 Thank you.

4 Madam Toeng Sokha, as a civil party you may tell the Court the  
5 harms and suffering inflicted upon you. The harms include both  
6 physical and material, and as well as psychological, which could  
7 be directly or indirectly inflicted upon you during the regime,  
8 which caused you to apply as a civil party; and which are alleged  
9 against the -- charges against the Accused for the acts committed  
10 during the Khmer Rouge regime. And that is your right and you may  
11 make your statement of suffering at the end of your testimony.

12 However, the Chamber advises you from the outset so that you can  
13 prepare yourself into making your statement of suffering.

14 [11.13.20]

15 The Lead Co-Lawyers for civil parties, pursuant to Internal Rule  
16 91bis, the floor is given to you first to put questions to this  
17 civil party. And the time allocation -- combined time for you and  
18 the Prosecution is half day. You may proceed.

19 MR. PICH ANG:

20 Good morning, Mr. President. I'd like to assign the floor to the  
21 lawyer for civil party Sam Sokong and my counterpart.

22 MR. PRESIDENT:

23 Yes, you may proceed.

24 QUESTIONING BY MR. SAM SOKONG:

25 Good Morning, Mr. President, Your Honours. Good morning, everyone

1 in and around the courtroom. Good morning, Madam Toeng Sokha. My  
2 name is Sam Sokong, a civil party lawyer. I have some questions  
3 for you.

4 There will be three main topics. The first topic is related to  
5 the events prior to 17 April 1975, and the second topic is  
6 related to the second phase of the -- the first phase of the  
7 movement, and the third topic is the second phase of movement.

8 Q. My question to you now is related to the events prior to 17  
9 April 1975. Where did you live before that day?

10 [11.15.22]

11 MS. TOENG SOKHA:

12 A. Mr. President, before 17 April 1975, I lived in my house, but  
13 I cannot recall the number of the house. It was along Street 105.  
14 It was a wooden house. In fact, it was a concrete house with the  
15 upper floor made of wood. It was opposite of Tuol Tumpung pagoda,  
16 along the sewage.

17 Q. Prior to 17 April 1975, what events did you observe in Phnom  
18 Penh, in particular, and in the country as a whole?

19 A. Up to the 16 April 1975 there were fightings, and shelling and  
20 bombardment. We heard gunfires near and far and we also heard the  
21 shelling. And some people, and my relatives, were fleeing from  
22 various locations. I have some relatives fleeing from Tuol Kork  
23 and Tuek Thla and they came to my house to take refuge, and there  
24 were some other relatives who had arrived at my house from  
25 Kampong Speu province.



1 [11.17.23]

2 Another younger relative coming from Tuol Kork, that relative  
3 came with the entire family but due to the confusing situation  
4 and too many relatives, I could not identify which ones were  
5 living on the ground floor or on the upper floor, and some went  
6 into the trench. In fact, during the calmed period on the 16th,  
7 my mother went to give the offering to the monks at the pagoda,  
8 but most of the time we stayed in the trench.

9 Q. On the 16 of April 1975, you stated that your family was in  
10 the trench. Can you tell us on what day your family was evacuated  
11 from Phnom Penh?

12 A. It was on 17 April 1975 when our family was evacuated. But in  
13 the morning we were not yet evacuated and there was still  
14 sporadic shelling on the morning of the 17 April and we were very  
15 scared.

16 [11.18.56]

17 My mother and my mother-in-law in fact, fled to her siblings'  
18 house in Boeng Keng Kang and another elder sister who came from  
19 Tram Khnar, collected some belongings and return to Kilometre  
20 Number 4 in Tuek Thla. I was also afraid and I didn't know  
21 whether I should stop them from moving to various locations and  
22 my mother and father-in-law went with some other relatives to  
23 Boeng Keng Kang and my other elder brother, together with his  
24 three children, his wife, went to Tuek Thla although I asked him  
25 not to go. But because he was afraid he left us, he left the

1 trench and he went with his family, with some belongings. In  
2 fact, he went first and then his wife followed. He was so afraid  
3 and his face turned pale and white.

4 [11.20.17]

5 And another family of my younger sibling, whose husband was a  
6 doctor, in fact fled from Tuol Kork to come and join us at my  
7 house. She was pregnant and she also had another child. Her name  
8 was Chan Nary (phonetic) and her husband was Om Limdeth  
9 (phonetic), but that morning I didn't actually speak to her, only  
10 in late afternoon, I gave them some clothes and in the morning  
11 they disappeared. They left but I didn't know where they went to.  
12 At that time it was rather confusing, I didn't actually notice  
13 who came and who went.

14 Q. Before I put my further question to you, please try to respond  
15 briefly and precisely to my question. My question is the  
16 following: In the morning of 17 April 1975, you were not yet  
17 evacuated from Phnom Penh as the -- as you and your family was  
18 still in Phnom Penh. Can you tell us when you were evacuated from  
19 Phnom Penh?

20 [11.22.05]

21 A. It was in the afternoon. I saw people walking in front of the  
22 house and I saw some Khmer Rouge. They were not armed and I also  
23 noticed that my neighbours coming to the street, so I went  
24 outside and we listened to what was spoken by the Khmer Rouge.  
25 They instructed us to leave for three days and there was no need

40

1 for us to bring the belongings. So we came back into the house  
2 and we discussed about that, and later on we decided to leave as  
3 we were afraid, and as we were already ordered to leave by 5 p.m.  
4 So we packed some belongings, but mostly they were light  
5 belongings. We were told that we only -- we would only leave for  
6 three days.

7 At that time, I, my father-in-law, my younger siblings and my  
8 husband and some of my relatives who came to my house, we left  
9 together. There were 14 of us in total when we left and that was  
10 at 5 p.m. on that day.

11 [11.23.42]

12 Q. When the Khmer Rouge soldiers came to your house, what did  
13 they exactly tell you when they ordered you to leave your house?

14 A. They did not even just tell - to our family, but they told us  
15 -- that means my family and the neighbours -- that we had to  
16 leave for three days and then we would return. They did not even  
17 speak directly to me but they spoke to all of us and I listened  
18 to what was said by them. And, at that time, there were already  
19 people on the street, and there were quite a number of people on  
20 the street, and there were some of my cousins who were also  
21 walking passing by my house at the time. So we left our house in  
22 late afternoon.

23 Q. When you left the house or when you were evacuated, in which  
24 direction did you leave?

25 A. We walked toward the south and then we turned to Monivong

1 Boulevard. My house was almost at the corner so we took a turn  
2 passing the Monivong Boulevard walking past the Faculty of Law,  
3 and by that time there were quite a crowd of people on the  
4 street.

5 [11.25.46]

6 Q. You said you left your house toward the south. Was the south  
7 direction your intended destination?

8 A. I did not know in fact where to go to, but we were instructed  
9 to leave, so we left, and our house was to the south of Phnom  
10 Penh, and as people were travelling from the north to the south,  
11 I just followed the flow. I didn't have any destination in mind  
12 as we were thinking about going away for three days only.

13 Q. When you left your house together with other Phnom Penh  
14 residents, did you observe any Khmer Rouge soldiers escorting  
15 people while walking on the street?

16 A. I saw Khmer Rouge -- quite a number of Khmer Rouge soldiers  
17 and they were pretty young. They carried guns in front of the  
18 Faculty of Law, but they were -- they spread around, they did not  
19 gather as a bunch of soldiers, and by the time we reached the  
20 Faculty of Law it was in late evening already and it was crowded  
21 and it was quite difficult to move and we had some belongings and  
22 there were some sick people as well. So by the time we reached  
23 that location it was quite late and we stayed there.

24 [11.28.01]

25 Q. While you were en route, together with other people, did you

1 observe any killing of the Lon Nol soldiers?

2 A. On that first night, I did not see any killing. We heard  
3 distant shelling and gunfight. Some young Khmer Rouge soldiers  
4 sat nearby the place where we slept. That's the first scene  
5 during that first night. I did not see any killing.

6 Q. When did you see the killing of the Lon Nol soldiers?

7 A. (Microphone not activated)

8 Q. The microphone is not activated. Could you please repeat, as  
9 the microphone was not on?

10 A. In the morning, we continued our journey toward the south  
11 direction and when we reached Kbal Khmau we were instructed to go  
12 to the east. We were not allowed to go to the south or the west.  
13 And, it was quite congested on the road and we stayed at the  
14 other side of the Monivong Bridge -- that is on the east side of  
15 the bridge, and we tried to look out for other relatives.

16 [11.30.05]

17 So we stayed there on the 18th of April and, of course, I saw  
18 dead people. I saw some people died at the riverbank and, in  
19 fact, during that late evening, there was still shellings heard.

20 Q. During the course of your evacuation, apart from seeing the  
21 former soldiers of Lon Nol regime killed, could you describe the  
22 situation you witnessed concerning the life of the elderly people  
23 and the children?

24 A. During that time, elderly people who were 70 years old or  
25 above had a very difficult time. One of my uncles had a hearing

1 problem, he couldn't hear anything and he had to be walked all  
2 together with other people. And one of my relatives, who got  
3 injured during the day on the 17th of April, and she was  
4 seriously injured by her leg and she had to walk along with other  
5 people. So I could say that elderly people and sick people had a  
6 lot of difficult time moving about.

7 [11.32.05]

8 I, at the same time, also met some people we knew. We knew that  
9 an elderly woman who wandered around aimlessly and later on we  
10 never saw her again. She just disappeared.

11 Q. You said that during the course of the evacuation there were  
12 old people, children, and women. Can you please tell the Chamber,  
13 how were they treated? For example, in a situation when they fell  
14 ill, were they offered any medicine or medical assistance by the  
15 Khmer Rouge?

16 A. I did not remember having seen anyone providing such care to  
17 us. By the time we reached perhaps Kaoh Krabei, we had to spend  
18 overnight at the location where the dead body was covered in a  
19 mattress - or, rather, in a rack like that, and we didn't know  
20 that there was a dead body and we had to slept next to the body  
21 and we recovered or learned about that only in the morning. We  
22 were very terrified after that and we had to move to other place  
23 for spending another night.

24 Q. According to your accounts, you stated that you had to stop at  
25 different places during the course of the evacuation. Did you see

1 other dead bodies elsewhere, apart from what you saw?

2 [11.34.35]

3 A. The decapitated body was seen thrown along the road. We -- it  
4 was at the location where we were about to take the ferry to the  
5 other side of the river. I could see that the person, the body  
6 belonged to a soldier because I could see the uniform, the  
7 military uniform worn on the body, and he -- it was a beheaded  
8 body of a soldier and we were so terrified having seen that.

9 Q. Can you please say that again? Are you saying that the dead  
10 body you saw near the ferry dock was that of a soldier or former  
11 official?

12 A. The dead body was seen wearing the khaki kind of fabric, so I  
13 could say that he could have been the former official soldier of  
14 the former regime. So I could tell that he was not a civilian.

15 Q. You stated earlier on that after you were evacuated from Phnom  
16 Penh your family and you along with other people had brought with  
17 you some belongings. Can you tell the Chamber whether such  
18 belongings were also confiscated by any of the Khmer Rouge  
19 soldiers along the way?

20 [11.36.52]

21 A. During the course of the evacuation, we had to hide our gold  
22 or jewellery in a small bag, but then when we reached Takeo  
23 province the radio was removed from us. They asked that the radio  
24 be offered to Angkar, as Angkar needed it, and we had no reason  
25 to claim the radio back.

1 We were not confiscated any of our properties other than that  
2 radio I indicated, but indeed, we had to exchange our gold and  
3 jewellery for some foodstuff and things we needed to survive. For  
4 example, for the ferry fee we had to also offer them some gold.

5 Q. In which direction or which province was your last destination  
6 of the evacuation?

7 A. The final place I ended up at was Thnal Dach village, Bati  
8 district of Takeo province. My family, my father in particular,  
9 was the villager of Bati or Takeo province and we were stopped or  
10 asked by our relatives to stay there because we were family, but  
11 my father and other relatives of mine had to go to their hometown  
12 in Kampong Speu. Indeed, the family -- members of the family were  
13 killed by the area bombardment, but they insisted that they would  
14 go there and reunite -- to their hometown.

15 [11.39.29]

16 Q. I have another question concerning the evacuation again. After  
17 you reached -- or during the course when you were walking to  
18 Takeo province -- did you see whether people take refuge at any  
19 of the pagodas?

20 A. Actually, I knew very little about the geographical location  
21 of Takeo, but at night we passed a pagoda. I did not know whether  
22 there were any Buddhist monks at that time, and we also passed  
23 another pagoda, Wat Kaoh; and I did not see any monk in that  
24 pagoda as well.

25 Q. When you reached Takeo, were you properly received or how were



1 you received and how were you treated?

2 [11.40.55]

3 A. At Bati district, we were made to stay in that area. I  
4 reunited with some of my family members and we were allowed to  
5 live in their house. Of course we lived with the family we knew.  
6 I did not know whether we were treated as the New People, because  
7 we noted that there were other people or evacuees who made their  
8 way to this location as well. First, we were put together but  
9 later on we were separated.

10 Q. At that location, was your biography taken?

11 A. I don't remember this very well, but to be sure, I believe  
12 that people knew my background. My family all knew that I was a  
13 schoolteacher, and the head of the cooperative could have come to  
14 take or to write the biography of mine. I think there were on  
15 several occasions that people came to ask me what I did and I  
16 said I was a schoolteacher, I didn't tell a lie.

17 Q. How long had you lived in Bati?

18 A. I had been living in that area for quite a long time, perhaps  
19 for about five months. I didn't take good notice of how long I  
20 spent there because I had to spend so much time working,  
21 concentrating on collecting leaves or chopping some tree branches  
22 and I was at that same time asked to live separately from other  
23 family members of mine.

24 [11.43.36]

25 And again, at the beginning, there were a lot of people coming

1 together. We would be allowed to move about freely. For example,  
2 we would choose to go to our hometown or other relatives' houses  
3 so that we could reunite with them, but then, later on, we were  
4 not allowed to do that and we was made to live separately.

5 We, at the beginning, were taught to carry some cow dung to --  
6 for the fertlizer for our rice paddy, and later on we knew that  
7 some family members were sent to Krang Krachang.

8 Q. Apart from being made to live in Takeo province, were you also  
9 transferred to elsewhere?

10 A. There was a second wave of evacuation. I had to be transferred  
11 on three occasions already in the same village. For example,  
12 first we stayed in one place, then a few weeks, if not months,  
13 later, we were made to move to live at Trapeang Angk location  
14 because that location was the place where intellectuals or  
15 educated people would be brought together to live in one place  
16 where long house would be built to accommodate us.

17 [11.45.36]

18 The Chinese or the peasants would be allowed to live elsewhere,  
19 not to mingle with this group of educated people. There were also  
20 soldiers and police who were evacuated from Phnom Penh but we  
21 never saw them there because we never saw this group of people  
22 living together with the Base People any longer.

23 Q. You said that the second wave of evacuation; when was that  
24 exactly?

25 A. To the best of my recollection, it was before the rainy

1 season. There was not yet heavy rain so I believe it could have  
2 been in July or August when we had to move from Trapeang Angk  
3 village. We were not told where we would be going. We only were  
4 told that we would be moving to the new village. First, we were  
5 loaded onto trucks and I asked my family -- or my family came to  
6 us to try to stop us from getting on the trucks. However, none  
7 could escape because every last member of the group had to be  
8 loaded onto the truck and moved to a new village. And finally, we  
9 end up being sent to Pursat province by trucks. We reached Pursat  
10 at night.

11 [11.47.34]

12 Q. You said that there was a second evacuation. Can you tell the  
13 Chamber what kind of people were involved in the second  
14 evacuation to Pursat province?

15 A. When we got to Pursat, it was in the evening. I could only  
16 tell that there were some fresh charcoals and we could see that  
17 people could just left the area because the smoke, the charcoal  
18 could tell us that there were people who had been living there  
19 before we got there. And before we left our village in Bati,  
20 there were a lot of other villagers who had to be on the move and  
21 everyone had to be transferred to Prasat Pagoda before we were  
22 loaded onto the trucks to Pursat. Indeed, we were not told  
23 whether we would be transported to Pursat; we learned upon  
24 arriving only because we had to also engage in a train trip. We  
25 were on the train on one occasion before we reached Pursat.

1 [11.49.24]

2 Q. During the second phase of the evacuation, when you were  
3 transferred from Bati district, could you tell the Chamber how  
4 were you transported? Or how did you travel?

5 A. We were taking the truck. There were no seats. We were made to  
6 sit on the floor, the -- on the truck, and indeed, our names  
7 would be called by the people to get on the trucks, and we could  
8 carry with us some belongings, some buckets, but we were not  
9 allowed to bring with us any knives or machetes because they told  
10 us that we did not need to worry about bringing them with us as  
11 these materials would be ready at the place where we would be  
12 going to.

13 Q. On the trucks you were, did you see any Khmer Rouge soldiers?

14 A. There was a driver and his co driver wearing black clothes.  
15 There were people who were in the transporting unit. I did not  
16 know whether they were soldiers because we passengers were made  
17 to sit in -- at the back of the truck, not in the cabin, so we  
18 did not know whether these people were soldiers.

19 Q. From Takeo to Pursat province -- during this course of your  
20 journey -- did you see whether people were killed or someone  
21 could have been tortured?

22 [11.51.55]

23 A. I'm afraid I don't understand your question. Could you  
24 rephrase it? Are you talking about the trip, I mean, the --  
25 during the course of the journey or when I already got to Pursat?

1 Q. I would like to rephrase it. My question is: During the course  
2 of your journey, did you see whether people were executed or  
3 tortured?

4 A. When I was on the truck I did not see any people being killed,  
5 but indeed, the road was not good. We had a bumpy ride, and when  
6 we got on the train before we reached Pursat I heard gunfire and  
7 I was told that people were trying to escape, that's why they  
8 were shot at, so we had to travel by trucks and train, and I did  
9 not see dead people but I saw sick people, people who got some  
10 diarrhoea.

11 [11.53.32]

12 Q. You stated that during the second phase of the evacuation you  
13 saw sick people, people who had some diarrhoea. Having seen this,  
14 how did the Khmer Rouge soldiers who accompanied you on the truck  
15 treating these people?

16 A. They didn't come to check what happened at the back of the  
17 truck. They only stayed there in the cabin. They didn't talk.  
18 They didn't care what exactly happened at the back.

19 Q. Without proper attention, medical care to them, how was the  
20 condition of these sick people?

21 A. Every passenger was very sad. People could not say anything.  
22 People had to be squeezed together at the back of the truck and  
23 we would eat our food, and since the ride was a bumpy one I could  
24 not carry my child. I had to make sure that he could lie down and  
25 I could feed -- offer him some food. We were not allowed to stop

1 for meals. We could make use of the time being on the truck to  
2 have our meals.

3 Q. You said the driver and co driver were in black clothes. Were  
4 there any Khmer Rouge soldiers sitting at the back of the truck?

5 A. No, there was none of them sitting there. There were only  
6 people, passengers or civilians.

7 Q. You said you have three children, one passed away during the  
8 Khmer Rouge regime. Can you tell the Chamber in which particular  
9 period your child died?

10 A. I think I already responded that I have three children and now  
11 I am a pensioner. And one of the child was born after 1979.  
12 During the Khmer Rouge regime, I had only two children, but when  
13 I say "three children", I refer to my third child who was born  
14 after the Khmer Rouge regime.

15 Q. Did your child die during the Khmer Rouge?

16 A. Yes, she did. My second daughter died during the second phase  
17 of the evacuation, indeed when we reached Battambang.

18 [11.57.43]

19 Q. How did she die?

20 A. She died because of lack of food. Her body became swollen, she  
21 had experienced severe diarrhoea. And, without proper medical  
22 service, she died by early 1976.

23 Q. I have a final question to you, please. What difficulties have  
24 you encountered or what difficulties you have had as the result  
25 of the Khmer Rouge regime?

1 [11.58.55

2 A. I have had -- suffered greatly already mentally and physically  
3 from the day when we left Phnom Penh. I lost my parents and  
4 friends and relatives. By the time we reached Thnal Dach, we  
5 reunited with family members. I was very happy to see them but  
6 then we were separated again. I was demoralized.

7 And by the time I got to Battambang, the situation was so serious  
8 that I was alone in the jungle, I was helpless. There was no  
9 shelter, no food, no medicine, and we had to collect bamboos and  
10 wood to build our home. We started from scratch. I did not know  
11 any person who I had known before and everyone had to live a very  
12 difficult life. Every -- a lot of people got seriously sick and  
13 died every now and then.

14 [12.00.20]

15 So the memory of the hardship in Battambang still lives with me  
16 and I could recall that I did not have anything to eat and I --  
17 because I went without food I had to eat worm, some kind of very  
18 -- worms that were not edible and we were reduced to no human  
19 beings but monkeys. We had to eat every kind of leaves we could  
20 really lay our hand on. For example, we ate the sour leaves and  
21 it taste sweet already by then because we were so hungry. And no  
22 medicine was offered. We could never find any kind of medicine or  
23 freedom was also limited.

24 [12.01.37]

25 Q. Do you still live with these difficult memories?

1 MR. PRESIDENT:

2 Counsel, please be advised that civil party will indeed offer the  
3 opportunity to express her statement of suffering by the end of  
4 her testimony during the course of the evacuation, both second --  
5 first and second phase. By that we would like to ask that counsel  
6 stop asking civil party to do that because we do not wish to  
7 mislead parties to the proceeding and the civil party herself  
8 because she would then be offered the opportunity to do so not  
9 now but by the end of the testimony.

10 [12.02.31]

11 MR. SAM SOKONG:

12 Thank you very much, Mr. President. With that, I have no further  
13 question.

14 And I thank you very much indeed to Madam Toeng Sokha for  
15 responding to all the questions.

16 MR. PRESIDENT:

17 Counsel, you may proceed. You have 10 more minutes before lunch  
18 adjournment.

19 QUESTIONING BY MS. SIMMONEAU-FORT:

20 Very well. I shall begin and then finish later this afternoon.

21 Good morning, once again, Civil Party. I have a few further  
22 questions to you to perhaps add some detail to one or two points  
23 that you've already brought up with my colleague and also on some  
24 fresh elements.

25 Q. You said that you were living in Phnom Penh and that you were



1 living in a house and that you had two daughters. Could you  
2 please tell us the age of your children when you lived in Phnom  
3 Penh before, just before the 17th of April?

4 [12.03.52]

5 MS. TOENG SOKHA:

6 A. My eldest daughter was six years old and my second daughter  
7 was three years old.

8 Q. Thank you. Perhaps I missed something, but I would like to ask  
9 you once again what your profession was when you were in Phnom  
10 Penh and what your husband's profession was, too?

11 A. My husband was a math teacher, and I was a schoolteacher  
12 before 1973, but by 1974 or 1975, I was a teacher trainee.

13 Q. Thank you. So you said that people dressed in black came to  
14 see you in your house telling you you had to leave for three  
15 days. When the people came, did you hear them use the word  
16 "Angkar"?

17 A. No, I didn't hear the term "Angkar", but they told us to leave  
18 the capital city for three days because they had to empty the  
19 city to check every last member of the enemy. These people were  
20 seen carrying short guns wearing caps so I could see that these  
21 people were some senior people.

22 [12.06.26]

23 Q. And as you have just said, they said you had to leave the city  
24 so as they could check to make sure that there were no further  
25 enemies in the city, but did they quote any other reasons as

1 well?

2 A. No. We were not explained about any other thing other than the  
3 enemy, and we were told that we had to leave because we were not  
4 supposed to mingle with the enemies. We were afraid already that  
5 we did not want to associate ourselves with any of the perceived  
6 enemies, and they even talked or told us to leave the city  
7 jokingly. I could feel like it was not very serious in that tone.  
8 They asked us to leave the city. We were reluctant at the  
9 beginning not to leave the city. We would like to stay overnight  
10 in Phnom Penh because we had to wait for my husband who went out  
11 searching for his relatives, but we could not contest such order  
12 as everyone else was seen leaving the capital city and we did not  
13 want to imply that we were, you know, like opposing such  
14 instruction.

15 Q. Did you believe you were going to come back after three days?  
16 Did you believe what you were told?

17 [12.08.27]

18 A. Since we did not know what would happen, there was some level  
19 of belief. We were at that time convinced that we would be  
20 allowed to come back, that's why we walked rather slowly because  
21 we would like to really buy time. You know, after three days we  
22 would not want to -- move further from the capital city because  
23 we would like to come back after these three days. So no one  
24 could explain to us any other reasons behind this evacuation.

25 MR. PRESIDENT:

1 Since the DVD is run out of space, the Chamber would like to  
2 adjourn by now. The next session will be resumed by half past 1  
3 p.m.

4 Court officer is now instructed to assist Madam Civil Party  
5 during the adjournment and have her returned to the courtroom  
6 when the next session resumes.

7 Counsel for Mr. Nuon Chea, you may now proceed.

8 MR. PAUW:

9 Thank you, Mr. President. Our client, Mr. Nuon Chea, is suffering  
10 from a headache, back pain, and a lack of concentration and he  
11 would like to follow this afternoon's proceedings from his  
12 holding cell.

13 And we have prepared the waiver.

14 (Judges deliberate)

15 [12.10.28]

16 MR. PRESIDENT:

17 The Chamber notes the request made by Mr. Nuon Chea through his  
18 counsel in which he has asked that he be allowed to observe the  
19 proceedings from his holding cell for the remainder of the day  
20 due to his health concerns. The Chamber notes that this request  
21 is appropriate and that Mr. Nuon Chea is now allowed to observe  
22 the proceedings from his holding cell downstairs through video -  
23 audio-visual means.

24 Mr. Nuon has waived his right to be present in the courtroom. The  
25 Chamber asks that counsel for Mr. Nuon Chea produce to the waiver

1 signed -- given thumbprint by Mr. Nuon Chea to the Chamber in due  
2 course.

3 And, AV booth officials are now instructed to make sure that the  
4 audio-visual link is well connected to the holding cell where Mr.  
5 Nuon Chea can observe the proceedings for the remainder of the  
6 day.

7 [12.11.43]

8 Security personnel are now instructed to bring Mr. Nuon Chea and  
9 Khieu Samphan to their respective holding cell and have Mr. Khieu  
10 Samphan returned to the courtroom when the next session resumes.

11 The Court is adjourned.

12 (Court recesses from 1212H to 1339H)

13 MR. PRESIDENT:

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

15 The floor is once again given to the Lead Co-Lawyers for civil  
16 party to put further questions to this civil party. You may  
17 proceed.

18 BY MS. SIMONNEAU-FORT:

19 Thank you, Mr. President.

20 [13.40.17]

21 Q. Madam Toeng Sokha, this morning, when we adjourned, you were  
22 saying that you thought when you left Phnom Penh that you'd be  
23 able to come back. You at least stated that we believed in it to  
24 a certain extent. Does that mean that you somehow trusted the  
25 Khmer Rouge at that time?

1 MS. TOENG SOKHA:

2 A. Yes, I thought that the war was over so that we would live in  
3 happiness and that I would return as soon as possible to Phnom  
4 Penh.

5 Allow me to repeat. A few days after we were evacuated, we were  
6 kind of hesitated. We was wondering whether after the peace --  
7 after the war was over and the peace came to the country that we  
8 would be returned or after they cleaned the enemy then we would  
9 be allowed to return. Of course, I trusted them at the time.

10 [13.41.52]

11 Q. Thank you. You left on foot, by car? How did you leave with  
12 your grandchildren, your husband, and other family members?

13 A. No, we did not have a car; we actually walked with the  
14 motorbikes. My families had some motorbikes, but we did not ride  
15 the motorbikes we walked them, and some of us walked along the  
16 road together toward Takeo.

17 Q. What was the duration of that first trip before you arrived in  
18 the village where you stayed for a few weeks?

19 A. Initially, when we started, we walked slowly. We crossed the  
20 river, then we were at Takhmau, and then we were on the  
21 misdirection, then we reached Preaek Touch. We stayed there for  
22 one or two nights and then we tried to find our way back.

23 So we stopped at a few locations until we reached National Road  
24 Number 2 at Angk Sung (phonetic) Pagoda. We stopped at that  
25 pagoda and tried to find food.

1 [13.43.27]

2 By the time we reached Thnal Dach village, it took us about 11  
3 days; 11 days and nights including the times that we stopped over  
4 at various locations. And we were trying to hear further news and  
5 to look out for our relatives and neighbours.

6 So we did not really want to go further as I was looking for my  
7 relatives and my mother-in-law, so we did not actually walk that  
8 quickly and we also spent time looking for food, and in total it  
9 took us more than 10 days.

10 Q. During that 11-day trip, did the Khmer Rouge give you food,  
11 water, or any health care?

12 A. No, they did not, not even a single thing was given by the  
13 Khmer Rouge. One night I saw them driving a vehicle past us but  
14 they did not give us anything.

15 [13.44.59]

16 Q. You arrived at the first village in Bati district. Can you  
17 give us the name of that first village?

18 A. The village was called Thnal Dach village. We stopped there.  
19 It was located in Krang Leav sub-district, Bati district, Takeo  
20 province.

21 Q. Did you live with the villagers who customarily lived in that  
22 village; did you live with them in that first village?

23 A. Initially, I lived with the cousins of my husband. They had  
24 quite a big house in that Thnal Dach village so we stayed there  
25 with them, and we did not know how Angkar would organize us. We

60

1 were quite happy to meet with the cousin and another family --  
2 that is the family of my father-in-law who got his leg injured.  
3 They went to another village in Sangkream village, Kong Pisei  
4 district, Kampong Speu province. So they separated from us while  
5 we was at that Thnal Dach village.

6 But for them, they knew where they headed to, but for me I did  
7 not know so I stopped and stayed at the Thnal Dach village and we  
8 tried to find other relatives of ours in that village.

9 Q. Did the Khmer Rouge give the villagers any particular name and  
10 did they give those who came from the town any particular name?

11 [13.47.29]

12 A. They refer to people by titles or relationship in a family --  
13 younger brother, younger sisters. It was pretty close back then.

14 Q. I am not sure you quite understood my question. My question is  
15 whether you know whether the Khmer Rouge called the villagers by  
16 any particular name and whether they called a group of people  
17 from Phnom Penh by any particular name? I am referring to the  
18 groups and not to individuals.

19 A. No, we were not referred to by a name, but for us we were  
20 referred to as the 17 April People or New People, and that we  
21 were known. And those existing villagers were known as the Base  
22 People.

23 [13.48.53]

24 Q. Thank you. Were you treated differently -- that is to say,  
25 were you, the New People, treated any differently from the Base

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1 People in each of the villages in which you resided?

2 A. While I was living there, at that time, our relatives could  
3 give us some duck eggs and sugar. At that time, those people  
4 still had their personal property and belongings and the property  
5 was not yet put into communal use, and we could ask for something  
6 from them.

7 And later on, we were advised to get the rice ration from Angkar.

8 And later on, when we were separated from the Base People then we  
9 were given the rice.

10 [13.50.05]

11 Let me repeat. When we initially settled there, the Base People  
12 could give us some rice and some food.

13 Q. Thank you. You subsequently went to another village, and this  
14 morning you stated that you went to a special home for  
15 intellectuals near a village. Please give us the name of that  
16 village close to which you stayed?

17 A. The village where I stayed last before I went to Battambang  
18 province was known as Trapeang Angk village, but we did not live  
19 in that Trapeang Angk village. We lived in a field about 50  
20 metres from that village and we needed to find sugar palm trees  
21 and bamboos to make our house and platform. There was just a  
22 plain roof and a field for us to settle in. And the intellectuals  
23 were gathered to live in that location.

24 Q. Did they give you any explanations why you were asked to go to  
25 that place, to that open field? Did they tell you why you had to



1 go there?

2 A. No, they did not, but while we were at Thnal Dach village our  
3 names were registered. We were asked what our occupation was and  
4 where we came from. And later on, we were separated into groups.  
5 The educated were sent to that village.

6 [13.52.24]

7 Q. You stated that you had to work. Did you work close to that  
8 place or you had to go and work elsewhere in some far-off place?

9 A. While I was in that village I worked but I did not work that  
10 far. It was about -- the village was about 2 kilometres, so I  
11 worked within the village by working with fertilizer. For  
12 instance, I was assigned to work in -- to carry out various tasks  
13 including trying to find the "kantreang khet" trees while the  
14 children were staying in the shed.

15 And at that time, while I was working, I also tried to find food  
16 for my children to eat because we were not given any extra fruit.  
17 So I tried to find banana, for example, for my children to eat.

18 Q. At the first two places to which you went, at least the second  
19 time, were any meetings held? That is, did the people from Phnom  
20 Penh hold any meetings?

21 [13.53.55]

22 A. During the first stage, I attended two meetings. All the  
23 people from Phnom Penh were gathered for a meeting at Komar  
24 Reachea village. It was a far village and we started to walk at 5  
25 p.m. and it took us about one-and-a-half hours to two hours to

1 reach that village. And the meetings were about the policies.

2 And second meeting was held at Thnal Dach village. It was a big  
3 meeting because, at that time, it coincided with a celebration.

4 Q. They talked to you about policy. What policy were they talking  
5 about?

6 A. At that time, the meeting was about to congratulate the  
7 victory and that they were pleased to receive the people from  
8 Phnom Penh and they talked about the defeat of the imperialist as  
9 the Lon Nol group, and that the Revolution was strong even if  
10 they did not have many things to eat, but they were still strong.

11 [13.55.40]

12 Allow me to add a bit further. And after the conclusion of the  
13 meeting, then there was a dancing session and all the artistes  
14 dress in black uniform. The dancing style was a kind of a Chinese  
15 style, but on that day I could not recall every part of the  
16 event. I was very concerned about my children, especially the  
17 young one.

18 And at that time there was a female soldier asking me about my  
19 name and whether I knew the person by that name who was a  
20 teacher, so I was so scared by hearing the question from her and  
21 I did not pay much attention to what was going on on the platform  
22 during the performance.

23 [13.56.48]

24 Q. Why were you afraid, since during the meeting you were told  
25 that the Khmer Rouge were happy to receive people from the towns?

1 A. Initially, they said they were pleased and later on they  
2 talked about the defeat of the enemy and they talked that they  
3 will cleanse the infiltrated enemy.

4 And as for us, we were the Phnom Penh residents, and when they  
5 talk about trying to find the enemies then we were concerned. And  
6 at the same time when I was questioned by a Khmer Rouge female  
7 soldier, I was terrified, then I did not pay much attention to  
8 what was going on on the platform. And I try to find a way not to  
9 make any mistake when I answered the questions.

10 Q. I would like us to talk about the second important trip.

11 You stated that it was just before the monsoon rains and that it  
12 was sometime in July but you didn't quite remember the date. What  
13 was the reason for that second movement; what reason was given to  
14 you for that?

15 [13.58.35]

16 A. Are you referring to the second evacuation? Because I was  
17 relocated a few times within that village while I left Phnom  
18 Penh. So, if you meant about the second evacuation when I made my  
19 trip to Battambang -- is that what you mean?

20 A. Yes, indeed, Madam, what you refer to as the second evacuation  
21 and rightly so. Were any reasons given to you for that second  
22 evacuation?

23 A. They held a meeting in one afternoon and we were advised that  
24 we had to be relocated to another village where there would be  
25 plenty of rice -- and that's the village where we were in -- was

1 far and it was difficult for them to transport the rice to us.

2 That's the reason we were given during the meeting.

3 [13.59.42]

4 So we trusted them once again and then we prepared our belongings  
5 in anticipation for going to the place where there was plenty of  
6 rice, as we were told they had difficulty in transporting the  
7 rice to us. And that was the second evacuation.

8 During the initial evacuation to -- my relatives tried to  
9 convince us not to go because they did not want us to go and they  
10 wanted us to hide ourselves in the forest. So during that initial  
11 movement, the vehicles left and then they came to call us from  
12 the forest to go to Prasat Pagoda during a meeting and we were  
13 questioned why we did not follow the instruction from Angkar.  
14 Each of us was questioned and then I was told to respond  
15 appropriately, and then I said that Angkar was only one and  
16 wherever I went it means I still stay with Angkar even at my  
17 current location. So I just repeated the same phrase, then I was  
18 let go.

19 [14.01.16]

20 And later on we were asked to return to the old village -- that  
21 is to Trapeang Angk village, and we did. And then there were  
22 quite a number of us who actually fled and avoided the initial  
23 evacuation. And if I can recall correctly, there were about 20 to  
24 30 families returning but this is just my estimation. Only the  
25 unit's chief would know the exact numbers of the families

1 returning from the forest.

2 And after that -- that is, about one month after that -- then we  
3 were called again for the evacuation or the relocation.

4 So that was actually a second part of that movement and at that  
5 time the relatives staying in the village, they are not --  
6 convince us to hide ourselves in the forest. So then because we  
7 didn't want to put them in trouble, we had to leave, and also we  
8 were hoping that we would have better rice and food in the new  
9 location.

10 [14.02.44]

11 And even if for that second movement there were still those  
12 people who evaded -- and later on, after 1979, I met some of them  
13 and they were -- I was told that some of us didn't want to go  
14 while I went and some of them had been killed.

15 I met a person by the name of Thuch (phonetic) in Phnom Penh, and  
16 that person told me that he survived but the rest of the family  
17 members were killed while they evaded from being sent where my  
18 family was sent. That person lived next door to me while we were  
19 living in Phnom Penh and I told him back that for the first  
20 evacuation I did not go but then I went during the second  
21 evacuation.

22 Q. I want to be certain that I have understood this.

23 You were told that you had to leave because where you were going,  
24 near Battambang, there'll be more rice, and then there was a  
25 first departure. But you, yourself, did not leave because the

1 people in the village hid you and said you had to stay.  
2 And then you were taken to a pagoda and then forced to leave.  
3 Some people did hide and later you were told that people had been  
4 killed, but you, yourself, left.

5 Now, have I got this right?

6 A. It is not fully correct.

7 [14.04.38]

8 The message is that at the beginning, when the truck was coming  
9 to pick us up, I was helped by some villagers. They tried to hid  
10 - to hide me and, indeed, they snatched my luggage and asked me  
11 to find a hiding place and asked me not to get on the first leg  
12 of the truck. So I missed that first truck.

13 But at 11 or 12 p.m., another truck came and asked us why we did  
14 not really go during the first trip, and we were told by  
15 villagers to use the same language telling them that we did not  
16 want to go because it was the same Angkar, so on and so forth.

17 And then we were loaded on that truck to the new location. After  
18 a while, we had been re-evacuated to another place where we --  
19 promised some more food, and we had no choice but getting on the  
20 truck.

21 [14.06.06]

22 And I am sorry if I didn't make myself clear. Only in 1979, after  
23 the Khmer Rouge, I met a man who used to live next to my house  
24 and that he survived because he had to run away from the same  
25 village where we finally left. Indeed, he was among other people

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1 who did not want to leave the village and he was hiding, but then  
2 other people who were also hiding were all executed except him  
3 who -- he who managed to escape to the Sector 55 and survives.  
4 The rest was killed because Angkar found out that they were  
5 hiding.

6 Q. Not at all. I apologize if I have not been clear.

7 So, there you were leaving in the trucks. You were pressed into  
8 the trucks with the others. How long did this part of the journey  
9 in the trucks last?

10 A. It took us the whole day. Indeed, it did not start from early  
11 in the morning. We were gathered all together at about 8 to 9  
12 a.m. and then we were loaded onto the truck. Later on we were  
13 transported to this location where we arrived at -- late in the  
14 afternoon. And, indeed, it took us a very long time because the  
15 road was not in good condition.

16 And they did not stop for us to break. The Khmer Rouge may go to  
17 the jungle to relieve themselves, but they wouldn't allow us to  
18 get off the truck. We were allowed to get off the truck only when  
19 we reached Pursat.

20 [14.08.37]

21 Q. You reached Pursat by night and then you took a train. Was  
22 this a goods wagon or was it a passenger compartment?

23 A. We were packed in the empty cargo wagon.

24 Q. Thank you. Where did the train go and where did it stop?

25 A. The train went to Kouk Trom station, and at this Kouk Trom

1 station that we were stopped.

2 Q. Was there a village nearby, and, if so, what was it like, and  
3 what were you ordered to do?

4 A. I saw no roof of any houses in the nearby location near the  
5 train station, so there was no villagers who waited to receive us  
6 or who were at the train station.

7 [14.10.36]

8 We were helpless. The station was surrounded by bushes and water,  
9 and we were afraid to move about elsewhere. We were sitting,  
10 staying in one place when the other people -- for example, those  
11 who were transporting us -- could be seen walking nearby.

12 A few while later, these people left us, and later on we heard  
13 that the train was moving to another station, leaving us behind.  
14 We had no information about where we should go and we remained in  
15 that location. And I could not recall how long it took us for the  
16 entire trip. We were overwhelmed with many events and we were  
17 very afraid.

18 And, indeed, a moment before we got off the train, we were  
19 dragged from the train to leave the train before it went to the  
20 other direction and leaving us behind when it was almost late in  
21 the afternoon before just night fell.

22 Q. Were you told why you were being left in this place where  
23 there were no villages?

24 A. No, we were not told anything; we were just asked to get off  
25 the train and stay there. And since we did not know the location



1 because there was no village nearby, we could not go anywhere but  
2 remaining at the station, and we were frustrated because I was  
3 there with my elderly mother and sick family members. So we  
4 stayed there.

5 [14.13.24]

6 Q. So, you weren't given any explanations for this. But, in your  
7 view, why were you left at that particular place?

8 A. I think we were destined to be dropped at that location and I  
9 think we had nothing, but to listen to their instruction. While  
10 people are in the wagon we were in, were not told anything about  
11 the reason behind our being dropped there, but perhaps other  
12 people in other wagons could have been told anything about this,  
13 which I don't know.

14 Q. Can you quickly tell us how you managed to get enough to  
15 drink, to eat and to wash on a daily basis; indeed how were you  
16 housed?

17 [14.14.51]

18 A. We did not have any big concern regarding water because we  
19 could have a small kettle where we could cook some water fresh  
20 from the rice paddy or ponds nearby. And, a few nights later,  
21 there was some rain and we had a lot of problem being in the rain  
22 because we didn't have proper shelter. We got wet and soaked with  
23 rain water and life was not easy at all. We were frustrated and  
24 stranded. In the morning, people would go and find some leaves to  
25 make a wall or walls up the thatched house; and we also had

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1 problem looking for fish because we didn't have things to cook or  
2 to prepare for the fish. So we were somewhat unprepared. And then  
3 a person came and asked us to go to a village called Sophi  
4 village to have our rice husked and a meal; and we only came back  
5 in the rain and the husked rice was all wet. And we had to put  
6 all this rice in -- all together in kind of collective rice  
7 collection, and we would then cook some porridge.

8 [14.17.12]

9 And we could make use of the leaves to make our home,  
10 temporarily. And then we had to also cook some of the worms, the  
11 very -- normally people did not eat them, but we had to cook  
12 them. And we collect some other roots and put some salt so that  
13 we could eat them. And the worms had to be thrown away because  
14 they were not allowed to eat -- I mean allowed here by way of  
15 saying that these worms were not for eating.

16 [14.18.14]

17 And at a later date, I met another sad uncle who appeared to be  
18 very sad in his facial expression. He was so sad and his face was  
19 more like it, pale and like a sick person that he said he was  
20 looking for his relatives. And he told us that, indeed, if we  
21 moved further, then we would reach a village. So, listening to  
22 him, we could then gather all the family members to go and take  
23 refuge in that village.

24 During that time, we have lost some of our relatives and you know  
25 by way of knowing someone who could take us to another village,

1 then we would follow him or her, hoping that we would find our  
2 lost or missing relatives. We finally reached Kouk Trom location;  
3 it was not a village. It was a higher ground and some people used  
4 to live there before, but it was not really a friendly place for  
5 people to live. It was only the place where people could bring  
6 their harvest and that rice should be shred there. And we took  
7 refuge at that location; it was not good, but we had no choice.  
8 After a few months, we ran out of food and we ran to the old  
9 village to be met by a black strange man who told us that we  
10 could follow him to find some bitter gourds, a kind of vegetable.  
11 Then we walked back out to the east direction along the rail  
12 track, and I saw a lot of people die.

13 [14.20.54]

14 I saw them die in small huts; these bodies were a kind of a gory  
15 image because people could have died after long day without food.  
16 And I then had to move forward to look for some vegetable. I was  
17 walking further distance, but later on there was no vegetable to  
18 be found. Some people did give up because it was getting closer  
19 to the night already. But that person -- the strange man, as I  
20 indicated -- kept, you know, fetching or picking some leaves from  
21 the nearby or the roadsides so that he could eat.  
22 And, finally, we got to Kaoh Char, greeted by a group of -- a  
23 family of three or four people. And one of the elderly persons  
24 there offered me some food and one person died at the same -- on  
25 the same day. And the dead body had to be buried and in the

1 morning, I could see that a lot of people died and buried in the  
2 nearby location. So, I felt that a lot of people were dying each  
3 day. And I was terrified.

4 And I think I have already answered your question.

5 [14.23.28]

6 MR. PRESIDENT:

7 Counsel, you may proceed, but could you advise the Chamber as to  
8 how you divide – how you arrange the time allocated to you and  
9 the Prosecution?

10 MS. SIMONNEAU-FORT:

11 I need another 10 minutes to finish and I believe that the  
12 prosecutor has told me he needs 20 to 30 minutes. Thank you, Mr.  
13 President.

14 MR. PRESIDENT:

15 Counsels have already been reminded that you would be given half  
16 day to pose questions to the civil party. Indeed, we -- some of  
17 the time was taken during this morning's session, but we would  
18 not extend further time on this because we need to make sure that  
19 we can expedite the proceedings.

20 BY MS. SIMONNEAU-FORT:

21 Yes, I understand, Mr. President. We started at about 11.30 this  
22 morning, and is about 20 past 2.00 this afternoon, so I will  
23 proceed expeditiously.

24 Q. Madam, what was the final village you ended up in?

25 [14.25.03]

1 MS. TOENG SOKHA:

2 A. It's called Srae Ou village of MOUNG RUESSEI district of  
3 Battambang. At that time, I was on the run. We were on the run  
4 because we had been suffering greatly already, because we  
5 believed that we were left there to die. A lot of people were  
6 dying because there was no medicine; people did not have anything  
7 to eat and we were in the middle of nowhere. So, I had to run all  
8 the way to final village of Srae Ou.

9 Q. Thank you very much, Madam. So you described the two phases of  
10 forced transfer that you underwent and you described five places  
11 that you went through.

12 This morning you told us that your youngest daughter, who then  
13 was aged four, died of malnutrition and lack of health care  
14 subsequent to successive transfers. Now can you tell us how your  
15 husband underwent these two forced transfers; could you briefly  
16 tell us how he underwent the ordeal?

17 [14.26.33]

18 A. He was no different from us; he also got some kind of  
19 infection and sick, and when we ran to Srae Ou, a lot of family  
20 members of mine died including my parents-in-law. We were  
21 thinking that when we reached a new village, life would be  
22 better, but we learned that when we reached this new village,  
23 everything was in the form of collectives. So things were put in  
24 the collective. We were not allowed to go freely and if we would  
25 do that, we would be arrested. My daughter, who had been ill for

1 many days, or months already, could not make it. She died there  
2 and before she died I was trying to bring her to MOUNG RUESSEI  
3 district. Indeed, we met a doctor before 1976, when my daughter  
4 was properly cured, but later on she had the same problem and  
5 without proper care, she died. Two of my youngest siblings also  
6 died in 1976.

7 By 1977, I had another big problem. My husband was very exhausted  
8 that his eyesight became problematic that he could not see  
9 anything. And in the late afternoon, people could see him walking  
10 into the jungle or to the bush; actually he did not see where he  
11 would be walking to. And it was a kind of very difficult  
12 situation and by 1978, he couldn't take it no more, he committed  
13 suicide.

14 [14.29.10]

15 Q. Were you not able to save him?

16 A. When I left my work and a few days later, I was sent to work  
17 at Roleang (phonetic), which was far from where he was. He was by  
18 himself and I had to move on with the work and I was very  
19 concerned about his health; since I noticed twice that he wanted  
20 to commit suicide. And one day, one time, I saw him coming out of  
21 the forest and I asked him what happened; he said, "wait, till we  
22 return to the house", and at our house, he said that he was  
23 afraid that the militia would come and arrest him as he saw the  
24 young militia coming, walking around the house, and he saw them  
25 arrest some people. Since he was tired and fatigued and he was

1 very skinny, and I noticed that he wanted to commit suicide.

2 [14.30.46]

3 He had fruit with him, known as "pekou" (phonetic) in Khmer. He  
4 said that if he takes that fruit, he would die quickly, and I was  
5 afraid, so I threw it away. But from that day, I was still very  
6 concerned that he would one day commit suicide. He was a kind of  
7 a deep thinker and he did not express himself outwardly.

8 And one day, when I had to work at Roluos (phonetic), he  
9 disappeared and I was looking for him. So I went to look for him  
10 at the kitchen hall, but he was not there. I went to the  
11 bathroom, he was not there, and then I went to the house and  
12 there I saw him. He already had hung himself, but the bamboo  
13 broke and his feet almost touched the sink. I tried to  
14 resuscitate him, but it was to no avail. I tried to revive him;  
15 it took me about one hour. I kept crying until I ran out of  
16 tears. Later on I just sat down and talked to myself. It was a  
17 hopeless situation. I actually jumped on his chest and then there  
18 was a burp and I tried to revive him, then there was another  
19 burp, but he was still motionless.

20 [14.32.47]

21 Then I -- before I was convinced that he died, I washed his body,  
22 but then when the water touched him, his pulse reactivated, and  
23 he kind of survived from that day.

24 MS. SIMONNEAU-FORT:

25 Thank you, Madam. I think this is very difficult for you, so I

1 won't dwell on the matter any further.

2 I want to thank you for all of the details and information that  
3 you gave us and for having relived these memories for the Chamber  
4 and for the civil parties. Thank you, Madam.

5 [14.33.42]

6 MR. PRESIDENT:

7 Thank you.

8 I'd like to inquire from the Prosecution, how much time do you  
9 anticipate?

10 MR. LYSAK:

11 Mr. President, probably about 20 minutes.

12 MR. PRESIDENT:

13 Thank you.

14 The time is appropriate for a short break. We will take a  
15 20-minute break and return at 10 to 3.00.

16 Court Officer, could you assist the civil party during the break,  
17 and have her return to the courtroom at 10 to 3.00?

18 (Court recesses from 1434H to 1456H)

19 MR. PRESIDENT:

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

21 Without further ado, we would like to proceed to the Prosecution  
22 to pose some questions to the civil party. You may proceed.

23 QUESTIONING BY MR. LYSAK:

24 Thank you, Mr. President. Good afternoon. My name is Dale Lysak,  
25 and I'll be asking you a few questions on behalf of the



1 Co-Prosecutors.

2 [14.57.15]

3 Q. You talked already about your evacuation from Phnom Penh to  
4 Bati district, and you also talked earlier this afternoon about  
5 how evacuees were registered when they arrived; how you were  
6 given -- asked to give your name, your occupation and where you  
7 came from. The first thing I want to ask you is, whether -- while  
8 you were in Bati district, whether you observed what happened to  
9 evacuees who were identified as being soldiers, policemen, or  
10 officials from the Lon Nol government?

11 MS. TOENG SOKHA:

12 A. Good afternoon, Mr. Co-Prosecutor.

13 When we reached Bati, people from Phnom Penh were made to live at  
14 houses of the Base People. The Base People knew very immediately  
15 that these people were soldiers of former officials, but a few  
16 days later, they were nowhere to be found, again, I mean these  
17 evacuees. And the only thing I heard was that these people were  
18 brought to live together with another group of villagers in Krang  
19 Leav.

20 [14.59.01]

21 Q. And did you hear or ever see any of these people being taken  
22 away from the location where you lived?

23 MR. PRESIDENT:

24 Madam Civil Party, could you please hold on.

25 International Counsel for Mr. Nuon Chea, you may now proceed.

1 [14.59.32]

2 MR. PAUW:

3 Thank you, Mr. President. I object to this question in this  
4 format.

5 It's quite a difference whether the witness or the civil party  
6 sees people being taken away, or whether she hears about people  
7 being taken away.

8 So I would suggest that the prosecutor divides the question into  
9 two separate questions -- whether, (a), she saw it, and, (b),  
10 perhaps she has heard of people being taken away -- so we can  
11 avoid confusion.

12 MR. LYSAK:

13 Mr. President, there won't be any confusion. I can assure counsel  
14 that I will clarify with the witness if her answer isn't clear.

15 MR. PRESIDENT:

16 You may proceed, Counsel.

17 MR. PAUW:

18 My objection stands, so I would like a ruling on the specific  
19 objection before the civil party is asked to answer the  
20 convoluted question.

21 [15.00.44]

22 MR. PRESIDENT:

23 Mr. Co-Prosecutor, would you like to respond to such objection?

24 Indeed, you're supposed to tell the Chamber whether you also have  
25 no -- or taken no issue with such objection so that the Chamber

1 will have the ground for our ruling. So please stick to the same  
2 practice.

3 MR. LYSAK:

4 Yes, Mr. President.

5 Mr. President, the witness is entitled to either testify  
6 regarding what she heard or what she saw. She can provide the  
7 information that's responsive to this question. But the question  
8 is very simple; it's not convoluted. It's: Did she have any  
9 observations or did she hear anything as to what happened to the  
10 Lon Nol soldiers and officials that she just talked about?

11 (Judges deliberate)

12 [15.02.20]

13 MR. PRESIDENT:

14 The objection by international counsel for Mr. Nuon Chea is not  
15 sustained.

16 Madam Civil Party, you are now instructed to respond to the  
17 question posed by the Co-Prosecutor if you still remember the  
18 question. If not, you may ask the prosecutor to repeat the  
19 question.

20 MS. TOENG SOKHA:

21 Yes, indeed, Mr. President, I would like Mr. Co-Prosecutor to  
22 repeat the question.

23 BY MR. LYSAK:

24 Q. You mentioned that there were some former soldiers, policemen,  
25 people associated with the Lon Nol regime who had been identified

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1 in the -- in Bati district. Did you hear or did you see what  
2 happened to those people?

3 MS. TOENG SOKHA:

4 A. At Bati, I stayed with a group of relatives of mine and I saw  
5 another group of people staying together and I was told by my  
6 elder siblings that they were former soldiers. These former  
7 soldiers were not yet terrified because they did not know what  
8 would happen to them as yet.

9 But later on I heard that this group of people, including the  
10 soldiers, were relocated to a new location and they were nowhere  
11 to be found again. And they were relocated to another site of the  
12 lake. And that's what I learned from other people. You know, like  
13 they conversed to one another normally at the beginning, although  
14 at a later date they were relocated to another village, although  
15 I had no knowledge whether these people were executed or not.

16 [15.04.49]

17 Q. I thank you for your response.

18 The second area that I had a few questions for you concerns  
19 around the time when you were relocated from Bati district to  
20 Pursat and then to Battambang. And my question is whether any  
21 senior leaders of the Khmer Rouge came to visit your location  
22 around the time that you were -- people were relocated from Bati  
23 to Pursat?

24 [15.05.52]

25 A. Were you asking about the moment before I left Bati district,

1 or was your question about the time when I already reached  
2 Battambang?

3 Q. My question concerns before you left Bati district. While you  
4 were still in Bati district, did you see any senior leaders of  
5 the Khmer Rouge come to your location?

6 A. On the day when we worked at the dam or the worksite, I saw a  
7 jeep coming from National Road Number 4 on to the dam and I was  
8 told by other people who worked with me that it was Ta Mok who  
9 was in the jeep with some messengers. Later on, he returned and I  
10 never saw him again.

11 Q. When was this -- when was it that Ta Mok came and visited your  
12 location -- how many days or how long before the time that people  
13 were transferred to Pursat?

14 A. I'm not quite sure I get this correct. However, after the  
15 paddy fields were -- after we placed fertilizers on to the paddy  
16 fields, then the moment later, we saw him. And at a later date,  
17 then we were relocated. I saw him before we were relocated.

18 Q. And do you remember approximately how long it was before you  
19 were relocated that you saw Ta Mok?

20 A. I didn't see him or his face clearly, although people told me  
21 that he was the secretary of the zone, and I think about one  
22 month and a half or so that -- after I saw him that I was  
23 relocated.

24 [15.09.08]

25 Q. Thank you for clarifying that.

1 The last area that I have a question for you concerns the period  
2 that you were living in Phnom Penh. Can you tell me, as of April  
3 1975, how long had you been living in Phnom Penh?

4 A. Could you please repeat your question? I think it is my  
5 understanding that you were asking about how long had I been in  
6 Phnom Penh before the 17th of April 1975; is that your question,  
7 please?

8 Q. That's correct. How long had you been living in Phnom Penh  
9 prior to the 17th of April 1975?

10 A. I had been living in Phnom Penh since 1959. I came to go to  
11 school in Phnom Penh until I get some jobs to do. By 1975, I had  
12 been working already.

13 Q. My last question for you is to ask if you can describe for us  
14 the living conditions and the food that was available to you in  
15 Phnom Penh prior to the time you were evacuated and compare that  
16 to the food and living conditions that you faced after you were  
17 evacuated from Phnom Penh.

18 [15.11.25]

19 A. Prior to the evacuation, we had enough food. We could go to  
20 school. We could live happily with our family members and friends  
21 and relatives and I -- in 1965, after passing the ninth grade, I  
22 was trained as a teacher at Kampong Kantuot (phonetic). In 1974  
23 or '75, I became a lecturer teaching Khmer literature, so life  
24 was good. I lived a decent life. I was happy. I have children. I  
25 could care for them. We were financially secure, no problem.

1 It was, indeed, different from the time when we were evacuated  
2 because by 1975, when we were evacuated, we had to leave behind  
3 all the properties we had acquired all along in those years.

4 MR. LYSAK:

5 Thank you very much for answering my questions, Madam Civil  
6 Party.

7 Mr. President, I have no further questions.

8 MR. PRESIDENT:

9 Thank you, Mr. Co-Prosecutor.

10 We would like to now hand over to counsel for Mr. Nuon Chea to  
11 put some questions to the civil party if they would wish to do  
12 so.

13 [15.13.29]

14 QUESTIONING BY MR. PAUW:

15 Thank you, Mr. President. And good afternoon, Madam Sokha. I am  
16 Jasper Pauw. I am international counsel for Nuon Chea and I have  
17 a few questions to ask you today. I expect to take not more than  
18 10 or 15 minutes. I will speak slowly, but if you have any  
19 questions or if you do not understand my questions, please do let  
20 me know.

21 [15.14.04]

22 Q. I would like to start with asking you some questions relating  
23 to the situation in Phnom Penh before April 1975. You mentioned  
24 today that several people came to stay at your house including  
25 relatives from Kampong Speu province; is that correct?

1 MS. TOENG SOKHA:

2 A. Yes, it is.

3 Q. And since when were these relatives from Kampong Speu province  
4 staying at your house? When did they come to your house?

5 A. First, there's a young man who came to my house so that he  
6 could continue his education because in Tram Khnar location where  
7 he had stayed was a conflict zone so he came to live with me  
8 where he could go to school at Kbal Thnal.

9 Later on, we learned that bombs were dropped from the air on his  
10 house where four members of the family died. He remained with me.

11 About one month and a half later, his father and mother came  
12 running with three other children; two boys and a girl who came  
13 to stay with me at my home. We offered them some -- the  
14 accommodation because they could not go back to their home  
15 village as the house was destroyed by the aerial bombardment and  
16 in particular, these people were too traumatized to go back to  
17 live in their former home. So the whole family from Kampong Speu  
18 came and stayed with me.

19 [15.16.30]

20 Q. And you say that this young man was the first to come to your  
21 house. Do you remember the year that this young man came to stay  
22 at your house?

23 A. He came when he was at grade 4. Indeed, he went to grade 4 at  
24 Kbal Thnal School. So later on, he attended grade 3 because in  
25 the old days, grade - weren't into smaller number than bigger. So



1 he studied at grade 3 and by 1970 -- let me think about this, by  
2 1974, I believe, he came to live with me because one year later,  
3 Phnom Penh fell.

4 I hope I have answered your question.

5 [15.17.51]

6 Q. Yes, certainly. Thank you for that.

7 You have also mentioned that other people came to stay at your  
8 house -- that is, from Tuol Kork. Do you remember which year  
9 those people came to stay with you?

10 A. It was on the 16 of April. They spent overnight with us before  
11 we departed because a night before, there was fierce fighting at  
12 the Kab Srov location, and they stayed at Boeng Prayab  
13 (phonetic), which was near the location of the conflict. So they  
14 only came and spent overnight with us.

15 Q. Thank you. And in the area in which you were living in Phnom  
16 Penh, were there more people that were housing refugees from  
17 outside Phnom Penh?

18 [15.19.20]

19 A. Yes, there were other newcomers who came to take refuge in  
20 Phnom Penh, but not necessarily at my home. These people had to  
21 come and stay in Phnom Penh because they couldn't do anything  
22 during time of conflict. They came to stay at their relatives'  
23 homes or rent some houses where they could stay. There were a lot  
24 of families. I can say there are a lot. People could be seen  
25 running all the way from Tram Khnar and Kak Thum, a lot of new

1 faces.

2 Q. And you say that some people from outside Phnom Penh went to  
3 stay with relatives in Phnom Penh and you've stated that some  
4 people that came from outside of Phnom Penh rented houses in  
5 Phnom Penh. Do you know if there were any refugees that did not  
6 have the money to rent houses or did not have relatives to stay  
7 with in Phnom Penh and that, therefore, had to live in other  
8 conditions?

9 [15.20.54]

10 A. Yes, indeed, there were people who were not financially  
11 secure. They came to Phnom Penh to find some work as the "cyclo"  
12 drivers and I learned that one of the newcomers who stayed near  
13 my home had to ride the "cyclo" for some money and they came with  
14 the whole family. They could not bring anything at all from their  
15 home village.

16 And I saw this -- you know when we were moving during the  
17 evacuation, I had to share with them some of the rice I had  
18 bought in stock during these difficult time.

19 [15.22.00]

20 Q. And do you know -- let me rephrase that. You state that these  
21 people, when they came from their villages outside of Phnom Penh,  
22 could not bring anything at all into the city. Do you know if  
23 they managed to bring any rice with them from the countryside  
24 into Phnom Penh?

25 A. I do not know what happened to those who stay far from my

1 home, but I could tell what happened to those who moved in closer  
2 to my location and I could see that -- I provided some mosquito  
3 nets and other items to people who were coming in, but I did not  
4 know how much they need things, although I know they didn't have  
5 much with them.

6 Q. And when you say you shared rice with these people, was that  
7 because they did not have rice themselves?

8 A. No, they didn't. They could only bring very small sack of rice  
9 with them to Phnom Penh and the stock of little rice could run  
10 out easily after a few weeks. So I, who at that time could manage  
11 to buy some good stock of rice, then I could share some with  
12 them. Indeed, I could not really share to everyone, just people  
13 who I felt needed it the most.

14 [15.24.25]

15 Q. I understand. Several people have testified about the price of  
16 rice which was rising before April 17, 1975. Could you tell us  
17 your recollection of this? Was the price of rice, indeed,  
18 increasing before April 17?

19 A. Not only the price of rice was skyrocketing. Other items or  
20 goods' price increased, but at that time, there was a kind of  
21 blocks where American assistance would be poured in at that place  
22 where we could buy -- buy some rice and other goods and I can  
23 assure you that the price of goods was very expensive at that  
24 time because it was during the war.

25 Q. And are you saying that you bought the rice that was

1 distributed by the Americans?

2 [15.26.13]

3 A. What I was saying is that the rice was sold at different  
4 blocks in Phnom Penh. For example, if we live in the -- in the  
5 surrounding area where rice was sold, then we would be allowed to  
6 buy the rice from that block only, and I at that time could also  
7 buy some rice from school and the location called "Ilôt"  
8 (phonetic) at that time. The gas or kerosene was also expensive.  
9 People would be queuing to buy these heating things.

10 Q. I now understand better. There were certain locations in  
11 specific blocks where rice was being sold, but I think I heard  
12 you say that these blocks or these points were set up by the  
13 Americans.

14 So my question to you is: These points where rice was being sold;  
15 were they indeed set up by the Americans or was American rice  
16 sold at these locations?

17 A. This rice, so far as I know, were brought from outside, not  
18 from Battambang, and they were part of the aid or assistance to  
19 Cambodia from the outsider. And I could not exactly say whether  
20 this rice was from the Americans, but we were told that we could  
21 get the rice at each particular point.

22 Q. That is -- that clarifies matters. Thank you for that.

23 You say you had a good job before the evacuation of Phnom Penh.  
24 You had money and you managed to buy rice, other foodstuffs, gas,  
25 kerosene, even though the prices were very high -- and I think

1 you used the word "skyrocketed". Do you think it's a fair  
2 assumption that many of the refugees that came from outside of  
3 Phnom Penh into the city did not have the financial means to  
4 purchase this rice?

5 [15.29.24]

6 I see the prosecutor getting up, so I want to make clear that I  
7 would like you to base your answer on what you, yourself,  
8 witnessed. I want you to base your answer on the refugees from  
9 outside of Phnom Penh that you saw coming into the city.

10 MR. PRESIDENT:

11 The Prosecution, you may proceed.

12 [15.29.52]

13 MR. LYSAK:

14 Our objection to the question is that the exact words he used,  
15 "is it fair to assume", and then he asked the witness to make a  
16 conclusion about refugees in the city.

17 If he wishes to rephrase to ask about the witness's factual  
18 observations of refugees that she was familiar with, we would  
19 have no objection to that.

20 BY MR. PAUW:

21 Thank you. I will gladly rephrase the question.

22 Q. So, Madam Sokha, you have described how you interacted with  
23 several of these refugees that came from outside Phnom Penh. You  
24 have testified that you shared rice with them and that you  
25 provided them with mosquito nets, so you had some interaction

1 with these refugees; you spoke to them, you saw how they were  
2 living. Based on those interactions, do you think it's fair to  
3 assume that these people did not have enough money to buy rice at  
4 those very high prices?

5 MS. TOENG SOKHA:

6 A. I am unsure on this point as I wasn't the one who managed  
7 those people. I could only assist some of my relatives. For  
8 example, Rea (phonetic) who fled from Tuol Kork, I gave her the  
9 mosquito nets that I used. I didn't have much things to give to  
10 them. Another example is that I have a shirt for a pregnant woman  
11 so that I gave the shirt to her.

12 [15.31.46]

13 I didn't have tons of rice to give to people. And on the day  
14 that I left Phnom Penh, I told Pon (phonetic) and the relatives  
15 to carry some of the rice that I had. And I, myself, I only had  
16 some rice with me when I left.

17 I was pity because the father was a rickshaw driver and the  
18 mother had wounded in her feet and her husband was a professor  
19 with only enough money to feed the family. And because of that, I  
20 share what I had with them and that what happened during the  
21 time.

22 [15.32.42]

23 So I did not have the knowledge as who would buy what or who  
24 would share with other what or where they would stay during that  
25 time. I only knew what happened in -- within the surrounding of

1 my family vicinity and of course, I had some of my saving with me  
2 to make sure that I would use during such time.

3 Q. Thank you. And I understand what you are saying.

4 I have a few more questions about these refugees. Did you hear at  
5 the time about refugees staying at the Cambodiana Hotel?

6 A. Yes, I did hear about the war-displaced people, but I did not  
7 have much things to go and distribute what I had at those block.  
8 I had something that I went to Moyou Vong Pagoda to distribute to  
9 those people, for example, a shirt or two as a kind of our  
10 generosity. We did our best to help them.

11 Q. Thank you. Before I proceed, I want to make clear that I am  
12 not suggesting that you did not do enough to help these people.  
13 You are telling us how you, indeed, distributed and helped what  
14 you could and that is a noble thing to do. I am simply trying to  
15 get a picture of the situation that these refugees in Phnom Penh  
16 found themselves in, so please do not take my questions as  
17 accusations of any conduct on your behalf. I fully trust that  
18 that was only noble as I indicated.

19 So, about these refugees in the Cambodiana Hotel, you mentioned  
20 you heard about their existence. Did you also see how they lived  
21 in and around the Cambodiana Hotel?

22 [15.35.32]

23 A. No, I did not go to Cambodiana Hotel. My house was at Tuol  
24 Tumpung, and my mother went to Moyou Vong Pagoda, and upon her  
25 return she said that there were a lot of war-displaced people in

1 that pagoda and that we should assist them with whatever we had.  
2 And I did not really leave from the house much, as I was busy  
3 studying and looking after my family.

4 Q. And do you know if there were relief agencies working to  
5 assist the refugees in Phnom Penh?

6 [15.36.34]

7 A. I am not really sure what was organized back then; whether it  
8 was organized by the Ministry of Health or whether it was  
9 organized by the Red Cross Committee, but I heard on the radio  
10 broadcast that people should donate blood and some people who  
11 were healthy did, in fact, donate their blood. I believe that it  
12 was organized by the Red Cross or by the Ministry of Social  
13 Affairs, but I was with the education so I did not know much  
14 about that.

15 Q. And you mentioned just now that a family member of yours  
16 witnessed refugees in a certain pagoda and we have discussed the  
17 refugees that were in and around the Cambodiana Hotel. Do you  
18 know of other locations in or around Phnom Penh where refugees  
19 were staying?

20 A. No, not really and I cannot recall it as well. I did not know  
21 whether they were at various other locations. Of course, I knew  
22 that people were displaced because of war and sometimes they  
23 returned back to their native village or they -- those who could  
24 afford would buy a piece of land to settle elsewhere, but I did  
25 not know how many camps were set up to receive refugees in Phnom



1 Penh.

2 Q. And do you personally know anyone that was working with these  
3 refugees at the time and that could provide us with information  
4 about their living conditions at the time; for example, someone  
5 in a relief agency or working for the Ministry of Health for  
6 example?

7 A. No, I did not know anyone working in that area. I only knew  
8 that, in 1970, there was a training session. It's like a  
9 first-aid training session conducted at various schools, but  
10 there was no circulation or training regarding the relief efforts  
11 to assist evacuees. What we did was individual based on our own  
12 kindness and understanding of the situation.

13 [15.40.03]

14 Q. I understand that. So, hearing your testimony today, is it  
15 fair to say that you had some personal interactions with refugees  
16 that came to Phnom Penh, but you did not have an overview of the  
17 larger picture of the situation of the refugees that came to  
18 Phnom Penh and how they were living before April 1975?

19 [15.40.40]

20 A. Yes, you can say so. However, I can say that I only knew about  
21 the situation of my relatives who came to my house and I did not  
22 know much about the wellbeing of other people.

23 Of course, the situation was difficult. The price of food and  
24 vegetable was high and it was difficult for people to afford it.  
25 But personally, I did not have the opportunity to go and find out

1 about that. I only knew about the wellbeing of my relatives who  
2 came from various locations. And later on, on the 17 April, we  
3 separated from one another, as well, except those families who  
4 came from Kampong Speu to live with us.

5 Q. Thank you.

6 I will move on to my next topic. And I apologize, I'm taking  
7 slightly longer than I predicted. This is because your stories  
8 are very interesting, so I want to give you a chance to explain  
9 all this to the fullest.

10 Some very brief questions as to the follow-up: And after you  
11 evacuated -- after you left Phnom Penh on April 17, 1975, you  
12 travelled for several days and then you ended up in a village.  
13 And I heard you say -- but I'm relying on my notes here, so I  
14 want to give you a chance to clarify, I heard you say this  
15 morning that the Base People could give you some rice and food.  
16 Did I understand you correctly? Is that what you, indeed, stated  
17 this morning?

18 [15.42.48]

19 A. Yes, that is correct. When I arrived and stay in the house of  
20 the Base People, they gave us food and sometimes they gave us the  
21 potato. However, they were our relatives. And at that time,  
22 cooperative was not yet established. So they actually share with  
23 us whatever they had. And we also gave them what we had and it  
24 was based on our blood relationship with them.

25 MR. PAUW:

1 That is all for me, Madam Sokha. On behalf of the Nuon Chea  
2 defence team, I thank you for coming here today and I wish you a  
3 safe trip back home.

4 And I've -- I will cede the floor to my colleagues of the other  
5 defence teams.

6 [15.43.44]

7 Thank you.

8 MR. PRESIDENT:

9 Thank you.

10 The floor is now given to Ieng Sary's defence to put questions to  
11 this civil party. You may proceed.

12 MR. ANG UDOM:

13 Good afternoon, Mr. President, Your Honours. Good afternoon,  
14 everyone in and around the courtroom. Good afternoon, Madam Toeng  
15 Sokha. My name is Ang Udom, and to my right is Mr. Michael  
16 Karnavas. We are the co-lawyers for Mr. Ieng Sary.

17 We do not have any questions for you. However, on behalf of Mr.  
18 Ieng Sary, we wish to thank you very much for your testimony  
19 before this Chamber to ascertain the truth and we wish you all  
20 the best and bon voyage.

21 I'm grateful, Mr. President.

22 MR. PRESIDENT:

23 Thank you.

24 The floor is now given to Khieu Samphan's defence.

25 [15.45.10]

1 MR. KONG SAM ONN:

2 Thank you, Mr. President.

3 On behalf of Mr. Khieu Samphan, we, the defence counsels, do not  
4 have any questions for Madam Toeng Sokha.

5 Thank you.

6 MR. PRESIDENT:

7 Thank you.

8 The floor is now given to Madam Toeng Sokha to make a statement  
9 of suffering and harms that you experienced during Democratic  
10 Kampuchea regime, as we indicated at the outset, if you wish to  
11 do so.

12 [15.46.00]

13 MS. TOENG SOKHA:

14 Thank you, Mr. President. Thank you, the Prosecution, and thank  
15 you, all the counsel who participate and follow today's  
16 proceedings.

17 I am grateful that the President of this Chamber allows me the  
18 opportunity to make a statement regarding the harms I suffered  
19 between 1975 and 1979 which was the cause of the Khmer Rouge  
20 regime.

21 Mr. President, all the words expressed in my statement are true  
22 and correct. I, myself, in fact, tried to forget all those  
23 events. If not, it's going to be too long and too heavy and too  
24 vicious on me. It is the greatest tragedy that we all should be  
25 sorry for, and it is difficult to find a word to describe all

1 those events that we experienced. It is a story beyond  
2 imagination and that cannot -- and that we cannot accept it. We  
3 tried to survive after 1979 and we reunited with some of our  
4 family members. However, we also received news about the loss of  
5 our family members who were tortured, killed, stabbed to death at  
6 various locations where they were evacuated to, both in the first  
7 and second phase of evacuation.

8 [15.48.03]

9 During the evacuation from Phnom Penh on 17 April 1975, it could  
10 be compared to a bomb was exploded to shatter all the families in  
11 Phnom Penh. We separated from one another in a sudden movement.  
12 We separated from family members, from friends, and we suddenly  
13 lost all what we earned and all the properties we lost. We did  
14 not get news from them; some of them even until today and in  
15 around September 1975, I was by myself far away from my native  
16 village, from my family members and from my close friends.

17 [15.48.54]

18 We were forced to live in a flooded forest at an unknown location  
19 without any food, without housing, without shelter, and we did  
20 not know any of the Base People. Initially, we lived along the  
21 railway track at Kouk Trom. We didn't have equipment to clear the  
22 forest, and it was monsoon and it was heavily raining at the  
23 time. We were restricted in our movement and we only could live  
24 amongst the evacuees who did not have anything and some of us  
25 died -- died of starvation, died of lack of medicine, and I could

1 clearly see that that was a method of killing, in particular the  
2 killing of people evacuated from Phnom Penh, as we were abandoned  
3 in the forest to die and we died without shedding any blood.  
4 We were skinny and we lived like animals. We did not have  
5 anything to eat, but the millipedes, and sometimes we even dare  
6 eat gecko or the "pros svar" trees or the roots of various watery  
7 plants. In short, we could compare our living to the situation as  
8 we could eat anything that we could find. Even for "thnung" tree,  
9 which was bitter, we found it sweet to eat.  
10 Ourselves, our physical appearance was like a dead body. We didn't  
11 have any strength to speak. It seems like we were living in a  
12 prison without wall which was like the animals living in the  
13 animal sanctuary in Ta Mau Mountain. It was barbarous.  
14 And in 1976, I lost my daughter, my father-in-law, my two in-laws  
15 and my husband committed suicide. And one of my other daughters  
16 lost her voice. She became mute.  
17 [15.51.24]  
18 So the second phase of movement was the most difficult for us. It  
19 was more difficult than the first phase. It was the greatest  
20 sorrow fell upon us. We were so down physically and mentally. It  
21 was the greatest sorrow inflicted upon us and remained in our  
22 mind.  
23 And when I lost my daughter, it was the saddest time in my life  
24 that I could hardly survive and became mad and crazy. She called  
25 me twice before she died and when I saw her body was picked up, I

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1 was speechless. I didn't know what to say or to describe to  
2 anyone. I couldn't tell anyone about my deepest sorrow. She was  
3 put into a hammock together with other seven dead bodies.  
4 And I was so shocked when my husband committed suicide. I saw him  
5 hanging in the air inside a house. I cried. I cried without tear.  
6 I wanted to cry to reduce my sorrow, but I was afraid that if  
7 they knew that I cried then I would be killed.

8 I was terrified, most terrified than at any other time. I became  
9 almost mad and that feeling remains with me until such time that  
10 I, myself, wanted to commit suicide. I was so angry against  
11 myself that I didn't have the ability to save my family members.  
12 I became hopeless. Previously, I told myself that I must try  
13 myself to look after myself and my family members and my  
14 children, but in the end, my children died in my hand before my  
15 eyes.

16 [15.53.43]

17 And I even asked and begged my husband to kill me; I did not want  
18 to live in such a terrible situation. My husband embraced me and  
19 said that my body only had bones. He means that I would die soon.  
20 These are just the summary of what happened, Mr. President, as I  
21 could not describe in details at this time. In summary, my mind  
22 was heavily impacted by the events and I did not want to live to  
23 relive the sorrow and the suffering. However, such suffering  
24 cannot disappear. It is -- we cannot compare to the erasing of  
25 the voice on a tape. I still sleep with my tears coming from my

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1 eyes. When I recall the times that I was separated from my family  
2 and the children separated from me, sometimes I cry, wherever I  
3 was. I tried to turn to Buddhist disciplines in order to reduce  
4 the sadness within me.

5 [15.55.06]

6 But when it comes to the material loss, I lost everything  
7 including my house. I lost all the value of my property. In gold,  
8 it could be amounted up to 925 "damleung" in gold value.

9 A number of my family members died. Eight of my distant relatives  
10 died and six of my closest friends died.

11 And at the fall of the Khmer Rouge regime, I almost lost my  
12 capacity to earn a living. I couldn't develop myself any further.  
13 I had nightmares. I had tremor in my chest and I found it  
14 difficult to breathe. I had insomnia and I could not sleep  
15 without a sleeping tablet.

16 I want the Prosecution and the trial to proceed so that the next  
17 generation will understand and remember of what happened, and, in  
18 the end, I appeal and urge to Mr. President to provide justice to  
19 me, to my family members and to all the victims, including those  
20 who survived and those who died during the regime so that they  
21 would satisfy with the justice and that they would find peace in  
22 their mind. I'm grateful, Mr. President.

23 [15.56.57]

24 MR. PRESIDENT:

25 We are grateful, Madam Toeng Sokha, and the hearing of your



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1 testimony has now concluded and you are now excused. Your  
2 testimony may contribute to ascertaining the truth in this case.  
3 You may now return to your residence or wherever you wish to and  
4 we wish you all the best and bon voyage.

5 And tomorrow the Chamber will hear the testimony of the civil  
6 party, TCCP-108, and this information is for the parties and the  
7 general public.

8 Court Officer, in cooperation with WESU, could you assist the  
9 civil party in her returning to her residence. And also please  
10 make the arrangement for the reserve civil party, TCCP-108, to  
11 return to her residence and have her returned to the courtroom  
12 before 9 a.m. tomorrow morning.

13 Madam Toeng Sokha, you may now leave the courtroom.

14 (Ms. Toeng Sokha exist courtroom)

15 [15.58.46]

16 If any of the parties wishes to make observations regarding the  
17 testimony of the civil party, Toeng Sokha, you may take the  
18 floor. I notice that no party intends to make any observation.

19 The hearing today comes to a conclusion. The Chamber will now  
20 adjourn and will resume tomorrow morning -- that is the --

21 Wednesday the 5th.

22 (Short pause)

23 [15.59.50]

24 Judge Lavergne, you may take the floor.

25 JUDGE LAVERGNE:

1 Thank you, Mr. President.

2 Before we adjourn, I have a question for the civil party Lead  
3 Co-Lawyers for purposes of clarification. In the agenda for this  
4 week's hearings, we envisage hearing very soon a civil party,  
5 TCCP-213, and this person is referred to as TCW-217. It appears  
6 that in preparing the documents for the testimony of this civil  
7 party, a question arises regarding the relevance of this civil  
8 party's testimony.

9 Since this is a civil party proposed by the civil party Lead  
10 Co-Lawyers, may I know whether at this stage of the trial you  
11 still consider this person's testimony relevant in view of the  
12 fact that we have already ordered severance of Case 002/1? Could  
13 you please enlighten the Chamber as to the utility of this  
14 testimony?

15 [16.01.25]

16 MS. SIMONNEAU-FORT:

17 Yes, Your Honour. It may well be that I haven't finished enough  
18 clarifications today. As far as I'm concerned, I'm not the person  
19 who will examine this civil party, so I hope that tomorrow  
20 morning, we will be able to provide the clarifications. That  
21 person is not testifying tomorrow, so we will provide  
22 information, at the very latest, tomorrow morning.

23 JUDGE LAVERGNE:

24 Let me point out, nevertheless, that it is possible that we will  
25 spend the whole day hearing the next witness, so it will be

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1 important for you to provide information by tomorrow afternoon.

2 It is important for us to take the necessary measures to avoid a  
3 waste of time.

4 I thank you.

5 [16.02.18]

6 MR. PRESIDENT:

7 Thank you, Judge Lavergne.

8 Today's hearing has come to a conclusion. The Chamber will now  
9 adjourn and resume tomorrow morning -- that is, Wednesday the 5th  
10 of December 2012, commencing from 9 a.m. We will hear the  
11 testimony of the civil party TCCP-108.

12 Security Officers, you are instructed to take the three accused  
13 back to the detention facility and have them returned to the  
14 courtroom tomorrow morning, before 9 a.m. As for Mr. Ieng Sary,  
15 you are instructed to take him to the holding cell downstairs so  
16 that he can follow the proceedings through audio-visual means.

17 The Court is now adjourned.

18 (Court adjourns at 1603H)

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