



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia

Chambres Extraordinaires au sein des Tribunaux Cambodgiens

**ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ**

Kingdom of Cambodia

Nation Religion King

Royaume du Cambodge

Nation Religion Roi

អង្គជំនុំជម្រះសាលាដំបូង

Trial Chamber

Chambre de première instance

TRANSCRIPT OF TRIAL PROCEEDINGS - KAING GUEK EAV "DUCH"

PUBLIC

Case File N° 001/18-07-2007-ECCC/TC

17 August 2009, 0905H

Trial Day 59

Before the Judges:

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MR. ROBERT HAMILL

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MS. CANIZARES	French
JUDGE CARTWRIGHT	English
MR. DE WILDE D'ESTMAEL	French
MR. DUCH PHARY	Khmer
MR. ROBERT HAMILL	English
MR. KAR SAVUTH	Khmer
JUDGE LAVERGNE	French
MS. MARTINE LEFEUVRE	French
MS. OUK NEARY	French
MS. SE KOLVUTHY	Khmer
MR. SENG BUNKHEANG	Khmer
THE ACCUSED	Khmer
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MS. TRUSSES-NAPROUS	French
MR. WERNER	English

1

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

2 (Judges enter courtroom)

3 [09.05.30]

4 MR. PRESIDENT:

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

6 We are going to hear the civil party statements; those who have

7 already been decided by the Court to choose them to hear before

8 the Chamber. We are going to hear only some of the civil parties

9 among the 93.

10 Before we proceed to hear the statements of the civil parties,

11 the Greffier is now instructed to report the attendance of the

12 parties to the proceedings and the person concerned.

13 THE GREFFIER:

14 Mr. President, the parties to the proceedings today are all

15 present. The civil parties E2/85 and E2/89 are all present and

16 awaiting call from the Chamber.

17 MR. PRESIDENT:

18 Before hearing the statement of the civil parties, the Chamber

19 would like to enquire to the defence counsel. The Chamber refers

20 to the list of civil party applications which was read out during

21 the hearing of the 10th of August. For planning purposes, the

22 Chamber would like to know if the defence intends to challenge

23 any of the applications of civil parties who will not be heard in

24 person.

25 Accordingly, it requests the defence to indicate which

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1 applications it wants to challenge and, in one or two sentences,
2 the reasons for the challenge. The defence will be provided with
3 an opportunity to reason their challenge in more detail orally at
4 the end of the hearing of the witnesses currently scheduled. The
5 civil parties will be provided with an opportunity to respond
6 orally.

7 So we have already confirmed this last week, so if the defence is
8 ready to respond to this, please express your position in
9 relation to the civil parties. The Chamber has decided not to
10 call to come before the Chamber, and the purpose of this reason
11 is that we would like to make sure that the proceedings are more
12 expeditious. So the floor is yours, the defence counsel.

13 [09.09.52]

14 MS. CANIZARES:

15 Thank you, Mr. President. Originally, 20 civil parties were to
16 be heard by the Chamber and the defence said last Monday --
17 presented its observations regarding the joining of five civil
18 parties and I express greatest reservations regarding the joining
19 of five civil parties.

20 And then E2/50 said to us, and provided us with a certain number
21 of documents, from which we can draw that this person was,
22 indeed, detained at S-21. So I want to specify, for reasons of
23 clarification, that the defence has no objections regarding this
24 person joining our civil party.

25 And, again, regarding the 20 civil parties that were originally

3

1 going to be heard, the defence has noted that two of them -- that
2 is to say, E2/81 and E2/82 -- have waived their request to be
3 heard. However, these two people still would like to remain as
4 civil parties and so, therefore, we repeat the position that we
5 stated last Monday; that is to say that we have the greatest
6 reservations on the strong grounds of their actions. And I'd
7 like to specify that it's the same thing regarding the civil
8 party that was supposed to be heard and the following ones,
9 E2/77, E2/34.

10 [09.11.57]

11 Now, regarding civil parties whose hearing has not been
12 requested, the defence has a certain amount of reservations
13 regarding a certain number of these civil parties for two
14 specific reasons.

15 The first one is that some of the civil parties do not provide
16 the necessary evidence that can tie them with the victim. They
17 are in the three civil parties for which it is absolutely clear
18 that this link with the victim is not clear and we're thinking,
19 in particular, about E2/22 and E2/37 who say that they are
20 friends, and only friends, and friends of people that they have
21 lost at S-21. And we're also thinking about civil party E2/66
22 who does not state in any clear way his link with the victim.
23 And the second reason for which the defence expresses
24 reservations regarding the joining of civil parties is that there
25 exists in the case file no elements or -- in any case, no

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1 elements that are sufficiently clear that demonstrate that the
2 victims that are represented have been, indeed, detained at S-21.
3 And the accused did a bit of research in order to see if the
4 victims brought up were, indeed, in the prisoner lists and he did
5 not find their names.

6 So it is the same for --this is the case for the following civil
7 parties, therefore: E2/30; E2/35; E2/38; E2/41; E2/49; E2/57;
8 E2/62; E2/63; E2/64; E2/65; E2/69; E2/70; E2/71; E2/73; E2/74;
9 E2/75; E2/76; E2/81; E2/82; E2/83; D25/15; D25/20.

10 And regarding all of these civil parties, I would like to repeat,
11 the defence did not find sufficient evidence in the case file
12 that the victims that they brought up have indeed been detained
13 at S-21.

14 [09.16.07]

15 And, as well, for some of the civil parties that I've just
16 mentioned, we do not have in the case file the proof of any kind
17 of link or family link between the victim that is brought up and
18 the civil party. So for certain civil party parties, there's not
19 only no clear demonstration that the victims were indeed detained
20 at S-21 but, as well, there is a lack of proof that there is any
21 kind of tie with the victim.

22 And I'm thinking, in particular, about the following civil
23 parties: E2/30; E2/35; E2/38; E2/41; E2/57; E2/63; E2/64; E2/65.

24 And, in particular, in which the civil party indeed mentions a
25 name, but without indicating the name of this uncle: E2/69;

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1 E2/70; E2/71; E2/73; E2/74; E2/75; E2/76; E2/81; E2/82; E2/83;

2 D25/15; D25/20.

3 So we would like to remind, however -- and the Chamber indeed
4 stressed this -- that it is the civil parties' responsibility to
5 provide the proof of the link that unites them with the victim.

6 So the defence, therefore, believes that the civil parties have
7 to provide this proof and have to demonstrate this link with the
8 victim.

9 This is, Mr. President and Your Honours, the defence's stance
10 regarding the civil parties, however, I'd like to specify that
11 Mr. Kaing Guek Eav would like to keep the possibility -- even
12 regarding the civil parties that he does not challenge -- to make
13 a few observations.

14 [09.19.20]

15 MR. PRESIDENT:

16 Judge Lavergne, you take the floor.

17 JUDGE LAVERGNE:

18 I have just heard the defence and I would like to have, however,
19 a little bit of clarification in relation to what I just heard.
20 You indicated that in certain cases there was no evidence in the
21 civil party applications -- any kind of evidence of a family tie
22 with the victims. Do you mean by this that only the children and
23 the grandchildren of the victims are admissible to be joined as
24 civil parties or is it in more generic terms, the absence of any
25 kind of family tie because it's not exactly the same thing?

6

1 You also say that in certain cases there is no proof of the
2 reasonable grounds for this application can we consider that this
3 absence of family link, does this jeopardize the well-foundedness
4 of the application?

5 MS. CANIZARES:

6 Indeed, I think that in more generic terms since a certain number
7 of civil parties talked about an uncle or a nephew, well, we can
8 indeed speak about family link more than just being a child or
9 grandchild. And, as of the moment, when the civil parties will
10 not provide the proof of this family link, we can also believe,
11 therefore, that it is not in their interests to act before your
12 Chamber and, therefore, their application would not be
13 admissible.

14 And I would like to specify, however, if you please give me the
15 leave, that the accused is perfectly willing, and the defence as
16 well, to review its stance depending on eventual evidence that
17 could be submitted to it by the civil parties.

18 [09.21.24]

19 The observations that are here presented are only presented here
20 on the basis of the absence in the file of these elements and
21 since we have, for example, for one of the civil parties that
22 must be heard, reviewed our position because our colleagues
23 presented us with documents that indeed demonstrated the
24 well-foundedness of their application. And if the civil parties
25 are able to provide elements that would demonstrate this

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1 well-foundedness, well, the defence is perfectly willing to
2 review its stance.

3 We wish, however, that these documents be communicated to us
4 before the civil parties are heard or before the application is
5 brought up here in Court.

6 MR. PRESIDENT:

7 Thank you, the defence counsel, for expressing your position in
8 relation to your challenge concerning the civil parties, the 20
9 civil parties.

10 And with this information, the Chamber believes that the civil
11 party lawyers will take into consideration and the Chamber will
12 take this opportunity to make sure that our next schedule is well
13 calculated and that time will be well allocated for such
14 challenge in the future.

15 Next, the Chamber would like to advise the civil party lawyers as
16 the following:

17 The Chamber hereby recalls the rights of the Chamber to leave the
18 questioning of persons appearing before it. In the directions
19 given by the Greffiers of the Trial Chamber on the 5th of August
20 2009, document number E115, the Chamber delegated the
21 responsibility of leading the appearance, questioning of civil
22 parties, to the civil party lawyers.

23 [09.24.18]

24 The Chamber reminds that such responsibility includes the duty of
25 the civil party lawyers to ask clear questions that are relevant

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1 to Case 001 and to guide the civil party should he or she make
2 statements that are relevant to Case 001 or not confined to the
3 description of the injuries suffered by the civil party.

4 The Chamber recalls, in particular, paragraphs 9, 10 and 11 of
5 the direction that emphasize that civil party statements have to
6 be clearly relevant to Trial 001.

7 Consequently, the President expects each civil party lawyer to
8 introduce his or her civil party with answers to these questions:

9 (A)What is the name and brief identifying particulars of the
10 civil party? This might be an ID, electoral card, et cetera.

11 (B)What is the relationship or connection to the person who has
12 suffered harm at S-21 including S-24? Does the civil party have
13 proof of a relationship? If so, can it be put before the Trial
14 Chamber?

15 (C)Are there any relevant documents to confirm the presence of
16 the person at S-21? For example, biography, confession, entry
17 into the prisoners lists, photographs, et cetera, and the
18 relevant ER number.

19 (10)The civil parties will be allowed to speak only on facts
20 which are relevant to Case 001. It is the lawyer's
21 responsibility to ensure that the statements of the civil parties
22 are relevant to the case. The civil parties will be allowed to
23 read a statement prepared beforehand.

24 [09.26.46)

25 (11)The President does not wish to interrupt the statements of

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1 civil parties but, in the interests of ensuring that all can be
2 heard, he will do so, particularly if questions are not relevant
3 or time is exceeded.

4 So this is just the instruction so that the statements of the
5 civil party can be framed to the facts and that times allocated
6 are well used. So the statements of the civil parties can be
7 used one-third of the allocated time and the portions of which
8 can be used for the debates in the Chamber if the Chamber or the
9 Judges so need.

10 Mr. Alain Werner, you take the floor.

11 MR. WERNER:

12 Good morning, Mr. President. Your Honours, good morning.

13 May I be allowed just to ask one question of clarification about
14 what you now discussed before and what my learned colleague from
15 the defence told us? Can I just ask one question of
16 clarification?

17 MR. PRESIDENT:

18 Please proceed with the question.

19 [09.28.47]

20 MR. WERNER:

21 Thank you. Because some challenge was expressed about some
22 documents of the link, I would need to know -- just for us to be
23 completely clear -- because indeed it would require us quite
24 quickly to go back and check the documents. And, of course, we
25 understand that if indeed some documents are missing we should as

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1 soon as possible find these documents and then, in advance of the
2 discussion, show them to the defence.

3 Now, am I correct to understand that the discussion between -- in
4 this Chamber about those documents missing or the link missing --
5 would take place at the end of the 18 civil parties so that will
6 be either on Thursday the 27th or Monday the 31st? That would be
7 -- so in 10 days, two weeks -- that would be the time where we
8 would be -- we should be ready to discuss the matter. Is that
9 correct?

10 MR. PRESIDENT:

11 Due to the submissions by the civil party counsel, which is
12 related also to the questions posed by the defence counsel, and
13 their position in objections and the reasons that they have given
14 to the Chamber; in addition to the scheduling of the trial
15 proceedings for the civil parties who have now been objected by
16 the defence counsel and who are scheduled for the hearing at the
17 end of our trial proceedings -- that is, after hearing the
18 testimonies of the defence counsel and before the final
19 submission -- so there is still plenty of time, and all the
20 related matters to the identification or observations in relation
21 to the objections raised by the defence counsel, the Chamber will
22 not consider this matter at the moment.

23 And the Chamber would like only to know regarding the preliminary
24 objections made by the defence counsel on which civil parties and
25 what are their preliminary reasons for such objections, and we

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1 will discuss more at the end of the hearing of these particular
2 testimonies as scheduled by the Chamber.

3 [09.33.10]

4 MR. WERNER:

5 And, Your Honour, may I just add that of course we will do
6 whatever -- we are going to, starting today, to go back and to
7 check the documents, and if some documents are indeed missing
8 then we will, as soon as possible, produce them and then you will
9 be aware and you will know what is going on between the parties,
10 if for some of them things are clarified.

11 MR. PRESIDENT:

12 Court officer, can you invite the counsel for E2/85 into the
13 Chamber?

14 I notice the counsel for civil party group 3. You may proceed.

15 MS. TRUSSES-NAPROUS:

16 Good morning, Mr. President. Thank you for giving me the floor.

17 I would simply like to have clarification concerning the manner
18 in which the civil parties will be heard, since it is a civil
19 party which was constituted within our group, and I will be the
20 one who will need to ask questions to the civil parties.

21 It seemed to me that you had just indicated that counsel for the
22 civil party could indeed be in charge of interrogation but it had
23 appeared to me initially that the civil party would first make a
24 deposition and that it was only once this had been done that
25 counsel would intervene.

12

1 Is it, therefore, possible to intervene during the deposition of
2 the civil party, for instance, in order to help the person to
3 continue with the deposition, or is it necessary to wait until
4 the deposition is over in order to take up certain points that
5 were mentioned during that deposition?

6 [09.35.45]

7 (Deliberation between Judges)

8 MR. PRESIDENT:

9 Thank you for raising the matter. The Chamber would like to
10 inform all the civil party lawyers that in the questionings
11 before the Chamber, the civil party's interest is just part of
12 the criminal proceedings. It is the civil party lawyers who
13 represent their clients to adhere and to protect the interest and
14 their rights, and it is whether the lawyers want to interrupt the
15 testimonies or the statements of the civil parties who are their
16 clients -- it is up to them to make their own decisions
17 individually. And the Chamber does not intervene if the lawyer
18 wishes to interrupt the statements or the testimony of their
19 respective clients.

20 However, the Chamber would like to remind you that you better
21 focus primarily on the relevant facts, as I have stated earlier,
22 so that the proceedings before this Chamber would be smooth and
23 the time allocations shall be strictly adhered to, and the time
24 allocation is based on an individual civil party and it is not a
25 common time allocation for all the civil parties.

13

1 This is done in response to the request made by the civil party
2 lawyers who submitted the total duration of the times of the
3 testimonies of their respective clients. So you have to make a
4 judgment amongst yourselves for the time and also the time to
5 leave for other parties -- for instance, the defence counsel --
6 to question your client.

7 If you have any matters you wish to clarify regarding this point,
8 you may continue.

9 [09.39.30]

10 MS. TRUSSES-NAPROUS:

11 No, I have no further statement to make. Thank you, Mr.
12 President.

13 MR. PRESIDENT:

14 Court officer, can you invite the civil party E2/85 into the
15 Chamber?

16 (Witness enters courtroom)

17 QUESTIONING BY THE BENCH

18 BY MR. PRESIDENT:

19 Q.Madam, what is your name?

20 A.My name is Martine Lefeuvre and I was the wife of Ouk Ket.

21 Q.How old are you this year?

22 A.I will be 57 in September.

23 [09.42.20]

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

25 A.I live at 96 grid La Fromondière in Limon, France, and I am a

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1 nurse, state diploma nurse.

2 Q.In this case, you have applied as a civil party. Are you
3 seeking reparations by yourself or you will waive these rights to
4 your lawyer to act on your behalf?

5 A.I will leave it to my lawyer to seek reparations.

6 Q.What is your connection to the crimes alleged on the accused
7 Kaing Guek Eav alias Duch?

8 A.Mr. President, I would like to present to you in a certain
9 fashion the chronology of our life and explain to you how it is
10 that I am before you today.
11 I met my husband in 1970.

12 MR. PRESIDENT:

13 I notice the presence of the civil party lawyer. You may
14 proceed.

15 MS. TRUSSES-NAPROUS:

16 Yes, Mr. President, if you will allow me.

17 [09.44.43]

18 You had indicated that it was possible to make a brief
19 presentation concerning the case prior to Mrs. Lefeuve
20 presenting her vision of things and before she made her
21 deposition. And I wanted indeed to indicate to the Chamber that
22 this is a case file AD-5 concerning Ouk Ket who was an engineer
23 and diplomat, third secretary at the Cambodian Embassy in Senegal
24 when he was recalled by the Foreign Ministry of Cambodia in 1977
25 in order to return to Phnom Penh.

15

1 He returned to Phnom Penh and later on Mrs. Lefevre learned that
2 he had been executed in Tuol Sleng on 9 December 1977 at S-21,
3 since his name can be found in the list of persons executed on
4 that day; a list in fact which is annexed to the case file. This
5 is reference ERN in French, 00339169, in Khmer, 00281230, and for
6 the English, 00328268.

7 So we have this element which makes it possible to establish the
8 connection between the presence of Ouk Ket in S-21 as well as to
9 document his execution since we are in possession of the exact
10 date of his execution.

11 Further, in the case file, we have a photo of Ouk Ket under
12 reference 00285014. There's no Khmer or English ERN reference.
13 And we have in fact recovered the name of Ouk Ket which was found
14 in two documents that are also in the case file. This is the
15 addendum produced in the framework of our own case file as CPA,
16 that is a list of prisoners prepared by the Ministry of Foreign
17 Affairs. That is in case D25/59. The ERN reference for Khmer is
18 00188859; in English, 00239016.

19 As well as having found his name in the list of prisoners
20 produced by the prosecutor, and here again in a specific case
21 E6/81 with ERN reference 00330082; ERN English, 00330082.
22 [09.48.25]

23 Further to that, in the case file of Mrs. Lefevre, we have
24 produced, apart of course from the information form and identity
25 documents as well as registry writings proving Mrs. Lefevre's

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1 identity, but also proving that she was indeed married to Ouk Ket
2 with whom she had two children. So we have supplied the
3 engineering diploma which was obtained by Ouk Ket in France as
4 well as the diplomatic passport which had been given to Mrs.
5 Lefevre at the time in which it appears that her diplomatic
6 passport allowed her also to have Cambodian nationality as well
7 as her children.

8 Now I don't know if you need the ERN references for all of these
9 documents. However, we have obviously produced all these
10 documents and these documents are in the case file, this perhaps
11 in order to avoid over-extending the debate. If you wish to have
12 the references, of course I will gladly give them to you at any
13 time you shall request them.

14 So these are the first basic elements I wanted to submit to you
15 in order for you to have a clear idea of the evidence that is to
16 be found in the case file, the various supporting elements that
17 are there. There is no difficulty in ascertaining that Ouk Ket
18 is clearly related to this victim. Well, thank you, Mr.

19 President. Unless you have any further observations that you
20 wish to make, Mr. President, I believe that Mrs. Lefevre can
21 indeed begin with her deposition. Thank you.

22 MR. PRESIDENT:

23 The Chamber would like now to give the opportunity to Madam to
24 describe to the Chamber the relevant events which led you to
25 become a civil party in this case, so that the Chamber as well as

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1 the public can understand the events. You may proceed.

2 MS. LEFEUVRE:

3 Thank you, Mr. President. Well, I will first of all give you a
4 chronology of our life.

5 [09.51.47]

6 I met Ouk Ket in Paris when I registered for English courses in
7 Jussieu. Ouk Ket was finishing his studies as a statistics
8 engineer, a diploma which he obtained at the end of 1970. He had
9 come to France in 1968 on a grant from the French Foreign
10 Ministry since he was an excellent student in Cambodia.

11 In 1970, at the request of Prince Sihanouk, he decided to support
12 the United National Front of Cambodia under the presidency of the
13 prince. My father-in-law was the major domo of King Sihanouk and
14 had instructed him never to betray the prince. We were wedded in
15 October 1971 and my husband was given his diplomatic function as
16 third secretary of the Cambodian Embassy in Senegal by the Royal
17 National Unity Government of Cambodia. He left in December 1971
18 and I followed in January 1972 in Dakar, Senegal, in Africa.

19 In 1973 and in 1975 I gave birth to my two children -- a boy,
20 Makara, and a daughter, Neary. In 1975, after the withdrawal of
21 US troops from Cambodia, Ket intended and wanted to return to his
22 country out of love for his country in order to take part in the
23 national reconstruction effort. He was an intellectual, he had
24 skills and he wanted to take part in the reconstruction. His
25 wish was to teach.

18

1 In April 1977 he received a correspondence from the Foreign
2 Ministry of Cambodia, requesting that he return to Phnom Penh.
3 Therefore, all four of us left Senegal by plane to Paris, where
4 we went to my birthplace to live at my parents' residence in
5 Limon. We spent some three weeks there prior to Ket flying to
6 Cambodia on 7 June 1977 via Beijing.
7 During his journey he sent me two postcards which I received
8 during June. One had been posted in Pakistan and one had been
9 posted in Beijing, where he told us of his love for us --
10 myself, children, family -- written both in Khmer and in French,
11 and the postcard that was posted in Beijing says, amongst other
12 things, "On 11 June 1977 I will be in Phnom Penh."
13 [09.55.52]
14 This postcard is in fact co-signed by two other persons who knew
15 me and whose name I recovered later in the Tuol Sleng list.
16 After that I received no news whatsoever from my husband. Since
17 his silence was a major subject of concern, since it was not
18 usual for him to leave us without any news, in September 1977
19 already I went to the Chinese Embassy in Paris, Avenue George V,
20 in order to ask the Chinese to do something in our favour so that
21 I may have some news about my husband.
22 I went there with my two children, who at the time were two and
23 four and a half years old. The person I met there and to whom I
24 had handed an identity picture of my husband to demonstrate that
25 he was indeed my husband, showed it to my four and a half year

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1 old son and said to him, "Do you know the person on the picture?"
2 And my four and a half year old son said, "Yes, of course, it's
3 daddy." I encountered great difficulty to obtain that the
4 embassy would intervene and in the end the embassy refused to
5 help me.

6 It should be known also that in September 1977 Ket had been gone
7 for three months and I learned later that at that time he was in
8 Tuol Sleng and that he was still alive and that we might have
9 been able to do something in order to prevent his death.
10 So I went home and during 1978 I contacted Amnesty International
11 as well as the International Red Cross and of course I followed
12 all the news concerning Cambodia and I learned at the end of 1978
13 of the conflict with Vietnam.

14 [09.58.30]

15 At the beginning of 1979 I received a letter from Mr. Chan
16 Youran, who was the boss, who was the ambassador of my husband in
17 Senegal, and he was at the head of a delegation which went to
18 Switzerland, in Geneva, representing Cambodia. In his letter,
19 which you will find in the case file, he told me, "Ket was fine
20 before my departure when I left the country." So I was very
21 surprised and in order to obtain news and information about my
22 husband I took the train, with my two children, and travelled to
23 Geneva in order to meet this delegation with the hope that the
24 delegation could give me some good news.

25 Indeed, he confirmed that Ket was fine before he left but he was

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1 unable to tell me where he was, in what state he was in and what
2 he was doing in Cambodia. I returned home convinced that he had
3 not met my husband and that this was a lie. I wrote a letter,
4 therefore, to Prince Norodom Sihanouk, whom I had had opportunity
5 to meet in 1973 in Dakar, Senegal, during his African tour, and
6 the prince replied to me by telegram in May 1979 wherein he asked
7 me to contact Mr. Chan Youran , who at the time was a roving
8 representative for Cambodia, and Mr. Chuon Prasith who
9 represented Cambodia at the United Nations.

10 I already know the answer since I presented it. So I continued
11 following the events in Cambodia and on the 2nd of December 1979,
12 I travelled to the Pavillion Bertel outside of Paris where Prince
13 Sihanouk was giving a conference on the state of Cambodia, the
14 current state of Cambodia. And I asked him where my husband
15 might be and he says he doesn't have any idea.

16 But Mr. Thiounn Prasith is there as well, and I ask him the same
17 question, "Where is my husband? Where is my husband, Ouk Ket?"
18 And he answers me, "Don't try to bargain your life for him." I
19 am absolutely flabbergasted by such an answer.

20 [10.01.41]

21 During the entire course of 1979, I met many Cambodians who were
22 fleeing from their country, in particular refugees, as well as
23 intellectuals that I had had the opportunity of meeting in Paris
24 when I was living at the Pavillon de Cambodge with my husband at
25 the Cité Universitaire. Some of them had been detained at the

21

1 Terres Rouges and their accounts were absolutely horrific.
2 And at the same time, he gives me Mr. Ho Nim's confession to
3 read, Mr. Ho Nim's confession at Tuol Sleng and then I begin
4 saying to myself that something very serious happened to my
5 husband.
6 At the end of December and at the beginning of 1980, with the
7 help of an organization in France called L'association de Femme
8 Khmer, the organization for Khmer women, and whose president is a
9 French woman who comes to help women who are dismayed (sic) in
10 France; listens to what I have to say regarding my husband's
11 silence, I should say, and decides to help me by buying an
12 aeroplane ticket for me to go look for my husband in the refugee
13 camps in Thailand, and to try to also find my Cambodian family.
14 Therefore, I arrived on Christmas Day, 1979 on the Thai/Cambodia
15 border on the Thai side, and it is a French doctor, a
16 paediatrician who is the son of this woman who is the president
17 of this organization, who receives us and who will help me during
18 my entire stay there.
19 I am going to discover in these camps the entire dimension of the
20 horror -- of the horror that the people that I had known before
21 were enduring, as well as the Cambodian population.
22 [10.04.04]
23 This was the rainy season. We were walking through mud and I
24 would roll up my sleeves in order to help. I'm not yet a nurse
25 back then and it is as of that moment that I will take that

22

1 degree.

2 So, therefore, I remain in these refugee camps. Every day we
3 bring five or six children, small children five to six months
4 old, infants who are dying because of malnutrition or
5 dehydration, and I do whatever I can to help all of these people.

6 I shared their daily life. We are living under plastic tents
7 that are supported by wooden poles. There are no toilets.

8 And then I am able to find friends who had known my husband. So,
9 therefore, I am in the camp of Khao I Dang and there I meet Mr.
10 Hou Tong Hoeun who tells me, "Martine, you came because I sent
11 you a letter in France. And I answer him, "No, I didn't receive
12 your letter".

13 And then he explains what the letter was about which I will then
14 discover when I return back to France. And he says, "You know, I
15 worked at Tuol Sleng for four months". And I said to him, "What
16 is Tuol Sleng?" And he explained to me that it is an
17 extermination camp and "I found your husband's name in the Tuol
18 Sleng files".

19 And when I discovered this data -- when I returned -- that had
20 been scribbled on a piece of newspaper. It was written down
21 indeed, "Martine, Ouk Ket was exterminated at Tuol Sleng", and
22 for me having gone to the refugee camps this allowed me to
23 understand the magnitude of the dismay of all of the Cambodians.

24 [10.06.25]

25 So, therefore, I returned to Paris and I am completely diminished

23

1 and I decide to take the examination to become a nurse, which I
2 passed in June 1980.

3 Back in France, I must reorganize my life without my husband and
4 I must explain to my children what happened to their father and
5 how they will have to grow up without their daddy. And up until
6 then, I was hoping to find my husband again.

7 I have no official documents. I am a widow. My children are
8 orphans and I must tell them the truth with a lot of hardship
9 because already for myself it's something that is tremendously
10 difficult, accepting this reality.

11 So they are four-and-a-half years old and seven years old and my
12 son, as well as my little daughter, ask me everyday, "Have you
13 seen Daddy? Will we see Daddy again?" because this -- and this
14 was a like motive of the two previous years -- and I must tell
15 them, no, they will never see their Daddy again.

16 So therefore I take the exam. I passed the exam to become a
17 nurse and I studied for three years.

18 And, in parallel, I tried to bring together a whole dossier with
19 all information that I can get on Cambodia, particularly
20 regarding Tuol Sleng, and I discovered little excerpts of this
21 madness. I became seeing how Ket was attracted to Cambodia and
22 how Cambodia absolutely grinded him.

23 [10.09.01]

24 So, therefore, we go on with our lives trying as best as possible
25 to have a normal life, but it's of course very difficult.

24

1 And in February 1990, in a local paper from my hometown, I
2 learned that a French woman is the president of an organization
3 where the Phnom Penh agricultural school is linked with the
4 agricultural school of my hometown. I contact this woman, who
5 tells me that she is leaving the following week to Cambodia, and
6 she asks for the lists of my Cambodian family members. She tells
7 me that she will do all that she can to find their trace.
8 And, indeed, two weeks later I receive a letter from Cambodia and
9 it is my mother-in-law who is writing to her son in this letter.
10 This letter is in Khmer and I'm able to follow a bit of it. I
11 understand, therefore, that among the 11 family members, four of
12 them survived -- my mother-in-law and her three youngest
13 children. So therefore we write to each other. I tell her that
14 her son probably went through Tuol Sleng and she asks to see us.
15 And with my children for a whole year we tried to bring together
16 funds so that we can travel to Cambodia and buy three aeroplane
17 tickets.
18 And we ask ourselves, what are we going to find? What are we
19 going to find when we arrive regarding the family and regarding
20 the country? We land in Pochentong Airport on July 16th 1991.
21 This was a very emotional moment because we are following Ket's
22 traces, who had returned in 1977, and we're trying to imagine
23 then what he was expecting from this return.
24 [10.11.50}
25 And for all three of us, it was a terrible shock as soon as we

25

1 landed. Everything was broken down, and we go live with my
2 mother-in-law who lives in a traditional Cambodian house on
3 stilts in the suburbs of Phnom Penh, and we sleep just like the
4 Cambodians, that is to say on the floor. There is no water, no
5 running water. There is no electricity, and they are completely
6 without any -- in total poverty.

7 Up until 1975, the entire family of 10 was living at the Royal
8 Palace and they had a decent lifestyle. Therefore, ending up at
9 such a low level was a shock and my father-in-law, the family
10 head, was exterminated and therefore my mother-in-law had a lot
11 of hardship facing daily life.

12 And we became very sick and my son almost died of dysentery at
13 the age of 18. Two days after we arrived, therefore, on the 18th
14 of July 1991, we travelled; we go to S-21. And when we arrive in
15 this place, which was formerly a high school, we are of course
16 completely overtaken by the horror. And we begin looking through
17 all of the photographs that are lined up by trying to find Ouk
18 Ket's face, and we do not find him.

19 But I am able to recognize faces of Cambodians who were known
20 abroad. All three of us are deeply saddened, of course, but more
21 than that even, we are very much angered and I have a hard time
22 telling my children to leave this place because their fists are
23 clenched and they're clenching their teeth before such a quantity
24 of horror.

25 And then the following days we go to Choeung Ek. When we arrived

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1 there, we are struck by the mausoleum where all of the skulls are
2 piled up, and we say to ourselves that Ket's skull is among all
3 of these thousands of skulls, and we look at the pits, which we
4 walk over. There are teeth coming up through the ground, leg
5 bones, radiuses, pieces of shirts, strings, earth, were covering
6 the people who were killed there. And we are completely
7 revulsed.

8 [10.15.52]

9 And in the weeks that follow, we return to Tuol Sleng and we are
10 set on finding the trace of my husband, the father of my
11 children, Ouk Ket -- set on finding his trace in this horrible
12 place. And we arrive in the room where the archives are stored
13 and we begin opening the files and twice we find in a list my
14 husband's name. And there is a list of 301 people that had been
15 typed and Ouk Ket's name is on line 43.

16 And it is written: Ouk Ket, 31 years old, Foreign Affairs
17 Ministry Base, Tung Toup (phonetic), Third Embassy Secretary.
18 His date of arrival at Tuol Sleng was June 15th 1977 and on top
19 of this sheet of paper it is written the lists of the 301 people
20 who have to be exterminated or exterminated on the 9th of
21 December 1977. And I also find in this list the names of people
22 that I had known. I photographed the entire place, saying to
23 myself that it will take time for me to digest what I have seen,
24 and I photographed in particular the photographs of the leaders
25 of this prison. I do not know them.

27

1 But later on in France, when I returned to France, by having
2 their names translated, I will find the name of the accused and
3 of Mam Nai on the upper left hand corner, and just by looking at
4 their faces I say to myself that Ket must have had a pretty rough
5 time.

6 I note that these individuals are involved in my husband's death.
7 And when I see these terrifying faces, I can imagine how he
8 himself was terrified and then I decide that this crime will not
9 remain unpunished. In 1993, back in France, and I receive a
10 letter from the International Red Cross confirming to me Ket's
11 stay at S-21; that he did indeed stay there from June 15th to
12 December 9th, 1997 in cell number 23 in room 2, Building C. So,
13 therefore, I returned several times alone to Cambodia to
14 photograph this cell and all of the others as well and I also
15 returned to Choeung Ek so that I can recollect.

16 [10.19.40]

17 And I continue gathering the evidence and the information. I am
18 looking for support from DC-Cam because now the UN is in Cambodia
19 at that time, and we finally are able to see Rithy Panh's film
20 which also relates Ket's story. I have tried to sue for damages
21 in France. It's very very difficult.

22 Cambodia is a real tense place back then, and then I start
23 learning about the creation of a hybrid Khmer UN Court and I
24 follow the very slow elaboration of -- constitution of this
25 Court, but I believe in it, but I really -- because I said to

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1 myself that such atrocities cannot and must not remain
2 unpunished. In 2008 therefore I meet the lawyers of the Avocats
3 sans Frontières organization and the case begins. This is why
4 I'm very proud to be before you today.
5 But now I would like to speak to you about who was Ket and about
6 what he became. So during the seven years that we spent
7 together, mainly in Senegal, Ket was somebody who was very kind,
8 well educated, delicate, generous, intellectually brilliant,
9 calm, jovial with a very nice Khmer smile, soft, interested in
10 all technological novelties, and we were a Franco-Khmer couple
11 whose children are born on the soil of Africa and this
12 three-continental contribution was the wealth of our family; a
13 family that was open to the world without any kind of prejudice
14 regarding race or religion or regarding lifestyle.
15 [10.22.24]
16 Ket knew how to dress as a westerner or as a Khmer without having
17 any trouble with this, depending on the circumstances -- an
18 adorable husband, a very affectionate father with a great amount
19 of attention for his children. He would just step out of his
20 diplomat suit and dress up in his Khmer sarong and start cooking
21 for us some delicious Cambodian dishes, but he also enjoyed
22 French cooking, Senegalese cooking, Indian cooking or Lebanese
23 cuisine.
24 He was an excellent volleyball player. We would often go to the
25 beach. He was a musician without ever having studied music. He

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1 played guitar, mandolin, harmonica and the Cambodian flute with a
2 lot of virtuosity. Life with him was pure happiness during seven
3 years. And now I understand what happened to him in Cambodia
4 when he returned there on the 11th of June 1977, so therefore he
5 went to B-1, Grassum Borey Ty Muoy Tay Mun, which was the
6 Ministry of Foreign Affairs.

7 Was he detained there in the cellars or was he there waiting to
8 be detained? It's unknown because on the 15th of June he was
9 kidnapped with his hands tied behind his back, blindfolded and
10 brought in a truck, beaten in the face -- as we can see in his
11 photograph that we finally found. When he arrived at Tuol Sleng
12 he was therefore tied up like a slave to a metal bar, chained up
13 in a filthy cell.

14 He was deprived of his most elementary rights, arbitrarily
15 detained because he was of course not entitled to a lawyer and he
16 doesn't know why he has to go to this hell. He was deprived of
17 his most fundamental needs -- no food, no care, no medical care,
18 no hygiene, psychological solitude, torture with Nazi methods;
19 six months of this and I am sure that Ket was able to face it and
20 that he did everything in his power to be able to resist this and
21 to be able to return back to us one day. We were like the
22 fingers of one single hand.

23 [10.26.22]

24 So now I understand his physical and psychological degradation.
25 I can picture it. He died a slow death at S-21 in the most

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1 complete secrecy, in solitude, and on the 9th of December 1977
2 murderers broke his skull at Choeung Ek and then cut his throat
3 while throwing him into a pit. This is an absolutely inexcusable
4 murder.
5 And for the past 32 years Ket's absence is something that we
6 cannot bear. It is a permanent absence. My children grew up
7 without the presence of their father; a presence that was
8 comforting, a presence that would protect them; without his
9 affection, without a fatherly figure. That is to say everything
10 that organizes the life of a child. Ket's suffering was and is
11 still our suffering and it does not go away with time, and I can
12 tell you that the suffering in fact is more and more intense. It
13 is like a gigantic screen that would be too close to our eyes.
14 Until today we still haven't found the body. We do not have any
15 kind of restitution. There has not been any tomb. I have no
16 documents from the Cambodian authorities and the result for me is
17 complete human failure. So therefore I came before this Chamber
18 in order to ask for justice to be done -- justice to be done for
19 this barbaric crime so that we can finally take into
20 consideration Ket's suffering and the suffering of all of the
21 other Cambodians, whether they were in S-21 or anywhere else in
22 the country, and so that they can also take into consideration
23 the suffering of the survivors.
24 I came here also before you in order to bring back Ket's dignity
25 that was stamped at S-21; the dignity also of our French and

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1 Cambodian family. And I also came also a bit to refresh the
2 memory of somebody who seems to be suffering from amnesia. The
3 person who created this murder is an intellectual who could have
4 stopped the extermination mechanism. He studied as well; he went
5 to university. You can make mistakes in life, of course. You
6 can kill somebody by mistake which already in itself is homicide,
7 and a homicide that is punishable. However, he had people
8 tortured and murdered; 17,000 people who were listed. Of course
9 we are not including those who are not listed. And for me he
10 should have committed suicide because if he was afraid of dying
11 himself, well this was not a reason for him to continue torturing
12 and to continue murdering.

13 There's a kind of a disbalance between the fear of dying and the
14 amount of people who were killed. For me this is inadmissible.
15 I will speak rather in terms of vengeance and in terms of zeal.
16 Had this math professor forgotten to reflect, to think, to load
17 up on blood, on the shouts of the people being tortured, on
18 bodies for a period of nine years? If one can't call this
19 enjoying a dirty job, then please tell me what else can it be.
20 As far as I'm concerned, this is an operation. The death of
21 others was in fact his daily food.

22 [10.31.50]

23 And therefore, I feel that the punishment must be commensurate
24 with the crimes committed. In other words, a maximum sentence.
25 I believe that we should not give more attention to that person

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1 than to his victims because today the torturers continue to live
2 side by side with the victims and this is very detrimental to the
3 victims. I would like it to be prohibited from the torturers to
4 have access to any source of profit related to the crimes
5 committed and the facts and the events between '75 and '79. That
6 all documents, whether they be the confessions, the photographs,
7 the books, written by those who took part in these massacres,
8 that all of this be handed over to Cambodian and international
9 bodies. And I could easily see a case number 1 working to refill
10 the roads in S-21 locations and others in order that they become
11 dignified. I found a great deal of rubbish lying about and I
12 think that this is not appropriate.

13 I am also expecting from the Tribunal to have a pedagogical or
14 educational impact on the younger generation in order that this
15 new generation will fully absorb the fact that it is Khmer people
16 who killed Khmer people and that there is no room here for
17 negationism. These facts cannot be denied and they have been
18 demonstrated.

19 I am also expecting that our family is not sent back to its
20 loneliness that we don't return to a situation where we were
21 simply abandoned for 32 years. Ket's children and grandchildren
22 -- I have five and so does he -- needs to be reconciled with the
23 Khmer part of our family history and it isn't in S-21 or in
24 Choeung Ek that it is possible to do so. These locations are the
25 shame of humanity. We need a peaceful place here in Cambodia

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1 that would be open to the Cambodian public.

2 [10.34.50]

3 We thought perhaps that a media library with the name of Ouk Ket,
4 that would be both Khmer and French-speaking in the neighbourhood
5 where Ouk Ket lived for the first 23 years of his life, and it is
6 by investing in education and culture that our sorrow could
7 perhaps be appeased and that the freedom of Ouk Ket and other
8 Cambodians who fell victim to this bloody regime may be restored.

9 I would like to conclude by stating that Ouk Ket today is more
10 present than ever in our hearts and that we love him and always
11 will love him. His face is here before us.

12 Thank you.

13 MR. PRESIDENT:

14 Now it is time for a break. The Chamber will take a 20-minute
15 break until 5 to 11 when we will resume to continue our
16 proceedings.

17 THE GREFFIER:

18 All rise.

19 (Judges exit courtroom)

20 (Court recesses from 1036H to 1058H)

21 (Judges enter courtroom)

22 MR. PRESIDENT:

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

24 Judges of the Bench, do you have any questions to be put to this
25 civil party?

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1 The Co-Prosecutors, do you have questions to be put to this civil
2 party?

3 [10.58.41]

4 MR. DE WILDE D'ESTMAEL:

5 Mr. President, distinguished members of the Chamber, at this
6 point in time I would like to be sure that we don't speak before
7 the counsel for the CPA (sic) have finished because it seemed to
8 me that they also had questions to ask.

9 MR. PRESIDENT:

10 We would like to now give the floor to the civil party lawyer
11 group 3 to put questions to the civil party who is her client.
12 You take the floor.

13 MS. TRUSSES-NAPROUS:

14 Thank you, Mr. President. In fact, I was wondering whether or
15 not I had misinterpreted the decision arrived at this morning and
16 I thought that perhaps, indeed, I should be speaking first.

17 QUESTIONING BY CIVIL PARTY COUNSEL

18 BY MS. TRUSSES-NAPROUS:

19 First of all, I wish to thank Mrs. Lefevre for her deposition
20 and for the dignity with which she spoke. I know that today this
21 is a very difficult moment for you, Mrs. Lefevre, but it is a
22 moment that you have been waiting for over 30 years. And you
23 have indicated to all the importance for you, the meaning for you
24 of this trial and the importance for you to have the ability to
25 testify before this tribunal.

35

1 I would like to come back to certain points in your deposition
2 and ask a few questions. In particular, I would like to cover
3 the departure of Ket in 1977. Could you tell us what was the
4 state of mind of your husband when he left? Did he have any
5 doubts, fears? Was he pleased to have been recalled to Phnom
6 Penh?

7 A.Ket was very happy to be able to return to Cambodia and take
8 part in national reconstruction. As I said, he wanted to teach
9 because he said that there was nothing worse than ignorance. And
10 so we stayed in Limon at my parents' residence and he seemed
11 confident. As a matter of fact, we made some purchases in the
12 town where I live. He bought the usual things; a raincoat,
13 shoes, a suitcase, sunglasses.

14 [11.02.08]

15 And in the bus on the way to these purchases, the bus was very
16 full and we were holding on to the leather straps of the bus and
17 I was looking at his face which I wasn't going to see for three
18 months because he had told me, well I will take the pictures of
19 the children and your picture with me and I will have a new
20 passport cut for you and in three months at the most we'll be
21 together again.

22 And I was looking at his face then and very handsome. And an
23 instinctive sentence came out. I told him, "if one day I were to
24 learn that you are dead, I will never believe that you died a
25 natural death. You will have been assassinated". And he looked

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1 at me and tapped my cheek and said, "But, honey, Cambodians are
2 not savages." And he was so sure of himself, when I heard that I
3 trusted him. That's it.

4 Well, after that we know what happened.

5 Q.Wasn't it the case that he had in fact considered taking your
6 son with him on this journey at some point?

7 A.Well, our son, Makara, was four and a half years old. And he
8 said, "Well I'm going back to Cambodia. I'll be without the
9 children. Do you think that I might perhaps bring Makara; would
10 that be a good thing?"

11 [11.04.38]

12 And he took very good care of the children when I wasn't around.
13 He could cook for them, feed them, wash them, play with them, and
14 I really saw no drawback to him taking our son along. But at the
15 last minute he changed his mind and I believe that it was a very
16 good idea because we know what happened to the children of the
17 parents who were taken to S-21.

18 Q.So as far as you are concerned, he had no doubts or
19 suspicions?

20 A.No. He said, "Well, perhaps I'll have to do some agricultural
21 work," and that must have been the worst possible thing for him,
22 what would seem most difficult for him. How can one consider
23 going back to one's country if one is aware of the fact that they
24 are going to be killed? One simply doesn't go back.

25 And so he went back in the state of mind, in full confidence.

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1 Q.I would like to return to one detail, but simply in order to
2 avoid any problems with regard to this statement.
3 When you were in the camps in Thailand you met a person, a friend
4 of yours who indicated to you precisely what that person had seen
5 in Tuol Sleng where he had worked for a period of four months.
6 Could you clarify this statement? Did he work in Tuol Sleng as a
7 prisoner or had that person worked in Tuol Sleng at the time when
8 Tuol Sleng was taken by the Vietnamese? During which period did
9 that person work in Tuol Sleng?

10 A.Mr. Hou Tong Hoeun was one of our friends in Paris. He had
11 returned to Cambodia to take part in the national reconstruction
12 and he himself became a prisoner in a camp for intellectuals in
13 Terre Rouge where he told me what he had experienced and how
14 things were run there.

15 [11.06.54]

16 And so when the Vietnamese came to Phnom Penh, he was free to do
17 what he wanted. And I think, knowing him well, that he
18 discovered Tuol Sleng and he figured there must be people I know
19 who were taken and who had fallen in this trap.

20 So he worked -- I know not with which organization he worked. He
21 told me he worked for three or four months. So it wasn't as a
22 prisoner. It was "to do research" and this is when he picked up
23 the names of our friends who had lived in France. And we found
24 quite a few.

25 Q.Pardon me for returning to this event once more, but when you

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1 learned about the death of your husband in Thailand, when you
2 were in that camp and you had to return to France, what did you
3 feel then in truth? And how did you react in the first moments
4 when you learned that?

5 A.Well, I was crushed, devastated. I didn't know what Tuol
6 Sleng was. Hou Tong Hoeun explained that to me. He said, "This
7 is a centre where people were exterminated," and my question was
8 why? Why? Why?

9 So I was in a rage, sadness to such a point that if I had had the
10 people before me who had touched a square inch of the skin of Ouk
11 or a hair of his head, then I would take them to court. And so I
12 went back to France. And in the plane I decided I would become a
13 nurse, but that I had to tell my children the truth which I was
14 unable to do for the first week because my suffering -- this
15 unbelievable pain, how I suffered, how I could tell them what
16 their father had suffered amongst all the other Cambodians.

17 [11.09.40]

18 And so since they continuously asked me for news about their
19 father, well I finally took the children in my arms and one
20 evening my son told me. He said, Why aren't you giving me any
21 news about Daddy?" And I said, "Well your Daddy is dead. And
22 this is how it happened."

23 And he replied to me, "I will take revenge." And that reaction
24 frightened me a great deal.

25 He said, "Mama, I will seek revenge. I will always do good in

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1 school but, in fact, the rest of the year he did very poorly and
2 with Neary, who also understood at four-and-a-half it was really
3 a struggle -- a real struggle.

4 So we were living being deprived of the affection of Ket, his
5 support, he was the head of the family. His financial support as
6 well, the economic support was gone. His affection was gone.
7 These people destroyed our family as they destroyed other
8 Cambodians. It's unbearable.

9 BY MS. TRUSSES-NAPROUS

10 Q.Excuse me. I think I interrupted you, Mrs. Lefevre.

11 Tell me, at that time, to clarify things, you decided to reserve
12 your studies and to get a diploma because you had had to abandon
13 your studies in order to follow your husband.

14 [11.11.58]

15 Is it the case that this period was extremely difficult for you
16 from that point-of-view as well, given the fact that you were the
17 sole support in your family, the only one able to take care of
18 your children? Did you receive any specific assistance from your
19 family?

20 And could you perhaps also tell us if the representations that
21 you had to make for years and years, if all of this had any
22 repercussions on the way in which you led your life and the way
23 in which your children lived.

24 A.Well, yes, of course. I became the head of the family, so I
25 had to find the wherewithal to do this, to continue with my

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1 studies, to be able to feed my children, to bring them the care
2 and the protection because the parents are the ones who are
3 supposed to raise their children and we have just been amputated
4 of the father, of his presence, his affection, his support.

5 And so my mother took care of the children when I went to class.
6 And the time I spent doing research is time that I did not give
7 to my children. The money I put in airfares, return trips
8 between Cambodia and France looking for Ket, all of that was, of
9 course, at the expense of my family.

10 Q.Aren't you under the impression also that it was for your
11 family that you were doing this?

12 A.Of course. It was necessary to climb back up the slope to
13 re-organize everything, to live with this tragedy, which still
14 has an impact on us today. And as I have explained, the more
15 time passes and the more it's right in front of us, it is an
16 unforgivable crime, inexcusable crime.

17 [11.15.05]

18 Q.You spoke to us of your suffering. Did you have any physical
19 consequences related to the suffering?

20 A.Well, in 1984 I had two stress ulcers, stomach ulcers. I was
21 vomiting blood because I had to be everywhere at the same time.
22 I had to study; to support my children. My daughter cried a
23 great deal, incessantly saying, "I want to see Daddy. I want to
24 see Daddy." My son was the same.

25 So we were unable to grieve. No body, no restitution of body, no

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1 tomb, dust at your neck, just like millions of Cambodians as
2 well. This is a daily suffering. There isn't a day I don't
3 think of it.
4 So I had these two ulcers, but I just had to clench my teeth and
5 make headway, ensure that my children would get an education;
6 that they would follow a course of study and try to make headway
7 in life. When you're small, when you're four-and-a-half and
8 seven, how do you get started in life without your parents,
9 without your father who died an atrocious death -- incredible
10 cruelty?
11 So that is what I ask, that this be clearly understood and heard,
12 that people enjoyed killing others. One cannot do that with
13 impunity for nine years. That's not possible.
14 [11.17.20]
15 Q.Mrs. Lefeuvre, you chose to become a nurse, however, I know
16 that you were unable to continue to practice in a hospital
17 environment. Can you tell us why?
18 A.Well, in the first years -- I have to go back in time -- I
19 really put my head down. I was struggling and I was working in
20 medical resuscitation units, surgery units. Then I worked at the
21 emergencies.
22 And the last three years, as I gradually learned piecemeal what
23 had happened to Ket, one day I received one bit of information.
24 We recovered his picture in February and I became unable to
25 practice my job. When I saw the blood bags that had to be given

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1 to the patients. I would vomit. It was impossible. I saw people
2 with injuries and it brought up Ket every time. So I was unable
3 to continue; I couldn't continue. So I chose a unit in a light
4 psychiatry ward. It was too horrible. I would see what happen
5 to my husband, struck on the back. What did they do. did they
6 draw blood? They struck him on the face.

7 There were people coming in with long hair, poor people, and I
8 was wondering perhaps he became like this; everything was
9 possible. He had gone through it all and it was a shame for
10 mankind.

11 Q.Mrs. Lefevre, at present -- I apologize for asking this
12 question -- at present, are you in a position to forgive?

13 A.At this moment, no. Forgiveness is a process and so first
14 there is a need to find the people who did this.

15 [11.20.01]

16 Then a judgement has to come in and depending on the punishment
17 -- and then there is reparation. We have not experienced
18 reparation. What was done to Ket is something that we feel in
19 our own body and in our own minds, and at this point I'm not
20 ready.

21 This is a process perhaps 30 years from now -- perhaps, it will
22 take that long to be able to forgive; the same amount of time
23 that we had to take in order to come to the truth.

24 Q.You always tried to find out Mrs. Lefevre -- you always tried
25 to understand; wasn't it the case that at some time, you just

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1 wanted to give up; you were discouraged? Didn't you give up this
2 quest at some point?

3 A.Well, research trying to find Ket is not something linear. I
4 didn't start in '77 and crescendo; come to any result at some
5 point in time. There were some very damaging moments when I
6 wanted to just put an end to it and wanted to put an end to
7 myself, but for my children I wanted to love. I wanted to find
8 the truth.

9 [11.21.37]

10 At various points, there was major progress like when the
11 tribunal was created, but at other times, I was desperate. I
12 would tell myself never fine and I couldn't cry in front of the
13 children. I had to go forward; to be determined, to be tough.
14 They destroyed our life and that is unforgivable, inexcusable.

15 Q.Thank you, Mrs. Lefevre. Personally, I have no additional
16 questions for you. However, I know that you also don't have any
17 questions and you did not wish to ask the accused any questions.

18 MS. TRUSSES-NAPROUS:

19 So personally, if the President will allow, on the basis of this
20 testimony, I would like to obtain specific information concerning
21 the process which was experienced by this diplomat -- these
22 intellectuals who were recalled to the home country; is it
23 possible -- Mr. President,- is it possible to question the
24 accused on this specific point in order that Mrs. Lefevre may,
25 at last, get an answer concerning the manner in which this

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1 occurred?

2 MR. PRESIDENT:

3 Would the counsel wish to put this question by yourself or would
4 you wish the civil party to put question directly or you would
5 like to act on her behalf to put such question or do you think
6 she agrees that you proceed with the question on behalf of her?

7 Please clarify this.

8 [11.24.05]

9 MS. TRUSSES-NAPROUS:

10 The question that I would like to ask on behalf of Mrs. Lefevre
11 -- but I believe that it's necessary that we gather information
12 on the way that this repatriation process took place in -- the
13 repatriation of intellectuals, and intellectuals -- we would like
14 to know exactly what happened so that we could understand the
15 truth, so that we can understand how these people were brought to
16 Tuol Sleng. As Mrs. Lefevre had just said, she was not at all
17 expecting -- was not at all waiting for what was going to happen
18 to them when they arrived in Phnom Penh.

19 MR. PRESIDENT:

20 The accused, can you please respond to this question? If you can
21 do so, you can now take the floor.

22 THE ACCUSED:

23 Mr. President, I would like to respond to the question put to me
24 by the counsel as following: the Khmer intellectuals who worked
25 in the United Front of Cambodia -- actually, at the beginning,

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1 they were placed in the re-education camps and they were put to
2 be monitored. For example, people at K-17 and those who --
3 surveillance then were the young Party members. For example,
4 people were sent later on to S-21 included Huot Sambath, Chea
5 San, Y Sokunthy, and as a routine, when people were sent to S-21,
6 they would be tortured so that their confession was obtained.
7 So from 1976 to 1977 I could see more and more intellectuals were
8 being sent from abroad and that later on, they were sent to S-21
9 to be smashed. And this is part of the crimes that had been
10 inflicted on the returning intellectuals and this is all my
11 submission.

12 MS. TRUSSES-NAPROUS:

13 I have no further questions, Mr. President.

14 [11.27.40]

15 MR. PRESIDENT:

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

18 MR. SENG BUNKHEANG:

19 Mr. President, thank you very much, but I do not have any
20 questions to put to the civil party at this moment.

21 MR. PRESIDENT:

22 The Chamber would like to give the floor to the defence counsel
23 to put questions to the civil party if you would wish to do so.

24 MR. KAR SAVUTH:

25 Thank you, Mr. President.

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1 The defence counsel has no questions to put to the civil party
2 either. Thank you.

3 MR. PRESIDENT:

4 Next, the Chamber would like to give the floor to the accused to
5 make his observation in relation to the statement by this civil
6 party.

7 THE ACCUSED:

8 Mr. President, first of all, allow me to speak to Madam Lefevre
9 as follows: I would like to recognize that the biography of your
10 family is the historical fact and truth. Having said that
11 because this statement and biography will be forever true because
12 whenever anyone would like to research for the sufferings of the
13 people who have had during the Khmer Rouge regime, they would go
14 to that reference. So this historical fact is different from the
15 flower; flower can blossom and then can somehow change, but the
16 truth can never change.

17 [11.30.20]

18 The sufferings of the Cambodian people and the victims during the
19 regime include that of your loved one and it cannot be
20 forgettable, or forgotten, and that I would like to also state
21 that further that -- in particular to Madam Lefevre and to the
22 Chamber that I will not run away from the crimes I have
23 committed. It is inexcusable. The nation of Cambodia can point
24 their finger to me. They can curse me.
25 They can punish me whatever they would wish to do so, and the

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1 Court is here and I am before the Court and responsible for all
2 the crimes committed at S-21 legally and psychologically, and I
3 do not intend to deny any crimes committed at S-21, and I would
4 like to seek forgiveness from Madam Lefevre and other people who
5 have lost their loved ones during the regime. That's all.

6 [11.31.47]

7 MR. PRESIDENT:

8 Madam, your statement is now finished. You are now excused. You
9 can go back to your seat.

10 (Witness exits courtroom)

11 Next the Chamber would like to invite the civil party Ouk Neary
12 to come before the Chamber.

13 (Witness enters courtroom)

14 QUESTIONING BY THE BENCH

15 BY MR. PRESIDENT:

16 Q.Is your name Ouk Neary?

17 A.I am indeed called Ouk Neary.

18 Q.How old are you?

19 A.Thirty-four.

20 Q.Where is your current residence and what is your occupation?

21 A.I am living in France and I work in the field of transport in
22 France.

23 [11.34.18]

24 Q.What is the name of your father?

25 A.My father's name was Ouk Ket and he was detained for six

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1 months at S-21.

2 Q.What is your mother's name?

3 A.My mother's name is Martine Lefevre and she is French.

4 MR. PRESIDENT:

5 The Chamber now would like the lawyer for the civil party group 3

6 to make a brief background and information regarding this civil

7 party, Ouk Neary.

8 MS. TRUSSES-NAPROUS:

9 Thank you, Mr. President.

10 Ms. Ouk Neary is indeed the daughter of Mrs. Lefevre, who was

11 just heard, and of Ouk Ket whose story you now know. Since Mrs.

12 Lefevre provided a very full deposition on the way that her

13 husband had been detained at S-21 and executed there and the

14 documents that are in the file demonstrate without question the

15 link that exists between Ouk Neary and her father Ouk Ket -- that

16 is to say a birth certificate and the different registration

17 documents -- her parents' marriage, for example -- and we also

18 have in Ouk Neary's file documents, extra documents that she

19 provided us which is included in the list of the documents that

20 were brought to us; that is to say photographs of her father when

21 he was living with her mother, letters from her father --

22 elements that allowed her to come closer to this man of whom she

23 only has very fleeting memories.

24 [11.36.59]

25 So today what is important about her testimony is that we would

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1 be able to understand that someone who has not known her father,
2 or barely, is to be able to understand, however, what kind of
3 suffering she can endure during many years of her life because of
4 the absence of her father; and not only due to the absence but
5 also due to the fact that she learnt that her father had been
6 tortured and executed under such circumstances.

7 So this testimony I believe is completely different from Mrs.
8 Lefevre's because here we're speaking about the feelings of
9 someone from another generation and who experienced things
10 differently but, however, who experienced them as intensely.

11 MR. PRESIDENT:

12 The Chamber would like now to give the opportunity to Ms. Ouk
13 Neary to describe the events which led to being applied for the
14 civil party and then the intention to seek the reparations
15 physically or psychologically and impact upon her life and her
16 sufferings which are also related to the crimes alleged on the
17 accused during the establishment and the operations of S-21
18 Office from the 17 April 1975 until the 6th of January '79. You
19 may now proceed.

20 MS. OUK NEARY:

21 With your leave, I would like to pay homage to my father through
22 a few lines, through a few verses that I wrote in his honour.

23 [11.39.25]

24 "Regarding my father, the first memory that I have is his death.

25 I remember him where we were hiding to surprise him for a

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1 birthday surprise for friends. I can hear the gift paper and see
2 him amused, saying not to make any noise, and he's holding my
3 hand as I look up to the ceiling -- this hand that was able to
4 write so beautifully and so emotionally and so intelligently, and
5 playing the guitar so beautifully as well; a hand that
6 transmitted to my mother, who however is French, all of the
7 knowhow of Khmer cuisine. A hand that would shake the hands of
8 foreign diplomats without making any distinction of race, of
9 culture or of religion and would never go without the wonderful
10 smile that would enlighten his face."

11 When I see the faces and the temples of Angkor I remember the
12 only person through whom I saw these smiles and I admire them
13 even more so.

14 You will always remain a beautiful page in my history, a page
15 that we will try tirelessly to pass on. But in order to know
16 this it would have been necessary to call upon the best of what's
17 in us.

18 MS. TRUSSES-NAPROUS:

19 Upon Ms. Neary's request, could we please view two photographs?

20 It is the photograph of her father with his family. It is ERN
21 00281298

22 [11.41.38]

23 And right afterwards could we please view the photograph of her
24 father at S-21; 00281299 with your leave, Mr. President.

25 MR. PRESIDENT:

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1 The Chamber grants the counsel the opportunity. Can you please
2 restate the ER number of these two photos; that is, the ER number
3 of the documents you intend the Chamber to have shown on the
4 screen?

5 MS. TRUSSES-NAPROUS:

6 Well, it is document E28912, ERN 00281298.

7 MR. PRESIDENT:

8 The AV officer, can you show these two documents with the ER
9 number 00281298 and next 00281299?

10 MS. TRUSSE-NAPROUS:

11 I think that we should display them one after another. I thought
12 that they were all part of one single document. So I have three
13 photographs on the very same document.

14 Okay. So I think that we should pass through them. Thank you,
15 Mr. President.

16 MR. PRESIDENT:

17 The AV Unit, can you return the screen to the normal court view?

18 [11.45.58]

19 Ms. Ouk Neary, you can now proceed with your statement.

20 MS. NEARY:

21 Thank you, Mr. President.

22 So therefore I am born on the 16th of July 1975 in Dakar,
23 Senegal, in Africa because my father was working there and we
24 were living with my mother and my brother at the Place de
25 l'Indépendance up until the day when he received a letter from

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1 Cambodia requesting that he go work on the reconstruction of his
2 country.

3 So therefore we returned to France. My father returned to
4 Cambodia and I grew up without a father, with a French mother who
5 always told me that Cambodia had a very exceptionally strong
6 identity.

7 And I grew up with sarong dresses in France. And I started
8 learning how to read and write and speak Khmer at the same time
9 as I was learning French. And in order to give me moral support
10 my French grandmother brought us up while my mother was looking
11 for my father in the camps at Khao I Dang in Thailand and went
12 back to study and continued bringing us up as well.

13 And as far as I am concerned, growing up without a father was
14 something that had become normal. Communal life is really easier
15 in Asian society than it is in the West.

16 [11.48.10]

17 So therefore, I grew up until the age of six with eating Prahok
18 -- fermented fish, Char Khnhei, Samlor Machour and other
19 Cambodian day-to-day words that might be familiar to you but were
20 not necessarily familiar to me while I was going to school in
21 France.

22 And as far as I am concerned, not having a father was something
23 normal. I had heard about a prison in which there were
24 detainees, so maybe when my mother came back from Khao I Dang --
25 I knew that there was a place where people were being tortured in

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1 Cambodia but I didn't quite understand it fully.
2 So therefore I worked very normally. I went to school and I had
3 a very normal school -- I went to school very normally in France
4 until 1991 where we launched a search warrant in Cambodia via
5 television that was heard by someone who knew our family, or who
6 knew my father's family.
7 We received a letter that was written in Khmer. This letter fell
8 on the floor with photographs and we were very much troubled by
9 the Khmer writing. We thought that it was my father who had
10 written to us but that was not the case. It was his mother who
11 was speaking to my father, which allows me to tell you today that
12 she was not aware that her son had returned to his country and
13 that we were those who told her that my father was not with us
14 but that he had returned to Cambodia since I was two years old.
15 So since I was curious to come into contact with this part of my
16 culture, we organized together with my brother and my mother the
17 funding to buy three airplane tickets in 1991 to pursue a
18 genealogical trip. And we were of course not expecting such a
19 cultural shock, from which of course I learnt a lot.
20 We were expecting even less so the discovery of S-21 because, as
21 you see, I grew up in a country where we are free in our choices,
22 as might have been the case in Cambodia previously, and I ended
23 up confronted with this institution whose main function was to
24 create intelligentsia that would be at the service of mankind.
25 Back then at S-21 it was still written on the wall that it was

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1 the Tuol Sleng Museum.
2 [11.52.01]
3 Today we cannot see this writing any more on the wall, and I do
4 not believe that the road to S-21 -- I believe it was a dirt road
5 still. There was still a corrugated iron fence around S 21, with
6 barbed wire on top and there was about two metres between the
7 real perimeter of the school yard which later became Tuol Sleng
8 and to the guard post that was set up there maybe to keep
9 detainees or maybe to prevent the detainees from escaping.
10 There was therefore four buildings that you probably know very
11 well: Building A when you're facing the entrance, on your
12 left-hand side; Building B; Building C and D. And with my
13 brother we went into the two left-hand buildings and for me it
14 was the most tremendous shock of my life. I can say so because
15 when I entered into the first room and I then visited the other
16 rooms, well, I understood that this was the most deadly room
17 where the truth was the most blatant.
18 There were metal bars with the shackles that were used to shackle
19 the prisoners' feet. There were moulds, sculpted moulds of Pol
20 Pot's head right next to the shackles. There was a panoramic
21 view of a mass grave on a photograph. I did not yet know then
22 that it was the mass grave at Choeung Ek. And on the wall we
23 could see black and white photographs -- and I'd like to say
24 black and white photographs of a rare violence because could you
25 imagine how violent these pictures would have been if they had

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1 been coloured pictures?

2 And I had difficulty projecting myself from what S-21 -- and then
3 I remembered how much I was traumatized by these photographs but
4 it was very much soothing for me to see them. So there were
5 bodies on stretchers, amputated feet, bandages on wounds that
6 were completely disproportionate vis-a-vis the size of the
7 bandaids, broken skulls that had been broken in and detainees
8 with their legs still shackled, lying in puddles of blood with
9 leaves thrown on their face.

10 [11.55.20]

11 And two photographs later, the detainee was not dead. He raises
12 his hand and he tries to lean up with his beaten-in face, and I
13 asked myself whom is he asking help from?

14 In these classrooms, one finds also that there is a surreal
15 dimension, which I want to share with you today because between
16 each classroom there was created, by breaking open the walls,
17 doors that did not exist before and which completely upended the
18 operation of what had previously been a school, and froze it into
19 a barbaric dimension, showing the total lack of humanity of which
20 people are capable and which reverses the basic motion that leads
21 to the creation of schools; to transfer it and to change it into
22 a machinery to crush human beings, to crush brains. The sole
23 purpose of S-21 was death and mainly a sole intent, which was to
24 gather up the importance of those who entered that place and
25 never came out of it.

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1 With my brother we continued with the visit and in the next room,
2 going through that door which plunged us into an unreal world,
3 and in the second room there were ID pictures that covered all of
4 the walls and we were drawn to these faces which stared at us,
5 one after the other, drawing them to each one of these faces.
6 And I wondered if the horror was to see these emaciated faces of
7 children, men, women, babies sometimes, or if it was to think
8 that there are others whose pictures aren't even there.
9 So I continued to walk through this room and saw another one of
10 these doors taking us to a third room with just as many pictures
11 on the walls and just as many people staring back at me. And I
12 told my brother, "We have to start all over again and look at
13 each one of them because perhaps my father is there. And if he
14 is amongst them, we can't afford to miss him."
15 [11.59.04]
16 So numerous were the pictures on the wall. What I recall from
17 that visit is that we came out in oppressive heat, which is a
18 permanent condition for S-21, paradoxically to the horror which
19 occurred and the blood which may have flowed there and the shouts
20 which may have come out of it. I was thinking about all of these
21 victims who waited for help, tried to hold out as long as they
22 could, and nobody came ever to provide assistance.
23 Later we went through the archives of S-21, which was somewhere
24 upstairs in one of the buildings; I don't remember which one.
25 And when the S-21 employee opened the lock and the gate we were

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1 shocked to observe that in spite of the alphabetic
2 classification, all of the files were stacked under heaps of
3 dust, which in itself is already an insult to humanity. At least
4 that is my perception of it.

5 So we each took one folder and -- but a trick of fortune made it
6 possible for us to find precisely the registry of December '77,
7 which indicated the date of death of my father, and the date of
8 entry of my father with his name, his first name, date of birth,
9 function, mistakenly written up. I never took at face value the
10 content of that document as far as I'm concerned, but I always
11 told myself that it wasn't representative and that perhaps I
12 could and that I needed to find something else.

13 The reason why I'm describing S-21 to you at such length, it's
14 because that day that is the day when a drop of poison came to
15 me, and I have never since that day stopped trying to find out
16 what happened.

17 [12.01.44]

18 We returned to France; I continued with my schooling. In France
19 at 16, you do the baccalaureate, and I graduated. I had to
20 pursue my studies, which I did.

21 I was fortunate to do philosophy, literature and languages, and I
22 met an extraordinary professor of philosophy who was concerned by
23 the genocide of the Jews. And with him I had opportunity to have
24 lengthy discussions about the values in which I had grown up and
25 the shock that I had had to face when I entered S-21.

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1 I was aware of the fact that our journey and the cultural shock
2 that we had experienced could not continue, so I decided to
3 continue with languages and to arm myself from the point-of-view
4 of language in order to be able to continue research, if
5 possible.

6 In 1993, the conflict -- if I may call it in this way -- the
7 conflict had become more moderate between Cambodia and its past
8 which, nevertheless, was ever present.

9 I was preparing a Masters in English and the subject that I had
10 selected was the microfilming by Yale University of the S-21
11 documents. I received great support from the professor I chose,
12 and she told me that this is a doctorate-level subject, but I
13 will certainly give you full support in this research.

14 And very quickly, going on the Internet, I was confronted with
15 what was flowing from the Khmer side. The Khmer Rouge claims
16 "Watch your back, Khmer Rouge" and I don't know in which forum --
17 going through the research, there were other statements
18 attempting to persuade me not to go any further.

19 [12.04.21]

20 Well, actually it worked. I gave up my studies for another
21 reason as well, which was that in the Khmer Rouge way of
22 thinking, unless I am mistaken, it wasn't good to have too much
23 culture and too much success, at the risk of death.

24 Well, can you imagine that this idea had in fact slowly grown
25 into my mind? And in 1993, I believe, that was the big return of

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1 the Khmer Rouge in Phnom Penh -- I saw on television from France,
2 Khieu Samphan and Chan Youran on TF1.
3 The next day I received a telephone call at home for my mother
4 from Chan Youran who wanted to speak to my mother who happened
5 not to be there. He did not immediately introduce himself. I
6 asked him to repeat his name, his identity, and with an
7 uncomfortable smile he said, "I'm Chan Youran. I am --". Well,
8 he didn't say, "I am", he said, "a great friend of your father",
9 and I replied, "I know. I saw you on television yesterday", and
10 that was the end of our discussion.
11 Since I wanted to return to my country, Cambodia, I changed
12 track, took French as a Foreign Language because I wanted to
13 return to Cambodia. And I had the recollection, which was deeply
14 embedded in me, of someone in the neighbourhood, my Cambodian
15 grandmother, who had preserved French words hidden under the
16 Khmer Rouge. And, in fact, under the stilts of the house they
17 had created a classroom and in the classroom gave courses to
18 eight year-old children and told them in a Cambodian accent in
19 French, "Ma famille va à l'école régulièrement".
20 So he came to speak to us and to my brother, and tears welled up
21 in his eyes. He apologized with us to be unable to speak more
22 French to us, telling us that under the Khmer Rouge he had been
23 requested to forget his knowledge. This knowledge that had
24 disappeared touched me deeply. It did not leave me indifferent.
25 [12.07.29]

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1 And I believe that, in fact, he had an impact on my decision to
2 return to Cambodia and to contribute my knowledge as a French
3 national in a country to which I believe I belong.
4 I continued with my internet research nevertheless. I made
5 contact with Craig Etcheson. I came to know Steve Heder. I
6 learned to get acquainted with Yan Nann and later Peter
7 Leuprecht, and I believe that each one would have been willing
8 and ready to help me had they had in hand more information than I
9 had. But I deplore the lack of transparency, which is present
10 even today on the part of the Khmer government.
11 Since we have never been given the definitive evidence of the
12 passing or the death of my father. In 2004, Rithy Panh invited us
13 in the preview of S-21. And I had decided by then that I would
14 make headway in my life and that I would try to build something
15 to leave the past behind me, as many Cambodians say who don't
16 want to talk about this anymore. And I understand them full
17 well. So we went --

18 MR. PRESIDENT:

19 Ms. Ouk Neary, since it takes time to take an adjournment, the
20 Chamber would like to let you know that you can proceed with your
21 statement after the adjournment because the Court and the public
22 may need to take the lunch break.

23 [12.09.41]

24 We'll take the adjournment now and resume at 1:30 p.m.

25 Ms. Ouk Neary is invited to come back to the Court this afternoon

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1 to proceed with her remaining of the testimony.

2 The security personnel are now instructed to take the accused
3 back to the detention facility and return him by 1:30.

4 THE GREFFIER:

5 All rise.

6 (Judges exit courtroom)

7 (Court recesses from 1210H to 1338H)

8 (Judges enter courtroom)

9 MR. PRESIDENT:

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

11 Next, we would like to proceed with the statement of Ms. Ouk
12 Neary.

13 MS. OUK NEARY:

14 I apologize, Mr. President. I didn't hear what you just said.

15 MR. PRESIDENT:

16 Since this morning we heard part of your statement already, and
17 then we stopped short when we took the adjournment for lunch
18 break and now, since we are now resuming the session, then we
19 would like to give the floor to you to proceed with the remaining
20 of your statement.

21 So you can now please take the floor.

22 MS. OUK NEARY:

23 Very well, thank you.

24 Well as a matter of fact, I had stopped at 2004 when Rithy Panh
25 invited us for the preview of his film "S-21" which everyone is

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1 familiar with. So "S-21" was a documentary film, far from being
2 a romance fiction with invented characters, since in fact he had
3 selected persons who had worked at S-21 to make them speak to
4 express what they had experienced and what they had done in that
5 detention and extermination centre.

6 [13.41.48]

7 But the reason why I mentioned this today is because I was
8 thoroughly shocked by three points -- not of the documentary
9 itself, since it was only showing reality, but events taking
10 place in S-21. And I would like to return in particular to the
11 blood tests since, not knowing what had happened to my father, I
12 had to try to imagine and unfortunately I imaged the worst.
13 When I go back to the blood tests I wonder how two people,
14 because one must be aware of this -- two people can hold down a
15 man or a woman who are already weak, in order to cut into a vein
16 to make them believe that it's going to be for a blood test --
17 and enjoying it probably, preventing that person from defending
18 themselves. In other words, even were you to have the ability to
19 defend yourself to lose all your blood -- and I think this is
20 where the dehumanization and the ignominious character of these
21 events comes to the fore.
22 I also gave a great deal of thought, after I saw that film, to
23 the young woman who committed suicide because she wanted to
24 escape what she was being subjected to and obviously I identified
25 with her because the crime of others and crime in general will

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1 necessarily lead one to think of one's own crime.

2 The third point which appears to me to be intolerable is the
3 autopsies, which are probably less often mentioned, which took
4 place in S-21 and if possible -- and I would like to request this
5 with your leave, Mr. President -- I would like to be able to read
6 an excerpt of David Chandler's book which I saw last week, "S-21,
7 the Unpunished Crime", the French version, page 50.

8 [13.44.21]

9 David Chandler tells us that surgical operations leading to their
10 death were sometimes performed on patients under anaesthetic, on
11 prisoners under anaesthetics in order to give medical cadres
12 experience. It's possible that experiments of this type were
13 also performed on prisoners at S-21 and it would not be
14 surprising that there are no archives concerning this that have
15 been kept.

16 I leave you to imagine the repulsion which rose in me when I
17 discovered all these horrors, knowing that in S-21 the only
18 possible form of anaesthesia was with salt water. And so
19 individuals were taken, tied to a post; the front part of the
20 abdomen was opened up in order that a -- because what is very
21 seldom said is that in fact the employees of S-21 were young
22 people -- so that a young physician could put his hand into the
23 abdomen of someone who was alive in order to cut the appendix
24 out. The victim, who was screaming in pain initially, would
25 stare at the young man, mute, and the young man was pleased with

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1 having found this because the method was encouraged.

2 In Phnom Penh there are people who were amputated after stepping
3 on mines, families that were amputated by losing members of their
4 family, and I personally experienced an invisible disability, a
5 psychological agony, a journey into hell when I discovered all of
6 this.

7 And if today I want to block the self-destructive message that
8 was given to the Khmer people without any limit of time or place,
9 this is why I insisted on the unreal aspect of this. It is
10 because when my son was three years old, when he was close to me
11 and when my companion was speaking to me, I was thinking only of
12 one thing; was to break away, to extricate myself from reality
13 and jump out of the window for reasons I could not fathom myself.
14 [13.47.08]

15 Let me reassure you I am much better now. However, I was forced
16 to ask myself searching questions with regard to the relationship
17 of obedience and of submissiveness that were developed in S-21
18 which led to such a process taking place; and on the phenomenon
19 of hierarchical terror and the loneliness of the victims and the
20 subservience both of the victims and of those who committed these
21 offences.

22 And I wonder how it is that a few individuals regrettably managed
23 to take the lives of some three million others with such evil
24 intentions.

25 In February of this year I returned to Choeung Ek, which I had

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1 visited after S-21 in 1991. But at the time it had not hurt me
2 as much as it did in February of this year because, as I've said
3 before, the dates of entry and exit which I had found at the time
4 were not valid for me; and I went to DC-Cam in February where I
5 managed, thanks to Youk Chhang, whom I wish to thank in passing
6 even though I didn't understand at first his hesitations and
7 reluctance. I managed to recover the picture of my father in
8 S-21 which this time represented for me the confirmation that he
9 had been through that venue and that he was no longer alive.
10 After that, we once again with my mother went to Choeung Ek and
11 that location, I want to tell you, is the worst place I've ever
12 been in the world because it continues to soil my feet because of
13 the injustice that is there. These are communal pits which have
14 been emptied, where grass is growing, where men, women,
15 adolescents, infants were buried. There are bones that are still
16 bound, teeth, bits of cloth which were used as blindfolds.
17 [13.49.43]
18 Trees have grown in a tortured way themselves and speak on behalf
19 of history with the marks of machetes which can be seen and were
20 more concentrated toward the end of the genocide when the Khmer
21 Rouge were in a haste to get rid of the enemy within. The
22 butchery occurred during the night.
23 And the pit was different, depending on whether it was an adult
24 who had been or who had not been decapitated, or the body of an
25 infant. That baby could have been me. I could have been grabbed

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1 by the foot and had my skull crushed against a tree that was used
2 to destroy all of the children, and sometimes I get the feeling
3 that I'm the only survivor amongst all of them.
4 And in the back there is a pond where I don't even dare imagine
5 how many persons perished. What happened in Choeung Ek is only
6 one example of what had been happening throughout the country and
7 that is unforgivable. In the bone dust of Choeung Ek, where the
8 grass grew feeding on the bones of children, the silent soil
9 opened up and saw all this blood flowing. Men are born free,
10 equal in dignity and in their rights. Any individual has the
11 right to life, liberty, and personal safety. No-one shall be
12 subjected to torture or to punishment or inhuman or degrading
13 treatment.

14 [13.51.35]

15 And I no longer know what I was taught in school. Choeung Ek in
16 fact has eroded my self-confidence. I must conclude by saying
17 that I spent my entire life trying to come closer to the truth,
18 the truth which the accused thinks that he owns and which I was
19 deprived of, and what was read in 1991 is something that I never
20 stopped looking for because I wanted to know. I wanted to know
21 what my history was, I wanted to know what the truth was, and
22 this quest is a quest I undertook on my own and it is only thanks
23 to my efforts that I have reached there, and I've managed to make
24 the connection with the accused, who is nothing but the nerve
25 centre of a crime industry which took place in S-21.

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1 I must specify that from the outset witnesses are asked whether
2 or not they know the accused and I wish to specify that the
3 accused is the one who does not know me but I have learned to
4 know him because for several months I have been observing you and
5 I know enough at this point to tell the accused that I have no
6 interest in him and that whether or not I come into possession of
7 the confessions of my father, I give them back to him and I hope
8 that he will sink with that. As a Cambodian, his obsequiousness
9 is unable to hide in my eyes the cynical brute -- the cynical and
10 bloodthirsty brute that I know.

11 As a French person I see the accused takes on responsibility
12 without ever soiling his hands by evoking his agreement in
13 principle, as he says, but he omits to correct that at the time
14 his objective was not work but was dirty work which was
15 scientifically fuelled by others and, as far as I'm concerned, I
16 find that he represents the shame of the human race. There
17 weren't 17,000 victims attributable to the accused but 17,000
18 reasons to inflict a maximum penalty for this.

19 If it were only possible also for the accused to stop thinking
20 that he is the thinking head of Cambodia instead of all the
21 people who have a right to think, then I believe that that would
22 be a wonderful outcome. Thank you, Mr. President.

23 [13.54.48]

24 MR. PRESIDENT:

25 Judges of the Bench, would you wish to put any questions to this

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1 civil party?

2 I have not seen any indication that our Judges would like to put
3 questions to the civil party. I would like now to give the floor
4 to the civil party lawyers group 3 to put questions to the civil
5 party.

6 MS. TRUSSES-NAPROUS:

7 Thank you, Mr. President.

8 QUESTIONING BY CIVIL PARTY COUNSEL

9 BY MS. TRUSSES-NAPROUS:

10 Q.Thank you very much, Neary, for having provided us with this
11 account and for sharing your feelings with us, and your feelings
12 which are so important to us because you did not know your
13 father. And in reality, if I may summarize what you told us --
14 or the idea that you wanted to tell us is that up until the age
15 of 16 you lived perfectly normally because for you there was just
16 a father who was absent, who was not there, but there was not the
17 idea for you of how your father might have disappeared.
18 And then you told us that as of the age of 16 when you went to
19 S-21, you underwent an enormous shock and then everything
20 changed, and you also told us that all of this aggravated your
21 suffering and your suffering got worse over time, and as you were
22 conducting your research or as you were meeting people -- I'm not
23 betraying what you said. That's indeed what you were trying to
24 tell us. Is that so?

25 [13.56.53]

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1 So may take the liberty of asking you if for you this suffering
2 developed over the years, if it worsened over the years or if, on
3 the contrary, for you there might be moments of less suffering
4 and moments when you are less involved in this suffering?

5 A.Thank you for asking this question. As you know, indeed human
6 beings are not linear and thank God I did not only stick to this
7 one single line and I was able, indeed, to take hold of myself,
8 thanks as well to the help of a psychotherapist who helped me to
9 put into words everything that I had seen, but I also needed to
10 understand why I, who always grew up protected from this conflict
11 -- this conflict that no longer involves me, in fact, if it in
12 fact ever involved me -- why I, who grew up in France, when I
13 would see a fan I would see helicopters and relive the American
14 bombing, whereas I had never been to Cambodia. That's just an
15 example I'm saying here.

16 And of course there were moments, as I said when I changed
17 directions and I decided to rebuild myself because that's life.
18 But, however, you shouldn't believe that S-21 stops at the gates
19 of S-21 and the prison is just walls that just preserve what
20 happened. The walls are shouting. The limits, the bounds of
21 S-21 do not stop what happened at S-21 and Cambodia is not on its
22 own; the whole world is looking at Cambodia.

23 Even if I am from another generation and this other generation
24 maybe might have been instrumentalized (sic) by what happened, I
25 would like to read out to you a quote from Rithy Panh, the

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1 film-maker who prefaced Vann Nath's book about his experiences at
2 Tuol Sleng, where he says:

3 [13.59.46]

4 "The older you become, the more the history of the genocide comes
5 back to you in an insidious way, a bit like a poison that has
6 been distilled into your body bit by bit. The only way to
7 relieve things is to testify."

8 Thank you very much, Mr. President, for having listened to me.

9 Q.Neary, could you please tell me who followed you; who was the
10 psychotherapist who followed you and over which period of time?
11 How long were you in therapy?

12 A.Well, this psychotherapist is called Mr. Dupeyron. He's
13 working in Paris. He worked for the National Research Board --
14 say NRS -- in France, and he specialized in people who have had
15 family members who were detained, no matter whether they were
16 victims or oppressors. And I started undergoing therapy in 2004,
17 several time per month at the beginning and then more
18 episodically which allowed me to -- I believe, to begin mornings
19 in February and to be here, present, today because when I say
20 that I understand the need to put into words that people are
21 experiencing here in Cambodia, I am also aware that this
22 represents a lot of work upstream and for many years.

23 [14.01.45]

24 Q.You indicated that at certain occasions you suffered so much
25 that you, in fact, almost wanted to commit suicide and you did

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1 not accept this because you were a mother yourself, however, so
2 can you describe the state you were in and how it came up in you?
3 A.A very simple example -- there's a name; it's called
4 timalisation. You only see people's lips moving, but you're
5 completely elsewhere. You have no explanation to provide to the
6 generation after you so in the front of this heritage that was
7 taken from me and instead of a father, in February I got an empty
8 cell and even though I know what happened, but it's the fact that
9 I have arrived too late. Well, before I -- before the
10 inconsistency of the explanations that I could give to the
11 generation after me, it is true that even though people might
12 have been trying to convince me otherwise, that was the only idea
13 I had in mind.

14 Q.Ms. Neary, you wrote a lot. I believe that the Chamber has
15 understood that Neary often put into words her pain and in her
16 writings, let me please remember to recall two sentences. She
17 mentioned the images of S-21 that keep on coming back.

18 "I had opened the door and it was impossible for me to close and
19 the demons of S-21 were coming up in every minute of my
20 existence; whereas, I had spent the most part of my life in
21 France."

22 So do you confirm that this is still what you think and what can
23 you tell us about what you wrote here?

24 A.Yes, indeed, I confirm this and we cannot -- you cannot rid
25 yourself of what was --

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1 what happened at S-21 as you would wipe clean a blackboard in a
2 fraction of a second. This keeps on coming back, indeed, even
3 when you try to forget; it keeps on coming back.

4 [14.04.41]

5 Q.I have a last question or rather I'd like you to confirm here
6 again what I'm going to tell you. You spoke, therefore, about
7 your suffering. You spoke about your pain and about your pain in
8 relation to the disappearance of your father, but do you -- don't
9 you believe that it is only the disappearance of your father
10 which is the root of your suffering or is it especially the fact
11 that the disappearance of your father is the result of his
12 detainment, the result of the fact that he was tortured and the
13 result of the fact that he was executed? Is that what you wanted
14 to tell us in everything that you said to us today; that that is
15 the real root of your suffering?

16 A.Yes, of course, because the reality is, unfortunately, of such
17 a level of atrocity -- boundless atrocity -- but nonetheless,
18 what I wanted to say to the Cambodian people who might not be
19 able to deal with this subject is that the only way to face the
20 future is to dissect what happened and by providing an
21 explanation to this and when we're able to break down into pieces
22 everything that happened and that we try to reconstitute the
23 puzzle as it must be done, it may improve things of course. We
24 cannot remain in solitude and in subservience forever.

25 Q.Thank you very much, Neary.

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1 MS. TRUSSES-NAPROUS:

2 I have no further questions, Mr. President.

3 MR. PRESIDENT:

4 The Co-Prosecutors, do you have any questions to be put to this
5 civil party?

6 [14.07.05]

7 MR. SENG BUNKHEANG:

8 Thank you, Mr. President. The prosecution does not have any
9 questions for this civil party.

10 Thank you.

11 MR. PRESIDENT:

12 And the defence counsel, do you have questions to be put to this
13 civil party?

14 MR. KAR SAVUTH:

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

17 MR. PRESIDENT:

18 The Chamber now grants the opportunity to the accused to make his
19 observation regarding the statement of this civil party, Ouk
20 Neary. You may proceed.

21 THE ACCUSED:

22 Mr. President, I would like to seek your leave to speak directly
23 to Ms. Ouk Neary as follows: first, I would like to bow my mind
24 and my body to acknowledge the testimony of this Ouk Neary as an
25 orphan who lost her father at S-21. This testimony is valuable.

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1 It is an historical document for the next generation not to
2 forget the tragedy and not to allow the mankind into such crime.

3 [14.08.59]

4 In the future, we could hear the testimonies of other orphans who
5 lost their fathers and I am ready to receive those testimonies.

6 Secondly, the crimes committed at S-21 on the Cambodian people
7 and the nation itself, I have spoken extensively on this;

8 however, my personal crimes on the people who were alive, on the
9 offence, I do not deny it -- any of this crimes. I am

10 responsible both by legal ways and in an emotional way. And I'm
11 responsible for all those civil parties or those who do not

12 present themselves here as civil parties, I am all responsible.

13 And this is my observation, Mr. President.

14 MR. PRESIDENT:

15 Ms. Ouk Neary, the Chamber does not have any further questions
16 for you.

17 You are now excused, so you can sit at the chairs reserved for
18 the civil parties.

19 (Witness exits courtroom)

20 MR. PRESIDENT:

21 The Greffier, according to the trial scheduling, after the
22 testimony of the civil party Ouk Neary, we would hear the
23 testimony of another civil party, that is Hamill, Robert.

24 (Witness enters courtroom)

25 Is the person present in the Chamber?

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1 [14.11.20]

2 THE GREFFIER:

3 Mr. President, the civil party Robert Hamill is present in the
4 Chamber and ready to be called by the Chamber.

5 MR. PRESIDENT:

6 Mr. Hamill Robert, please come and take the seat before the
7 Chamber.

8 QUESTIONING BY THE BENCH

9 BY MR. PRESIDENT:

10 Q.Good afternoon, Mr. Robert Hamill. Is your name correct,
11 Robert Hamill?

12 A.Yes, that is correct.

13 Q.How old are you this year?

14 A.Mr. President, I am 45 years old.

15 Q.Where is your place of birth?

16 A.Mr. President, my place of birth is Whakatane, New Zealand.

17 Q.What is your nationality?

18 A.Mr. President, I am a New Zealander.

19 [14.13.40]

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

21 A.Mr. President, my address is 1020 Limeworks Loop Road, Te
22 Pahu, Hamilton, New Zealand. My occupation is event manager.

23 Q.What is your occupation again?

24 A.Mr. President, my occupation is event manager.

25 Q.What was the name of your blood father?

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1 A.Mr. President, my father's name is Miles Owen Hamill.

2 Q.What is your mother's name?

3 A.Mr. President, my mother's name is Esther Hamill.

4 Q.Mr. Robert Hamill, how many siblings do you have?

5 A.Mr. President, I have four siblings.

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

7 A.Mr. President, my eldest brother is Kerry George Hamill. My
8 second eldest brother is John Dwyer Hamill. My third brother is
9 Peter Robert Hamill. My sister is Sue Mary Hamill.

10 [14.16.07]

11 MR. PRESIDENT:

12 The counsel for civil party group 1, the Chamber now would like
13 to give you the opportunity to make a brief description of the
14 identification of your client and the reasons being a civil party
15 and other relevant evidence. If you have it, you may proceed.

16 MR. WERNER:

17 Thank you, Mr. President.

18 As you probably have understood, Mr. President, my client is the
19 brother of Kerry Hamill, who was detained and killed at Tuol
20 Sleng. When my client filed his civil party application at the
21 time, he included the confession of his brother, which is
22 E2/87.7, and last week we did file -- civil party group 1 -- an
23 attestation from Tuol Sleng to attest that indeed this document,
24 this confession, is to be found at Tuol Sleng.

25 Now, as we stated in the motion we filed last week, what was

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1 missing was the proof that my client is indeed the brother of Mr.
2 Kerry Hamill, and my client came with two documents that I have
3 here with me, and my client has the original if needed.
4 The first document is a New Zealand birth certificate of Mr.
5 Kerry Hamill, attesting that his mother is Esther Hamill and then
6 his father is Miles Owen Hamill.
7 And the second document is the copy of particulars of marriage of
8 my clients, and this document dated July 2001 attests to the fact
9 that his mother is Esther Hamill and his father is Miles Owen
10 Hamill.
11 [14.18.26]
12 With your leave, Mr. President, I'm proposing to give these two
13 documents to your Greffier for them to place it in the case file
14 and, of course, alternatively we can file a motion requesting
15 that. We are in your hands.
16 MR. PRESIDENT:
17 You are granted the opportunity to submit these documents.
18 MR. WERNER:
19 Thank you, Mr. President. So I think that we have answered your
20 three questions, if I'm not mistaken, and let me just maybe tell
21 you how we thought we would proceed.
22 My client would like to read a text -- and I'm not completely
23 sure how long it will take but it's quite a substantial text --
24 and then my client -- we will request Your Honour's leave for my
25 client to ask through you, Mr. President, or directly as you

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1 wish, a few questions. That's how we wanted to proceed and I
2 will have probably very few, maybe one or two questions to my
3 client. That's how we were proposing to proceed.

4 Should I take it that we can proceed then.

5 MR. PRESIDENT:

6 Are you going to read the statement by yourself or is the civil
7 party reading the statement by himself?

8 MR. WERNER:

9 Sorry, Mr. President, I was probably not clear at all. We are
10 proposing that my client read the statement himself. So I am
11 just asking your leave for that to start. That's it.

12 MR. PRESIDENT:

13 Mr. Robert Hamill, you can now proceed with the reading of the
14 statement and you can tell us the reasons for your decision to
15 become a civil party to this case, and the impacts upon you and
16 your life due to the criminal acts alleged on the accused during
17 the time of the Democratic Kampuchea from the date of
18 establishment and operations of S-21 as well as S-24. That is,
19 the 17th April 1975 to the 6th of January 1979.

20 [14.22.07]

21 And the facts are directly related to your relative. You may now
22 proceed.

23 MR. HAMILL:

24 Mr. President, I thank you. Tena kaotao katoa. Greetings to
25 all.

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1 I am deeply honoured and moved to be here today, given the
2 opportunity to speak. I realize that this is a privilege made
3 available to a few, especially compared to the numbers of
4 families that suffered under the Khmer Rouge regime.
5 I arrived in Cambodia last week. Last Thursday, 13th of August,
6 was coincidentally 31 years to the day that my brother Kerry
7 Hamill first set foot on Cambodian soil. The difference now is
8 that I am here of my own volition. This is the story of an
9 innocent man brought to his knees and killed in the prime of his
10 life, and the impact his death had on just one family.
11 It is my hope that other families likewise affected by the losses
12 of this barbaric time can somehow relate to my statement and
13 recognize that they are not alone in their grief.
14 [14.23.35]
15 This cruel process, the trial, and the sentencing hearing finally
16 gives Kerry and all the other people that died at the hand of
17 Duch and others the opportunity for justice, acknowledgement and
18 vindication.
19 Your Honours, I strongly believe that my personal suffering
20 cannot be understood unless the Chamber is properly informed of
21 the background of my family. Kerry was a part of our family
22 which was torn apart due to the accused's actions; a previously
23 close-knit, outgoing and active family which was in effect
24 destroyed along with Kerry at S-21.
25 With your leave, Mr. President, I would like to briefly describe

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1 my family life before this tragedy.

2 MR. PRESIDENT:

3 The Chamber allows you. Please proceed.

4 MR. HAMILL:

5 My brother Kerry was the oldest son of five children to Esther
6 and Miles Hamill. Kerry grew up in Whakatane, New Zealand, along
7 with us -- his siblings, John, Peter, Sue, and myself. We were a
8 very outdoors focused family. We spent our days outside really
9 enjoying nature. Kerry was very special to my mother and father.

10 We all were but having children is pretty extraordinary
11 life-changing stuff and we knew as the first-born Kerry really,
12 really was very special to my parents.

13 My second eldest sibling, John Hamill, was born 15 months after
14 Kerry. In their youth the two were virtually inseparable.

15 Together they sought out many adventures.

16 Mr. President, I ask the Court's leave to please, if we could,
17 put up a photograph of one such adventure of my two brothers,
18 Kerry and John. This is particularly important for what happened
19 later to my second brother.

20 [14.26.08]

21 MR. PRESIDENT:

22 The Court officer, can you project the photo on the slide?

23 Mr. Robert Hamill, please try to notice the red light on the
24 microphone. You can only speak and your voice can only transfer.

25 It comes through the system only after the light is lit so that

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1 your voice can go through the transcript for the proper record of
2 the hearing.

3 You may now proceed.

4 MR. HAMILL:

5 Thank you, Mr. President.

6 As you can see from this photo, this was a classic scenario with
7 my brothers creating fun out of a stormy day, converting our
8 family dinghy into a sailing vessel. On the right-hand side of
9 the picture is my brother Kerry, which was to be his first
10 helming or skippering opportunity in life. To the very left-hand
11 side of the photo is my brother John and in the middle is a
12 family friend. Thank you.

13 After going to university, Kerry went to Australia to work in
14 Sydney and develop his sailing skills further. His goal was
15 sailing around the world. When Cyclone Tracy devastated Darwin
16 in 1974, Kerry went up there to work and earn enough money to buy
17 his own yacht. While in Darwin, Kerry befriended a Canadian,
18 Stuart Glass. The two eventually decided to each buy a 50
19 percent share in a yacht, a 28-foot double-ended sloop named
20 "Foxy Lady".

21 I would ask the President's leave to put a photo of that boat up
22 for the Court to see.

23 They spent a fair bit of time and money repairing that boat and
24 getting it ready to sail off on to their adventures. While in
25 Darwin, Kerry met his girlfriend Gail Colley. Gail is to the

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1 left of that picture and seated in the photo of the yacht is my
2 brother Kerry. Gail is an important part of this story and I
3 will return very briefly, with Your Honours leave, at a later
4 time to talk about her.

5 Kerry and Stuart then sailed to Darwin and began a series of
6 wonderful adventures, sailing up through South East Asia. To
7 earn money they would do day charter trips out to nearby islands
8 for fishing, snorkelling and sightseeing. Kerry wrote home
9 regularly, telling terrific tales of his adventures. At home
10 here in New Zealand, we would excitedly sit around the kitchen
11 table while my father read out each letter accompanied by our
12 exclamations of awe and amusement and excitement at the many
13 different sights and colourful cultures he was experiencing.

14 Occasionally a parcel of clothing would turn up, to the extreme
15 delight of my sister and myself. In one letter Kerry detailed
16 how he met two Englishmen, Neil and Bob, who got on board as
17 paying passengers from Phuket to Penang. I met both Neil and Bob
18 earlier this year and they described to me their wonderful
19 adventures with Kerry and Gail. They said Kerry and Gail were
20 clearly very much in love. They believed the two would
21 invariably get married, settle down and have children of their
22 own.

23 From all these things, Your Honours, I'm sure you can see that at
24 26 years of age Kerry was having the time of his life. He and
25 Gail were planning a life and future together and we were all

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1 enjoying their adventures and the stories they were sending back
2 to us in their letters.

3 [14.31.40]

4 The last letter we got from Kerry was sent from Singapore in July
5 1978. Fortunately, Gail left the boat at around this time to
6 visit her family. She and Kerry planned to meet up a couple of
7 months later. We believe the men made for Bangkok but were blown
8 off course in bad weather and took shelter behind Koh Tang
9 Island.

10 Mr. President, my lawyer has apprised me of the situation
11 regarding the content of S-21 confessions. However, with your
12 permission I would like to recall six sentences contained in the
13 confession of John Dewhurst. From our family's perspective, that
14 is what we read 30 years ago and it affected us greatly at that
15 time. Whether it be fact or fiction, it was what we believed to
16 have happened to them and affected us accordingly.

17 Mr. President, I recognize your discretion in this area and am
18 completely in your hands in this matter.

19 MR. PRESIDENT:

20 Yes, the Chamber allows you the opportunity. You may proceed.

21 MR. HAMILL:

22 Mr. President, thank you very much.

23 John Dewhurst described in his confession how the boat was
24 attacked while moored outside Koh Tang Island. He said:

25 [14.33.49]

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1 "Shortly after dark I went below to make some porridge and
2 suddenly a boat began to close in on us very quickly. I was
3 about to go on deck when the boat opened fire and sent shots over
4 the mast. So I stayed where I was and turned on our navigation
5 light. The gunboat came in closer and lit us up with its
6 spotlight.
7 Stuart was shot and Kerry helped him out to sea in a lifebuoy.
8 Kerry and I went over the side for safety and waited until the
9 gunboat came in to pick us up. He told me later that Stuart had
10 died and had been buried at sea."
11 Thank you, Mr. President.
12 Even if we do not know the precise details of the capture of
13 Kerry, we do know he was brought to S-21. There, as a part of
14 the system of degradation and torture put in place by the
15 accused, he unquestionably suffered beyond all imagination. Yet,
16 despite this environment, the pressure to surrender to the pain
17 and futility and despair, Kerry's confessions were lucid. He was
18 clever with what he said.
19 It is evident from both Kerry's and John Dewhurst's confessions
20 that they were obtained under torture. The men wove the patently
21 untrue statement that they were CIA training into real facts
22 about their life.
23 Again, Mr. President, I am aware that the content of the
24 confessions is not to be discussed before the Chamber. At this
25 point with your leave I only wish to ask about certain names in

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1 the confession which lead my family and myself to believe it is
2 entirely fictional.

3 [14.35.38]

4 I do not seek to rely upon or place any credence upon the
5 supposed factual content of the confession. In his confession
6 Kerry -- sorry.

7 MR. PRESIDENT:

8 The Chamber grants you the opportunity. Yes, you may proceed.

9 MR. HAMILL:

10 Thank you, Mr. President.

11 In his confession Kerry stated that Colonel Sanders of Kentucky
12 Fried Chicken fame, a popular fast-food chain of restaurants, was
13 one of his superior officers. He retained his sense of humour
14 incredibly. He used our home telephone number as his CIA
15 operative number and mentioned several family friends as supposed
16 members of the CIA. For instance, Colonel Perram was our
17 father's gliding instructor. Captain Dodds is an old friend of
18 Kerry's who still lives in Whakatane. He also mentions a Captain
19 Pepper, which may well have been a reference to the Beatles
20 album. And he talks about a Major Rouse. A ruse in English is a
21 fraud or a confidence trick.

22 Perhaps the most poignant comment in my brother's confession was
23 the mention of the public speaking instructor, a Mr. S. Tarr.

24 The instructor's family name was spelled Tarr,

25 T-A-R-R. Only the initial of the instructor's first name was

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1 given as "S. Tarr". It is in fact the name of my adoring mother,
2 Esther -- Esther Hamill. That's my mother's name. He was
3 sending a message to our mother, a message of love and hope. It
4 was as if, whatever the final outcome, he would have the last
5 say, and he has.

6 [14.38.20]

7 Approximately (microphone not activated) after his capture John
8 Dewhurst had signed a confession and I presume at that time was
9 executed. Exactly two months after his capture my brother Kerry
10 Hamill signed a confession and I presume at that time he too was
11 executed. I say "presume" because we still do not know exactly
12 when or how either of the men were killed.

13 Mr. President, Kerry's final letter arrived at our home in July
14 1978. The silence after the arrival of that letter was
15 deafening.

16 Your Honours, I need to explain the impact of this period, the
17 impact which this period of crushing uncertainty -- crushing
18 uncertainty -- had upon our family. As you will be well aware,
19 Your Honours, in any family and every family everyone is
20 interconnected. When a mother or father, a sister or a brother
21 suffers, all others suffer. A family shares in happiness and
22 warmth. A family shares in depression and misery. My family's
23 suffering is my suffering. My family's disintegration is my
24 disintegration. My family's pain is my pain.

25 As I already described, Kerry used to write home about once every

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1 month. Some weeks passed without any communication from Kerry.

2 The weeks turned to months, still with no contact from Kerry as
3 time went by, we became more and more concerned about something
4 was wrong.

5 Excuse me, I just need to get a little --

6 MR. WERNER:

7 And, Your Honour, may I just say because I note the time -- and I
8 am fortunate enough to know the text my clients are going to read
9 -- if you want to break now that would be a convenient time in
10 his narrative, if you wish.

11 MR. PRESIDENT:

12 It is now appropriate for the Chambers to have break, and we also
13 see that the civil party is emotional at this stage.

14 The Chamber will now take 20 minutes break so that the civil
15 party can collect himself and then we continue to hear his
16 testimony at 3 p.m.

17 [14.41.28]

18 THE GREFFIER:

19 All rise.

20 (Judges exit courtroom)

21 (Court recesses from 1441 to 1500)

22 (Judges enter courtroom)

23 MR. PRESIDENT:

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

25 We will continue to hear the testimony of the civil party, Robert

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1 Hamill.

2 Before we continue, the Chamber would like to remind Mr. Robert
3 Hamill please to slow down a little bit more, so that the
4 interpreters would have adequate time to fully interpret your
5 statement for the Chamber, as well as for the civil parties, so
6 that they can fully understand the contents of your statement and
7 what happened to the fate of your elder brother.

8 I also notice the presence of the civil party lawyer, Alain
9 Werner. You may proceed.

10 [15.02.22]

11 MR. WERNER:

12 Thank you, Mr. President.

13 It was my sloppiness. I forgot to mention to start with that not
14 only we have the birth certificate of Kerry Hamill and the copy
15 of particulars of marriage of my clients, but we do as well have
16 his own birth certificate. I already told your Greffier, and all
17 of that will be given to them in the proper form tomorrow. Thank
18 you.

19 MR. PRESIDENT:

20 Mr. Robert Hamill, you can now continue with your statement.

21 MR. HAMILL:

22 Mr. President, thank you.

23 If I may first begin by acknowledging my wife, who was not in
24 this session early and she has just come in during this session.

25 I send my love to my wife. She has supported me through this

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1 enormously through the years and I thank her for that.

2 I'd also like to ask -- in my nervousness early on, I did not put
3 up a photo of my brother, Kerry Hamill. I would ask, Mr.
4 President, your leave to put this photo up now for the Court to
5 see.

6 [15.03.52]

7 MR. PRESIDENT:

8 The Court officer, you can take the photo and show it on the
9 slides projector.

10 MR. HAMILL:

11 Thank you, Mr. President.

12 As already described, Kerry used to write home about once a
13 month. Some weeks passed without any communication from Kerry.
14 The weeks turned to months, still with no contact from Kerry. As
15 time went by, we became more and more concerned that something
16 was wrong.

17 Our family home was positioned at the mouth of the Whakatane
18 River, which flows out into the Pacific Ocean. Towards the end
19 of the year, my mother, Esther, would gaze out to sea and say,
20 "It's okay. He'll turn up at Christmas and surprise us." We all
21 half expected the yacht to appear over the horizon at any moment.
22 Mr. President, you, like myself, will perhaps remember the times
23 before we lived in a world of instant communication; the days
24 before mobile phones, the Internet and 24/7 news. It was in this
25 time of letters and telegrams, which younger generations cannot

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1 appreciate, that my family waited and waited for any news at all.
2 There was a desperate sense of hope in our household.
3 Christmas 1978 came and went, as did the new year, and there was
4 still no news. This was the first Christmas without the normal
5 happiness. There was no excitement at New Year's. We were all
6 thinking of the person missing from our lives -- Kerry.
7 [15.06.51]
8 As time went by, my parents became more and more anxious. Still
9 we hoped for a positive outcome, but deep down we were all
10 thinking the same thing, that something terrible had happened to
11 my brother.
12 My father, Miles Hamill, wrote letters to the ports of Asia and
13 the New Zealand government, requesting information about the
14 "Foxy Lady" and any possible sightings. We were trying to
15 establish if any shipwrecks had been reported in the area.
16 Nothing of any consequence was reported back to my father.
17 When you are waiting to hear from a loved one, 16 months -- 16
18 months is a very, very long time. Your Honours, one year and
19 four months of uncertainty passes like an eternity. In less than
20 this period of time, a new life can be conceived and born. I was
21 14 when Kerry went missing and 16 when we found out the terrible
22 news. My two birthdays were a time of mute celebration. The
23 waiting without knowing, the hoping while fearing the worst had
24 been a terrible time for our family.
25 I remember a day a neighbour rang us, suggesting we go and get a

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1 copy of the local newspaper. I went with my second eldest
2 brother, John Hamill, to the local newsagent and I recall the
3 look of sympathy on the attendant's face as he handed over the
4 newspaper. On this day, 16 months after the capture of Kerry, we
5 got the news that Kerry had been captured and tortured and
6 murdered at the hands of the Pol Pot regime. My brother had been
7 captured, tortured and killed.

8 [15.09.23]

9 Mr. President, nobody in the New Zealand government had the time
10 to take to contact my parents with this terrible news. All we
11 had was the report staring out at the front of the newspaper. We
12 were devastated. All that hope was now extinguished.

13 I remember later that day standing in the kitchen, hugging my
14 father, both of us crying for what seemed like a very long time.

15 It was the closest I had ever felt to my father. I found it
16 difficult to describe the feeling of love, complete love,
17 combined with complete sorrow I felt for my father at that
18 moment. In some ways it was a beautiful moment that was
19 all-consuming in the grief and shock of the tragedy that had
20 occurred. Never in our worst nightmares had we considered the
21 reality of what had happened to Kerry: death not by shipwreck,
22 not by drowning or freak accident, but death by torture. Death
23 by torture; not over a few seconds or minutes or hours or days or
24 weeks even. Death by torture over a period of months.

25 In the absence of Kerry's body, a memorial service was held. For

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1 the next 12 months my parents tried to ascertain the detail of
2 what happened and why the New Zealand government still supported
3 Pol Pot's regime into the 1980s. At the same time they tried to
4 sustain their business, which was in decline, and try and hold
5 off bankruptcy.

6 [15.11.34]

7 Mr. President, family life disintegrated. I would like to
8 describe how my family struggled and perhaps failed to cope with
9 my brother's death. With your leave, Mr. President, I would like
10 to begin by telling you about my brother John.

11 It is my conviction that what happened to John is directly linked
12 to Kerry's death at S-21 and as such his story is an important
13 part of the damage caused to my family. John was a year younger
14 than Kerry. The two brothers had a close bond. John was a
15 wonderful sensitive man that had the ability to make us all laugh
16 to the point of tears. After Kerry went missing, that humour
17 stopped.

18 During the 16-month time lag between Kerry's capture and our
19 discovery of what had happened, John displayed the effects of
20 deep depression. Arguments I had had with him previously
21 increased in number and intensity. These arguments often turned
22 violent. John was 27. I was 16. The loss of his closest
23 sibling had a massive impact on John. Eight months after he
24 found out what had happened to my eldest brother Kerry, my second
25 eldest brother John took his own life. He threw himself off a

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1 cliff near our family home.

2 My father Miles and my third brother Peter were the first to find

3 John. They retraced his footsteps to the edge of the cliff and

4 saw his body at the bottom of the rocks. On the morning of

5 John's funeral I remember my mother administering pills to me and

6 my older siblings, Sue and Peter. I later found out that these

7 pills were Valium tablets.

8 That was an example of how my parents did not know how to deal

9 with their grief. There was so little in the way of effective

10 support systems that they somehow thought it was best to mask

11 one's own feelings in the cloak of prescription medication.

12 [15.15.08]

13 I discovered later that morning that my father had been in such a

14 bad way during the night before the funeral that my mother had

15 called for the doctor, who administered strong sedatives. It was

16 enough to render my father unconscious for the next 24 hours. He

17 did not, he could not, attend the funeral of his second eldest

18 son, John. It was simply too much for him. It was simply too

19 much. I feel he blamed himself for the death of his two eldest

20 children. I think he felt he could have done more to protect

21 them, as all parents do -- as all parents do.

22 Both Kerry George Hamill and John Dwyer Hamill died at the age of

23 27. I find it difficult to separate the death of John from the

24 death of Kerry. I am certain that if Kerry's life had been

25 spared, John would not have taken his own life. Duch, when you

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1 killed my brother Kerry you killed my brother John as well.
2 The effect these two devastating losses had on our family simply
3 cannot be measured. They were massive and incomprehensible. I
4 often think how much better things might have been had my brother
5 not been taken. It's impossible to say.
6 My mother, Esther Hamill, was possibly the most deeply affected
7 by Kerry's death. She was thinking about Kerry non-stop, but not
8 communicating that to us. She was a very private woman and in
9 her own way but she was a very outgoing lady as well, very
10 humorous. She had a great sense of humour. But all that changed
11 after Kerry was captured.
12 I never saw her cry, she was so strong. But as a result of that
13 strength, and holding her pain within, she became very sick. Two
14 years after we found out what happened to Kerry and about 18
15 months after John's death, my mother became bedridden with
16 painful arthritis. She was in bed for many months.
17 [15.18.50]
18 Her room was like a mausoleum. I could barely bring myself to go
19 into her room. I avoided her, so much so that it feels to me
20 like I abandoned her right when she needed me most. It must have
21 felt to her like she had lost not only one, not two, but three
22 sons -- such was my lack of support. I cannot forgive myself for
23 that.
24 It took years for her to get back her independence. But though
25 she rarely let on, her back was a continuous source of pain. A

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1 few years later she was afflicted with shingles, which is a
2 disease of the nervous system. This illness took a long time for
3 her to shake off. During those years my mother was depressed but
4 she did not express it in a way that I consciously understood.
5 She was angry. She fought with my dad and she was very sad. My
6 mother stopped engaging with life. She did less and saw less
7 friends. She removed herself from all social interactions in the
8 township.

9 For her remaining children, however, she remained strong and
10 supportive but I know that she longed to turn back time. Her
11 courage was illustrated when I was planning adventures of my own,
12 adventures that would put my life at great risk. When I decided
13 to enter a rowing race across the Atlantic Ocean she said to me,
14 "You go for it, boy".

15 My mother had witnessed the death of two beloved sons and here
16 was a third wanting to embark on a crazy challenge that may well
17 kill him. She continued to support me.

18 [15.21.30]

19 Every Christmas my mother would put on a brave face but at some
20 point on Christmas Day she would disappear to visit John's grave
21 and light flares as a memorial to her two boys.

22 My mother died 28th of July 2003 after succumbing to leukaemia,
23 cancer of the blood. She died before seeing any measure of
24 accountability for the death of her son.

25 My father, Miles Hamill, took the death of Kerry and John very

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1 badly. Over the years it was relatively common to watch
2 television and hear Dad in the kitchen doing mindless chores next
3 door, quietly weeping. I knew at that point that he would have
4 been crying for some considerable time before it progressed to
5 being audible to where I sat in the room next door. At these
6 times Mum would stare at the television and try to block it out.
7 To a certain extent I did the same. I didn't offer Dad any
8 sympathy or affection. For some reason I just couldn't.
9 The one moment of closeness that we had shared between us that
10 day we found out what had happened to Kerry had been all I could
11 offer. He was a business owner in a partnership that had been a
12 successful business.
13 After Kerry's disappearance, murder and John's death, my father
14 lost the ability to function effectively at work. He couldn't
15 make the difficult decisions any more and when hard financial
16 times came along he didn't respond the way he once might have.
17 He was forced to retire too young.
18 My father is now aged 88 and is suffering from the effects of
19 Alzheimer's disease. He no longer recognizes photos of my
20 brother Kerry.
21 [15.24.27]
22 I believe the pain of the last 30 years have taken a toll.
23 I note on both my parents' bravery through all of this. There
24 were many examples that illustrated how grief-stricken they were.
25 They continued to do the best they could to be good parents to

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1 us. However, it is clear to me as a parent myself that they were
2 paralyzed by the tragic loss of their son.

3 I remember clearly how John openly beat me, punching me in the
4 face while my mother and father stood by just a metre away.
5 Before the loss of Kerry this would never -- this unimaginable
6 event in our house. My parents would never have allowed such
7 behaviour but there they were a metre away, allowing this to
8 happen. They lost the ability to parent for a long time. It was
9 as if they were, as I say, paralyzed, leaving them unable to
10 continue their parenting duties.

11 At the time I didn't know what to make of it but on reflection I
12 believe their reaction or lack of it was symptomatic of the
13 psychological grief they suffered. But they held on and perhaps
14 we, their remaining children, were what kept them going. They
15 hung in there and were incredibly strong.

16 My third sibling, Peter Hamill, does not wish for me to talk
17 about how Kerry Hamill's torture and murder and subsequently John
18 Hamill's suicide affected him. I wish to acknowledge Peter at
19 this time and send him my love.

20 [15.26.57]

21 My sister, Sue Hamill, was 16 years old when Kerry was snatched
22 from his boat by the Khmer Rouge. She was 18 years old when she
23 found out what had happened to him. She has spoken to me about
24 the subliminal fear she feels she has carried with her
25 consciously or otherwise for the last 30 years; a fear that has

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1 influenced many of her decisions and life choices.

2 Mr. President, with your leave I would like to read just one or

3 two lines of something Sue wrote to me. Not only does it

4 describe her feelings but it also encapsulates my suffering:

5 "After shock, disbelief and anger there came the realization

6 that I could not do anything to bring back Kerry. He is gone

7 forever. But then I began to wonder how could one human do

8 something unbelievably abhorrent to another human and to an

9 innocent one? Something had to fill the void where there had

10 once been hope and expectation of his return. What filled that

11 hole was my choice but I did not consciously choose fear. Often

12 it has only been in retrospect that I have understood why I

13 deferred plans sometimes indefinitely, but slowly I have come to

14 understand that deep hurts can cause a subtle kind of paralysis.

15 Time is a very, very slow healer."

16 Mr. President, I have already mentioned the suffering and the

17 pain of my mother, father, brothers and sister were part of my

18 own suffering and the distressing aspect of Kerry's death and the

19 nature and, more importantly, the nature in which his life was

20 taken. Ultimately I do not know how Kerry finally met his fate.

21 At best my brother was blindfolded, taken out to the S-21

22 compound to a pre-dug trench, made to kneel down beside it, hit

23 over the head with a metal bar, his throat slit and then buried.

24 That was the best-case scenario.

25 [15.30.08]

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1 Unfortunately, Kerry was regarded as a special prisoner, the type
2 of prisoner the Duch division was set up to look after. It
3 indicates that these prisoners received special attention; the
4 thought of which makes my stomach turn.

5 It is also possible that Kerry -- still alive -- could have been
6 made to sit in the middle of car tires covered in petrol and
7 seared alive.

8 When I think about what happened to my brother, Kerry Hamill, I
9 get the seeds of hopelessness, powerlessness, and despair he must
10 have felt while incarcerated and tortured at S-21. He must have
11 suffered terribly, yet he had no one to appeal to. He had no one
12 prepared to listen to his pain and anguish. There was no way out
13 and no vindication.

14 When I try to imagine my brother, Kerry, how he would have
15 responded in that environment, it makes me feel sick. I know
16 Kerry was physically and mentally strong; he would not have
17 succumbed easy. His will to live would have been evident.

18 [15.31.38]

19 Mr. President, I would like your leave to show one last photo,
20 the photo that I imagine illustrates what Kerry suffered.

21 MR. PRESIDENT:

22 The Court officer is now instructed to put that photo on the
23 projector so that it can be put on display.

24 MR. HAMILL:

25 I know this individual may not be my brother, Kerry; just another

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1 poor soul at S-21, but the way he is shackled, the way he has
2 been grotesquely beaten, the blood flowing from his gaping
3 wounds, yet the continuing struggle, the resilience; this man
4 struggled to hold onto life. He is moving, holding himself up
5 ever so slightly off the floor. For me, Mr. President, this is
6 my gorgeous -- this is my gorgeous, beautiful brother Kerry
7 Hamill at S-21. This is the sort of image that has haunted me
8 when I was 16 and still haunts me today. I have lost so much
9 sleep over this image.

10 The timeframe Kerry was detained at S-21 also continues to
11 trouble me. From what I have been led to believe, the longer a
12 prisoner remains in S-21, the worse the torture gets. It has
13 also been my understanding that once prisoners signed confessions
14 and put their thumbprint to them that they were then executed.

15 Whereas John Dewhurst was detained for three weeks, my brother
16 endured a much longer stay in the compound. His last dated
17 confession was on the 13th of October 1978; two months to the day
18 of his capture.

19 [15.35.04]

20 When I think about the deprivation, the degradation and the abuse
21 that Kerry would have suffered, after 30 years my tears are still
22 copious and I try not to think too deeply about what he went
23 through.

24 I think Kerry would have been very, very angry; angry to the
25 point of outrage. Then I think there must have been stages where

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1 he would have felt that it was useless to resist; that seeds of
2 powerlessness and hopelessness must have been incredibly
3 difficult. I had wondered how Kerry felt in those days in
4 prison; deprived of food and water, dehumanized beyond belief,
5 and tortured.

6 Last year's Republican nominee for the Presidential elections for
7 the United States, John McCain, talked about his incarceration
8 during -- in a Vietnamese prison. He described how he lost the
9 will to live and attempted to commit suicide on more than one
10 occasion. I've wondered if Kerry tried to do the same. As much
11 as it hurts to say, I believe at some point in his incarceration,
12 my brother may have lost all hope and contemplated suicide as a
13 welcome relief.

14 During the 16-month period Kerry was missing, I, at 14 and then
15 15 years of age, took solace in alcohol, boozing it up in the pub
16 or out somewhere with my friends. I was 16 years old when the
17 news of Kerry's fate arrived and that year that followed, my
18 nights out bingeing escalated in regularity and duration. I
19 would often end up violently ill, sometimes on the carpet of my
20 bedroom after returning home late at night. I would often go to
21 school with a hangover and my education, accordingly, suffered.

22 My parents were dealing with their own grief in their own way,
23 and through no fault of their own, either didn't notice my antics
24 or felt powerless to do anything about it.

25 [15.38.06]

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1 When I was actually at home -- sorry. Before losing Kerry and
2 John, we were an outgoing family but afterwards, Mum, Dad cut off
3 many of their social contacts. As children, we stopped meeting
4 other children and families. Our immediate family became a
5 little bubble and we became very reluctant to interact with
6 others.

7 Mr. President, I believe that a family is not necessarily limited
8 to just blood relatives or family by marriage; they're often
9 family by circumstance. There are two people who I considered to
10 be family in this way and I ask for your leave, Mr. President, to
11 allow me to very briefly, very briefly refer to them.

12 MR. PRESIDENT:

13 Please proceed with it.

14 MR. HAMILL:

15 The first is Hilary Holland who is the sister of John Dewhurst.
16 I contacted her three years ago and have since visited her in
17 England. In the interim time, we have formed a strong bond in
18 our shared grief. Such is Hilary's grief that she cannot today
19 say her brother's name out loud. She cannot say her brother's
20 name out loud. In our correspondence, Hilary described her pain.
21 And as I feel it also captures my own feelings, I would like to
22 read you just five sentences of what she has written via email:
23 "When I first heard of my brother's death, and for a long time, I
24 felt that if it was possible to die as a result of emotional
25 pain, then I would. I could not see how my heart could continue

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1 to pump and my lungs to breathe. The physical pain was so
2 intense and that pain continues."

3 For me, it is all to do with how they were killed -- how they
4 were killed. Torture, I believe, is dehumanizing, both for the
5 person who suffers that torture and for the person perpetrating
6 it -- for the person perpetrating it.

7 [15.41.20]

8 The second person I would like to briefly talk about is Gail
9 Colley, Mr. President; the love of my brother Kerry Hamill's
10 life.

11 The two of them had plans to marry and have children. Even now,
12 I cannot look at a beautiful photo I have of Gail, the two of them
13 together, without feeling deprived of such a wonderful
14 sister-in-law and their planned children. When Gail finally
15 received the news of Kerry's demise, she too was devastated.
16 Gail did not get married and she did not have children.

17 Mr. President, to conclude, all the pain and suffering my family,
18 Gail, Hilary and myself, have had to endure was created by one
19 man, by the system of degradation, humiliation and torture he
20 created from the death camp he ran. All this heartbreak, sorrow
21 and human suffering stemmed from the destruction of the life of
22 my beautiful brother.

23 That was just one life. There are between 13,000 and 20,000 such
24 stories like ours, all stemming from the systems and practices
25 and actions that Duch administered at S-21.

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1 At a personal level, this whole process has been demanding. I
2 have had to dig up all the memories and try to put them in
3 perspective. I have had to sit down and write about what you
4 did, Duch, to good people and the pain that you caused. When the
5 need and desire arises, I can be incredibly focussed. I'm tough
6 and determined, and yet I sit before this Court frail and
7 emotional. I should feel ashamed from behaving so weakly, but I
8 do not. The only person in this Court who should feel shame is
9 that man.

10 Duch, at times I've wanted to smash you -- to use your words --
11 in the same way that you smashed so many others. At times, I've
12 imagined you shackled, starved, whipped and clubbed viciously --
13 viciously. I have imagined your scrotum electrified, being
14 forced to eat your own faeces, being nearly drowned, and having
15 your throat cut. I have wanted that to be your experience, your
16 reality. I have wanted you to suffer the way you made Kerry and
17 so many others.

18 [15.45.36]

19 However, while part of me has a desire to feel that way, I am
20 trying to let go and this process is part of that. Thank you for
21 that. Today in this courtroom, I am giving you all that crushing
22 weight of emotion -- the anger, the grief and the sorrow. I'm
23 placing this emotional burden on your head, for it is you who
24 created this burden which no-one deserves. It is you who should
25 bear the burden alone. It is you who suffer, not the families of

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1 the people you killed.

2 From this day forward, I feel nothing towards you. To me what
3 you did removed you from the ranks of being human. It removed
4 you from the ranks of being human. If anything, if anything at
5 all is to come from this trial and from my statement on behalf of
6 those I love, let it be that the world takes notice of the evil
7 that can happen when people do nothing. And let it be that the
8 world decides that doing nothing is not an option.

9 Mr. President, Your Honours, thank you for the opportunity to
10 appear before this Chamber and express the pain and suffering
11 that I and my family have endured due to the actions of the
12 accused. Thank you.

13 MR. PRESIDENT:

14 Mr. Alain Werner, you take the floor.

15 MR. WERNER:

16 Your Honour, we are in your hands how you want to proceed but, as
17 I said before, my client would like to request your leave to put
18 six questions to the accused.

19 [15.48.10]

20 MR. PRESIDENT:

21 Mr. Robert Hamill, since you have the intention to put questions
22 to the accused, you may now proceed with the questions, however,
23 it depends now on your questions whether the accused is able to
24 respond to them or not. Then the accused himself can exercise
25 his rights not to respond to those questions.

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1 However, you may now proceed, one question at a time, and we can
2 then pick the question and put it to the accused so that he can
3 respond. Do you still now intend to put those questions to the
4 accused?

5 MR. HAMILL:

6 Thank you, Mr. President.

7 Mr. President, with your leave, I would briefly like to address
8 the accused on the acceptance of responsibility of the crimes
9 committed at S-21 and then go on to ask the accused, through the
10 Bench, some brief questions.

11 Duch, I acknowledge you pleading guilty. I acknowledge --

12 MR. PRESIDENT:

13 Please hold on. Mr. Robert Hamill, you can put your questions
14 through the Bench but not directly to the accused and, of course,
15 after the Chamber has heard your question, then they can be put
16 through to the accused. We are afraid you cannot put the
17 questions or any statements straight forward to the accused as
18 you are a civil party. I hope you understand this.

19 The accused, please be seated, and only to rise again when you
20 are responding to questions. And please take note of the
21 questions from Mr. Robert Hamill, although the questions will be
22 passed through the Bench because sometimes the Bench will need
23 you to just pick up to respond to those questions without having
24 the Chamber to repeat, but then of course the Chamber needs to
25 approve whether the questions could be put to you or not.

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1 [15.51.36]

2 Do you understand this?

3 MR. WERNER:

4 Your Honour, just because again it was my sloppiness and not my
5 client's, actually what my client intended to do is to say
6 something very shortly to the accused. That is one. And then he
7 would have six questions. Then of course he can tell you what he
8 intends to say for the Bench to repeat it but that is the
9 confusion. And again, it's my sloppiness. He has one very, very
10 short, very short statement for the accused, and then he has six
11 questions.

12 I apologize for that.

13 MR. PRESIDENT:

14 The statement will be allowed to make to the accused but the
15 Chamber would like to remind Mr. Robert Hamill to refrain from
16 using some very strong words that tend to be abusive to anyone
17 regardless of the accused. And we believe that your wordings
18 will be of ethical nature and we don't want to seek this venue as
19 the ground for any revenge or abusive words and we hope you will
20 be ethical when it comes to addressing your statement to the
21 accused.

22 Please proceed with the statement.

23 MR. HAMILL:

24 Thank you, Mr. President, and my apologies for any
25 miscommunication.

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1 Duch, I acknowledge you for pleading guilty. I am angry beyond
2 words with you and what you did, but I acknowledge and respect
3 your guilty plea. Your acknowledgment is a small but significant
4 contribution to addressing the harm that you caused. Those that
5 have not pleaded guilty and do not accept the harm they have
6 caused are doubly worth all their hate and ridicule.

7 [15.53.58]

8 You have proven to this Court that you are very good, that you
9 have a very good memory. Over a three-year period there were
10 less than ten Westerners at S-21 and it appears that there were
11 never more than two held there at any one time. I ask you to
12 please answer these questions truthfully.

13 My first question follows. Mr. President, question for Duch --
14 what do you remember of my brother?

15 MR. PRESIDENT:

16 The accused, are you able to respond to the question of Mr.
17 Robert Hamill? What do you remember of his brother during the
18 entire period of S-21 and what happened to Mr. Kerry Hamill, to
19 the best of your recollection? Can you do that?

20 THE ACCUSED:

21 Mr. President, the Westerners who were captured and put at S-21
22 were four of them. I remember the names but I remember only one
23 person, "Foxy Lady" -- no, the name of the boat. Because Pon
24 called me to meet a young Briton, John something, and I was told
25 that the Briton was very gentle and polite and there was a

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1 translator who assisted with the interpretation, and I met that
2 person but I only met the British man.

3 I did not meet Mr. Hamill. And he wrote in detail his complete
4 confession but I believe in his confession. However, I would
5 like to reserve just two words to be given to Robert Hamill.

6 [15.56.57]

7 First, that the assumption was wrong that Mam Nai interrogated
8 Kerry Hamill. It was Pon who actually did the interrogation.
9 Number two, I would like to also reiterate further that in the
10 application of Robert Hamill he stated that the person who killed
11 Kerry Hamill was Cheam Sour. It was not him who actually killed
12 your brother. The new arrival, the new Westerners, John Dewhurst
13 and Kerry Hamill, were removed and executed simultaneously and
14 that their body had to be burned to ashes as ordered. And that's
15 all I can tell you in relation to the fate of your brother.

16 MR. PRESIDENT:

17 Mr. Robert Hamill, you can now proceed with the next question.

18 MR. HAMILL:

19 Thank you, Mr. President.

20 Duch, you say John Dewhurst and Kerry Hamill were killed
21 simultaneously. May I ask when this occurred?

22 MR. PRESIDENT:

23 The accused, can you respond to this question? The question is
24 that you said John Dewhurst and Kerry Hamill were simultaneously
25 killed. When did it occur? Do you still remember it?

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1 [15.59.09]

2 THE ACCUSED:

3 Mr. President, the actual dates of the executions I cannot tell
4 the Chamber but, regarding that event, I can say that amongst the
5 two, only both of them provided the confession and according to
6 the statement made by Robert, Kerry's confession was done after
7 John's, so both of them would be taken away and smashed after the
8 confessions were extracted from both of them.

9 This is my observation, Mr. President.

10 MR. PRESIDENT:

11 Mr. Robert Hamill, you may continue with your next question.

12 MR. HAMILL:

13 Thank you, Mr. President.

14 Was there a special branch dealing with the foreigners and, if
15 so, what were the procedures applied to them?

16 MR. PRESIDENT:

17 The accused, can you answer that question; you can describe the
18 process carried out at S-21 towards the foreigners?

19 THE ACCUSED:

20 This area is very broad, Mr. President. Let me talk about the
21 obligations that the Standing Committee designated for S-21.
22 Before Westerners came in two sessions for each session the upper
23 echelon designated the S-21 to interrogate them and then after
24 that they had to be smashed. That is, they had to be beaten to
25 death and their bodies had to be burned to ashes. And that was

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1 the concrete order from the Standing Committee to S-21 to carry
2 out.

3 Whatever policy towards foreigners is so broad. I could only
4 talk about the specific order and instructions in this particular
5 instance. This is my observation, Mr. President.

6 [16.01.59]

7 MR. PRESIDENT:

8 Mr. Robert Hamill, you may now continue with your next question.

9 MR. HAMILL:

10 Thank you, Mr. President.

11 We have heard that Westerners were put on tires and burnt alive.

12 You have said in this trial that this didn't happen but we
13 believe that it did. You said it did not happen because it would
14 not have been against your orders.

15 However, we know of the last -- of at least one instance of rape
16 at S-21 which you have acknowledged which according to you
17 yourself was against your orders. So my question is how can you
18 be certain that one or several Westerners were not burned alive?

19 MR. PRESIDENT:

20 The accused, can you answer that question?

21 THE ACCUSED:

22 Regarding the Westerners, I always said they had to be killed and
23 then, in taking the orders from the upper echelon, they had to be
24 burned to ashes and I never have spoken anything besides this
25 line. My statement before the Co-Investigating Judges is a

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1 testimony to this fact.

2 [16.03.48]

3 I would also like to add that even in my interview with
4 Christopher Peschoux, I said the same thing even though that
5 document was not admitted and could not be accepted by the
6 Chamber. And only later on I have heard that they were burned
7 alive and I did my research to find out the truth.

8 I would like to recall the questioning before this Chamber as
9 follows: in the proceedings before this Chamber regarding
10 Comrade Huy who acknowledged his task and assignments which was
11 clearly stated, as well as the statement and the testimony of
12 Prak Khan which was irresponsible as he stated that one Westerner
13 was burned alive under the order of Cheam Sour. So this is
14 testimony which doesn't carry any weight to stand against the
15 clear testimony of Him Huy.

16 And when Cheam Sour was brought in for questioning before this
17 Chamber he himself was still unclear to me as whether he was a
18 member of S-21 or staff or not. He said that the body was burned
19 and left before the church on the Street 143. So Cheam Sour's
20 testimony is even more confusing and it doesn't carry any weight
21 at all for me to weigh it against the testimony of Comrade Him
22 Huy.

23 [16.05.56]

24 And I made my conclusion before this Chamber that I have yet to
25 decide anyone who dares to stand against my order or violated my

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1 orders. And I would like to reiterate that again before this
2 Chamber.

3 MR. PRESIDENT:

4 Mr. Robert Hamill, if you still have more questions you may now
5 proceed.

6 MR. HAMILL:

7 Thank you, Mr. President.

8 Where were the ashes of the westerners disposed of?

9 MR. PRESIDENT:

10 The accused, can you respond to that question regarding the ashes
11 of the Westerners who were burned through ashes? And we can
12 leave aside the matter whether they were burned alive or dead.

13 THE ACCUSED:

14 Mr. President, the purpose of the Standing Committee in ordering
15 S-21 to burn the dead bodies to ashes is to get rid of evidence,
16 not to leave any trace behind. And I stated that already to the
17 Chamber. And that was the intention of the Standing Committee,
18 not to leave any dead bodies or trace of those westerners.
19 As the policy of the CPK was not like the Cuban policy to
20 exchange the dead bodies for the tractors or bulldozers so the
21 bodies had to be burned to ashes. And I would like to state that
22 again to Mr. Robert Hamill.

23 [16.07.54]

24 MR. PRESIDENT:

25 Thank you.

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1 Mr. Robert Hamill, do you still have more questions? If so, you
2 can continue. I think you have already asked five questions so
3 there is one more remaining question that you can ask.

4 MR. HAMILL:

5 Thank you, Mr. President.

6 I didn't have the opportunity to talk about reparation but I do
7 not seek reparation. I refer that to my lawyer.

8 But I wonder, Duch, could you think of anything else concretely
9 -- concretely as to what you can do to help the victims,
10 including my family?

11 MR. PRESIDENT:

12 The accused, can you respond to that question?

13 THE ACCUSED:

14 Mr. President, I would like to state before Mr. Robert Hamill as
15 well as before the Cambodian nation and the Cambodian people that
16 I do not have any ability to assist anybody at this stage.

17 The best I can do for Vorn Vet when he was sent in at 6 p.m.
18 already that is in Cambodian culture that I had to kneel and pray
19 to him for forgiveness. And he pointed his finger at me and
20 scolded me, "You're a murderer."

21 [16.09.38]

22 And another matter which I concealed in my feelings was another
23 person, that is, Dr. Roat Kut who I regarded as my elder
24 god-brother and another person Chao Seng who was kept for quite a
25 long time. So that was the only thing that I could do to those

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1 people.

2 Friends were just a façade and I could not do anything to them; I
3 was so coward at the time. And this is my last word, that at
4 that time I did not dare to assist anybody.

5 MR. PRESIDENT:

6 The Chamber would like now to give the opportunity to the civil
7 party lawyer group 1. If you have questions to be put to your
8 client to clarify certain matters or to add to the statement
9 which was already made by your client, you may proceed.

10 MR. WERNER:

11 I have just one question, Your Honours.

12 QUESTIONING BY CIVIL PARTY COUNSEL

13 BY MR. WERNER:

14 Q.Mr. Hamill, is it correct that you went to Tuol Sleng Museum
15 last week?

16 A.Yes, that's correct.

17 Q, Could you just describe to this Chamber what you felt when you
18 went to Tuol Sleng Museum last week?

19 [16.11.39]

20 Q.Mr. President, I guess the first thing that struck me when I
21 went into the start of the building, A, I think it was, and
22 seeing the special prisoners on the beds, the photos of, which I
23 had never seen before and the treatment they had received. And
24 it was abominable, and incomprehensible.

25 I couldn't help but relate those special prisoners who were, I

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1 believe, in the upper echelon of the cadre, and they were dealing
2 with them in a special way. I could not help but think my
3 brother was dealt with in a special way, a way I don't know what
4 exactly that was.

5 I was moved by the previous speaker and her talking, her
6 referencing to Tuol Sleng and Choeung Ek, the killing fields, and
7 in particular regarding the killing fields, the tree where the
8 babies were smashed against, which I also visited and I found
9 incredibly distressing.

10 But those two things for me were relatively insignificant when I
11 saw what I think was Building C or D and the paintings of Vann
12 Nath, most of which I had seen before. But there was something
13 about being in that building and seeing the original paintings of
14 the acts, of the act of torture, of dehumanizing the victims, the
15 prisoners, my brother, that I found incredibly difficult because
16 I don't believe we can quite understand or get our head around
17 the atrocity, the sheer brutality and inhumanity of what these
18 people did.

19 But seeing those paintings somehow gave me some semblance of
20 understanding.

21 Thank you.

22 [16.15.04]

23 MR. WERNER:

24 We have no other questions, Your Honours. Thank you.

25 MR. PRESIDENT:

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1 The Co-Prosecutors, do you have questions to be put to this civil
2 party?

3 MR. DE WILDE D'ESTMAEL:

4 Mr. President, Your Honours, it is very difficult to speak after
5 such an emotional day as today, after hearing so much suffering,
6 hearing so much sadness and also hearing so much anger.

7 We do not have any specific questions to put to Mr. Robert
8 Hamill, but if you give us the leave, I have one sole question
9 that is linked to the statement which I would like to put to the
10 accused. Thank you.

11 MR. PRESIDENT:

12 You are not granted any permission to put questions to the
13 accused. If you do not have questions for this civil party, the
14 Chamber will give the floor to the defence counsel.

15 The defence counsel, do you have questions to be put to this
16 civil party?

17 [16.16.46]

18 MR. KAR SAVUTH:

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

21 MR. PRESIDENT:

22 The Chamber now likes to give the opportunity to the accused to
23 make his observations regarding the statement of the civil party,
24 Robert Hamill.

25 You may now proceed.

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1 THE ACCUSED:

2 Mr. President, first of all, I would like to recognize the
3 sufferings of the entire family of Hamill and Dewhurst which
4 derived from the death of Kerry, and John Dewhurst at S-21. The
5 suffering is miserable, detailed and deep. Two people died at
6 S-21 and two families suffered greatly, one in New Zealand and
7 one in England. The suffering of the Cambodian peoples are also
8 immense and the sufferings by these two families is a symbol for
9 the Cambodian people to know that everyone suffered, everyone
10 without exception.

11 In my role as a Chairman of S-21, I bear the responsibility, and
12 I would like to give the opportunity to other -- the victims and
13 the survivors to point their fingers at me and I'm not offended
14 by that. And that is your right and I would accept it with
15 respect.

16 In the role as the Chairman before these crimes, I have
17 repeatedly told the Chamber even if the people throw stones to me
18 and cause my death I would not say anything and I would not say
19 that I would be disappointed or intend to commit any suicide.

20 [16.19.37]

21 But if you look at the human history, those people who fail to
22 accomplish their commission, like Van Gogh, the painter, for
23 instance, he would cut off his ear, and then he would bandage it
24 and continue his painting.

25 Recently, in Japan, there was a specialist who committed suicide

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1 because he could not identify the faked blueprint, so at that
2 time my intention was to do the revolution to liberate the
3 country but in the end it leads to disaster of the Cambodian
4 country and more than one million people died, and there's still
5 plenty of people who were survivors and who are still suffering.
6 So I am responsible for my act and whether they forgive me or
7 not, it is their mind, their free will, and I am here before the
8 Chamber to accept my responsibilities willingly and I am very
9 remorseful with what I did, and I speak from the bottom of my
10 heart. And I did not say all these words as a pretext for
11 anything. This is the real words from my heart and I bow my head
12 and body before the Cambodian people. I stand here before this
13 Chamber to do that with my respect, Mr. President.

14 [16.21.18]

15 MR. PRESIDENT:

16 The proceeding today has come to an end now. Also the hearing of
17 the testimony and statement of Mr. Robert Hamill has come to an
18 end.

19 The Chamber would like now to adjourn today's hearing and we will
20 continue tomorrow morning, starting from 9 a.m.

21 Mr. Robert Hamill, the hearing of your testimony has completely
22 ended, so in your name as a civil party you can participate in
23 these proceedings or you may go wherever you wish during the
24 subsequent hearings.

25 (Witness exits courtroom)

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1 Security guards, you are instructed to take the accused back to
2 the detention facility and bring him back to the Chamber before 9
3 a.m. tomorrow morning.

4 The hearing is now adjourned.

5 THE GREFFIER:

6 All rise.

7 (Judges exit courtroom)

8 (Court adjourns at 1622H)

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