



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

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អង្គជំនុំជម្រះតុលាការកំពូល
Supreme Court Chamber
Chambre de la Cour suprême

ឯកសារដើម
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TRANSCRIPT OF APPEAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/SC

3 July 2015

Before the Judges: KONG Srim, Presiding
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SOM Sereyvuth
Chandra Nihal JAYASINGHE
MONG Monichariya
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I N D E X

Mr. SAM Sithy (SCW-3)

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
Ms. GUIRAUD	French
Mr. HONG Kimsuon	Khmer
Judge JAYASINGHE	English
Judge KLONOWIECKA-MILART	English
The President (KONG Srim)	Khmer
Mr. KOPPE	English
Mr. KOUMJIAN	English
Judge MONG Monichariya	Khmer
Judge MWACHANDE-MUMBA	English
Mr. SAM Sithy (SCW-3)	Khmer
Judge SOM Sereyvuth	Khmer
Mr. SON Arun	Khmer
Ms. SONG Chorvoin	Khmer
Mr. VERCKEN	French
Judge YA NARIN	Khmer

1 PROCEEDINGS

2 (Court opens at 0856H)

3 MR. PRESIDENT:

4 Please be seated.

5 Today the Supreme Court Chamber continues its appeal proceedings

6 and we have a witness -- that is, SCW-3 who is going to testify

7 this morning.

8 Greffier, are all the Parties present?

9 THE GREFFIER:

10 Mr. President, in today proceedings all Parties are present and

11 Mr. Nuon Chea waives his right to be present in the courtroom.

12 The waiver dated 3rd July 2015 has been delivered to the

13 greffier. We have 10 civil parties namely Madam Yim Sovann, Mom

14 Sam Ourn, Meas Saran, Or Ry, Toeng Sokha, Aun Phally, Sang Rath,

15 Chan Socheat, Yin Roum Duol and Po Dina. Thank you.

16 [08.59.06]

17 MR. PRESIDENT:

18 Nuon Chea has waived his right to be present in the courtroom

19 however he participate the proceedings from a holding cell

20 downstairs. Based on the medical report of the Accused by the

21 duty doctor dated 3rd July 2015, who confirms that the Accused,

22 Nuon Chea has back pain and cannot sit for long in the courtroom

23 and based on the above information and the request to waive his

24 rights by the Accused, the Chamber grants him his request to

25 follow the proceedings remotely from a holding cell downstairs.

2

1 And the AV Unit personnel are instructed to link the proceedings
2 to the holding cell downstairs so that the Accused can follow it.
3 Court officer please usher the witness SCW-3 -- that is, Sam
4 Sithy, into the courtroom.

5 (Witness enters courtroom)

6 [09.01.50]

7 QUESTIONING BY THE PRESIDENT:

8 Mr. Witness you are summoned today by the Supreme Court Chamber
9 in the ECCC to testify and we would like to ask you some
10 background information. First of all, what is your name and do
11 you have any alias?

12 MR. SAM SITHY:

13 My name is Sam Sithy, alias Thy.

14 Q. When were you born?

15 [09.02.42]

16 A. I was born on 15th May 1961.

17 Q. Where were your born and Mr. Witness, please observe the
18 microphone?

19 A. I was born in Ph'er village, Ph'er commune, Rolea B'ier
20 district, Kampong Chhnang province.

21 Q. In your declaration form you stated that your district of
22 birth is Kampong Chhnang and now you stated it's Rolea B'ier,
23 please confirm which one is correct?

24 A. I was born in Ph'er village, Ph'er commune, Rolea B'ier
25 district, Kampong Chhnang province and that is the correct one.

3

1 Q. What is your nationality and what is your current occupation?

2 A. I am Khmer and I am police inspector of Kampong Chhnang town.

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

4 [09.04.13]

5 A. My father is Sam Eun and my mother is Ung Ny. They both
6 deceased.

7 Q. What is your wife's name?

8 A. My wife's name is Prak Saony.

9 Q. Is she alive?

10 How many children do you have?

11 Where is your current address?

12 A. Currently I live in Trea Cheung village, Srae Thmei commune,
13 Rolea B'ier district, Kampong Chhnang province.

14 INTERPRETER:

15 Please turn on the microphone for Mr. President.

16 BY THE PRESIDENT:

17 Q. Are you related to any of the two accused or any of the civil
18 parties?

19 MR. SAM SITHY

20 A. No. I don't.

21 Q. Have you taken an oath before your appearance?

22 [09.05.47]

23 A. Yes, I have, I have taken an oath before the Iron-Club Statue.

24 Q. Have you lodged your application for a civil party before the
25 ECCC?

4

1 A. I was interviewed by the working group at my work place and I
2 made the application at that time.

3 Q. My question to you is whether you applied as a civil party in
4 any of the Cases before the ECCC?

5 A. I did not know about the Case or the application that I made
6 with the working group.

7 Q. Does it mean that you so far have not applied as a civil party
8 in any of the Cases before the ECCC, is that correct?

9 A. I actually told the working group that I can be a witness in a
10 Case before the ECCC.

11 [09.07.16]

12 BY THE PRESIDENT:

13 I would like now to inform you about your rights and obligations
14 as a witness. You have a right not to respond or not to make any
15 comment that lead to self-incrimination however you must respond
16 to questions except for questions or statements that incriminate
17 you and you must tell the truth based on what you know, heard,
18 saw, remember, experienced or observed first hand, the events
19 relating to the questions.

20 Q You said you provided an interview with a working group, which
21 working group are you referring to?

22 A. I was interviewed by a working group whose role was to locate
23 witnesses of crimes during the Khmer Rouge regime.

24 Q. Did that working group make a written statement of your
25 interview or whether they only went to your location to identify

5

1 you as a witness?

2 A. The work group actually interviewed me for the purpose of
3 having me testify before the Chamber.

4 [09.09.30]

5 THE INTERPRETER:

6 Please turn on the President's microphone.

7 BY THE PRESIDENT:

8 Q. So can I clarify this matter that you were interviewed by the
9 work group and you provided your statement in that interview,
10 does it mean that you were interviewed by the investigators of
11 the Office of the Co-Investigating Judges? Please answer again so
12 that your voice will go through the interpretation system.

13 MR. SAM SITHY:

14 A. I was interviewed by a work group who were searching for
15 witnesses.

16 Q. Have you appeared before the Trial Chamber at the ECCC?

17 [09.10.37]

18 A. No, I haven't.

19 MR. PRESIDENT:

20 Thank you. The Chamber would like to hand the floor now to the
21 Co-Counsels for Nuon Chea's defence. You may proceed, Counsel.

22 QUESTIONING BY MR. KOPPE:

23 Thank you very much, Mr. President, good morning. Good morning,
24 Your Honours, good morning Counsel, good morning, Mr. Witness. I
25 have a few questions for you this morning.

6

1 Q. Do you remember when it was that you were interviewed?

2 MR. SAM SITHY:

3 A. I cannot recall the details; however, it was about year ago.

4 MR. PRESIDENT:

5 Mr. Witness, do you listen to the Khmer channel on your
6 headphone? Counsel, you may continue.

7 BY MR. KOPPE:

8 Thank you, Mr. President.

9 Q. Did I hear you correctly that you gave a statement one year
10 ago?

11 [09.12.19]

12 MR. SAM SITHY:

13 A. Yes, it was little bit more than a year ago.

14 Q. Where did you give this statement one year ago?

15 A. I provided my statement at my police office -- that is, the
16 police office in Kampong Chhnang town.

17 Q. So that was 2014, am I correct to understand that, 2014 you
18 gave a statement?

19 A. Yes, that is correct.

20 Q. Mr. President, again I'm a bit confused, what I have in front
21 of me is a statement which dates about seven years ago, I'm also
22 looking at the Prosecution while I'm talking and I would be very
23 happy to know if there is a second statement.

24 [09.14.02]

25 MR. KOUMJIAN:

7

1 Thank you. Good morning, Your Honours, Counsel, as far as we know
2 there is no second statement and I think it would be very quickly
3 resolved by showing the attached statement and asking the witness
4 if this was part of his statement which apparently was drawn and
5 signed.

6 BY MR. KOPPE:

7 Q. I will move on. Mr. Witness, did you make, did you give a
8 statement to the investigators of the Investigating Judge seven
9 years ago as well?

10 MR. SAM SITHY:

11 A. I provided my statement to the work group and I provided them
12 description of my experience through the regime of three years,
13 eight months and 20 days.

14 Q. Mr. President with your leave, I would like to show the
15 witness the Khmer version of his WRI and would like to ask the
16 witness if he recognises his signature on that document.

17 JUDGE MONG MONICHARIYA:

18 I don't think it is now time to show him the written record of
19 statement. I would like to first put some questions for
20 clarification to the witness. And Mr. Witness, please inform the
21 Chamber how many times have you interviewed by the work group
22 from the ECCC or the Khmer Rouge Tribunal?

23 [09.16.08]

24 MR. SAM SITHY:

25 A. To my recollection I was interviewed only once.

8

1 Q. So, if you were interviewed for only one time please try to
2 recall, how long ago was it? You just mentioned that it was last
3 year and this year is 2015 and when you said it was last year you
4 referred to 2014, but I think the word "last year" or "previous
5 year" could be interpreted based on the region. So please try to
6 recall how long ago, how many years ago you were interviewed?

7 A. It was almost two years ago that I provided my interview.

8 MR. PRESIDENT:

9 Defence Counsel, you can put in the questions to the witness. I
10 think you want to show the document to the witness in order to
11 clear the timeline.

12 [09.17.44]

13 BY MR. KOPPE:

14 Yes, Mr. President, I only would like to show his signature not
15 of course the content of the statement. So, Mr. Witness, if you
16 would be so kind to have a look at the last page and the page
17 before.

18 MS. SONG CHORVOIN:

19 Mr. President, for the proper record of the transcript, the
20 document given to the witness is that the document in the Khmer
21 language does not bear the signature of the witness however it
22 bears the thumb print of the witness so for that reason I would
23 request Mr. President, to ask the counsel to clarify this matter
24 with the witness.

25 MR. PRESIDENT:

1 I think the Khmer document is now before the witness and Mr.
2 Witness, please provide us your impression of the document before
3 you.

4 [09.19.09]

5 MR. SAM SITHY:

6 A. The thumb print and the handwriting underneath are mine. Both
7 the thumb print and the handwriting I mean.

8 BY MR. KOPPE:

9 Q. Mr. Witness, would you also be so kind to have a look at the
10 very first sentences on the first page where it says you were
11 interviewed seven years ago at 7th August 2008, is that correct?

12 MR. SAM SITHY:

13 A. No, it was not seven years ago. It was actually two years ago
14 that I was interviewed. I acknowledge the document and the
15 signature on it was made when I was interviewed.

16 [09.20.44]

17 Q. Maybe a peculiar question. You are a police inspector, Mr.
18 Witness, so there can be no doubt in your mind that you were
19 interviewed only two years and not seven years ago as this
20 document seems to indicate.

21 A. Allow me elaborate bit further. First the interview was not
22 conducted seven years ago, it was only conducted about two years
23 ago and I don't agree with you that I was interviewed seven years
24 ago.

25 Q. It's highly problematic. Do you remember speaking to someone

10

1 who interviewed you and recorded your interviewed and something
2 went wrong with the battery of the recording machine; does that
3 ring a bell to you?

4 A. I was interviewed but I was not aware of the details of the
5 equipment used for the interview. For example, I don't know
6 whether the recorder was out of battery.

7 [09.22.40]

8 Q. Mr. Witness, you recognised your signature, do you remember
9 being read the content of this document?

10 A. After I was interviewed, I actually reviewed the written
11 record and it was consistent. However I have not read it for -- I
12 have not read it since, for that reason I cannot recall the
13 details of what I stated in this document though I believe that
14 it is consistent with what I told the work group at the time
15 during the interview.

16 Q. Were you given a copy and if yes, where did -- did you keep it
17 somewhere at your house or at the police station?

18 A. I received a copy from the work group, I actually reviewed it
19 and I read it a couple of times. However, it's been a few years
20 now and only now that I have been summoned, though I have not
21 read it recently. However I can recall most of what I have said
22 without having to refer to the written statement.

23 [09.24.50]

24 Q. My last question on this subject before I move on to the
25 content, are you insisting that the interview was a year ago

11

1 maybe two years ago and it wasn't seven years ago, that is
2 something that you insist to, is that correct?

3 A. Yes I can confirm that it took place about two years ago.

4 Q. For the record, Mr. President, I have just been informed that
5 the document creation date of this document is 1st October 2013,
6 strangely enough. I'll leave it now because of time reasons. I
7 will move on to the content.

8 MS. GUIRAUD:

9 I don't wish, Mr. President, to interrupt my colleague unduly but
10 I do have a written record of interview that carries a stamp from
11 the Tribunal which is dated June 2009 -- 20th January 2009,
12 excuse me, the date of the receipt by the Court of the record of
13 the interview. Thank you.

14 BY MR. KOPPE:

15 Thank you, Madam Civil Party Lawyer, we will get back to this but
16 now, Mr. President, I would like to move to the content of the
17 case because of time reasons. Mr. Witness, would you -- could you
18 remember or do you remember what happened on the 17th April 1975?

19 [09.27.03]

20 MR. SAM SITHY:

21 A. I am one of the victims of the regime which lasted for three
22 years, eight months and 20 days. I was forced to vacate my house
23 to a mountainous area and upon reaching Wat Chrak Sdech pagoda, I
24 heard an announcement that former public servants, soldiers or
25 students could go and get rice distribution and that they could

12

1 return to their previous work place.

2 Q. Let me take you back in time. 17th April 1975, where were you
3 living and what happened on that day, to you and your family?

4 A. It was in 1975, that I was evacuated to a mountainous area and
5 as I said I was not yet placed in a cooperative. We were told to
6 register names so that we could get some rice and that we would
7 be allowed to return to the province and to return to work at our
8 previous position and after those people obtained rice, they were
9 taken away and killed. They were all killed.

10 [09.28.54]

11 Q. Please listen to my questions, Mr. Witness, 17th April '75,
12 what happened in the first week between 17th April and 24th April
13 '75, where were you, where was your family, where were you
14 walking to, where you in those first seven days?

15 A. I walked on foot at the time. People were evacuated and they
16 were ordered to leave their house and they had to follow the
17 direction as instructed otherwise we would be risking lives when
18 the US planes would bombard the area. So that reason we packed
19 our belongings and food supply and left.

20 Q. Did you and your father and mother leave together with your
21 siblings?

22 A. My family comprised of my parents and four younger siblings
23 and my parents and two of my younger siblings were killed. One of
24 my younger siblings was a teacher. He and his entire family were
25 killed. At that time I was 14 or 15 years old and I pretended to

13

1 be dead amongst the corpses of the members of seven families. The
2 seven family members were ordered to sit in one group and they
3 fired at us, to kill us all.

4 [09.31.12]

5 Q. Mr. Witness, please bear with me. I'm asking you questions
6 about you and your siblings and your father and mother leaving; I
7 will get back to whatever happened at Wat Chrak Sdech later. So
8 please tell me where you walked, where you arrived, how long did
9 you and your family walk from Ph'er village, please be mindful of
10 the chronology.

11 A. I left Ph'er village and arrived at Wat Chrak Sdech pagoda.

12 Q. How many days did it take you to arrive at Wat Chrak Sdech
13 pagoda, how many days did it take you, your parents and your
14 siblings?

15 A. I was travelling on the way to Chrak Sdech and we could move
16 very slowly. After we reached the mountainous area, we could
17 reach Chrak Sdech pagoda, it took us about 10 days to arrive at
18 that pagoda.

19 Q. On the way from Ph'er village to Wat Chrok Sdech, did you stop
20 in a village called Khlong Popok?

21 [09.33.16]

22 A. When we were travelling we could not travel three or four
23 kilometres per day, there were many people on the way and we
24 could travel only half kilometre or one kilometre in one morning,
25 we had to follow each other on the way to different direction.

14

1 Not only my family was travelling at that time, there were many
2 other family members travelling with us.

3 Q. Please, Mr. Witness, listen to my questions and please give
4 brief answers. Did you and your family stop on the way in Khlong
5 Popok down the road, did you stop there?

6 A. Yes, we made a stop at Khlong Popok pagoda during the lunch
7 time.

8 Q. And then subsequently is it correct, you went to Phnum Chum
9 Reay in Sameakki Mean Chey district, is that correct?

10 A. Yes. We left Khlong Popok pagoda and Chum Reay mountain in
11 Sameakki Mean Chey district, we were on the peak of the mountain
12 at that time.

13 [09.35.20]

14 Q. Thank you. And did you then subsequently go southward to Phnom
15 Chum Reay and then to Wat Chrak Sdech subsequently?

16 A. After we reached Chum Reay pagoda, we had to move downhill so
17 that we could be placed in cooperatives. After I left Chum Reay
18 mountain, I was on the way to Wat Chrak Sdech pagoda.

19 Q. Could you give us an estimate how many days it took to you
20 from Ph'er village to reach Wat Chrak Sdech, how many days in
21 total?

22 A. I could not give you the exact estimate. As far as I can tell
23 you, I can say it took us 10 days to reach Chrak Sdech pagoda.

24 [09.36.44]

25 Q. When you reach Wat Chrak Sdech, what did you see? What did you

15

1 recall after having arrived, what did you see, what did you
2 experience?

3 A. After -- upon my arrival at Wat Chrak Sdech pagoda, I ran out
4 of rice to eat, I had no more food supplies and at that time one
5 committee of the three years eight months and 20 days regime,
6 announced that we could get rice after we registered our names
7 and everyone could go back to work in our own previous positions.

8 Q. Mr. Witness, you were 14 at that time, you were with your
9 father and mother and your younger sisters, what did your father
10 and mother do, what do you recall seeing once you had arrived at
11 Wat Chrak Sdech, can you be more specific please?

12 A. Thank you. In the written record I gave my answer once already
13 but I did not need -- I do not need to refer to the written
14 record. I witnessed the incident at that time and I would like to
15 spend a little bit more time to explain you. After I got the
16 rice, it was around 1 o'clock and we were led to our own
17 cooperatives. After we got the rice we were moved to
18 cooperatives. After we arrived at Prey Rong Khla, we travelled
19 from one, we started leaving Prey Rong Khla at 1 o'clock and
20 after we reached Prey Rong Khla we reached north of one place
21 and we put our belonging at another end of a river when we
22 reached that place, there were armed forces, we were asked to sit
23 in one group and those soldiers shot their rifles at all of us.
24 And as for the baby, the baby was hanged by its leg and it was
25 killed and the corpse and bodies were thrown into pits, covered

16

1 with leaves and after they did such acts, soldiers left the place
2 and at that time I did not die. And I was, an adult at that time,
3 I pretended to be dead. I was pulled and thrown into the pit
4 covered with tree leaves and during that time it was raining.
5 After they left the pits, I crawled up -- I crawled out of the
6 pit and four people survived the period, some got injured on the
7 head and some got broken ribs. I could not help them, there were
8 four surviving people at that time and we went and we left the
9 pit together. We were walking towards Chrak Sdech pagoda. And
10 when we arrived at that pagoda, there were relatives and
11 neighbours who saw me and knew that I had been led to the pit to
12 be killed and I was helped by them. These people knew that my
13 parents had been killed already and during that time the guards
14 tried to search for us, four of us who survived the killing. And
15 in the evening, the four -- the members of the armed force went
16 to different places and people at that time tried to go to the
17 places that they wanted and the militiamen could not control the
18 situation at that time and we left in groups.

19 [09.42.35]

20 Q. Mr. Witness, please, I'm still -- in the chronology when you
21 and your family arrived at the Wat Chrak Sdech, what did you see,
22 did you see thousands of people, hundreds of people, what did you
23 see when you arrived there?

24 A. Wat Chrak Sdech pagoda was the place where members of Pol Pot
25 gathered together. As I stated earlier some people were cyclo

17

1 driver but in order to get the rice they registered that they
2 were former soldiers. Chrak Sdech pagoda was the place where all
3 people were put together.

4 [09.43.42]

5 Q. Mr. President, I am seeking your assistance, could you please
6 instruct the witness to give short answers and answer my
7 questions. I'm unable, as it seems, to convince the witness to
8 answer my questions. Mr. Witness what did you see at Wat Chrak
9 Sdech, what time did you arrive, what was the situation like,
10 please limit your answers to what you saw there?

11 MR. KOUMJIAN:

12 Counsel -- excuse me, Your Honours, it might be helpful for
13 Counsel to specify which of the occasions that the witness
14 arrived at that pagoda he is asking a question about. Because the
15 witness said the family arrived and after this incident in the
16 forest they went back there. So it will be much clear on the
17 record if the Counsel specifies which of the occasions he's
18 asking about.

19 [09.44.42]

20 MR. KOPPE:

21 I think I was very clear, Mr. President.

22 MR. PRESIDENT:

23 Defence Counsel, please put short and direct questions to this
24 witness. And Mr. Witness, you are instructed to pay attention to
25 the specific question and short question put by the Defence team

18

1 and please give your short answer. You may now resume your line
2 of questioning Mr. Counsel.

3 BY MR. KOPPE:

4 Q. Thank you, Mr. President. You were, let me take you back, you
5 were at Phnom Chum Reay then you and your family went to Wat
6 Chrak Sdech, what did you see, what did you hear when you arrived
7 there for the first time?

8 MR. SAM SITHY:

9 A. When I reached Chrak Sdech pagoda I saw many, many people and
10 I saw members of Pol Pot armed force there.

11 Q. Did you see in fact, thousands of families there?

12 A. What I can say is that there were many thousands of people.

13 Q. Then what happened? Please explain what happened the day that
14 you arrived and the next day?

15 [09.46.30]

16 A. Upon my arrival there was an announcement that they wanted to
17 search for the former civil servants so that they could go back
18 to work.

19 Q. Then what happened?

20 A. I told you earlier and after they registered the names to
21 obtain rice, these people were taken away and killed.

22 Q. Mr. Witness, you just testified that there were thousands of
23 people and there was an announcement, what happened exactly, did
24 they sit down at tables, people registered, gave their
25 biographies, how did Khmer Rouge soldiers verify that people were

1 in fact Lon Nol officials? Please tell us in detail what happened
2 that day.

3 [09.47.57]

4 A. On that day, there was a loud speaker, an announcement was
5 made over the loud speaker to search for former soldiers and
6 civil servants and the announcement was aimed to search for
7 former officials and officers so that they could get rice and
8 while the announcement was being made, names of people were
9 registered in the list and we -- they told lies to all of us that
10 we could go back to work.

11 Q. Let me ask you differently. You and your family heard that
12 announcement, what did your father do?

13 A. My parents registered their name so that they could obtain
14 rice.

15 Q. Was your father in fact a former Lon Nol Republic official?

16 A. During Lon Nol time, he was a soldier.

17 Q. Did he, when he registered himself, write down his name and
18 his occupation, was he a soldier?

19 A. He registered that he was a former soldier.

20 Q. Did he tell you anything about the forms that he had to write,
21 did he say anything about how long it took for the officials to
22 verify that he had indeed been a soldier, what happened -- what
23 happened next?

24 [09.50.22]

25 A. After the registration and names of members of family were

1 called and we led southward of the pagoda and we were told that
2 we go to find house to live in.

3 Q. I'm still around the moment that your father registered
4 himself. He said that he had been a soldier according to you, how
5 did you know, did he tell you this or did he tell you what
6 exactly he wrote down, did you hear it from someone, please
7 explain?

8 A. He did not put anything else other than that he was a former
9 soldier. The announcement was aimed to search for former soldiers
10 so that these soldiers could obtain rice so he listed as a former
11 soldier.

12 Q. How long did the registration take? There were thousands of
13 people, how many people did in fact, if you know, registered as
14 soldiers?

15 [09.52.00]

16 A. I did not know how many days it took to finish the
17 registration and as I told you there were many people in the
18 pagoda and in the dining hall, the dining hall was about three
19 metres above the ground and rice was kept in that dining hall and
20 after people got rice, they left the place.

21 Q. Did your father wear military gear identifying him as a Lon
22 Nol soldier at that day or since the liberation?

23 A. He wore paramilitary trousers with a white shirt.

24 Q. And how long did it subsequently last between the moment of
25 registration and you and your parents and sisters and siblings

1 leaving the pagoda?

2 A. After we obtained the rice and after the registration, we were
3 led away, we were led southwards of the pagoda and we were told
4 that we would go to find houses to live in but actually they were
5 all killed.

6 Q. You said you went southwards and in your statement you said
7 you went southward to Prey Rong Khla is that correct?

8 A. Yes, that is correct.

9 Q. Isn't it correct that in fact Prey Rong Khla is 70 kilometres
10 northwards?

11 A. It was not seven kilometres away from the pagoda, it was about
12 two kilometres away from the pagoda, it was to the south, not to
13 the north.

14 Q. Something wrong with the translation. I said 70 kilometres
15 northward. And there is only one Prey Rong Khla in Cambodia and
16 that is 70 kilometres northwards, is that correct Mr. Witness?

17 [09.55.16]

18 A. No, not correct, in terms of the direction and the distance. I
19 told you already that after people got the rice, they were led
20 southwards and it was two kilometres away from the pagoda, I mean
21 the Prey Rong Khla.

22 Q. There is Rong Khla village which is 24 kilometres northeast,
23 but I'm sure you don't mean this. Mr. Witness, you are a police
24 inspector, you grew up in Kampong Chhnang, do you disagree that
25 Prey Rong Khla is 70 kilometres north of Wat Chrak Sdech?

1 [09.56.18]

2 A. No, not correct.

3 Q. Fine. So you and your family left Wat Chrak Sdech, tell me
4 what happened?

5 A. After we left Chrak Sdech pagoda we crossed a stream or river
6 and we were told to leave our belongings in another end of the
7 river that is the southern part and -- the northern part rather,
8 and we crossed the river or stream southwards and after we
9 crossed the stream or the river, the armed force took us away and
10 killed.

11 Q. What happened exactly, you were there, you were walking with
12 how many people?

13 A. Generally speaking, the people who were with me at that time,
14 were my relatives, seven family members.

15 Q. Seven families or seven family members?

16 A. There were about seven family members in one family and at
17 that time there was seven families and after they were killed,
18 the pits were full of dead bodies, almost full.

19 Q. Again, please do not go too fast. You were walking with how
20 many people in total, going southward to a, what you say,
21 direction in Prey Rong Khla?

22 [09.59.03]

23 A. I went with my relatives of my parents, there were seven
24 families and I could not recall all the names now.

25 Q. I wasn't asking about the names, Mr. Witness, I am just asking

1 you how many -- with how many people were you, how big was the
2 group, what happened?

3 A. I cannot tell you the exact figures. Some families had five
4 members, some other families members had 10 or 12 members. So
5 there were seven families at that time and members of the seven
6 families were all killed in one specific place.

7 Q. Fine. I'll move on. You were walking with this group of seven
8 families, then what happened?

9 A. Nothing happened because they were all killed and I surviving
10 the killing. There were four of us survived the killing. Two of
11 my relatives one male and one female survived the killing and my
12 two siblings also survived the killing, one sister and one
13 brother.

14 [10.00.51]

15 Q. Mr. Witness, your occupation is a police inspector; you know
16 that I'm asking you about details so I'm telling you please try
17 to recall what happened. You were walking there with a group of
18 seven families, then what happened, what did you see, what did
19 you hear, please give me some details?

20 A. When we were travelling, there were soldiers, armed soldiers
21 and after we crossed the stream or the river we were escorted by
22 these armed soldiers into the caves of Prey Rong Khla and we
23 were all killed.

24 Q. At one point, you say you saw armed soldiers, what did they
25 say, what did they do, please explain to the Court, the moment

1 that this group saw these soldiers, what happened?

2 A. When we were walked at gun point by the group we were told to
3 keep going straight and try not to escape otherwise we would be
4 shot. Then at a certain location, we were all ordered to sit as
5 one group, all the seven families.

6 Q. What was the reaction of the people in the group, what
7 happened, was there a discussion between your father and the
8 soldiers, what happened?

9 [10.03.08]

10 A. There was no discussion at all. We were not armed, we did not
11 have an axe or a knife, we were ordered to place our belonging in
12 a path on the north side of the stream and we were told to walk
13 across the stream to the south side and then on the south side
14 when we arrived we were ordered to walk at gun point to the
15 killing site.

16 Q. Your father was a soldier you said; the other men in the group
17 were they former Lon Nol soldiers as well?

18 A. From my recollection, one family had a member who was a
19 civilian medic and another family had a member who was a teacher
20 and for the rest of the families they had at least a member who
21 was a soldier.

22 [10.04.24]

23 Q. So then you were escorted by these soldiers at gun point you
24 say, you were walking across the stream, then what happened?

25 A. When we were ordered to sit as a group, they stepped back and

1 then they all fired upon us and for the young children who were
2 not hit by bullets, they would go around, pick them up and smash
3 them.

4 Q. In your statement that we have before us, you said that you,
5 that the men in the group were first separated and that they came
6 back later, is that correct or is that incorrect?

7 A. It's my conclusion; there was more than one group who were
8 divided to kill people. For example one group was assigned to
9 kill my family members and relatives and other groups would be
10 assigned to other families who received rice from the
11 organisation.

12 Q. I'm not interested, Mr. Witness, in your conclusions, but I'm
13 asking you, was the group together when you were being shot at or
14 had the group been divided into the men and women first, as you
15 testified earlier?

16 A. Yes indeed, first they ordered us to divide into groups mainly
17 men would be put into one group and then they had to cross the
18 stream first then the wives and children would follow.

19 [10.06.48]

20 Q. And did the men in the group obey this instruction, what was
21 told to them, what exactly happened, what were the words of the
22 soldiers giving this order?

23 A. At that point in time I was a young boy and I followed my
24 father as I was told that they told my father to cross the stream
25 in order to cut trees to make our makeshift shelter and the rest

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1 of my siblings and my mother was at the other side of the stream.
2 Then I saw those armed soldiers came with their weapon drawn and
3 pointed at my father and other men and took them away and since I
4 was young, they chased me away to return. So I returned to tell
5 my mother and my uncles and aunts that my father and the men were
6 taken away to be shot dead. They did not believe me after they
7 had killed the men's group they returned for the female group and
8 the children and they were taken to be executed at the same spot.
9 [10.08.27]

10 Q. Did the soldiers, the Khmer Rouge soldiers see you following
11 the group of men, did they something to you, can you shed some
12 light on this?

13 A. First, they divided us into groups, for example, male group
14 and female group. And in fact the person who led the men's group
15 crossing the stream was not armed with a rifle or weapon but
16 armed with a knife, a long knife. When I saw that I ran back to
17 tell my mother and my aunts that my father and the men were taken
18 away and killed and after they had killed the men's group that
19 militia came back to get the female group including myself to
20 cross the stream to the other side.

21 Q. I'm not sure if I follow. Mr. President, I'm mindful of the
22 time but this witness at least in my perspective is so evasive in
23 answering questions. I would really like to have some additional
24 time questioning this witness.

25 [10.10.04]

1 MR. KOUMJIAN:

2 Your Honours, first of all, we heartily disagree that this
3 witness has been evasive at all. He's telling his story, the
4 questions that are put to him are often compound and complicated
5 but we have no objection in giving Counsel more time, it doesn't
6 heard at all. We don't object.

7 MR. PRESIDENT:

8 The Chamber noticed that the response from the witness is clear
9 enough, however it is the Chamber's observation that some of your
10 questions are repetitious in its nature though we bear with that.
11 So please try to make your questions more precise and to the
12 point. We decide to grant you an additional time of 10 minutes.
13 So please proceed.

14 [10.11.17]

15 BY MR. KOPPE:

16 I don't think that's very fair, Mr. President. I'm not asking any
17 repetitive questions, I'm trying to find details, it is our
18 position he is making up this story and the only way to establish
19 this is to find details that are convincing. But I'll move on,
20 Mr. President, it's the way it is.

21 Q. Mr. Witness, at one point you were being shot at, what
22 happened then?

23 MR. SAM SITHY:

24 A. After they fired the shots at us, not only to myself but to
25 many people and I pretended to be dead then we were dragged to

28

1 the pit -- that is, other corpses and myself.

2 Q. Tell me how you did that, playing dead?

3 A. <The reason why I pretended because I knew it. I saw my father
4 being taken away, at first, to be shot, so I ran backwards to
5 tell my mother, aunties, and uncles to run away and they -->

6 MR. PRESIDENT:

7 Mr. Witness, please try to answer to the point. The question is,
8 how did you pretend to be dead, so please answer that question.

9 [10.13.11]

10 MR. SAM SITHY:

11 A. Yes, I'll do that. My mother was sitting in front of me and
12 when they shot at us, one bullet hit her chest so she fell onto
13 the ground and I pretended to fall on to the ground as well
14 behind her so everybody then fell on the ground and they would go
15 around and smash the heads of young infants to make sure they
16 dead.

17 BY MR. KOPPE:

18 Q. Do you know how your sister and your two young siblings
19 pretend to be dead as well?

20 MR. SAM SITHY:

21 A. Some became unconscious while others pretended to be dead. My
22 two cousins pretended to be dead but my younger sister was hit at
23 the rear of her head and there was blood stain there.

24 Q. And how long did the four of you pretend to be dead?

25 [10.14.31]

1 A. While they were going on a killing spree it did not last that
2 long because it was almost 5 o'clock in the afternoon -- let's
3 say it was 5 o'clock in the afternoon and it was about to rain so
4 by the time the process continued, it was almost dark and they
5 hurried to drag us and drop us into the pit. Then they left, then
6 I called to my relatives if anyone was alive. So then we crawled
7 out of the pit and there were four of us who survived.

8 Q. And how long did the pretending of you and your siblings,
9 pretending to be dead last, how long did you play dead, hours,
10 one hour, 30 minutes?

11 A. I think it took quite a while, maybe about two hours by the
12 time the killing spree started and by the time we made sure they
13 had all left, then we crawled out.

14 Q. Do you have -- can you explain how you and your younger sister
15 and two siblings were able to fool those soldiers. How were you
16 able to do that, what convinced these soldiers that you, your
17 younger sister and your two siblings were dead?

18 [10.16.25]

19 A. As I just stated it was about to rain and it was about to get
20 dark and they did not have much time, so they actually did not
21 complete their job properly, if they were to do their job they
22 would dragged us one by one, finish us off if they were to make
23 sure that everyone of us dead but I think they hurried to finish
24 us off and go to get our belongings where we piled up on the
25 other side of the stream.

1 Q. So they never buried you and the others of the group, they
2 never dug a pit, they just left you because they were afraid of
3 the rain, is that what you are saying?

4 A. In fact, the pit was an existing B-52 crater, of course a lot
5 of Cambodians are familiar with that, there were remnants of B-52
6 craters and they were pretty large -- that is, the top diameter
7 was about seven to eight meters wide and the bottom diameter was
8 about three metres wide, they did not cover us but they threw us
9 into the pit and they put some tree leaves on top -- tree leaves
10 and tree branches on top of us.

11 [10.18.04]

12 Q. And that's all. They left the dead bodies there. Do you know
13 if any dead bodies were found at that specific place afterwards,
14 skeletons I mean?

15 A. They left the dead bodies there and I did not know whether
16 later on the pits were covered with earth or not but during the
17 Khmer Rouge regime those craters were filled with skeletal
18 remains and sometimes the cows ate away the bones.

19 Q. Mr. Witness do you have an explanation for the fact that an
20 organisation called DC-Cam found only one mass grave site in the
21 West Zone which is indeed Prey Rong Khla but which is 70
22 kilometres north of Wat Chrak Sdech? This is a police inspector,
23 Mr. President.

24 MR. KOUMJIAN:

25 Your Honour, without -- how can the witness possibly speculate on

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1 that unless he knows what areas DC-Cam looked at, what they --
2 whether they were even mandated to search for all areas or only
3 went to look for one particular site. Asking him to explain why
4 DC-Cam only found or exhumed one site, there's no way this
5 witness could have information unless he worked for DC-Cam on
6 that project.

7 [10.19.58]

8 MR. KOPPE:

9 Mr. President, he's a police inspector, it is my strong
10 conviction that he is lying from A to Z. He's surely able to say
11 about anything about mass grave sites found by DC-Cam.

12 MS. GUIRAUD:

13 Mr. President, if I may make a comment here. Since the beginning
14 of this examination our colleague is speaking to us about the
15 village of ROUNG KHILA which is about 70 kilometres away from the
16 pit that the witness is speaking about. So we cannot verify this
17 information at all. The document that our colleague is relying on
18 to make this assertion that this village is 70 kilometres away
19 whereas the witness said it was two kilometres, there are no
20 elements in the case file to prove this and we have no way to
21 verify that this is the same village so can we at least know
22 where this information comes from; the information allowing us to
23 say that this village was 70 kilometres away and not two
24 kilometres away.

25 [10.21.01]

1 JUDGE KLONOWIECKA-MILART:

2 Counsel, maybe to take a short cut, if I may with the President's
3 permission, to ask witness a question. Are you aware of any
4 exhumation sites of Lon Nol soldiers or their families in the
5 area?

6 MR. SAM SITHY:

7 A. No, I am not aware of any exhumation however allow me to add
8 that after 1979, the government made an appeal to the people if
9 they knew any pits where the skeleton remains were scattered so
10 that the skeleton remains could be collected, gathered and stored
11 at the provincial town hall and that applies to all provincial
12 town halls throughout the country that is my recollection of the
13 government's appeal and action in 1979.

14 Q. Did you reply to this appeal by leading to this place and
15 trying to recover the remains of your mother?

16 [10.22.28]

17 A. No, I did not go to that area however the government's appeal
18 was for the people to gather the skeletal remains and store them
19 at various museums or where they could store and maintain the
20 skeletal remains and that applied to other countries.

21 JUDGE KLONOWIECKA MILART:

22 Thank you.

23 MR. KOPPE:

24 If I reply to the civil party lawyers, I'm not relying on any
25 document, I'm relying, it's 2015, on google maps which clearly

1 says that Prey Rong Khla is 65 to 70 kilometres north of Wat
2 Chrak Sdech. So let me withdraw the question.

3 MR. PRESIDENT:

4 Lead Co-Lawyer for Civil Party, please do not take turn to
5 respond to each other and I believe your time runs out Defence
6 Counsel. Do you have any further questions to put to this
7 witness?

8 MR. KOPPE:

9 Yes, about a thousand Mr. President. I need at least two more
10 hours, 10 minutes is ridiculous.

11 MR. KOUMJIAN:

12 Your Honours, perhaps the Counsel could communicate the most
13 important questions he has left so we could at least give him the
14 chance to ask the most important question he has left.

15 MR. KOPPE:

16 If it has to go like this, I withdraw all my questions.

17 MR. PRESIDENT:

18 Now it is 10.26 and the Chamber takes the break for 20 minutes
19 and upon our return at 10.46 we will give floor again to the
20 Defence Counsels. The Chamber is now in recess.

21 (Court recesses from 1024H to 1047H)

22 MR. PRESIDENT:

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

24 After the deliberation and the discussion of the Bench, it is for
25 the interest of the Supreme Court Chamber to allow the Defence

34

1 team for the co-Accused, Mr. Khieu Samphan and Nuon Chea, to put
2 question from now on until 12 o'clock. And you can discuss among
3 your teams how much time you need in each team. But the Supreme
4 Court Chamber would like to advise the Defence teams to select
5 the most important question and simple ones so that the witness
6 can provide the answers for the two Defence team, and it's easy
7 also for the interpretation team.

8 [10.48.36]

9 MR. SON ARUN:

10 Mr. President, I would like to request that the interpreter from
11 English into Khmer and French into Khmer speak a little bit
12 louder so that everyone could hear clearly.

13 MR. PRESIDENT:

14 Yes. The interpreters are advised so. You may now proceed,
15 Defence team for the Accused.

16 [10.49.15]

17 BY MR. KOPPE:

18 Thank you, Mr. President, and my apologies for losing my temper.

19 Q. Mr. Witness, let me take you back to the moment that you said
20 the group that you were with was shot at. Can you please explain
21 from the moment that you heard the sound of bullets what happened
22 next -- what happened, you heard the sound of bullets, then what
23 happened?

24 MR. SAM SITHY:

25 A. <Please allow me, Mr. President, to provide a clarification on

1 the question. I have been questioned many times by the Counsel
2 about this matter. I would, therefore, like to clarify it once
3 again. While running after my father, I was chased backwards
4 because I was still small. Only adults in the prime of their
5 strength were taken to cut trees for shelter building. I stood,
6 sneaking a look at them. After my father was taken into Rong
7 Khla forest, he was shot, and I ran backwards to tell my mother,
8 aunties, and uncles to run, but they did not. After my father was
9 killed, they came to take my mother, aunties, uncles, and me for
10 the second time.>

11 [10.51.19]

12 Q. I will skip that part, but please tell me you saw and you
13 heard bullets being shot at the group of which you and your
14 mother were member of. What happened exactly, who was shooting,
15 from where, where were you standing, where was your mother
16 standing? Can you be, please, detailed in your answers?

17 A. I have told already. Let me clarify once again, or perhaps I
18 may have confused. After my father was led away and killed--

19 BY JUDGE KLONOWIECKA-MILART:

20 Q. Mr. Witness, with the President's authorisation, I would ask
21 you to please answer to the question. Describe the shooting in
22 which your mother was killed. Describe the shooting, only this,
23 nothing earlier, nothing later. Does this capture -- describe the
24 shooting please. Who was doing what, this time what happened to
25 you, what happened to your mother, who was shooting, how was

1 shooting, with what?

2 [10.52.46]

3 MR. SAM SITHY:

4 A. Regarding the shooting, I was with my mother and that later
5 group. There was armed force with no proper gear or clothing at
6 that time. We were told to sit in groups and the fire was shot at
7 all of us. My mother was sitting in front of me and I was behind
8 her. And when she was hit by the bullet, I pretended to be dead
9 as well.

10 BY MR. KOPPE:

11 Who was shooting and from where was the shooting? What happened
12 to the other members of the group?

13 MR. SAM SITHY:

14 A. The ones who shot us are those who walk us to that spot. After
15 we cross the stream, we were walked by these armed people and we
16 were ordered to sit in that area, and the fire was open at all of
17 us.

18 [10.54.07]

19 Q. Where was your sister sitting, where were your two siblings
20 sitting?

21 A. We were sitting in a group.

22 Q. Where were your sister and your siblings sitting, where were
23 they -- were they behind you, were they next to you, were they
24 behind your mother, where were they?

25 A. We were not allowed to stand up. We were ordered to sit down.

1 I did not notice where my cousin and siblings were sitting. As
2 for me, I was behind my father (sic). After we had all been shot,
3 we were dragged away and thrown into the pits. And after they
4 left, I call out other who survived the killing to crawl out of
5 the pit.

6 [10.55.19]

7 Q. Let me start asking you questions about your younger sister.
8 Did you see a bullet hitting her, did you see if she fell down,
9 did you see what happened to her right after you heard the
10 shooting?

11 A. My younger sister was not hit by the bullet. She was very
12 young at that time. Only the adult were shot by bullets. My
13 younger sister was very young, and the young infants and baby
14 were only hit by them. As for my younger sister, she was hit at
15 the rear of her head. And she was dragged away and thrown into
16 the pit.

17 Q. Do you remember if the fire of the bullets was
18 indiscriminately, were you shot as a group or were only the
19 adults shot at?

20 MR. KOUMJIAN:

21 I just would say that I find the question confusing myself. Is
22 the witness being asked who the soldiers were aiming at? I don't
23 know if he could answer that question.

24 BY MR. KOPPE:

25 Fine, I'm moving on. Mr. Witness, what exactly happened to your

1 younger sister? Where was she? Please tell us in some more detail
2 what happened to your younger sister.

3 [10.57.11]

4 MR. SAM SITHY:

5 A. I witness my younger sister was hit by a club, she was not hit
6 by the bullet. And my mothers and uncle, aunts and relative were
7 hit by bullets.

8 Q. She was hit by a club, your younger sister. Then what
9 happened?

10 A. I did not know at that time. I told you already after these
11 people left the killing place, I call out to those who survive
12 the killing to crawl out of the pits so that we could go back to
13 Chrak Sdech.

14 Q. Mr. Witness, did your sister tell you later what had happened
15 to her? Did she tell you whether she played dead?

16 A. She told me nothing, but from what I could see at that time,
17 the rear of her head was broken because of the club.

18 [10.58.53]

19 Q. Was she unconscious, did she cry? She was a young girl.

20 A. I did not know at that time. I suspected that she fell
21 unconscious because she was injured with the broken head and she
22 was dragged away and thrown into the pit after that.

23 Q. Mr. Witness, I'm asking you about your younger sister. Are you
24 sure she never told you what happened to her? Did she tell you
25 how she was able to fool the soldiers that she was dead?

1 A. No. She did not fool the soldiers she was dead. As for me, I
2 fooled them that I was dead. I believe that she fell unconscious
3 at that time.

4 Q. Mr. Witness, your sister was either dead or alive. Surely, you
5 know what happened to her.

6 MR. KOUMJIAN:

7 Objection, that's argumentative. It's not a question, it's just
8 an argument.

9 BY MR. KOPPE:

10 Fine. I withdraw. Thank you.

11 Q. What happened to your other two siblings, Mr. Witness?

12 [11.00.35]

13 MR. SAM SITHY:

14 A. As for my two other cousins, they did not sustain any injury.
15 And as of now, my male cousin passed away already. And there's
16 only one survive now.

17 Q. Mr. Witness, these two cousins who were members were also part
18 of that group, the group that was being shot at. Do you know what
19 happened to your two cousins? Did they get a bullet in their
20 body, were they clubbed, what exactly happened to them?

21 A. I know very clearly that these people were sitting in whole
22 group and fire was open at all of us. And as I told you, young
23 babies and infants were not shot with the bullet, only the adult
24 were. And there was screaming and crying at that time after the
25 shooting. And then clubs were used to hit the baby and infants

1 who were crawling to their mother so that they could have their
2 breast milk. But after that time, the baby were hit and thrown
3 into the pit.

4 [11.02.28]

5 Q. Mr. Witness, you were apparently able to see what happened to
6 that baby. Can you explain to us why you weren't able to see what
7 happened to your two cousins? Or were you able to see what
8 happened to them?

9 A. There were many people within that group. As I said, there
10 were seven families altogether and we were all placed into this
11 whole group, and I did not know where my sister was sitting or
12 where my cousins were sitting. And only upon the time that I
13 crawled out of the pit, I noticed that there were four of us who
14 survive. My younger sister was hit at the back of her head, but
15 my two other cousins were not hit. And so I pretended that they -
16 I presumed that they pretended to be dead at the time.

17 Q. Did they tell you afterwards how they were able to manage to
18 fool the soldiers?

19 A. No. I did not ask them about that. After we left the pit, I
20 held hand of my sibling, and we ran back into Wat Chrak pagoda
21 and people who knew us gave us some food to eat. And then I
22 walked around from one place to the other. As we heard the
23 shouting from that group to look for the four kids, and they
24 accused the four kids that us, that we were apart of the CIA
25 network. So I kept evading them by moving from one place to the

1 next within the premises of the pagoda since there were thousands
2 of families residing inside the compound of the pagoda at the
3 time.

4 [11.05.06]

5 Q. Let me take you back again, Mr. Witness. Shots were being
6 fired, people were being clubbed to death apparently, what
7 happened next? Did the soldiers start carrying the bodies? If
8 yes, where to? Please tell us what happened next.

9 BY JUDGE KLONOWIECKA-MILART:

10 Q. Maybe it will assist you if I ask the question in connection
11 with this one. Could you describe what the soldiers were doing
12 after they stopped shooting, only from this moment after they
13 stopped shooting until they left. Could you describe what you
14 know, what the soldiers were doing. And please tell us what you
15 saw as opposed to what you're only guessing. Okay? Thank you. So
16 that question is just about this fragment of the event. Thank
17 you.

18 [11.06.30]

19 MR. SAM SITHY:

20 A. After they fired the shots at the group, they dragged the
21 bodies and drop the bodies into the pit. And they then covered
22 the bodies with four or five branches of the tree. So, all seven
23 families were -- the bodies of the seven families were dropped
24 into the pit. And as I said before we were ordered to sit into a
25 group, we were instructed to leave our belongings into a pile.

1 Then those soldiers returned to the pile, collected our
2 belongings and left.

3 BY MR. KOPPE:

4 Please describe how you were carried to a pit. What do you
5 remember of you, your body being carried?

6 MR. SAM SITHY:

7 A. At that time, they did not carry us properly. They dragged us
8 by our foot and threw us into the pit.

9 Q. Do you remember if the person carrying you was trying to
10 figure out whether you were alive or dead?

11 [11.08.23]

12 A. To tell you the truth, I pretended to be dead. And before they
13 dragged me into the pit, they used a club to hit me, but luckily
14 the club hit the ground first before it hit my body. So the
15 impact was minor. And after that, they dragged me by my foot and
16 dropped me off into the pit.

17 Q. How long were you lying in the pit?

18 A. It would be around two hours, that is the totality of the
19 time. After the killing started, I was drag and drop off into the
20 pit, and later on, I crawled out of the pit, I looked around to
21 see whether they all had left before I actually crawled out of
22 the pit. So the total time was about two hours. And by that time,
23 it was about to rain.

24 [11.09.40]

25 Q. Were there bodies lying on top of you or next to you?

1 A. I (inaudible) there were two layers of dead bodies above me.

2 But I tried to manage to crawl out.

3 Q. So there were dead bodies lying on top of you, for how long?

4 A. I was lying next to the rim of the pit. And for that reason,
5 although there were dead bodies or say at least two dead bodies
6 on top of me, I could breathe near -- actually near the side wall
7 of the pit.

8 Q. Can I ask you again how you pretended to be dead, did you keep
9 your eyes closed all the time or what did you do?

10 A. Of course, we all resorted to our own way of pretending to be
11 dead. And as I said, I pretended to be dead and I actually closed
12 my eyes and just open it a little to observe their activities.

13 Q. What about your younger sister and your two siblings, where
14 were they in this pit?

15 A. Before I crawl out and looked to see whether they all had
16 gone, I return into the pit and I shouted out if anyone was alive
17 so that we all could go to Chrak Sdech pagoda. There was a
18 sibling lying in front of me and she shouted "please, come and
19 help me!" since there were dead bodies above her. So I went to
20 help her, then I heard another shout on the other side, and I
21 pushed away the dead bodies and helped my family member. So in
22 total, I helped three of my relatives and including my younger
23 sibling from various part of the pit.

24 [11.12.59]

25 Q. So it was only your younger sister and your two siblings who

1 were alive. Everybody else had died; is that your testimony?

2 MR. KOUMJIAN:

3 A minor point, but I think counsel said siblings. He meant
4 cousins.

5 BY MR. KOPPE:

6 Your sibling and your two cousins, they were the only ones who
7 survived?

8 MR. SAM SITHY:

9 A. There were four of us who survive including me. Three of us
10 were not seriously injured, however, one was severely injured in
11 her head, and that is my younger sister.

12 [11.13.48]

13 Q. Your sister and your two siblings, are they still alive today?

14 MR. KOUMJIAN:

15 Again, just for the record to be clear, it might be better if
16 Counsel refers them as cousins. I think witness has called them
17 his cousins.

18 BY MR. KOPPE:

19 I apologize. Sorry. Your sister and your two cousins, are they
20 still alive today?

21 MR. SAM SITHY:

22 A. At the present, my male cousin died and my female cousin is
23 still alive. And my younger sister also died as a result of
24 trauma from the injury on the back of her head.

25 Q. What's the name of your female cousin?

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1 A. Her name is Kim Sok (phonetic). And the surname is Som
2 (phonetic). So the full name is Som Kim Sok (phonetic).

3 Q. And where does she live today?

4 A. Currently, she's living in the same village where I live and
5 her house is not far from mine.

6 [11.15.35]

7 Q. Is my understanding correct that she would be the only one to
8 confirm your story of this event?

9 A. Yes, she can confirm the story.

10 Q. Very well. You, your sister, and your two cousins were able to
11 get out of that pit. Do you have an explanation for the reason
12 why it was only the members of your family who had survived this
13 and that all others were dead?

14 A. It is rather difficult for me to respond to that question. The
15 gunshot or the beating with the club, it means it's in
16 discriminatory. However, I was fortunate enough to survive and
17 it's difficult to tell you why it was so.

18 Q. Once you, your sister, and two cousins were out, what did you
19 say to each other, what did you decide to do, what happened next?

20 [11.17.21]

21 A. After I gathered the rest of us at the top of the pit, that is
22 after I crawl out, actually I picked a piece of rock to the left
23 or to the right, to the front and to the back. It was kind of a
24 military tactic and I'd like -- I threw those rocks and I
25 listened if there was any response or any sound in response to

1 the rock but it was dead quiet. So we all crawled from where I am
2 now to the location about where you are standing, and we stayed
3 there near the bushes for a while. And we tried to orient
4 ourselves by trying to see where we could see a mango tree with
5 the help of a lightening. Then my cousin told me that she could
6 locate a mango tree -- that is, a shade of a mango tree. And I
7 could identify that that was the mango tree that we were led to
8 walk past by. So then I decided to take my relative towards that
9 direction of the mango tree. Of course, we did not walk straight
10 there, we was in a zigzag stage. And later on, I could reach the
11 vicinity near the pagoda. But I didn't reach the pagoda compound
12 immediately. We stayed in a rice field for a while and I listened
13 to a rooster singing. Then I would know the orientation where the
14 east or the west was. Then I took off the shirt and asked my
15 cousins and sister to do the same to wash away the blood stain.
16 Then we put back the shirt and I took my cousins and sister
17 towards the area where we were told to leave our bicycle and
18 other belongings. But they had all gone. Then I took my cousins
19 and sister to Wat Chrak Sdech pagoda.

20 [11.20.13]

21 Q. Mr. Witness, can you explain to us how you were able or your
22 sister or your two cousins to recognize this mango tree. You were
23 at a place about 60, 70 kilometres southward of your birth
24 village, you were 14 years old, how did you know to find your way
25 back?

1 JUDGE KLONOWIECKA-MILART:

2 Excuse me, counsel, but the witness said it was - denied it was
3 70 kilometres. To my recollection, he said it was about two
4 kilometres.

5 MR. KOPPE:

6 No, no, his birth village is 70 kilometres away.

7 JUDGE KLONOWIECKA-MILART:

8 Okay, then.

9 BY MR. KOPPE:

10 Sorry for the un-clarity.

11 Q. You were at this execution site about 70 kilometres away from
12 your village where you were born and raised. How were you able to
13 recognize anything in that area?

14 [11.21.14]

15 MR. SAM SITHY:

16 A. When they took us away, I tried to identify and earmarked the
17 path, earmarked where we placed our belongings and bicycles,
18 which was on the north side of the stream. And we were taken to
19 the south side of the stream to be killed. So I tried to identify
20 or earmark the location, maybe that was a talent that I was born
21 with, since most of my family members were in the military
22 service, and I knew how to use certain tactics, certain military
23 tactics.

24 Q. My last question although I have many more. Mr. Witness, why
25 did you decide to go back to Wat Chrak Sdech, the place where you

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1 had originally gathered - why go back there?

2 A. The decision that I made to return to Chrak Sdech pagoda was
3 that there were too many -- so many people there, so we could
4 hide ourselves and we could ask for food from other people. And
5 that's how I force myself to take my sibling and cousins to go
6 there in order to live, mingled with the rest of the people.

7 MR. KOPPE:

8 I'm giving the floor now, Mr. President, to my colleague. I have
9 still many more questions for the record. Thank you.

10 [11.23.15]

11 MR. PRESIDENT:

12 The floor is now given to the Co-Counsel for Khieu Samphan. And
13 you may proceed, Counsel.

14 QUESTIONING BY MR. VERCKEN:

15 Thank you, Mr. President, and good morning, Mr. Witness. I'd like
16 to resume the discussion you had with my colleague, Counsel
17 Koppe, at the start of your testimony at which point you were
18 saying that two years ago you had an interview with a working
19 group. I believe that's the expression you used, "working group".
20 Could you please describe for us the number of people who made up
21 that working group.

22 [11.24.11]

23 MR. SAM SITHY:

24 A. Regarding my interview, and as I said it took place years ago,
25 the working group came in a vehicle and there were about four of

1 them.

2 Q. Do you remember their names? Do you remember the jobs that
3 each one of these four people were actually doing?

4 A. No, I don't remember everything. And even now, if I were to
5 meet them, I would not recognize their faces. But as I said
6 earlier, I accept this written record of my statement which I
7 provided to them at that point in time.

8 Q. So you spoke with all four of them and that led to this
9 written record that we now have; is that correct?

10 A. Yes, that is correct.

11 Q. And in this district police inspectorate, for the interview
12 that was held, what room did you sit down in?

13 A. I was actually sitting in my own office.

14 [11.26.09]

15 Q. So is there enough room in your office to put another four
16 chairs in and to have a discussion among five people?

17 A. My office is pretty large actually and it could accommodate 12
18 people, since regular meetings for my subordinates are held in my
19 office.

20 Q. Had you ever met these four people who you met on that day on
21 any other occasion, did you know them already?

22 A. No, I did not know them previously. However, I believed they
23 learnt of my identity through press or newspapers, because
24 previously my background was published in the news and a while
25 after, this working group came to seek my interview.

1 Q. And in that press article, do I take it that you told the
2 story of what you went through in 1975, and it was from that
3 article therefore that the attention of these people was alerted?
4 [11.28.00]

5 A. Yes, the news was in the newspaper. And about two months after
6 the publication of the article in the newspapers, the working
7 group arrived at the place to meet me.

8 Q. Did they come and see you directly or was there perhaps a
9 phone call before, how exactly did they contact you? Were there
10 any prior discussions before you actually sat down in the office?

11 A. No, there was no prior communication either in a form of
12 telephone call or through a message. Maybe a month or two after
13 the publication of the article in the newspapers, they came to
14 see me. And the article was about myself, about my name, about
15 the village that I lived in. And I think they identified that
16 information and located me.

17 Q. So if I understand correctly, in the article, you managed --
18 you talked about the conditions in which you survived the threat
19 of death in 1975. Was all of this in the article?

20 A. Yes, that is about right. I spoke about the events which is
21 similar to this written record of my interview, although it was a
22 bit more detailed, that is from the time that we left the house
23 until the time that we were taken to be killed at the pit. So it
24 is consistent with the statement that I made in this written
25 record of interview.

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1 [11.30.25]

2 Q. And this was published in which newspaper, this article?

3 A. It was called Koh Santepheap newspaper.

4 Q. So I imagine that you kept a copy of this article, I suppose;
5 am I right?

6 A. No, I did not keep a copy of that article. And as I told you,
7 the publication of that article was about two years ago.

8 Q. Fine. And beyond the problem resulting from the fact that the
9 written record of interview that we have is seven years old and
10 not two years old, there is another issue stemming from the fact
11 that in this WRI, there is -- mention is made of the name of only
12 one single investigator, Mr. Lim Sokunta (phonetic) and no one
13 else was with him; whereas normally, the people who conduct these
14 interviews are mentioned in the WRIs, which is normal. So are you
15 absolutely sure about the fact that you spoke with five people in
16 your office?

17 [11.32.20]

18 A. I was interviewed at that time because there was a publication
19 of an article in the news. There were a few working groups going
20 to see me and interviewing me.

21 Q. And were different people making up these working groups each
22 time?

23 A. They were different groups from my analysis.

24 Q. So each time these people came to question you about the facts
25 dating back to 1975 that you experienced, the fact that you were

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1 able to escape a certain death, so all of the interviews were
2 based on what happened to you in 1975; am I right?

3 A. They wanted to hear the story that I could make an escape and
4 could survive.

5 Q. Fine. Well, this expression "working group" is rather generic,
6 it's rather vague in fact. So I imagine that these people who
7 showed up at the police station introduced themselves, they told
8 you who they are. You as a police officer are not going to open
9 the door for any old person just knocking on your door, in
10 particular, to question you; whereas normally you are the person
11 questioning people. So can you be a bit more specific about the
12 position that they had, about the institute that these people may
13 have belonged to?

14 [11.34.51]

15 A. Actually, they introduced themselves when they wanted to see
16 me, however, I did not list down their names. They wanted to know
17 about my survival and story that I experienced. And at that time,
18 I told the episodes and they noted down. And again, I did not
19 write down their names or the institutes they may have belonged
20 to.

21 Q. So you were not interested in that, you didn't think that that
22 was too important; am I correct?

23 A. I understand that the story that I experienced is very
24 important and crucial for them. That is why they went to my
25 office and interview me. At that time, I only told the story

1 about the killings, that the killing of people did happen at that
2 time. And I told them I am one of the survivors. And there was --
3 the recording was made at that time and the written record was
4 also made.

5 [11.36.35]

6 Q. Well, since the start of the hearing this morning, we're
7 speaking about events that date back 40 years, but now, we're
8 speaking about something that happened less than two years ago.
9 So I'm asking you the question, can you tell us approximately how
10 many interviews you had with these different working groups and
11 whose members you don't remember nor the organisations they
12 belong to?

13 A. The events actually happened 30 or 40 years ago. And as for
14 the interviewers, they met me in the last two years. Two or three
15 working groups came to see me and interview me. Some of them were
16 from media and some other were from other organisation. And there
17 are groups also from this Court. And I did not note down on what
18 date they see me.

19 Q. It seems that your memory is coming back to you. However, this
20 does not make my job easier. You told me that they were groups in
21 the plural, working groups coming from the Court. How many groups
22 coming from the Court therefore?

23 A. There was only one and they went to interview me once as well.
24 And two or three days ago, people from this Court went to my
25 place and told me that I was invited by this Chamber to testify

1 as a witness.

2 [11.39.04]

3 Q. Well, Witness, as you know, we have with us a part of the
4 audio recording of the conversation you had with one single
5 person coming from this tribunal, seven years ago this was. And
6 there is a passage which is at the beginning of this recording in
7 which you refer to a possible interview that happened before. So
8 I suggest that we listen to this recording. It's very short. We
9 will run it from minute 14, 18 seconds to minute 14 and 41
10 seconds. And you're discussing a new topic here which you hadn't
11 spoken about during the 40 minutes that preceded this. And you
12 seem however to refer to a previous interview. So may I ask the
13 President for leave to play this audio recording so that the
14 witness can clarify what is happening here. The AV unit has
15 already been warned, so I believe that they can run the excerpt.

16 MR. PRESIDENT:

17 You are allowed to do so.

18 [11.41.00]

19 (Audiovisual presentation)

20 "[Mr. Sam Sithy:] Yes, Khmer Rouge walked us towards Chum Reay or
21 Aoral mountains. As you stated, they were walking us until we ran
22 out of food supply and after that, they turn us back into
23 cooperatives."

24 (End of presentation)

25 [11.41.54]

1 BY MR. VERCKEN:

2 Mr. President, I have a slight translation issue here. Or in any
3 case with the French translation, I have to check this. In any
4 case, what we heard in the translation is as I said, but
5 apparently, there is some issues about this. Maybe this is
6 something you said to the investigator such as you said it, you
7 said. But in any case, this is the first you speak about this and
8 you're referring to a prior statement. And I'm going to rephrase
9 the question. I don't have time to waste on translation issues
10 here. So that day, was this the first time that you met these
11 gentlemen?

12 [11.43.10]

13 MR. SAM SITHY:

14 A. There were a few working groups going to see me. And the
15 recording which I have just heard is that the interviewer wanted
16 to know why people had to walk in a long distance to Aoral
17 mountain. And I told him that they wanted us to walk in a long
18 distance so that we ran out of food, and after that, they would
19 take us to a place where we could obtain rice. And at that place,
20 we were told to register names and return back to work.

21 Q. Fine. Now I am going to get back to your testimony. You said
22 earlier on that when you arrived at the pagoda where the people
23 were asked to register, you said that there were tuk tuk drivers
24 who also had to register in order to get rice. What are you
25 speaking about here exactly? I don't really understand.

1 [11.44.55]

2 A. I would like to mention this story again. For those who had no
3 food to eat and after they heard the announcement that those who
4 were former soldier or civil servant, they could obtain rice to
5 eat. And as I told you, some people were merely a cyclo driver or
6 tuk tuk driver. And because they wanted to have rice or food to
7 eat, they registered their names as former soldiers to obtain
8 rice.

9 Q. And do you know if this was checked afterwards to check to see
10 if indeed they were former servicemen or don't you know?

11 A. Some people who registered their name show that they were
12 former soldier, and some other people wore military uniform. That
13 is why it was known to us that they were former soldier. And
14 after people register names and register numbers of family, rice
15 were given to them. At that time, there were no markets and no
16 place to barter rice with meat or vegetables.

17 Q. And when you were there, did you see these people being
18 separated into groups and being taken away from the pagoda site?
19 You saw other groups of people leaving with soldiers to go
20 elsewhere; am I right, is that the case?

21 [11.47.13]

22 A. I told this already. After we registered our names and got the
23 rice, the militiamen who were not armed led us away. Two
24 militiamen was in charge of one family at that time and these two
25 militiamen led the families away. And the same case happened to

1 other people. After people got rice, they were led out of the
2 pagoda into the forest. And the action happened after that time.

3 Q. Fine. Well, then since two militiamen were taking care of each
4 family, and you in a group of seven families, you were normally
5 accompanied by 14 militiamen; am I correct?

6 A. Let me clarify. In -- after one family registered their name
7 to obtain rice, they were put in one specific place. And after
8 six or seven family had registered their name, there would be one
9 militiaman or two militiamen walk away the six or seven families
10 into the forest.

11 Q. And how many militiamen accompanied you, you and your family?
12 [11.49.22]

13 A. Because in my group there were people wearing military
14 trousers or military shirts, my group was led by three militiamen
15 into the forest.

16 Q. And were these people carrying weapons? Did the three
17 militiamen carry any kind of weapon?

18 A. No, they were not armed. I could say that he had a long sickle
19 knife and he wrapped it -- a scarf around his neck. And after we
20 reach the forest, there were another group of armed force who was
21 there -- who were there to kill us.

22 Q. Well, in fact that was my following question. Can you
23 therefore tell us exactly in which context and at what moment
24 these people from the other group, that is to say the second
25 group, when exactly did you see them for the first time? At which

1 step in the process did you see them for the first time in the
2 forest?

3 A. I could not get clearly your question. What do you want to ask
4 me? You asked about the first group consisting of militiamen. And
5 the second group, you want to know whether they were armed group
6 or they were unarmed group?

7 [11.51.32]

8 Q. Well, first of all, I'm going to ask you for how long were you
9 walking with the first group with the three militiamen before you
10 arrived in the woods? Just tell me how long that took.

11 A. It was about two kilometres away from Chrak Sdech pagoda to
12 the killing site. And we were walking towards the north side of
13 the stream. And then we were told to put our belongings in
14 piles--

15 Q. Witness, I don't have much time. I'm just asking how long it
16 took you, how long did you walk? That's all.

17 A. It took us much time as I think. So it was about one hour to
18 travel from Chrak Sdech pagoda to Roun Kla (phonetic) forest. So
19 it was about two hours to travel.

20 Q. Two hours you said. Right, that's interesting. So is it once
21 you arrived in this forest, is it then that the second group of
22 militiamen appeared; yes or no?

23 [11.53.26]

24 A. The militiamen who led us away from Chrak Sdech pagoda, they
25 each had a long knife. They told us that we had to go into the

1 forest to cut trees so that we can make a makeshift shelter. And
2 when we reach ROUNG KHLEA forest, armed force came out. So it was
3 two hours, about two hours from Chrak Sdech to that forest.

4 Q. When these militiamen appeared, how many were there? Do you
5 remember how many militiamen there were? I'm speaking about the
6 militiamen who appeared in the forest, not about those who came
7 with you.

8 BY JUDGE KLONOWIECKA-MILART:

9 Counsel, please excuse the interruption, but we are getting
10 translation when you ask the question, is militiamen. When the
11 witness answers, it sounds armed forces. Perhaps, these are the
12 three languages coming into play here. But I am just wondering
13 whether in Khmer, the witness is using one term or two different
14 terms.

15 Q. Mr. Witness, if you can answer to my question, these people
16 who came out in the forest -- whom you met in the forest, who are
17 to us, described as armed forces, they were the same formation as
18 those who led you to the forest or they were a different unit, a
19 different formation? How did they look like, did they have
20 uniforms? Could you describe? Thank you.

21 [11.55.27]

22 MR. SAM SITHY:

23 A. Militiamen did not carry weapons, guns or rifles. They had
24 long knife, each of them had a long knife. And after we crossed
25 the stream into the forest, there were armed people. And these

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1 armed people did not wear any proper clothes to identify
2 themselves that they were soldier or militiamen, but I know that
3 they were armed. And we all were killed with clubs and bullets.

4 Q. What weapons did they have? The armed ones, what kind of
5 weapons did they have?

6 A. When the gun were pointed at us, they used AK rifles. And the
7 AK rifles were used and pointed at us. So our six families were
8 -- they used the AK rifles against the six or seven families.

9 JUDGE KLONOWIECKA-MILART:

10 Thank you. Back to you, Counsel.

11 [11.57.26]

12 BY MR. VERCKEN:

13 How many of these armed people bearing AK-47s were there?

14 MR. SAM SITHY:

15 A. I told you already. After we crossed the stream and went into
16 the forest, I could see six armed people with AK rifles. They had
17 six AK rifles and I did not know whether there were other armed
18 people somewhere else in the forest.

19 Q. Naturally, you could not know of course. When these six armed
20 men arrived, was everyone there? Who was there? You, of course,
21 because you them but who else? Families, wives, women, children,
22 only men, the other militiamen who were not armed who escorted
23 you from the pagoda? So can you tell us who was there when the
24 armed men appeared?

25 [11.58.55]

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1 A. I am talking about the six and seven families who experienced
2 that incident. I did not know what happened to other groups, but
3 I believe that they used the same method against other groups.

4 Q. Maybe, but Mr. Witness, I'm asking you what happened to you.
5 And I'm asking you, for example, was your mother there when the
6 militiamen came, did she also see them?

7 A. Yes, everyone could see. After we went into the forest, we
8 started crying and holding each other. I told my mother to run
9 away, and I told other also to run away, but they did not believe
10 me. And after that, after we reached the forest, we were put in
11 groups and everyone started to cry after we were pointed -- after
12 the gun were pointed at us. And they felt regret that they did
13 not make an escape when I told them.

14 Q. But they couldn't do that if they had guns aimed at them,
15 could they?

16 A. Yes, because there were too many people. And when the guns and
17 rifles were pointed at all of us, they started to cry and holding
18 -- and they held me.

19 [12.01.10]

20 Q. Was it the six armed men who segregated the males from the
21 group to take them off into the forest?

22 A. I did not recognize their faces, but I could see the activity
23 that they did at that time -- the activity that they did through
24 my father and other men. And the same methods used when they took
25 my group, my mother and other to the forest.

1 Q. Very well. So you were with your father when these six armed
2 men appeared; is that correct? You had been separated from the
3 women?

4 A. <No. Only adults in the prime of their strength were taken
5 first - the male ones were taken first. I who was the smallest
6 person at that time ran after my father, but I was chased
7 backwards to my mother - I was not allowed to go with my father.
8 However, I did not come back; and I sneaked a look at them. While
9 my father was being walked, passing the forest and the stream,
10 six men appeared, pointed the gun at him, and took him away.
11 After a while, I heard gunshots. I ran back to tell my mother,
12 aunties, and uncles to run as they had already killed my father,
13 but they did not believe me.>

14 [12.03.27]

15 Q. They didn't believe you because they themselves had not heard
16 the gunfire; is that correct?

17 A. <Yes, I believed they heard them because I ran back to tell
18 them to run right after the gunshots; however, they did not
19 believe me. They said they shot animals, not my father, but I
20 refused and kept telling them that my father had been taken to be
21 shot. I told them to run, but they did not.>

22 Q. This is a bit odd, sir, because in the seven-year-old written
23 record, you say something slightly different. Let me just
24 confront you with the version you gave there. I'm looking at
25 E3/5201 of the 7th of August 2008. And in the French ERN,

1 80027543; in English, 00275139; and 00212121, in Khmer; you're
2 referring to a Khmer Rouge wearing a red scarf and you say that
3 he told you to go and cut wood in the forest so as to make some
4 temporary shelters. "He ordered the women and children including
5 me to wait there. That person then led the 12 men in my group
6 including my father across the rice fields and into the forest. I
7 followed, then I saw five to six Khmer Rouge come out of the
8 forest pointing their weapons. Then they led the men into the
9 forest. I ran back to tell what I had seen to the group of 30
10 women including my mother and my siblings who were waiting.
11 Nearly an hour later, I heard gunfire in the forest from the
12 direction they had walked the men's group. Then the man who wore
13 the red scarf, came to lead the women's group in which I and my
14 mother were included." Now so there are quite a few differences.
15 There's only one individual, for a start, in a red scarf who
16 accompanied you and the families. Now contrary to what you have
17 just told us, you did not witness the murder of your father but
18 you ran away immediately you knew that your father had been taken
19 away by armed men. You went back to the women to tell them what
20 had happened. And it was only one hour later, when you had been
21 with the women for a whole hour, that you actually heard the
22 gunshots coming from the direction where the men had been taken.
23 Now, my question to you, sir, can you explain all of these
24 contradictions? We have differences in the timing and the
25 chronology that are quite significant.

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1 [12.07.31]

2 MR. KOUMJIAN:

3 Your honour, Counsel's read a long passage. The question is not
4 very precise and also the question restated the witness's
5 testimony in saying that the witness said that he saw his father
6 murdered. He's explained in detail exactly what he saw. He saw
7 him taken away and then he heard gunshots.

8 [12.07.56]

9 BY MR. VERCKEN:

10 I didn't understand anything of the Prosecutor's question, so I
11 maintain my question to the witness, Mr. President.

12 Q. Why in the record did he say that he was accompanied by one
13 single red scarf militiaman and not three? Why in the record did
14 he say that when he heard gunfire, he had been with his mother
15 for one hour while just now he said he wasn't with his mother and
16 that he went back to join her to alert her about what was going
17 on; and then she said, don't worry, they were probably just
18 shooting animals? Please, Mr. Witness, explain the differences.

19 [12.08.51]

20 MR. SAM SITHY:

21 A. <I would like to provide a clarification on this question
22 again. The three militiamen walking them from the pagoda were not
23 equipped with guns but knives. When reaching a place where stuff
24 were kept, the militiamen split - two guarded the wife and one
25 walked the husband away to cut trees for shelter building as it

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1 was getting dark. While they were walking into the forest, I
2 followed my father, hearing they were going to cut trees.
3 Although I was chased backwards, I did not return and kept
4 watching him.

5 After passing the forest, six armed men and one militiaman, who
6 accompanied him, appeared. The other two were guarding the wife
7 and children at the place where stuff was kept; men were taken
8 away first. Therefore, only one militiaman took the men away
9 first on the pretext of tree cutting; the other two were with the
10 wife and children. While running after him, I saw him being held
11 at gunpoint and I realized that he was taken to be killed. Having
12 seen them pointing the gun at my father, I ran back and said, "My
13 father is being taken to be shot." I told them to run, but they
14 didn't because they did not believe me. After about an hour
15 later, gunshots were heard from the place I suspected they were
16 taken to be killed. I said, "You hear them? They are shooting
17 them all." I ran back, separating from my mother, and she ran
18 after me to get me back. That was the incident.>

19 [12.10.54]

20 MR. PRESIDENT:

21 Counsel, you are running out of time. You went beyond 12 minutes.
22 And it is now time for lunch break and it is time also for DVD
23 change.

24 And the Court will resume its hearing at 1.30. And the Chamber
25 will consider and decide whether to allow more time for the

1 Defence team after the break.

2 (Court recesses from 1211H to 1259H)

3 MR. PRESIDENT:

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

5 The Chamber will hand the floor to the Co-Prosecutors and Lead

6 Co-Lawyers for civil parties to put questions to the witness and

7 you may proceed.

8 MS. GUIRAUD:

9 Thank you, Mr. President.

10 MR. VERCKEN

11 My apologies; Mr. President, you were speaking of the possibility

12 of giving us a bit of extra time; however, I note that you have

13 given the floor directly to my colleague --

14 MR. PRESIDENT:

15 And allow the Chamber to clarify the matter. Based on our

16 deliberation, the Chamber will hand the floor first to the

17 Co-Prosecutors and Lead Co-Lawyers for civil parties and if time

18 remains, it would be given again to the defence counsel. I hope

19 it is clear.

20 And the Lead Co-Lawyer for civil parties you may resume the

21 floor.

22 MS. GUIRAUD:

23 Thank you, Mr. President. I will give the floor to my colleague

24 Hong Kimsuon.

25 [13.01.35]

1 QUESTIONING BY MR. HONG KIMSUON:

2 My name is Hong Kimsuon. First, my greetings expressed to the
3 Bench and everyone in and around the courtroom.

4 Mr. Witness, I have some questions to put to you in addition to
5 all the questions put to you this morning by the defence
6 counsels.

7 Q. When people were evacuated on the 17 April 1975 and you told
8 that you made a pretty long journey during the evacuation, was it
9 your intention to make that long journey?

10 MR. SAM SITHY:

11 A. Yes, good afternoon, Counsel, and allow me to respond to your
12 question. The long journey was not the intention of our family,
13 it was the principle set forth by the leadership at the time.

14 [13.02.52]

15 Q. Which leadership are you referring to?

16 A. We were evacuated in 1975 when we were under the control of
17 Pol Pot. That is my belief that the principle was set forth by
18 Pol Pot for us to evacuate from our base to mountainous area.

19 Q. Please respond briefly as time is of essence to us.

20 While you were en route, what was your observation? Did you see
21 old people, young people, children, travelling along?

22 A. When we were evacuated, when we were forced to leave everybody
23 had to leave, including the young infant, the old people and the
24 young people, and the journey was very slow as there were too
25 many people on the street.

1 Q. My question to you is: What happened en route, if you
2 witnessed anything, for instance?

3 A. Some people did not have food to eat; some got fainted en
4 route, that is all.

5 Q. Were there any emergency assistance team organised by the
6 Khmer Rouge to assist those people while they were en route?

7 A. No, it seems there was none as we were forced to move on
8 quickly. There was no medical assistance provided while we were
9 en route.

10 [13.05.32]

11 Q. You spoke rather at length this morning and I would like to
12 ask you a little about coming down from Chum Reay mountain to Wat
13 Chrak Sdech. You said there were thousands of people there or at
14 least hundreds of families and you ran out of food and the Khmer
15 Rouge militia made an announcement on the loud speaker asking for
16 those who were former Lon Nol soldiers or civil servants. Were
17 there many people who actually registered their names so that
18 they could be reinstated in their previous positions?

19 A. It was my observation at the time; there were people who
20 actually registered. I cannot tell you whether there were more or
21 less people but usually those who didn't have food or who ran out
22 of food would register in order to receive rice.

23 Q. You were asked by the defence counsel this morning about those
24 who registered their names and they claimed that they used to be
25 former Lon Nol soldiers or civil servants. I heard from what you

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1 said that sometimes people who did not have any position in the
2 previous government, for example, a cyclo driver or "tuk tuk"
3 driver claimed to be civil servants, were there many of these
4 cases?

5 [13.07.21]

6 A. From what I observed, in certain instance there were people
7 who registered their names and claimed they were soldiers, and
8 there were also ordinary civilians who registered their names for
9 exchange of rice.

10 Q. Was a paper given, for instance in your case to your father,
11 so that your father could register the names of the family
12 members or did you had to go to a certain location to register
13 the names?

14 A. Actually I walked behind him. He went to register his name and
15 he was asked where was his military barracks, where was he
16 employed and how many family members in the family and upon
17 giving them the information, the rice amount was given to him.

18 [13.08.31]

19 Q. After your family names were registered and rice was given, is
20 it that the militia took the seven families of yours to Prey
21 Rong Khla forest? Allow me to cut through some points and let me
22 now go to the pit where people were executed you said that your
23 family members were shot dead and dragged by their foot and
24 thrown into the pit and there were about two bodies lying above
25 you and you tried to open your eyes to look around and did you

1 hear anything from those Khmer Rouge who actually killed your
2 family members?

3 A. When I said I opened my eyes a little -- it was not when I was
4 in the pit - actually, I was still not dragged into the pit yet.
5 I heard they said that, "you contemptible, you actually stepped
6 on my chest for many years and now it is our turn to step on your
7 chest."

8 [13.09.52]

9 Q. And when you escaped from the pit together with your other
10 three relatives and reached Chrak Sdech pagoda and you said that
11 the situation became rather chaotic, there was a group of
12 soldiers who made an announcement to arrest four children who
13 were connected to CIA and what did you understand of the word CIA
14 at that time?

15 A. At that time the force --

16 MR. VERCKEN:

17 Objection, Mr. President. The summary of what -- of this
18 witness's statement is not accurate. In order to have clear
19 answers, my colleague should sum up in an accurate way what the
20 witness said.

21 MR. HONG KIMSUON:

22 Mr. President, this morning I heard the witness testify that when
23 they arrived at the pagoda, the Khmer Rouge were searching for
24 the four children who were accused of having connection to CIA
25 and my question to him is whether he actually heard that

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1 announcement himself?

2 MR. VERCKEN:

3 Which announcement? Who spoke to you about an announcement? I
4 didn't hear the witness speak about an announcement this morning
5 and even less so on the microphone.

6 [13.11.45]

7 BY MR. HONG KIMSUON:

8 Mr. President, allow me to respond. Let me rephrase it.

9 Q. Did you say this morning that when you returned to Chrak Sdech
10 pagoda, you were being searched by the Khmer Rouge group that you
11 were part of the four children who had connection with the CIA?

12 MR. SAM SITHY:

13 A .In response to the question put to me by the defence counsel
14 on this matter and I said when I returned to Chrak Sdech pagoda I
15 asked for food from the people there and I met some friends who
16 were -- I met some people who were my parent's friends and they
17 were asking the whereabouts of my parents and I told them that
18 they all had been killed and the situation became chaotic within
19 the compound of the pagoda so I took my relatives and hid them
20 and at that time the working group of the Khmer Rouge were
21 actually distributing rice; made an announcement on a loud
22 speaker that, "please don't believe the propaganda of the CIA as
23 our militia group is searching to arrest the four kids or the
24 four people."

25 [13.13.25]

1 Q. So this morning you also told the Chamber that your father was
2 a former Lon Nol soldier. What was his rank, if you know it?

3 A. My father was a soldier at Chan Sari (phonetic) barracks, he
4 was a captain and a personal driver for a general at the Chan
5 Sari (phonetic) barracks.

6 Q. This is my last question. After 6 January 1979, have you ever
7 heard any news regarding the whereabouts of your father?

8 A. No, I haven't and I did not decide to search for him as I was
9 sure that he was killed.

10 MR. HONG KIMSUON:

11 Thank you. I am done Mr. President, and I would like to hand the
12 floor to my colleague, the Co-Prosecutor.

13 [13.14.40]

14 QUESTIONING BY MS. SONG CHORVOIN:

15 Thank you, Mr President. Good afternoon, Mr. President, Your
16 Honours; and good afternoon, Mr. Witness. I have some questions
17 for you and my first question may be difficult for you. Please,
18 bear with us.

19 Q. This morning, the defence counsel said that he didn't believe
20 the story or the events that you described to the Chamber and
21 that it seems a fabrication. What is your response to the defence
22 counsel's reaction that the story that you said was a
23 fabrication?

24 MR. SAM SITHY:

25 A. Thank you for the question. I think the accusation or the

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1 allegation by the defence counsel that in my capacity as a police
2 inspector, that what I told him is a fabrication. But I told him
3 repeatedly that it is not a fabrication, and I witnessed the
4 events personally. And also before my appearance, I took an oath
5 before the Iron Club Statue and I will only tell the truth.

6 [13.16.05]

7 MR. PRESIDENT:

8 Deputy Co-Prosecutor, please also mention your name so that it is
9 part of the record.

10 BY MS. SONG CHORVOIN:

11 My name is Song Chorvoïn. I am a National Deputy Co-Prosecutor. I
12 don't have many questions for this witness.

13 Mr. Witness, regarding the shooting of your family members,
14 please confirm it again whether it is true or whether it is a
15 fabrication?

16 MR. SAM SITHY:

17 A. Allow me to restate it again that it is the truth and I do not
18 add anything to it. I have a strong belief in my oath that I will
19 only tell the truth based on what I saw and what I know.

20 [13.17.10]

21 Q. Thank you. A while ago you were asked by the National Lead
22 Co-Lawyer that you referred to Khmer Rouge working group. Was the
23 working group composed of Khmer Rouge soldiers or what, please
24 clarify?

25 A. I refer to them as working group because they were standing on

1 stage at a dining hall in the pagoda and there was a pile of rice
2 sacks ready for distribution, they made announcement for people
3 who would come to register as former civil servants in exchange
4 for rice and the working group composed of armed people and
5 militia.

6 Q. So the working group or the soldiers that you referred to, how
7 many of them all together?

8 A. There were not many and they seem to be security guards or
9 body guards. It seems their presence there was to protect their
10 bosses or their superiors and there were those who registered the
11 names and those who dealt with the rice distribution.

12 [13.18.55]

13 Q. And on the issue of the announcement to the people there, how
14 was it conducted if you still recall it, what were the exact
15 words used?

16 A. They made an announcement to look for civil servants and
17 military personnel to come and register their names in exchange
18 for rice so that they would be sent to be restated in their
19 previous positions.

20 Q. Did they mention in their announcement the types or categories
21 of people they were looking for?

22 A. From what I heard, it seems that they didn't look for any
23 innocent or ordinary people; they were searching for civil
24 servants and military personnel.

25 Q. So they were making an announcement to look for civil servants

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1 or military personnel and which regime are you referring to, I
2 mean those civil servants or military personnel?

3 A. They were searching for civil servants and military personnel
4 used to serve the Lon Nol administration.

5 [13.20.45]

6 MR. KONG SAM ONN:

7 Mr. President, I would like to make an observation; in fact, the
8 Khmer word used at the time is not actually civil servant or
9 "montrey reach ka" (phonetic) in Khmer. It is "montrey roat ka"
10 (phonetic).

11 BY MS. SONG CHORVOIN:

12 In fact the word is used by the witness so I referred to it as it
13 is stated in the statement.

14 Q. And Mr. Witness, to you is there any clear distinction between
15 the two phrases in Khmer "montrey reach ka" (phonetic) and
16 "montrey roat ka" (phonetic)?

17 MR. SAM SITHY:

18 A. What is stated by the defence counsel is correct and actually
19 the term is used for the present government and the term was used
20 differently for the Lon Nol regime. They did not use the word
21 "montrey reach ka", so I agree with the observation made by the
22 defence counsel.

23 Q. Thank you. And I would like to move on to another topic and
24 that is about what happened when you arrived at Krang Lvea
25 commune.

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1 Could you please tell the Chamber what happened to your family --
2 that is, after your family members had been killed and that you
3 fled to Krang Lvea commune?

4 [13.22.27]

5 A. When we separated from one another at Chrak Sdech pagoda we
6 were sent in groups to various communes. Certain communes had to
7 accommodate a certain number of families and those family members
8 would be under the control of that commune and at that time we
9 would be considered to be part of the cooperative and I was
10 placed in Ou Kakhob village and later on move to Chumteav
11 Chreaeng village and subsequently I was relocated to a
12 cooperative called Krang Lvea in Tang Kruos Kaeut village in
13 Krang Lvea commune.

14 Q. And when you arrived at the Krang Lvea commune cooperative,
15 what were you assigned to do?

16 A. At that time I was pretty young and I was sent to a children's
17 centre and I was asked to deal with the production of fertiliser
18 -- that is, to collect cow dung and to cut "kantreang khet" trees
19 and once the fertiliser was made, then youth group would take it
20 to be spread out on rice fields.

21 [13.24.04]

22 Q. Did you make any mistake when you were working in the
23 children's unit; were you ever disciplined, for instance?

24 A. I was always careful because I knew what would happen if I
25 were not, so I did not dare risk making any mistake. I simply did

1 what I was asked to do.

2 MR. VERCKEN:

3 Mr. President, you said earlier on that the Khieu Samphan's
4 defence might be given a little bit of extra time to put
5 questions if there is time remaining and I note that the
6 prosecutors are dealing with subjects that have absolutely no
7 connection with our -- the scope of our trial, so it seems clear
8 to me that the Prosecution is trying to gain time and to use all
9 of the time that is available to them so that the Defence cannot
10 put questions to the witness, this is why I object.

11 MS. SONG CHORVOIN:

12 (No interpretation)

13 [13.25.34]

14 MR. PRESIDENT.

15 The National Deputy Co-Prosecutor, you may continue with your
16 questioning; and Defence Counsel, the Chamber will consider your
17 observation and objection.

18 BY MS. SONG CHORVOIN:

19 I would like to continue my line of questioning and if I'm not
20 interrupted, there might be time remain for the Defence.

21 Q. Mr. Witness, my last question was put to you whether you made
22 any mistake or that you were disciplined while you were working
23 in the children's unit, please respond again.

24 MR. SAM SITHY:

25 A. After I came to live in the cooperative, I actually told my

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1 younger sibling and relative to strive to work hard and not to
2 violate any regulations or rules set forth by Angkar, otherwise
3 we would be subject to disciplinary action and that could
4 ultimately lead to being killed, if we were to commit a serious
5 offence or we might be put in prison as part of the disciplinary
6 action.

7 [13.26.57]

8 Q. And why did you give such advice to your relatives in order to
9 avoid being exposed to disciplinary action, did you witness
10 anything that led you to make that advise?

11 A. In fact I did, I saw some young children being beaten up and
12 some were sent to the re-education centre and the four of us we
13 were still under investigation. When I was in the cooperative, I
14 told my relative that we were being monitored so please try not
15 to do anything noticeable that we might be caught because we --
16 they were still searching for us as we were the children of the
17 soldiers who had been killed. So we tried to adhere to all the
18 principles set forth by them.

19 Q. In your written record of interview with the OCIJ investigator
20 -- that is, E3/5201 at Khmer, ERN 00212122 to 23; English,
21 00275142, 41; and in French, 00275146247; you spoke about a
22 detention centre, a prison named Krang Lvea, and we are -- while
23 discussing the Krang Lvea cooperative, could you describe about
24 the Krang Lvea detention centre or prison?

25 [13.29.12]

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1 A. I was tasked to tend cattle and some cows got this yellow-like
2 diseases and four-five of the cows got this disease so I tied
3 them up in a row so that they could not walk far and I held the
4 rope in my hand and actually the owner of the cows from the same
5 district reported to the chief of the militia that I starved the
6 cows without allowing them eating grass. In fact I only tied them
7 one to one in order to avoid them walking far because they were
8 sick and for that reason I was placed in that detention centre.

9 Q. And what happened to you when you were sent to the detention
10 centre, what did you see?

11 MR. KOPPE:

12 I'm sure it's very interesting what this witness has to say about
13 that security centre but it's obviously not within the scope of
14 this Appeal. It's also not in the scope of why we're asking
15 questions to this witness to begin with, so please instruct the
16 Prosecution to stop asking questions on this subject which is way
17 outside the scope of 002/01.

18 [13.30.48]

19 JUDGE KLONOWIECKA-MILART:

20 We gather the Prosecution wants to test the credibility of this
21 witness, isn't it?

22 MS. SONG CHORVOIN:

23 Madam Judge, first, I would like to test the credibility of the
24 events that this witness described; secondly, there is
25 information related to the Krang Lvea security centre and I would

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1 like to ask about the experience of this witness whether the
2 witness witnessed any killing at that centre as he was placed
3 there.

4 BY THE PRESIDENT:

5 Q. Allow me to ask the witness on this very topic. And Mr.
6 Witness, when you were tending the cows and then you were sent to
7 be detained at the Krang Lvea detention centre, what year was it?

8 MR. SAM SITHY:

9 A. We were evacuated in 1975.

10 [13.32.15]

11 Q. Is that so? My question to you, Mr. Witness, is that you were
12 tending cows and that you were alleged by the cow's owner of
13 starving the cows and then later you were detained; when did it
14 happen?

15 A. It happened in 1975.

16 MR. PRESIDENT:

17 If that is the case, the Deputy Co-Prosecutor you may continue.

18 MS. SONG CHORVOIN:

19 I would like to continue my line of questioning. I put a question
20 earlier --

21 [13.32.54]

22 MR. VERCKEN:

23 Excuse me, but this security centre isn't even in the Closing
24 Order, even less within the scope of the first trial. I don't see
25 why the Prosecution can ask questions for hours about a place

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1 that is nowhere to be found on the case file.

2 JUDGE KLONOWIECKA-MILART:

3 Upon a quick consultation among us here, we want the question
4 answered to make such inferences as we deem fit and if there is a
5 question of additional time of the Defence, also by way of
6 clarification it would be given at the expense of our time and
7 not at the mercies, so to say, of the Prosecution and the civil
8 parties who, of course, are invited to exhaust their time in such
9 a way as they seem conducive to ascertaining the truth within the
10 directives obviously.

11 [13.34.02]

12 BY MS. SONG CHORVOIN:

13 I think if the Chamber is lenient to the submission made by the
14 counsel, I think the Co-Prosecutor will have many interruptions
15 from counsel.

16 Q. I would like to know about Krang Lvea security centre, what
17 happened to you when you arrived at that place and what happened
18 there?

19 MR. SAM SITHY:

20 A. When I was taken into the security centre of Krang Lvea, there
21 were about 12 prisoners who were shackled to their legs. They
22 were put in a house, the so-called security centre and when I
23 arrived in that security centre, they moved the prisoners close
24 to each other so that there was one space at the end to detain me
25 and the shackle was used and the bar was inserted in the ring and

1 I was shackled at that time. I was detained together with these
2 old prisoners and we would be released when we were needed to do
3 the labour, such as to find cassava. So I, together with the old
4 prisoners, were doing the work.

5 Q. How many prisoners were there in the prison, were there any
6 adults or children?

7 A. I was young at that time compared to other prisoners. They
8 were all male prisoners; there were perhaps 10 to 12 prisoners in
9 that centre.

10 [13.36.38]

11 Q. How long were you detained in that centre?

12 A. I was detained in that centre for about two months and after
13 the chief of the cooperative or chief of unit went to that
14 centre, he asked what did that young child commit -- any wrong
15 doing and the chief was told that I was under the accusation that
16 I was starving the cows and at that time I was released with the
17 help of that cooperative chief and I was assigned to tend cows
18 afterwards.

19 MS. SONG CHORVOIN:

20 Thank you very much, Mr. Witness, I conclude my line of
21 questioning but I would like to cede the floor for my
22 international colleague.

23 MR. PRESIDENT:

24 You may now proceed, International Co-Prosecutor.

25 [13.37.56]

1 QUESTIONING BY MR. KOUMJIAN:

2 Good afternoon, Your Honours, counsel, Mr. Witness.

3 Q. Sir, during 1975, did you ever hear about a Khmer Rouge office
4 called B-5?

5 MR. SAM SITHY:

6 A. I was young and I was tasked to tend cows, there was an office
7 on a small hill away from Krang Lvea security centre. It was
8 about one and half kilometre away from the centre; that office
9 was on top of a small hill and people said that office was named
10 as Pot office. It was said that that office name was Pot. That
11 office was military like office.

12 Q. Which commune was that in, if you know?

13 A. It was in Krang Lvea commune.

14 Q. Forgive me my lack of geography of the area. How close was
15 that to Peam commune?

16 A. There is no commune named Nhean (phonetic).

17 [13.40.00]

18 Q. Forgive my pronunciation. How about -- do you know Chan Tey
19 (phonetic) village? Are you familiar with the Chan Tey (phonetic)
20 village in Kampong Tralach?

21 Mr. Witness, just so it's accurate, it's much better if my
22 colleague pronounces it.

23 MS. SONG CHORVOIIN:

24 The name is Chan Tey (phonetic).

25 MR. SAM SITHY:

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1 A. Those who live in their areas would know the names of their
2 area and no one could trespass on other's location and at that
3 time there was no commune named Chan Tey (phonetic).

4 BY MR. KOUMJIAN:

5 Q. Okay. I'm Sorry; I'm asking about a village. Let me have my
6 colleague pronounce another location. I don't want to ask you if
7 you are familiar with this location.

8 MR. KONG SAM ONN:

9 Mr. President, I would like to make an observation. The
10 Co-Prosecutor appears to use a document or a map, so please give
11 us the reference if you can.

12 [13.41.54]

13 MR. KOUMJIAN:

14 Thank you; I'd be happy to. The reason I am asking these
15 questions is reading the testimony of Nuon Chea; it's document
16 E1/14.1, at English, the ERN is 00756159; Khmer, it's 00755354;
17 and in French, the ERN is 00756300.

18 MR. KOPPE:

19 Not only is that a document that you prohibited to use, he is
20 apparently asking about the secret office of CPK pre-'75, it's
21 getting into the absurd to even begin to think that this witness,
22 a 14 year-old, would know anything intelligently at that time
23 about this secret office.

24 MR. KOUMJIAN:

25 If I could respond, Your Honours. I didn't bring up the document;

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1 Counsel asked me for the reference. It's relevant because Nuon
2 Chea has given a location and he certainly knows where the secret
3 office was, where the Party leadership was in April 1975, which
4 is the very time of this massacre that the witness has spoken
5 about and that's part of the record in this case. Whether we use
6 it at this hearing or not, it's on the record in Case 002/02. My
7 question to this witness is directed at: how that location is,
8 where is it located in relation to what happened to him in
9 particular in relation to the Wat Chrak Sdech pagoda.

10 [13.43.54]

11 MR. PRESIDENT:

12 Mr. International Co-Prosecutor, you are referring to E1/14.1 and
13 the SCC made the decision prohibiting Parties from using that
14 document. And as for office B-5, from what I heard from the
15 witness, I would like to know whether this office B-5 has
16 something to do with the facts before us, and I believe office
17 B-5 is out of the scope of this trial. Could you clarify this
18 point, Mr. Co-Prosecutor?

19 [13.44.44]

20 MR. KOUMJIAN:

21 Yes, thank you, Your Honour. Your Honour, it wasn't my plan to
22 put the document either before Your Honours or before the witness
23 at this hearing. However, it is testimony from Case 002/2. This
24 witness has talked about what happened at the pagoda called Chrak
25 Sdech. In his testimony in this very trial, Nuon Chea talked

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1 about Pol Pot and the Party Secretary had to move -- this is
2 before the attack on Phnom Penh -- to a base near Phnom Penh in
3 Boeng Thlong (phonetic), Khang Tbound (phonetic) village, Chrak
4 Sdech, Peam commune, Kampong Tralach district. And then he said,
5 Pol Pot moved to Krang Doung commune, also known as B-5, which is
6 adjacent to Peam commune. So the simple point -- and it's a small
7 point -- which I wish to make is that, the issue I think part of
8 this -- calling this witness is the significance of what happened
9 to him as far as being the policy of the leadership of the Khmer
10 Rouge. What happened to him didn't happen in Mondulkiri before
11 from the leadership. It happened very close to the leadership.
12 And that was the simple point I wanted to bring out from the
13 testimony.

14 [13.46.11]

15 JUDGE KLONOWIECKA-MILART:

16 Mr. Prosecutor, would you mind repeating the document number?

17 MR. KOUMJIAN:

18 Yes. It's the transcript number E1/14.1 and the English ERN,
19 Judge Milart, is 00756159, page 95 of the transcript. In Khmer,
20 the ERN is 00755354.

21 JUDGE KLONOWIECKA-MILART:

22 I am checking if this is on the list.

23 MR. KOUMJIAN:

24 It's definitely excluded. That's why I did not plan to use the
25 document. I was asking the witnesses questions about the

1 location. It's excluded on your document decision.

2 JUDGE KLONOWIECKA-MILART:

3 So the relevance of this question is for another case.

4 [13.47.16]

5 MR. KOUMJIAN:

6 The relevance of the question is to Case 002/01. The relevance is
7 whether this location that Nuon Chea said the leadership was at,
8 where that was in relation to what happened to this witness, to
9 the location where the people were asked to give their
10 biographies and officers -- soldiers from Lon Nol were separated
11 out and taken to be killed.

12 JUDGE KLONOWIECKA-MILART:

13 Did you relate earlier to Nuon Chea's statement in Case 002/02?

14 MR. KOUMJIAN:

15 No, this is 002/01. He hasn't given any statement in 002/02. This
16 is in Case 002/01.

17 JUDGE KLONOWIECKA-MILART:

18 Then you misspoke.

19 [13.47.57]

20 MR. KOUMJIAN:

21 I apologize.

22 JUDGE KLONOWIECKA-MILART:

23 Okay. And the Prosecution believe it's the best use of their
24 time?

25 MR. KOUMJIAN:

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1 I certainly didn't think it would take this amount of time, but
2 it's -- all I want to ask the witness is about this location and
3 how it relates to the place -- the pagoda where people were
4 forced to register or tricked into registering.

5 JUDGE KLONOWIECKA-MILART:

6 Then we'll allow it if you have reasons to believe that the
7 witness has knowledge.

8 BY MR. KOUMJIAN:

9 Q. Mr. Witness, my question now is simply in relation to location
10 of the pagoda that you mentioned where people were asked to
11 register for rice. So my colleague is going to read out a
12 location, and first, tell us: are you familiar with this
13 location?

14 [13.49.14]

15 MS. SONG CHORVOIN:

16 Mr. Witness, the location referred to by the International
17 Co-Prosecutor is Boeng Thlong (phonetic), Khang Tbound (phonetic)
18 village, Chrak Sdech, Peam commune, Kampong Tralach district.

19 MR. SAM SITHY:

20 A. There were two Kampong Tralach districts in the past: Kampong
21 Tralach Leu and Kampong Tralach Krom districts. Now, the two
22 districts combine together and it was named Sameakki Mean Chey
23 district. I knew that Kampong Tralach Krom was to the east of
24 National Road and Kampong Tralach Leu was to the west of that
25 National Road.

1 [13. 50.07]

2 BY MR. KOUMJIAN:

3 Q. Sir, if I understood your testimony correctly, you said that
4 the registration and the separation of people according to their
5 former occupations took place at Wat Chrak Sdech village in Peam;
6 is that correct?

7 MR. SAM SITHY:

8 A. Yes. People were gathered, former civil servant officials
9 were gathered in Chrak Sdech pagoda, Peam commune, Chrak Sdech
10 village. This Chrak Sdech pagoda was in Chrak Sdech village, Peam
11 commune.

12 Q. So where this location, where this registration took place was
13 in the very Chrak Sdech village that my colleague just read to
14 you that location? It was in the same village; is that correct?

15 A. I registered my name in Chrak Sdech pagoda right in that
16 pagoda. It was in Peam commune. And currently Peam commune
17 remains the same name. But as for the district, it was named as
18 Sameakki Mean Chey district.

19 [13.51.57]

20 Q. Thank you. Sir, I know you're probably tired, but I'd like to
21 take you back to the 17th of April 1975 and ask you to tell us
22 what happened that actually made your family leave their home
23 that day?

24 A. Lon Nol Regime fell in 1975. This regime was defeated by Pol
25 Pot regime. And after Pol Pot came into power, people were to be

1 evacuated out of their home. And people were frightened that if
2 they did not leave their home, the American airlines would
3 bombard their areas. So people were evacuated into mountainous
4 areas.

5 Q. Thank you. Who was living in your home that day, 17th April
6 1975? Can you tell us who lived with you?

7 A. My whole family including my parents, my two siblings and my
8 two sisters, and my two brother, and together with me. So we were
9 all in our house.

10 Q. Thank you. And these -- by the way, the people that you
11 referred to as your cousins, the other survivors, can you
12 describe your relationship to them? When you say cousins,
13 sometimes people mean different things.

14 A. My father was the eldest father of my cousins' father or
15 mother. And we were all evacuated.

16 [13.54.40]

17 Q. Did your cousins also live in the same village?

18 A. We had lived in our home village together and after the
19 killing happened -- after we survived the period, we also lived
20 together.

21 MR. PRESIDENT:

22 Mr. Witness, the Co-Prosecutor would like to know about the time
23 that you were evacuated. He wanted to know whether you and your
24 cousins were living together during the time that you were being
25 evacuated.

1 MR. SAM SITHY:

2 A. Mr. President, I understand that there is a question from
3 Co-Prosecutor. So I may have understood wrongly the question.
4 Actually, we had lived close to each other before we were
5 evacuated, and the distance from our houses -- from my house to
6 my cousin's house was about three kilometres away.

7 BY MR. KOUMJIAN:

8 Thank you. So sir, you mentioned that people were afraid of
9 bombing, American bombing. Why was that? Did anyone tell you that
10 that was a danger? Can you explain?

11 [13.56.25]

12 MR. SAM SITHY:

13 A. There was war. The country was in war during the period -- war
14 between the Lon Nol and Khmer Rouge. There were bombardments;
15 there were rocket launching almost every day. We were threatened
16 that the American airplane would bomb our places and we were
17 afraid, so we had to leave.

18 Q. Thank you. When you say you were threatened, did anyone tell
19 you that threat, did you hear something on the radio, did someone
20 tell you or is this just something you yourself believed?

21 A. I would like to give the response to this question. Khmer
22 Rouge soldier wearing black clothes with rifles were marching
23 into the province in the morning. I did not know where they were
24 from and where they were going to. They were passing our place.
25 And in the evening, the time that it was going too dark, these

1 armed soldiers went from houses to houses to evacuate us. It was
2 the same story depicted in the film. They were walking from
3 houses to houses to threaten us to leave our homes.

4 [13.58.16]

5 Q. When you say threaten, did any of the people say - if you know
6 -- did any of your neighbour say I wanted to stay in my house;
7 I'm not leaving?

8 A. At that time, we had been forced to leave our homes, no one
9 could refuse.

10 Q. Realising that this is 40 years ago, do you recall what the
11 soldiers said, do you remember what was said at your house when
12 your family was told to leave?

13 A. We were told as I have told you already. We were told to
14 evacuate ourselves out of our houses and we were told that
15 American airplane would bomb the place.

16 Q. Did your family ask to pack things, to bring food?

17 A. The Khmer Rouge won the war and we were getting ready -- food,
18 cooking pots. And when they came to threaten us to leave, we had
19 all those belongings prepared already and we took them all with
20 us.

21 [14.00.12]

22 Q. So your family left with some supplies of food; is that
23 correct?

24 A. Yes. And the same case in the modern time or now today when
25 there was any chaos, we had to get ready in terms of supplies and

1 food.

2 Q. By the way, at that time in April 1975, was your father in the
3 army at the time of this fall of Phnom Penh, 17 April?

4 A. After Khmer Rouge force entered that place, they ordered that
5 the former soldiers should lay down their weapons, if not they
6 would be in danger. It appears that there was an appeal by the
7 late King to ask everyone to lay down weapons. And after we lay
8 down our weapons, after the former soldier laid down their
9 weapons, they went to their homes to find their wives and
10 children.

11 [14.01.55]

12 Q. Now, when you left your home, did your family have any idea
13 when you would return? Did anyone tell you or did you have any
14 plan about when the family would return?

15 MR. KOPPE:

16 Mr. President, maybe the Prosecution hasn't finished reading our
17 appeal brief, but we don't actually contest the evacuation or the
18 forced evacuation of any city. We are now one hour and five
19 minutes ahead in questioning. Not one question has been asked
20 about why this witness is here. Of course, it's up to the
21 Prosecution to use the time as he deems fit, but they're merely
22 stealing proper time on questioning away from us. And I find it
23 -- well, let me not say that.

24 MR. KOUMJIAN:

25 My understanding is we could ask questions about anything within

1 the scope of Case 002/01.

2 MR. PRESIDENT:

3 Co-Prosecutor, you may proceed.

4 [14.03.10]

5 BY MR. KOUMJIAN:

6 Thank you.

7 Q. Sorry, sir, the question, let me repeat it to you. Did you
8 have any indication from anyone about when your family might be
9 able to return to their homes?

10 MR. SAM SITHY:

11 A. I did not hold any expectation as to when my parents would
12 return home as I actually witnessed their death.

13 Q. My fault. My question I'm sure was not clear to you. When you
14 were told -- you said Khmer soldier came to your house and told
15 you to leave or threatened you to leave -- was any indication
16 given about whether you would be allowed to return and when?

17 A. Yes. It's not a fixed issue as there was no confirmation as
18 when we could be returned. We were told that we had to leave for
19 a period of time in order to avoid any possible aerial
20 bombardment by the United States.

21 [14.04.46]

22 Q. And sir, you said your family walked for quite a few days at a
23 very slow pace. Why was the family moving so slow? You said, I
24 believe this morning, one half to one kilometre per day.

25 A. As stated this morning, there were so many people on the

1 street, it was crowded. You could hardly walk straight, you had
2 to walk sideways. And there were soldiers actually escorting us.
3 They were on both sides of the road and they were all in line
4 along the road. And they were formed into groups and they were
5 deployed all along the road until the mountainous area which was
6 the place where we stopped.

7 Q. What kind of people did you see on the road in terms of ages,
8 first of all? How old and how young?

9 A. Members of all families had to go together including young
10 children, old people, mothers carrying their young infant,
11 grandparents who could hardly walk had also to go, male and
12 female regardless of their individuality. Some people were
13 carrying a bag of clothing or belonging on their head, but the
14 trip was so slow due to the overcrowd of people on the street.

15 [14.07.03]

16 Q. What were the weather conditions?

17 A. Of course, the weather was unpleasant and you could always see
18 crowds of people swarming the area where water source was present
19 or where well was there or pond. And after our meal, we had to
20 move on, we were not allowed to stay where the water source was.
21 So slowly and gradually, we move bit by bit and we were only
22 allowed to rest when nightfall came.

23 Q. Were any of the people that you witnessed being forced to
24 leave in bad physical condition?

25 A. It seemed none at the time. People who had old parents who

1 could hardly walk would be allowed to stay near the water source
2 for an hour or so and then they had to move on. But I did not see
3 any beating or threat to kill to force people to move on. No, I
4 did not see anything of that nature.

5 [14.08.53]

6 Q. Did you see anyone -- that wasn't quite my question, but thank
7 you -- did you see anyone who appeared to be ill?

8 A. Yes, I did. I saw elderly people, I saw people who fainted
9 while they were en route etc.

10 Q. Thank you. Now, you mentioned, going for a moment back to the
11 incident where your father was separated out and you were
12 separated with seven families -- separated out at the pagoda. You
13 mentioned that of those seven families, one person was a teacher,
14 I believe you said, and one was a civil servant - a medic. The
15 other four families, besides your father who you said was a
16 captain, do you know -- you said the others were military -- do
17 you know their ranks? And again, if you do not know, just tell
18 us.

19 A. No, I was not aware of that. However, I knew of their
20 backgrounds in the military service. Here, I refer to my
21 relatives as uncles. And I only knew for sure about my father but
22 not about my uncles.

23 [14.10.43]

24 Q. Sir, after you survived this massacre, you said your sister
25 died. Can you tell us, when did your sister die?

1 A. What I can say is that the condition she was in -- that is,
2 constant headache was the result of the trauma she received from
3 the hitting at the back of her head. And she became -- she was in
4 this condition a few weeks after she attended the teacher
5 training course. Later on, she became psychiatric and ultimately,
6 she committed suicide by hanging herself.

7 Q. So is this your sister's suicide after the fall of the regime,
8 after 1979?

9 A. Yes, it happened post-'79 -- that is, after she involved in
10 the teacher training programme. But due to her psychiatric
11 condition, she became unstable and that led to her committing
12 suicide.

13 BY JUDGE KLONOWIECKA-MILART:

14 Q. Can we get the date, Mr. Witness, the year of your sister's
15 death? This is what the prosecutor was asking, when did she pass
16 away?

17 [14.13.01]

18 MR. SAM SITHY:

19 A. I think she died three years ago if my calculation is correct.

20 BY MR. KOUMJIAN:

21 And sir, just so we're clear on one thing, the teacher training,
22 did that occur during the Khmer Rouge regime before 1979 or after
23 1979?

24 MR. SAM SITHY:

25 A. It happened after 1979, and I think her condition -- that is,

1 the psychiatric condition was the result of the trauma as she was
2 hit -- as the back of her head was hit. And that is my conclusion
3 that led to her ultimate death by committing suicide three years
4 ago.

5 Q. Sir, once you survived this massacre and you were taken to a
6 commune, were you asked there about your biography?

7 A. May I ask you back as to which regime are you referring to
8 when biography was collected? Was it during the Khmer Rouge
9 regime or was it during the post-Khmer Rouge regime?

10 [14.15.06]

11 Q. Sorry, I didn't understand the interpreter. I just missed a
12 word. I didn't understand the witness's question to me. So
13 perhaps, sir, let me repeat my question because obviously my
14 question was not clear.

15 You talked about going to Krang Lvea to a cooperative; is that
16 correct?

17 A. Yes, that is correct.

18 Q. In that cooperative, were you asked to make a biography? Did
19 anyone ask you about your biography?

20 A. No, I was not asked about my biography. They actually -- they
21 only wanted to know the total number of family members in order
22 to obtain rice.

23 Q. At that cooperative, were the other people there all local
24 people or were they people who had been -- come from different
25 areas like you had?

1 [14.16.30]

2 A. In the cooperative, there were Base People and New People --
3 that is, those who came to reside at that location. And actually
4 there were more New People than the Base People, as families of
5 those people were placed in various cooperatives mingle with the
6 Base People.

7 Q. Those words that you just used -- "Base People" and "New
8 People" -- were they used at the time? And if so, who used them?
9 Who distinguished Base People and New People?

10 A. The words were generally used in the cooperative at the time.
11 I do not know whether that was a principle. And in Khmer, the
12 term they used "mulethan chas" and "mulethan thmey", it means Old
13 Base People and New Base People. If people were there before
14 1975, they were considered the Old Base People, and for the
15 evacuees, they were considered the New Base People.

16 Q. So which were you considered?

17 A. I was amongst the evacuees; that's the New Base People.

18 [14.18.21]

19 Q. Sir, was there any difference in treatment at the cooperative
20 between the old -- looks like there is an objection, so I'll
21 stop.

22 MR. KOPPE:

23 Mr. President. Mr. President, it is now one hour and 20 minutes,
24 and still no question about the so-called massacre. I, please,
25 urge you and the Supreme Court Chamber to instruct or ask or

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1 whatever the prosecutor to ask questions to this witness about
2 this alleged massacre.

3 MR. KOUMJIAN:

4 Your Honours, first of all, the Defence Appeal is challenging all
5 the convictions, including the forced evacuation. The Defence
6 asked this question -- this witness questions repeatedly this
7 morning. So, for over three hours, many of them repetitious about
8 the massacre, he has told us in detail --

9 MR. PRESIDENT:

10 Mr. Co-Prosecutor, in order to avoid losing time, the objection
11 by the defence counsel is overruled and you may continue.

12 [14.19.45]

13 BY MR. KOUMJIAN:

14 Thank you.

15 Q. Sir, the question was: Was there any difference in treatment
16 between the Old Base People and the New Base People?

17 MR. SAM SITHY:

18 A. Yes, there was a distinction. The Old Base People had more
19 rice than us the New Base People. We did not have any authority,
20 for example, to plant potato at home or to harvest it later on.
21 We were not allowed to plant anything at home. We had to deliver
22 everything that we had to the cooperative. But for Old Base
23 People, they could partly share their produce with the
24 cooperative and kept some for their family or personal use. In
25 terms of the management for work-related purpose, the Old Base

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1 People would monitor or would supervise the work of the New Base
2 People that -- that is the structure and it applies to both adult
3 people and to youth. So the Old Base People had much more rice
4 than the New Base People.

5 [14.21.22]

6 Q. When you were at the cooperative, did you have the option --
7 did you ever think about going home? And if so, if not, why not?

8 A. No, we could not go. When we had to go to work, we had our
9 supervisor who was an Old Base Person and we could not ask for
10 permission, for example, for a day off to visit our home. If it
11 was a resting time, we could rest for an hour, for example, at
12 the worksite, and then we continued working.

13 MR. VERCKEN:

14 Mr. President, it is obvious that the Co-Prosecutor's questions
15 are not within the scope of this Appeal. I'd like to remind you
16 that this is an Appeal in Case 002/01. We're not now in the
17 second case. There is a Severance and we are talking about the
18 issues related to this. But here, we're just going in all
19 different directions without any real purpose.

20 [14.22.52]

21 MR. KOUMJIAN:

22 Your Honour, as the defence counsel knows, I'm certain, part of
23 the basis of the convictions in this case was a joint criminal
24 enterprise and various policies including cooperatives where
25 enslavement was practised was part of the joint criminal

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1 enterprise. So, I think, I should be allowed to ask questions
2 about the cooperatives and about the treatment of different
3 people. And I'm about to get into later, the treatment of
4 enemies.

5 MR. KOPPE:

6 Mr. President, the Prosecution is making a mockery of this
7 Appeal. It is disgraceful what is happening. Please, intervene.

8 JUDGE KLONOWIECKA-MILART:

9 Mr. Prosecutor, we note that cooperatives are not in the
10 Judgement. There is very little mention of the cooperatives in
11 the Judgement, so I think that this is not the appropriate use of
12 the time in the area of relevance. So unless you would move back
13 to the massacre, we would adjourn the Chamber for the break.

14 [14.24.11]

15 MR. KOUMJIAN:

16 Your Honour, I would like to move back to the issue of policy
17 that was covered by the last witness and this witness in
18 particular.

19 JUDGE KLONOWIECKA-MILART:

20 Last witness? Well, this is very general, so it's difficult to
21 guess the relevance. But let's give it a shot. But cooperatives
22 are not addressed in the Judgement.

23 BY MR. KOUMJIAN:

24 Yes, I would not argue with it. My point was that the joint
25 criminal enterprise crimes were an enslavement the Prosecution

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1 always felt was key to that, but let me move on. Thank you, Your
2 Honours.

3 Q. Sir, at the cooperative, did you ever hear any discussion of
4 enemies? Excuse me, let me strike those words. After you survived
5 the massacre, from the time you survived in April 1975 through
6 the end of the regime in 1979, did you ever hear any discussion
7 by the regime or any members of the Khmer Rouge of the enemies or
8 enemy policy?

9 [14.25.18]

10 MR. SAM SITHY:

11 A. In fact, the term "enemy" means that once you were alleged of
12 making a mistake, you would be considered an enemy, for example,
13 stealing a piece of potato, even the potato that you yourself
14 planted, you would be accused of being an enemy and sent to be
15 detained, as you would be alleged of an enemy against the
16 Revolution.

17 Q. After you survived the massacre, did you ever encounter any
18 incidences where you witnessed the regime searching for Lon Nol
19 soldiers or officers or former civil servants?

20 A. Yes. After the killing of my parents and while I was in Tang
21 Kruos village, Krang Lvea commune, I witnessed the gathering of
22 prisoners, hundreds of them. And in the morning, I saw them walk
23 in line while being tied up and there was a batch of 50 or 100
24 prisoners. They were walking passing my house towards the east,
25 though I must say I didn't know where they were taken to. And

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1 that's what I witnessed while I was at Tang Kruos village, Krang
2 Lvea commune. And I tended the cows at my village of Tang Kruos,
3 and those people were tied up and being walked in line. And from
4 what I could observe, they were probably former soldiers.

5 [14.27.44]

6 Q. Your Honours, I would just if Your Honours want to have the
7 break, you may wish to refer on the Judgement paragraph 615. It's
8 entitled "Refashioning in the Cooperatives". I just wanted to
9 bring that to Your Honours' attention.

10 But Mr. Witness, the incident that you just spoke about, can you
11 tell us what year that occurred? Again, if you don't know, don't
12 guess. But just -- if you know or if you could estimate. If you
13 do not know the answer, do not guess, but tell us what if you
14 recall.

15 A. What are you referring to, Co-Prosecutor? Are you referring to
16 the events that I witnessed prisoners being walked in line while
17 being tied up?

18 [14.28.48]

19 Q. Yes, sir. That's correct.

20 A. Well, if that is the case, I actually witnessed the prisoners
21 being walked in line while being tied up while I tended cows at
22 the rice field in that village. I was taking shelter in a
23 plantation and I, at the time, witnessed those people being tied
24 up in line and were being walked. And at one time, I could
25 estimate that there were between 50 to 60 of them. Sometimes, the

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1 line was a bit longer, could be 100 and sometimes, they were
2 shorter, could be 40 prisoners. And they were being walked from
3 the west to the east direction, though I did not know where they
4 were heading to.

5 Q. Do you know if that was 1975 or 1976 or later, do you know?

6 A. I think it was in late 1975.

7 Q. The people that you saw tied up, what was their gender, were
8 they men, women, or mixed?

9 A. If my conclusion is not wrong, from the physical appearance,
10 they were former Lon Nol soldiers.

11 [14.30.42]

12 MR. PRESIDENT:

13 Mr. Co-Prosecutor, please hold on as we need to change the disc
14 -- the DVD and we need five minutes break. And in fact your time
15 has run out as well. Do you have many more questions to put to
16 this witness? Please alert the Chamber.

17 MR. KOUMJIAN:

18 May I just have one moment, my colleague was talking to me, but I
19 couldn't hear -- confer with my colleague.

20 Your Honours, I believe that I can finish quickly after covering
21 a little bit more details about this incident that he's now
22 speaking about.

23 MR. KOPPE:

24 We are really not interested in this incident. Please, use your
25 last few minutes asking this witness questions about the

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1 massacre, Mr. Prosecution.

2 (Short pause)

3 [14.32.22]

4 MR. PRESIDENT:

5 Now, Mr. Co-Prosecutor, you may have two or three more minutes to
6 conclude your last set of questions.

7 BY MR. KOUMJIAN:

8 I just have one concern. My colleague told me that some of the
9 last few questions were not on the record because the tape had
10 run out. So I don't know if I need to go back at all. Can we
11 determine that? Can I just presume that everything is already on
12 the record?

13 Q. Sir, did you recognize any of the people you saw on that line?

14 MR. SAM SITHY:

15 A. Who could I recall? You were referring to those who were tied
16 in line?

17 Q. Sir, my question is: When you talked about the men who were
18 tied up and walked away, did you recognize any of their faces,
19 was there anyone you knew in that group?

20 A. No, I did not know any of them. I only witnessed that they
21 were former soldiers of Lon Nol time from their physical
22 appearance and that they were in good built, they looked like
23 pilots. And I believe that those people were former soldiers
24 after they were found out.

25 [14.35.03]

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1 Q. I'm almost finished, sir. The people, was there anyone
2 guarding them? And if so, did they have any weapons?

3 A. From what I could see, no; 50 or 60 of them were tied up in
4 line. I could only see two rifles perhaps that were carried by
5 the soldiers -- the guards.

6 MR. KOUMJIAN:

7 Thank you, Your Honours, for the time.

8 MR. PRESIDENT:

9 Now, the Supreme Court Chamber will take a short break and we
10 will resume at 14.50.

11 (Court recesses from 1436H to 1454H)

12 MR. PRESIDENT:

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

14 After the discussion and deliberation of the Supreme Court
15 Chamber, it decides to grant another 30 minutes for the defence
16 team for Mr. Khieu Samphan to put questions to this witness. You
17 may now proceed. So it depends on the two defence teams for Mr.
18 Nuon Chea and Khieu Sampan. You may discuss among your teams how
19 much time you need for each of your teams to put your question to
20 this witness.

21 QUESTIONING BY MR. VERCKEN RESUMES:

22 Thank you, Mr. President.

23 Q. Witness, I would like to get back to a recurring issue, it
24 appears in your testimony -- that is to say, the date when you
25 met the investigators from the Tribunal, and the fact that you're

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1 telling us that you don't really remember the different work
2 groups that came to speak to you about the terrible story -- the
3 terrible experience you went through after the publication of the
4 press article. And then I asked myself the following question
5 when I thought about this: when you met this investigator from
6 the tribunal, he asked you to take an oath, do you remember?

7 [14.58.20]

8 MR. SAM SITHY:

9 A. When he went to see me and interview me, he did not ask me to
10 take an oath, but he stated at that time that I had to speak the
11 truth, nothing but the truth. And I was told by the one from the
12 Court to ask me to be here before the Supreme Court Chamber, and
13 I was told that I had to take an oath.

14 Q. Yes, of course, I understand that you're speaking to us about
15 your recent discussion. You said that this discussion happened
16 two months ago or so. I'm -- I'm speaking about two years ago,
17 when you met what you qualified as a work group made up of four
18 people. And you took an oath that day, didn't you? Do you
19 remember, the day when you signed and thumb-printed this record?
20 In fact, you recognized your signature and your thumbprint this
21 morning. And of course, I mean, you're a policeman, so it's
22 normal. So that day, that day, you took an oath or not?

23 A. I do not recall whether I had taken an oath at that time, but
24 I recall that I put my signature and I wrote down the names by my
25 own.

1 [15.00.26]

2 Q. When you meet journalists or people from other organizations,
3 do they make you sign the records at the end of your discussions
4 with them?

5 A. As for the media, the media did not ask me to put my
6 signature, but people from the media went to see me and get some
7 information from me, but as for the -- the one from the Court, I
8 was asked to put my thumbprint or fingerprint on the document.
9 And I was interviewed seven years ago and two years ago.

10 Q. So you were interviewed by a representative of the Tribunal
11 before whom you took an oath; is that correct?

12 A. I told you already. I do not remember that I had taken an oath
13 back at the time that I was interviewed, but here I have taken an
14 oath. And once again, I had put my signature, my thumbprint or
15 fingerprint on the document.

16 [15.02.10]

17 Q. So now, Witness, you remember therefore having met the
18 investigators twice, and therefore having signed these records
19 twice -- that is to say, two years ago and -- and recently.

20 A. Yes, but I do not know whether the two groups came from this
21 same Court, or perhaps, there was another group. There was one
22 group from the organization, and I recall that I was once
23 interviewed seven years ago, and I had another interview two
24 years ago, and I did not know whether the interview I gave two
25 years ago were conducted -- was conducted by someone from the

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1 organization or from this Court.

2 Q. Fine, very well. Now I would like to get back to the facts
3 surrounding the time when you were brought into the woods from
4 the Chrak Sdech pagoda with the families. When I read the written
5 record of interview, the only one that we have, which dates back
6 to 7 August 2008, I see that you say the following, so the index
7 is E3/5201; French, ERN 00275145; and English -- Khmer, 00212121;
8 and English, 00275139; and you say: "The Khmer Rouge asked on the
9 microphone if there were former civil servants from the Lon Nol
10 regime, and they said that those who worked before getting back
11 to their job" -- Should I stop, Witness? I see that you're
12 reading a document at the same time as I'm reading it out to you.
13 What is this document?

14 [15.04.53]

15 A. This document was given by the work group.

16 Q. So you kept this document apparently, right?

17 A. After I was interviewed, I was given a document for reviewing.

18 JUDGE KLONOWIECKA-MILART:

19 Counsel, it may -- Counsel, it may assist that Counsel Koppe gave
20 the witness a copy to confirm his signature, lack thereof, or
21 thumbprint. The impression that I personally had that it had been
22 left on the witness's desk. And just to also avoid any
23 misunderstanding, I guess the working group that recently visited
24 the witness and spoke about the oath, it's the witness unit
25 acting upon our instruction of localizing the witness and then

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1 serving him with a summons. There was a contact initiated by this
2 Chamber, because this is this Chamber's witness.

3 [15.06.32]

4 BY MR. VERCKEN:

5 Q. I had understood this perfectly well. Indeed, that's what he
6 said, two months ago, two months ago, a representative of the
7 tribunal came to speak to him in order to prepare him for this
8 hearing, in fact. So, let me please continue, Witness, with what
9 I was reading out to you, but however, I want you to confirm here
10 the copy that you have here on your desk is the copy that my
11 colleague gave to you earlier, it's not the former one -- the old
12 one that you kept with you since; am I correct?

13 MR. SAM SITHY:

14 A. I was given this document when I was asked to observe the
15 thumbprint.

16 [15.07.25]

17 MR. PRESIDENT:

18 Mr. Witness, perhaps you did not understand the question well. He
19 wanted to know whether this document was given by the defence
20 team for Mr. Nuon Chea. Counsel for Mr. Khieu Samphan did not ask
21 you about the thumbprint that you put on the document. I do not
22 want to intervene, but Mr. Witness, please listen to the
23 questions carefully. Please give your response rightly to the
24 questions. Do not exaggerate. The defence team for Mr. Khieu
25 Samphan wanted to know whether the document was given by the

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1 defence team for Mr. Nuon Chea. So please give your response.

2 BY MR. VERCKEN:

3 Q. Well, let me repeat this to you. The document that you have
4 before you, is that -- is this the document that was given to you
5 by the Nuon Chea defence, or is this the document that you kept
6 with you since you were interviewed, and that you brought from
7 your home to here for this hearing?

8 MR. SAM SITHY:

9 A. This document was given to me by the defence counsel for Nuon
10 Chea this morning.

11 [15.09.07]

12 Q. Thank you. So let me get back to what I was reading out to
13 you. I have already given you the ERN, so let me quote: "My group
14 made up of seven families was obliged to walk to the south of
15 Chrak Sdech pagoda, and then went through woods and crossed
16 streams to the ROUNG KHILA forest. We were walking for more than
17 one hour under the guidance of one Khmer Rouge who wore a red
18 scarf and who also carried a machete. This guy ordered us to
19 leave our belongings, and then asked the people to go cut wood in
20 the forest to build temporary shelters, and asked the children to
21 stay put. This person escorted 12 people, including my father."
22 I'm stopping here - [this was a free translation] -- to specify
23 that a little bit further down, a few lines further down, you
24 explained that it is this guy or this person who was wearing a
25 red scarf, who came back in order to take the women away, and to

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1 take you away as well. So during your testimony, you spoke about
2 one single person who went from -- came from the pagoda and
3 escorted you to the forest, and then earlier on, you said that
4 there were three people. So I'm confused, what is your reaction
5 to this significant difference between one and three people
6 escorting you from the pagoda onwards?

7 [15.11.10]

8 A. Allow me to clarify the matter once and for all. This morning,
9 I already explained the situation. I referred to militia and
10 armed men with a knife who took the seven families from Chrak
11 Sdech pagoda to a forest. And by that time, we didn't cross any
12 rice field or the stream yet. However, upon the start of the rice
13 field, two people were assigned to watch over the wives and the
14 children, and militiamen took away the men to cut trees to make
15 makeshift shelters. That's what I explained this morning. Are you
16 clear enough now, Counsel?

17 Q. Yes, it is clear, more or less. Let me continue because I
18 don't have much time.

19 Earlier on, you provided the description of what happened when
20 you followed your father, and you explained to us that you had
21 come back to your mother. So my question is the following: you
22 came back -- you went to warn your mother. You were 14 years old,
23 therefore you were young, and given your physical condition, you
24 were probably quite healthy and you knew that there was danger
25 looming, and you saw that your father had been taken away by six

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1 armed men, and you had just heard the gunshots coming from the
2 place where you left your father behind, and you warned your
3 mother of the danger, and there were no armed guards next to you
4 or near you, and you said earlier on that you had some military
5 knowledge because you come from a military family, so my question
6 is simple: So why, when you heard the gunshots, why didn't you
7 flee? Why? Why didn't you flee?

8 [15.13.50]

9 A. I think the question is repetitive of the one that I was asked
10 this morning. When the men were segregated from the rest and were
11 led away by militiamen, while the other two armed men were
12 assigned to watch over the women and the children, but I wanted
13 to follow my father, so I ran after him and he chased me to go
14 back, but I didn't obey him. And when he and other men were led
15 to cross the stream, I saw six armed men on the other side of the
16 stream pointed their guns at my father and the men and took them
17 away. So I concluded that my father and the other men were taken
18 away to be killed.

19 JUDGE KLONOWIECKA-MILART:

20 Mr. Witness, the question was: Why didn't you escape, why didn't
21 you run away after you heard the gunshots? Please answer to the
22 question.

23 [15.15.05]

24 MR. SAM SITHY:

25 A. As I stated, I saw -- I witnessed my father and the other men

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1 were pointed with guns, so I ran back to my mother and asked her
2 to go, and there were two militiamen present there, and my mother
3 didn't want to leave, as she still believes that my father was
4 taken to the forest in order to cut trees. And about half an
5 hour, an hour later, we heard the gunshots, and then I was
6 running away from my mother and the group, and my mother was
7 running after me and brought me back to the group.

8 BY MR. VERCKEN:

9 Q. A little while ago you said that the guard who was guarding
10 your mother was armed. Was he carrying an AK?

11 [15.16.31]

12 MR. PRESIDENT:

13 Please turn on the microphone for the witness.

14 MR. SAM SITHY:

15 A. The three men were militia. One took away my father and men
16 and the other two militiamen were standing guard of my mother and
17 the rest of the women. They were not armed with any weapon;
18 however, they had knives.

19 BY MR. VERCKEN:

20 Q. When your mother was running after you and you were running
21 away, this is a new detail we haven't heard about before, was it
22 then your mother said "don't worry, they're just hunting"?

23 [15.17.34]

24 MR. SAM SITHY:

25 A. Because I couldn't stand at one place, and I told my mother

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1 that why, why she doesn't want to do anything because my -- that
2 the -- our father is being killed. When I heard the gunshots,
3 that's what I said to my mother, but my mother said, "Don't think
4 so, son, they are hunting, they are killing the animal." And I
5 told her why she doesn't listen to me, so I ran away again and
6 then she ran after me and caught me and brought me back into the
7 group.

8 Q. Okay, so you ran away twice and she caught up with you twice.
9 Was there a lot of hunting in those days in Cambodia? Just after
10 the war, did a lot of hunting take place with people shooting
11 animals with firearms?

12 A. Allow me to tell you this. That was a lie made up by my mother
13 so that I would not be scared. She said the gunshot was the
14 killing of wildlife, and she told me not to be afraid or to run
15 away, and she held me still with her. And even when we were
16 walked at gunpoint into the forest in a similar fashion as my
17 father was, she realized that I told her -- I had told her the
18 truth previously, and she wept by that time.

19 [15.19.30]

20 Q. How big was the bomb crater that you were asked to sit down
21 besides?

22 A. It was pretty large actually. As I was asked by Nuon Chea's
23 defence, the upper top was about 8 to -- 8 -- 7 to 8 metres wide,
24 and the bottom part was between 3 to 4 metres wide.

25 Q. When you got out of the pit after two hours, were you naked?

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1 Had you had your clothes taken off you when you were left for
2 dead there?

3 A. What I saw with my own eyes, the sarongs or the skirts which
4 were stained with blood were stripped off dead bodies, and I did
5 not know why -- why they didn't strip away the clothing that I
6 was wearing, or my other three relatives were wearing, or maybe
7 they thought because the clothes were too small, but for the
8 adults, they strip off all those clothes, although they were
9 stained with blood.

10 Q. When you were explaining why the armed forces did their job
11 badly, I think that's what you said, you were saying that they
12 were in a hurry and you added it was going to rain. And when you
13 described how you climbed out of the pit after two hours, you
14 said it was going to rain. My question is: Did it rain?

15 [15.22.35]

16 A. It was about to get dark and it was about to rain, and that's
17 why I said that they didn't do their job properly as they were in
18 a hurry to go and get our belongings as spoils, so that they
19 could distribute them amongst their family members, and it took
20 me about two hours before I could crawl out of the pit as I was
21 afraid that maybe one of them was still there to watch over us.

22 Q. In the first phase, when the men were taken away into the
23 forest, how many of these men were there?

24 A. The men, as heads of the family, there were seven of them, and
25 then there were full-grown sons, and there were at least one or

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1 two sons in each family, and they were all bundled together to
2 go.

3 Q. So that totalled how many, roughly?

4 A. I didn't do the headcount. However, I could say that my uncle
5 had a full-grown son, and another uncle also had a full-grown
6 son. As for the teacher, he had two full-grown sons. So in fact,
7 they took away those full-grown men first, and they left behind
8 the women and the children, like myself.

9 [15.24.52]

10 Q. You told us what precautions you took before climbing out of
11 the pit. You threw some stones into the bushes round about to see
12 if anything was moving in there, and you took care to make sure
13 that there wasn't anybody there. And that then was when you and
14 your two cousins and your sister went back towards the pagoda,
15 but what surprises me is that you say that when you got to the
16 pagoda, the guards were after you, and that they were looking for
17 the four survivors. But how did these guards know that there were
18 four survivors? How did they know you had survived? And why did
19 you go back to the pagoda, because it was taking the most obvious
20 risk to be caught once again.

21 A. Of course, I didn't go there to be caught again. The purpose
22 of going there was to look for friends and family members who
23 were still living there in order to ask for their food. And then
24 I was asked about the whereabouts of my parents, then I whispered
25 to them that they had been killed; they had been shot dead. And

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1 of course, the word by mouth spread from one person to the next,
2 and then it spread out through the entire premises of the pagoda,
3 and we had to hide ourselves. And amid the chaos, there was an
4 announcement on the loudspeaker that people should not believe
5 the propaganda made up by the imperialists, and that their
6 soldiers are in pursuit to catch the four persons. The situation
7 was rather confusing.

8 [15.27.20]

9 Q. Sorry, I must interrupt you because we're rather short of
10 time. You said that people knew already. When you got there
11 people knew already. We'll see in the transcripts because of
12 course everything is recorded, but you said that people knew
13 already that you had survived, and that's why I was asking you
14 the question. Let me ask you about the survivors, because I did a
15 quick check on my computer and nobody ever talks about the Chrak
16 Sdech pagoda in describing the events that you relate, nobody in
17 the case file. You said that there were thousands of people, that
18 there were people you knew well, and that you went back to that
19 place to join up again with the people who were close to you. And
20 apart from your cousin, who you've told us about, can you tell us
21 the names of anybody else who is still alive, or give us any kind
22 of information that would help us to identify other people who
23 might have been at that pagoda at that time, and who would still
24 be alive today?

25 [15.28.53]

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1 A. Yes, I can do that. However, I cannot force them to appear
2 before the Chamber, and it would be better for you to go and meet
3 them at their respective place of residence. And there are
4 several of them who are related to my parents. After I met them,
5 they asked about the whereabouts of my parents --

6 MR. PRESIDENT:

7 Mr. Witness, please answer briefly and precisely. And your long
8 response leads to the waste of time. Just mention briefly who
9 else is still alive today.

10 MR. SAM SITHY:

11 A. There are some of my relatives who are still alive.

12 [15.29.54]

13 BY MR. VERCKEN:

14 Q. Can you give us a few names?

15 MR. SAM SITHY:

16 A. I cannot do that now since I do not know their real names.

17 Q. Naturally. And my last question, and then afterwards I will
18 let the Bench continue. Between your cousin and your -- who
19 between your cousin and your sister died of tetanus?

20 THE INTERPRETER:

21 The interpreter cannot hear.

22 MR. SAM SITHY:

23 A. In fact, it was my younger sister who was hit at the back of
24 her head by the Khmer Rouge.

25 BY MR. VERCKEN:

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1 Q. Earlier on, you said that she committed suicide. So did she
2 die of tetanus or did she commit suicide?

3 [15.31.02]

4 JUDGE KLONOWIECKA-MILART:

5 The witness answered this question (recording malfunction) who
6 survived the massacre, just before the break.

7 MR. VERCKEN:

8 Well, I'm sorry, what you just said was not translated; if you
9 could please repeat.

10 JUDGE KLONOWIECKA-MILART:

11 Our impression is that the witness described the cause of death
12 of his sister as he knows it, and gave the date upon my
13 insistence.

14 MR. VERCKEN:

15 That's true. However, this morning he said that she died of
16 tetanus, and that she did not commit suicide.

17 [15.32.02]

18 MR. PRESIDENT:

19 Defence Counsel, this morning I actually heard it clearly this
20 morning. However, I'd like the witness to clarify this matter.

21 And Defence Counsel, please put the question again to the
22 witness.

23 MR. SAM SITHY:

24 A. Allow me to clarify the matter. I also already confirmed that
25 my younger sister who was hit at the back of her head could not

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1 be treated for that, and that led her to a psychiatric condition.
2 And that led to her mental disability, and ultimately led her to
3 committing suicide. And as I said, her death was the result of
4 the trauma from being hit at the back of her head.

5 MR. VERCKEN:

6 I am done. Thank you very much, Mr. President.

7 MR. PRESIDENT:

8 It is now time for the Bench to put questions to the witness, and
9 my fellow judge, Som Sereyvuth, has the floor.

10 [15.33.35]

11 QUESTIONING BY JUDGE SOM SEREYVUTH:

12 Q. I have a few questions to put to you, Mr. Witness. My
13 questions concern the shooting and the killing of people. I have
14 heard your testimonies so far, and you stated that 26 people died
15 because of the killing and shooting, and you also state that you
16 stand by the written record made by the investigator of the ECCC,
17 and you stated repeatedly as well in relation to this matter. Is
18 that correct that there were 37 members within your group,
19 including your family members? And you also stated that there
20 were six armed men with six rifles, and you told the Court that
21 your -- members of your group were told to sit down on the ground
22 and the fire was opened at all of you. Could you describe for the
23 method of killing at that time? How did they fire towards your
24 members in the group?

25 MR. SAM SITHY:

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1 A. Allow me to give my response. I have told the Court already.
2 They asked us to sit in group in a circle, and then they opened
3 fire at all of us.

4 [15.35.37]

5 Q. So, you mean the armed -- the six armed men were surrounding
6 all of you?

7 A. Yes, they were surrounding all of us, and they opened fire
8 straight at us.

9 Q. So no one escaped, no one could make an escape while you were
10 all being shot?

11 MR. PRESIDENT:

12 Mr. Witness, please observe the microphone before you speak.

13 MR. SAM SITHY:

14 A. No one dares to run away while being shot. We were all in the
15 group. Children would not dare to run away from the mother, and
16 the mother would not dare to run away from the children either.

17 BY JUDGE SOM SEREYVUTH:

18 Q. So what about the shooting? Were you all shot by them?

19 MR. PRESIDENT:

20 Mr. Witness, the voice -- your voice does not go through the
21 microphone or the interpretation system. Please wait for the
22 microphone to go on before you speak.

23 [15.37.05]

24 MR. SAM SITHY:

25 A. We were told to sit down on the ground at the specific

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1 location. We were put in group, and the six armed men were
2 surrounding all of us, and fire was opened at all of us.

3 THE INTERPRETER:

4 Microphone is not on.

5 BY JUDGE SOM SEREYVUTH:

6 Q. While you were being shot, you did nothing but sitting quietly
7 and let these men shoot at all of you?

8 MR. SAM SITHY:

9 A. We were told to sit down on the ground. No one ran away. And
10 they shot us, and as for the young babies and children, they were
11 crying, they were crying, after the bullets were shot at all of
12 us. And after the shooting, these men went around to hit the
13 babies, and they -- after that they threw the babies' bodies into
14 the pit.

15 [15.38.32]

16 Q. Did you believe -- do you believe that all of these people
17 died as a result of the shooting?

18 A. Yes. I believe that they all died after the shooting. After
19 the incident happened, and after I could survive from the
20 shooting, I was asking who else survived the killing, but no one.

21 Q. So, do you believe -- do you believe firmly that they all died
22 except all of you?

23 THE INTERPRETER:

24 No answer from witness.

25 MR. PRESIDENT:

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1 You may now proceed, Judge Milart.

2 QUESTIONING BY JUDGE KLONOWIECKA-MILART:

3 Q. In connection with these questions, can you tell me from what
4 distance were the shots fired at the victims, or show us? How far
5 were the armed men from their victims when they were shooting?
6 Show us how far from the other booth they were.

7 [15.40.00]

8 MR. SAM SITHY:

9 A. From my estimate, from the place where we were sitting, it was
10 about eight metres from the place where the victims were sitting,
11 and the fire was opened directly at all of us.

12 Q. Eight metres. Eight metres. This is like from the -- from the
13 air-conditioning to you, from that wall to you; is that correct?

14 A. I don't think it is eight metres from the wall to me. It's
15 about 10 metres.

16 Q. Asking you to show us how far were those armed men from their
17 victims. So which -- which row would you indicate as their
18 position to describe the distance most accurately? Treat your
19 chair as the position of the victim, and if you could walk over
20 and show from which place the distance would be the same.

21 A. From the place where I am sitting, so I assume that the place
22 I am sitting is the victim location, from my seat, from my seat I
23 could say that the armed men were standing at the corner of the
24 seats of the defence teams. And they were standing perhaps at
25 that location, and the shooting -- shot were opened at all of us.

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1 And at that time, I am -- I was in the middle of the victims. And
2 the fire was opened from the corner of the Bench seats.

3 [15.42.26]

4 Q. Were they in front or in the back of you, or at the side?

5 A. I was in the centre, and people in front of me or around me
6 would be hit by the bullets. And as I show the Court, my mother
7 was sitting in front of me.

8 Q. Facing these armed men, or you were turned with your back to
9 them, or the side of your body, if you remember?

10 A. I told repeatedly already. The armed men were in front of me
11 and behind me. There were also other armed men, and as I told you
12 already that there were six or seven armed men. And the men who
13 was sitting -- who was shooting at my mother was standing in
14 front of my mother, and I was behind my mother, and as I told the
15 Court already, the six armed men were surrounding all of us.

16 Q. How long did it last, if you can tell us?

17 A. It lasted for perhaps half an hour because there were many of
18 us, there were many victims, and after half an hour, everyone may
19 have died. And I told the Court already, as for young baby and
20 infants, the armed men went around and hit and killed them.

21 [15.44.40]

22 MR. PRESIDENT:

23 The question from Judge Milart is clear. She wanted to know
24 exactly how long it lasted during -- she was referring to the
25 shooting. How long did it last?

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1 MR. SAM SITHY:

2 A. It lasted less than half an hour. But I said it lasted half an
3 hour, including the time that they went around and smashed the
4 young babies, and the six men were armed with six rifles. And the
5 killing, the shooting lasted only 15 minutes.

6 [15.45.37]

7 BY JUDGE KLONOWIECKA-MILART:

8 Q. Mr. Witness, we do appreciate that this is a hard subject, but
9 can you describe whether people were killed instantly, or whether
10 it took some effort in -- murderous effort to kill them by
11 shooting? Was it by single shots or were there several rounds
12 fired?

13 MR. SAM SITHY:

14 A. They found it easy to shoot all of us. They were surrounding
15 all of us and we could not be able to run away, so the shooting
16 did not last long.

17 MR. PRESIDENT:

18 Mr. Witness, perhaps you did not understand the question. The
19 Judges would like to know whether there were several rounds of
20 shooting or there was only one round of shooting.

21 MR. SAM SITHY:

22 A. They were shooting at the victims that were being shot
23 instantly, one after another. And if they saw anyone stand up,
24 the fire would be shot at that individual. So one after another
25 was shot.

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1 [15.47.45]

2 BY JUDGE KLONOWIECKA-MILART:

3 Q. You heard crying and screaming once this ensued. After the
4 bodies were placed in the pit, did you hear any sounds of these
5 wounded people, any crying, any moaning?

6 MR. SAM SITHY:

7 A. Yes, I heard. I heard it. There was crying and moaning while
8 they were being shot, but everyone was shot until there was no
9 silent, the shooting stopped.

10 Q. And after the shooting stopped, was there silence or were
11 there still sounds of people being wounded?

12 A. After the shooting stopped, no screaming, no moaning; only the
13 sounds of young babies and infants could be heard. And they went
14 around and smashed the babies and children.

15 [15.49.10]

16 JUDGE KLONOWIECKA-MILART:

17 I understand. Thank you.

18 MR. PRESIDENT:

19 You may now proceed, Judge Mumba.

20 QUESTIONING BY JUDGE MWACHANDE-MUMBA:

21 Thank you, Mr. President. I have only one question.

22 Q. Witness, after the time of evacuation when your family was
23 leaving, you were about 14 years old, what level of education did
24 you have at that time?

25 MR. SAM SITHY:

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1 A. I was in grade 7 in the old schooling system. I could say that
2 the education system in the past was in reverse order, and if we
3 finished our grade 9, we would move to grade 8.

4 [15.50.17]

5 MR. PRESIDENT:

6 Could you clarify for the Chamber? What you have just stated may
7 confuse everyone here and also Judges. In the old system, you
8 would move from nine to eight, but in the current education
9 system, it is in reverse order. So could you clarify this for
10 everyone?

11 MR. SAM SITHY:

12 A. I would like to clarify for the Chamber. It is correct, what
13 you have just stated. In the old education system, it was in
14 reverse order compared to the current education system, so we
15 would move from 12 into 11 and downward to 1, and during that
16 time I was in grade 8. And I was in grade 8 when I was evacuated.
17 And as Mr. President said already, the old system, the old
18 education system, was in reverse order in our region.

19 [15.51.41]

20 BY JUDGE MWACHANDE-MUMBA:

21 Q. To be clear, Witness, that means you had had eight years of
22 education?

23 MR. SAM SITHY:

24 A. Yes.

25 Q. Thank you.

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1 MR. PRESIDENT:

2 Mr. Witness, could you clarify again if you state that you were
3 in grade 9 or 8. Perhaps you finished only four years schooling
4 at that time. So could you clarify again for the Chamber?

5 MR. SAM SITHY:

6 A. I started grade 12 and at that time I was not allowed to start
7 school because I did not reach the schooling age at that time.
8 Let me clarify, I first started grade 12, and I failed three
9 times. I failed grade 12 once, and I failed grade 11 once. And
10 also grade 10. I also failed grade 10, because I did not catch
11 up.

12 [15.53.16]

13 BY JUDGE KLONOWIECKA-MILART:

14 Q. Mr. Witness, what is your education for the present date,
15 today?

16 MR. SAM SITHY:

17 A. After I was -- it is my education level since the time I was
18 evacuated, so I was in grade 9 or 8 in the old education system.

19 MR. PRESIDENT:

20 Mr. Witness, perhaps you misunderstood the question. So what is
21 your education from liberation until now?

22 MR. SAM SITHY:

23 A. I told the Court already. I did not attend any other training
24 or schooling after that time. After 1979, I did not attend any
25 other schooling or education or training because I was being -- I

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1 was very busy finding rice for my younger siblings to eat.

2 MR. PRESIDENT:

3 Judge Jayasinghe, you have any question?

4 [15.54.35]

5 QUESTIONING BY JUDGE JAYASINGHE:

6 Thank you. Mr. President.

7 Q. Witness, just a short question for you. After you were
8 evacuated from your residence on the 17th April, you said you
9 travelled four days to reach the pagoda, right? And how did you
10 sustain yourself during the journey of four days? Did you cook on
11 the way? How did you prepare your dinner, your breakfast? Did you
12 share it with the Khmer Rouge who accompanied you? Can you
13 explain to us a little?

14 MR. SAM SITHY:

15 A. I was travelling with my parents at that time, and while --
16 when we were living in our house, normally we had breakfast and
17 dinner and lunch, but while travelling, we could only have two
18 time meal per day, and my parents cooked for me and all of us.
19 And as for food, we did not have soup to eat. We had only dry
20 fish and fermented fish paste, salt, and fish sauce. There was no
21 -- any soup or delicious food.

22 [15.56.11]

23 Q. That's on your way, right, on your way to the pagoda?

24 A. We were leaving without knowing where to go. We were moving us
25 accompanied by guards, and when it was time for meal, we would

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1 stop to have meal. There's no specific location or direction that
2 we had to go.

3 JUDGE JAYASINGHE:

4 Okay, thank you, Witness.

5 MR. PRESIDENT:

6 You may now proceed, Judge Ya Narin. You are the last one to ask
7 questions now.

8 [15.57.20]

9 QUESTIONING BY JUDGE YA NARIN:

10 Q. Mr. Witness, I have one last question. I know you have been
11 tired since the morning, and you are here being questioned by all
12 Parties, and sometimes you feel very unhappy because of the past
13 experience. I have only one question. You said that you were
14 evacuated on the 17 April 1975, and everyone left the city, and
15 they were on the way moving to different direction, and it was so
16 crowded. I would like to know while you were moving together with
17 people, you were travelling on national road or on subsidiary
18 road?

19 MR. SAM SITHY:

20 A. We were travelling on National Road 20-something. We left
21 Kampong Chhnang to Tuek Phos district, and after which we arrived
22 Trang Popok (phonetic), Chum Reay, Aoral and Chrak Sdech pagoda.
23 Actually, there was a national road up to Tuek Phos district, and
24 after that we were travelling on subsidiary road.

25 Q. So it was so crowded on the national road and also -- was it

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1 so crowded on national road and also on subsidiary road while you
2 were travelling?

3 A. I told Your Honour already. There was paved national roads up
4 until Tuek Phos district, and after which, there was only
5 subsidiary roads. And we were walking according to what we were
6 told to go. And it was so crowded, we moved very slowly.

7 [15.59.51]

8 Q. I would like to clarify. So you were all on the same direction
9 while -- when leaving Kampong Chhnang?

10 A. Yes.

11 Q. Thank you very much.

12 MR. PRESIDENT:

13 It is now time for the adjournment. I thank you very much, you,
14 Mr. Witness.

15 And now there is one more question from Judge Milart. Please bear
16 with us, Mr. Witness. You may now proceed.

17 BY JUDGE KLONOWIECKA-MILART:

18 Q. Coming back to these journalists that interviewed you and you
19 said that the investigators -- or the working group came after a
20 story appeared, or an article appeared. What prompted the article
21 at first place? Why someone decided to write an article about
22 you, or was it you who wrote this article?

23 [16.01.09]

24 MR. SAM SITHY:

25 A. The press is one of my friend. He or she knows my story, and

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1 he or she knows that Pol Pot took my parents and relatives away
2 to be killed. He or she asked me whether I could give an
3 interview to him or her, and he explained me that perhaps there
4 may have been my relatives living in the -- living abroad, and
5 who may help to support my siblings, and this press person wanted
6 to know my story and wanted to help whether there are survivors
7 from the regime related to me.

8 Q. Is there a reason why you don't mention the name of this press
9 person? It's usually that the journalist protects the source, not
10 the source protects the journalist. Does this person have a name?

11 A. This journalist is one of my friends. He is working for Koh
12 Santepheap newspaper. His name is Ian. I do not know whether he
13 has any alias when writing an article in the newspaper.

14 [16.03.24]

15 MR. PRESIDENT:

16 It is now time for the adjournment and thank you very much, Mr.
17 Witness, for spending time giving your testimony before the
18 Supreme Court Chamber of the ECCC. You may now be excused.

19 Allow me to inform Parties and everyone that we will resume our
20 hearing on Monday, 6th of July 2015, and there is one day
21 reserved, which is Tuesday, in case that we could not finish our
22 hearing.

23 Security personnel are instructed to bring back the two Accused
24 to the detention facility and have them returned here on Monday.
25 The Court is now adjourned.

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1 (Court adjourns at 1604H)

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Corrected transcript: Text occurring between less than (<) and greater than (>) signs has been corrected to ensure consistency among the three language versions of the transcript.