



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

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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Nation Religion King
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អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

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TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

10 March 2016

Trial Day 380

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

The Accused: NUON Chea
KHIEU Samphan

Lawyers for the Accused:
Victor KOPPE
LIV Sovanna
SON Arun
Anta GUISSSE
KONG Sam Onn

Trial Chamber Greffiers/Legal Officers:
Evelyn CAMPOS SANCHEZ
SE Kolvuthy

Lawyers for the Civil Parties:
CHET Vanly
Marie GUIRAUD
HONG Kimsuon
LOR Chunthy
PICH Ang
SIN Soworn
TY Srinna
VEN Pov

For the Office of the Co-Prosecutors:
Nicholas KOUMJIAN
SENG Leang

For Court Management Section:
UCH Arun

I N D E X

Mr. CHAN Toi alias CHAN Tauch (2-TCW-921)

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
Mr. CHAN Toi (2-TCW-921)	Khmer
Judge FENZ	English
The GREFFIER	Khmer
Ms. GUIRAUD	French
Ms. GUISSE	French
Mr. HONG Kimsuon	Khmer
Mr. KOPPE	English
Mr. KOUMJIAN	English
Judge LAVERGNE	French
The President (NIL Nonn)	Khmer
Mr. PICH Ang	Khmer
Mr. SENG Leang	Khmer

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

2 (Court opens at 0904H)

3 MR. PRESIDENT:

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

5 Today, the Chamber will hear testimony of a witness, that is,

6 2-TCW-921, in relation to Phnom Kraol Security Centre.

7 Ms. Se Kovulthy, please report the attendance of the parties and
8 other individuals to today's proceedings.

9 [09.05.12]

10 THE GREFFIER:

11 Mr. President, for today's proceedings, all parties to this case
12 are present.

13 Mr. Nuon Chea is present in the holding cell downstairs. He has
14 waived his right to be present in the courtroom. The waiver has
15 been delivered to the greffier.

16 The witness who is to testify today, namely, 2-TCW-921, has
17 confirmed that, to his best knowledge, that he has no
18 relationship, by blood or by law, to any of the two Accused, that
19 is, Nuon Chea and Khieu Samphan, or to any of the civil parties
20 admitted in this case. The witness took an oath before the Iron
21 Club Statue this morning. And we also have a reserve witness
22 today, that is, 2-TCW-817.

23 Thank you.

24 [09.06.08]

25 MR. PRESIDENT:

2

1 Thank you, Ms. Se Kovulthy. The Chamber now decides on the
2 request by Nuon Chea.

3 The Chamber has received a waiver from Nuon Chea, dated 10 March
4 2016 which states that, due to his health, headache, back pain,
5 he cannot sit or concentrate for long, and in order to
6 effectively participate in future hearings, he requests to waive
7 his right to be present at the 10th March 2016 hearing.

8 Having seen the medical report of Nuon Chea by the duty doctor
9 for the accused at ECCC dated 10 March 2016, which notes that
10 Nuon Chea has a back pain and cannot sit for long and recommends
11 that the Chamber shall grant him his request so that he can
12 follow the proceedings remotely from the holding cell downstairs.
13 Based on the above information and pursuant to Rule 81.5 of the
14 ECCC Internal Rules, the Chamber grants Nuon Chea his request to
15 follow today's proceedings remotely from the holding cell
16 downstairs via an audio-visual means.

17 The Chamber instructs the AV Unit personnel to link the
18 proceedings to the room downstairs so that Nuon Chea can follow.
19 That applies for the whole day.

20 And court officer, please usher the witness into the courtroom.

21 (Witness enters the courtroom)

22 [09.09.32]

23 QUESTIONING BY THE PRESIDENT:

24 Q. Good morning, Mr. Witness. What is your name?

25 MR. CHAN TOI:

1 A. My name is Chan Toi.

2 Q. Is your name Chan Toi, and how do you spell your name?

3 And please observe the microphone, Mr. Witness. You should speak
4 only after you see the red light on the tip of the microphone.

5 [09.10.15]

6 A. My name is spelled C-H-A-N T-A-U-Y (sic).

7 Q. Thank you, Mr. Chan Toi. And when were you born?

8 A. I do not recall my date of birth.

9 Q. How old are you this year? And again, please observe the
10 microphone and repeat your last response.

11 A. I am 56 years old.

12 Q. <Where> were you born?

13 A. I was born in Chi Miet village, Chi Miet commune, Kaoh Nheaek
14 district, Mondolkiri province.

15 Q. And where is your current address?

16 A. I am still living in Chi Miet village, Nang Khi Loek commune,
17 Kaoh Nheaek, Mondolkiri province.

18 Q. And what is your current occupation?

19 A. I am a soldier.

20 Q. What are the names of your parents?

21 A. My father is Ken Chan, and my mother is Khampeng.

22 [09.12.20]

23 Q. What is your wife's name, and how many children do you have?

24 A. My wife is Mong Phan. She passed away. And I have seven
25 children.

4

1 Q. Thank you, Mr. Chan Toi. The greffier made an oral report
2 that, to your best knowledge, you are not related, by blood or by
3 law, to any of the two Accused, that is, Nuon Chea and Khieu
4 Samphan, or to any of the civil parties admitted in this case. Is
5 that report correct?

6 A. In relation to the report, I have nothing to do with the two
7 Accused.

8 Q. Have you taken an oath before the Iron Club Statue to the east
9 of the Chamber before your appearance?

10 A. Yes, I have.

11 [09.13.28]

12 Q. The Chamber wishes to inform you of your rights and
13 obligations as a witness.
14 Regarding your rights, Mr. Chan Toi, as a witness in the
15 proceedings before the Chamber, you may refuse to respond to any
16 question or to any comment which may incriminate you. That is
17 your right against self-incrimination.

18 As for your obligations, as a witness in the proceedings before
19 the Chamber, you must respond to any questions by the Bench or
20 relevant parties except where your response or comment to those
21 questions may incriminate you, as the Chamber has just informed
22 you of your right as a witness.

23 And you must tell the truth that you have known, heard, seen,
24 remembered, experienced or observed directly about an event or
25 occurrence relevant to the questions that the bench or parties

1 pose to you.

2 And Mr. Chan Toi, have you been interviewed by investigators of
3 the Office of the Co-Investigating Judges? If so, how many times,
4 when and where?

5 A. They came to interview me for one time at my home.

6 Q. And when was that?

7 [09.15.16]

8 A. It was in 1999.

9 Q. And were you interviewed for -- on another occasion around
10 2008? Were you interviewed by investigators during that year?

11 A. Yes, I was interviewed once.

12 Q. So it means that you were interviewed twice. The first one was
13 done in 1999 and the second one was in 2008. Is that correct?

14 A. For the last interview, I cannot recall the date or the year.

15 [09.16.28]

16 Q. And before your appearance, have you read, reviewed or have
17 your written records of interviews read to you so that they will
18 refresh your memory?

19 A. I can recall parts of the written records of the interviews,
20 and I cannot recall everything.

21 Q. So it means that you actually have read the written records,
22 but you cannot recall all the contents of those interviews; is
23 that so?

24 A. Yes.

25 Q. And after you read the WRIs, to your best recollection, can

6

1 you tell the Chamber whether they reflect what you said during
2 the previous interviews?

3 A. As I said, I recall only parts of the contents of the
4 interviews since it happened several years ago.

5 MR. PRESIDENT:

6 That is all right. And pursuant to Rule 91 bis of the ECCC
7 Internal Rules, the Chamber will hand the floor first to the
8 Co-Prosecutors. And the combined time for the Co-Prosecutors and
9 the Lead Co-Lawyers is two sessions.

10 You may proceed.

11 [09.18.17]

12 QUESTIONING BY MR. SENG LEANG:

13 Good morning, Mr. President. Good morning, Your Honours, and good
14 morning, everyone in and around the courtroom. My name is Seng
15 Leang. I am the National Deputy Co-Prosecutor of the Office of
16 the Co-Prosecutors, and I have some questions to put to the
17 witness.

18 Q. And my first question is in relation to your name, Mr.
19 Witness. Can you tell the Chamber clearly, is your name Chan
20 Tauch or Chan Toi?

21 MR. PRESIDENT:

22 The witness does not need to respond to that. In fact, the
23 witness already said his name during my initial question that is
24 name is Chan Toi.

25 [09.19.00]

1 BY MR. SENG LEANG:

2 Mr. President, in his written record of interview, it's stated
3 that his name is Chan Tauch, alias Chan Tauy.

4 MR. PRESIDENT:

5 I actually read his identity card, and I actually asked him to
6 spell his name so the name is clear to everyone.

7 BY MR. SENG LEANG:

8 That is fine, then, Mr. President.

9 Q. And Mr. Chan Toi, can you tell us your level of education?

10 MR. CHAN TOI:

11 A. I studied during the regime of Samdech Sihanouk, and then the
12 war broke and I quit schooling.

13 Q. And what grades did you attend?

14 MR. PRESIDENT:

15 Witness, please observe the microphone.

16 MR. CHAN TOI:

17 A. I was in Grade 12 of the old education system.

18 [09.20.34]

19 BY MR. SENG LEANG:

20 Q. I'd like to know a bit more about your background. And where
21 did you live before 17 April 1975, and what did you do before
22 that date?

23 A. I lived in Kaoh Nheaek district.

24 Q. And what did you do at that time?

25 A. What year was that?

8

1 Q. I refer to the period prior to 17 April 1975.

2 A. I lived with my parents during that time.

3 [09.21.42]

4 Q. In order to refresh your memory, I'd like to refer to your
5 WRI, that is, E3/7694, at Khmer, 00236705; and English is at,
6 <00242142>; and French is at, 00276802.

7 The question, you were asked about what you did before the 17
8 April 1975 <and where you lived>, and you responded that you
9 lived in Chi Miet village, <Chi Miet> commune, <Kaoh Nheaek
10 district, Mondolkiri> province. "And then there was a
11 revolutionary movement. <> I <was sent into> the forest <and I
12 became a messenger for> San Ra, who was a messenger who delivered
13 <letters> from the upper echelon to various areas."

14 Does what I read to you jog your memory?

15 A. Part of what you read out is not correct. And could you please
16 repeat your question? I have hard hearing.

17 Q. My question to you is in relation to what you did before 17
18 April 1975.

19 A. As I said, I lived with my parents at their home.

20 Q. Did you ever attend the revolutionary movement at that time?

21 A. I did not know those event clearly because, at that time, I
22 was still a young man.

23 Q. Based on the excerpt of your statement, that is, your
24 interview with the OCIJ, you stated that you were actually sent
25 to the forest and became a messenger for San Ra. Is that correct?

1 A. That happened after 17 April 1975. That is when I was
2 appointed as a messenger.

3 [09.24.34]

4 Q. However, in your written record of interview, you said that
5 happened prior to 17 April 1975.

6 A. I apologize if I cannot recall the particular date or event. I
7 find it difficult to try to recall what I did prior to 1975.

8 Q. That is all right. And you just stated that, after 17 April
9 1975, you became a messenger for San Ra. Is that correct?

10 A. Yes, that is correct.

11 Q. And can you recall at that time what was the name of the
12 sector that you lived in?

13 [09.25.40]

14 A. Previously, it was known as Mondolkiri province. And after 17
15 April 1975, it was known as Sector 105.

16 Q. During the Khmer Rouge regime, can you tell us the Chamber
17 what was the name of the Sector Committee?

18 A. Ham was the name.

19 Q. What about members of the Sector Committee? Do you recall the
20 names?

21 A. I can recall the name of Ham and Kham Phoun. They were senior
22 people in the area.

23 Q. You mentioned names Ham and Kham Phoun. And I will ask you
24 further questions about these two names.

25 Let me now focus on Sav (phonetic) Ra . Who was he during the

10

1 Democratic Kampuchea regime, and what was his position that led
2 you to become his messenger?

3 A. The name is San Ra. He was deputy chief of Kaoh Nheaek
4 district, and I was his messenger.

5 Q. And how long did you work as his messenger?

6 A. I cannot recall that clearly since there was an event of the
7 arrest, so I cannot recall the period <>.

8 [09.27.55]

9 Q. While you were San Ra's messenger, what were your tasks?

10 A. He used me to wash clothes, to cook food for him, and to
11 deliver messages or letters.

12 Q. You made mention that one of your main tasks were to deliver
13 letters. And can you tell the Chamber from which area to which
14 area you delivered those letters?

15 A. I delivered letters to the sector's office.

16 Q. And do you recall to whom that you delivered those letters at
17 the sector's office?

18 A. I delivered letters to Ta Ham.

19 Q. And do you recall the location of Sector 105 office?

20 A. Yes, I recall that. It was located at Phnom Kraol, or Kraol
21 Mountain.

22 [09.29.45]

23 Q. And do you know the actual name of that office?

24 A. Yes, it was at Phnom Kraol.

25 Q. There could be several offices located at Phnom Kraol. It

11

1 could be K-A or K-B or K-C, for example. And that was the actual
2 name of the sector's office?

3 A. It happened many, many years ago. I cannot recall the
4 designated name of that office.

5 Q. Besides delivering letters to Ham at Sector 105 office, did
6 you deliver letters to any security centre?

7 A. No, I only delivered them to the sector's office.

8 Q. Thank you. And now I'd like to move on to the two individuals,
9 Ham and Kham Phoun that you mentioned earlier. Can you recall any
10 specific events involving these two individuals?

11 A. Yes, I recall some events in relation to them.

12 Q. Please describe those events related to Ham and Kham Phoun.

13 A. Ham was chief of sector, and Kham Phoun was the people's
14 representative in Sector 105.

15 Q. During the time that Ham was in charge of that sector, did the
16 two individuals have conflicts with one another?

17 [09.32.38]

18 A. Later on, I learned that Ham and Kham Phoun came to Phnom
19 Penh, and at Phnom Penh, I heard that they exchanged gunfire and
20 died. I did not know at the time whether they were sent to be
21 killed. After they came to Phnom Penh, I have never heard of
22 them.

23 Q. You stated that Ham and Kham Phoun fought each other and died
24 in Phnom Penh; so where did you learn this information from?

25 A. To my recollection, they had their own messengers. And later

12

1 on, their messengers returned to the sector. And I learned that
2 from messengers. And those <security guards> previously were
3 called <messengers>.

4 [09.33.49]

5 Q. Were Ham or messenger -- Ham or Kham Phoun's messengers the
6 ones who told you about that?

7 A. <The messengers of> both of them told me.

8 Q. After they died or they disappeared in Phnom Penh, what was
9 going on in Sector 105?

10 A. To some of my recollection, after the two individuals
11 disappeared, <> there was chaos in that sector. That is my
12 recollection.

13 Q. You stated that after the two individuals disappeared, there
14 was <> chaos in the sector. Before that event, did you ever see
15 the arrests of people in your sector?

16 A. Yes.

17 Q. Thank you, Mr. Witness. I will ask you some further questions
18 about the arrests of those people <later>.

19 You stated that after <the> Ham and Kham Phoun <events>, there
20 was <> chaos in <the> sector. Could you expand a little bit
21 further about that chaos?

22 [09.36.03]

23 MR. PRESIDENT:

24 Please hold on, Mr. Witness.

25 Koppe, you have the floor now.

13

1 MR. KOPPE:

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

3 The question that was put to the witness implies that Ham or Kham

4 Phoun were either arrested or disappeared, but I think the

5 witness said that Ham was killed by Kham Phoun in a gunfire.

6 Whether that is factually accurate, that remains to be seen. But

7 I don't think this witness speaks about either arrests or

8 disappearances of those two.

9 [09.36.45]

10 BY MR. SENG LEANG:

11 I would like to respond -- respond. A little bit earlier, the

12 witness said the two individuals went to Phnom Penh. And the

13 witness says that he did not know whether the two individuals

14 exchanged gunfire and died later on, or they disappeared. So it

15 is not clear from the witness, so I cannot put a specific

16 question whether the two individuals had killed themselves or

17 disappeared.

18 So I can only put a general question. I cannot give any

19 interpretation beyond the answer of the witness.

20 Q. Now I would like to resume my questioning, Mr. Witness. After

21 the event in relation to the individuals, were you arrested at

22 that time afterward?

23 MR. CHAN TOI:

24 A. I, at that time, was arrested together with others. To my

25 recollection, network of Ta Ham arrested the members or the link

14

1 of Ta Kham Phoun, and this is my recollection from that time.

2 Q. After Ta Ham and Kham Phoun were absent in Sector 105, who
3 came to replace Ta Ham and Ta Kham Phoun? Do you recall that?

4 A. I can recall some events. Ta Sarun at the time came to
5 replace.

6 [09.39.14]

7 Q. <> Was Ta Sarun related to Ta Ham <or> Ta Kham Phoun?

8 A. Ta Sarun was related to Ta Ham, and Ta Sarun at that time
9 arrested those who were linked to Ta Kham Phoun.

10 Q. Did you know another individual by the name of Phan or Phan
11 Khon?

12 A. Yes.

13 Q. What was the position of Phan Khon, and how was he related to
14 Ham and Kham Phoun?

15 A. Phan Khon was <a younger> brother-in-law of Ham.

16 [09.40.33]

17 Q. Were Ham and Kham Phoun related to one another?

18 A. They were in-laws, to my recollection.

19 Q. So they were related by blood or in-law, as you said. A while
20 ago, you stated that those who were linked to Ta Ham came to
21 arrest members related to Kham Phoun. Is that correct, what I
22 summarized?

23 A. To my recollection, it is correct.

24 Q. To the best of knowledge, how many people were arrested at
25 that time?

15

1 A. I was arrested together with others. Perhaps more than 80 of
2 us had been arrested.

3 Q. What was your relation to Kham Phoun that led to the arrest of
4 you?

5 A. I was the messenger of Ra. Ra was the nephew of Kham Phoun.

6 Q. What about your wife? Was she related by blood to Kham Phoun?

7 THE INTERPRETER KHMER-ENGLISH:

8 Interpreter could not hear the answer from the witness.

9 JUDGE FENZ:

10 We have an interpretation problem. Apparently the translator
11 couldn't -- or the interpreter couldn't understand the answer the
12 witness gave, so perhaps you would repeat it.

13 [09.43.16]

14 BY MR. SENG LEANG:

15 Q. A while ago, I asked you whether your wife was related by
16 blood to Kham Phoun. Could you give your answer once again?

17 MR. CHAN TOI:

18 A. My wife was related -- was relative in -- was <a> distant
19 relative.

20 Q. Could you clarify this point for the Court? During the
21 arrests, beside Ra and Phan Khon, were others arrested?

22 A. To the best of my knowledge, those people had been arrested
23 first and then it was my time.

24 [09.44.19]

25 Q. So, Ra and Phan Khon had been arrested first, and then they

16

1 arrested you. Is that correct?

2 THE INTERPRETER KHMER-ENGLISH:

3 Interpreter did not hear the answer from the witness.

4 JUDGE FENZ:

5 We have the same problem. We have the same problem again. The

6 interpreter didn't hear the answer. The question is to the

7 interpreter. Is this going too fast, or what's the issue?

8 MR. KOUMJIAN:

9 Your Honour, if I could -- I just saw the witness nod his head,

10 so I think that's why the interpreter did not get the answer.

11 JUDGE FENZ:

12 In this case, obviously, the advice to the witness should be--

13 Witness, we record what you are saying, so if you just nod your

14 head, it doesn't show on the record. Please answer in words, yes

15 or no.

16 BY MR. SENG LEANG:

17 Q. I, a while ago, asked you about which leaders had been

18 arrested during the time that you were arrested as well later on.

19 So could you specify the answer once again for the Court?

20 [09.45.48]

21 MR. CHAN TOI:

22 A. To the best of my knowledge, the leaders in the upper line

23 disappeared and, later on, subordinates or people below them were

24 also arrested.

25 Q. Were Ra and Phan Khon arrested or detained at the time?

1 A. I told you already, to the best of my knowledge and to my
2 recollection, those people had been arrested and then I was
3 arrested later on.

4 Q. After you were detained or arrested, where were you placed?

5 A. I was placed in Phnom Kraol, or Kraol Mountain.

6 [09.46.49]

7 Q. Could you tell the Court about the location where you were
8 placed, particularly in relation to the building? What was the
9 building like? Could you give a description of the building to
10 the Court?

11 A. In relation to the building, there were two storeys. It was
12 two-storey building. And there was large space, open space under
13 the first floor.

14 Q. Was that location a prison compound or what was that place
15 actually used for?

16 A. It was not the prison. It was the sector's office. And the
17 building was the concrete one.

18 Q. So it was not the prison. It was, in fact, the sector's
19 office, and it was used to detain and hold <you and> some <other>
20 people who had been arrested. Is that correct?

21 A. That is correct.

22 Q. Inside the building, how many people were detained <with you>?

23 A. To the best of my recollection, more than 80 people were
24 detained within the building.

25 Q. Among the detainees, were there women and children?

18

1 A. Yes, there were both women and children detained with us.
2 Members of family who were related to those who had trouble
3 before were arrested.

4 Q. What about Ra and Phan Khon? Were they detained in the same
5 place as you at that time?

6 A. I did not see them at that time.

7 [09.49.28]

8 Q. You said that -- you stated that it was a two-storey building,
9 and you were detained in -- on the ground in the first floor. So
10 what about the second floor? Were people detained on the second
11 floor?

12 A. After I was arrested, I did not have the rights to look around
13 at the -- to go inside the second floor and who were there within
14 the second floor and who was sent to be killed, so I did not
15 bother looking around and searching for information.

16 Q. How long were you detained at that place?

17 A. I was detained there for a period of one month.

18 [09.50.30]

19 Q. Regarding that prison, were the detainees shackled or tied up?
20 Could you tell the Court about that?

21 A. Those who had been arrested were tied up. Only children were
22 not in string.

23 Q. what about food ration? How many meals a day were you given?
24 Was food sufficient for you to eat?

25 A. I would like to clarify the point for people. We had a bowl of

1 rice with pumpkin, and we did not have enough food to eat while
2 we were detained.

3 Q. What about hygiene? Were there insects within the building
4 disturbing detainees?

5 A. To my recollection, detainees were tied up and we were living
6 in bad conditions.

7 Q. I want to ask about the hygiene and sanitation. Was it clean
8 enough for detainees inside the building?

9 A. There was no hygiene at all.

10 Q. You stated a bit earlier that male detainees were tied up.
11 What about the time when you need to go to restroom and relieve
12 yourselves? So what did you do at the time when you want to visit
13 the restroom?

14 [09.52.42]

15 A. We called the security guard and then they, the security
16 guard, would accompany us to the restroom.

17 Q. During the time that you were detained there for one month,
18 did you see detainees fall sick at the time?

19 A. From what I saw, the detainees had skin diseases.

20 Q. Were they provided with medicines to treat those kind of
21 diseases?

22 A. No, no medication for us.

23 Q. Did any one of the detainees died because of the diseases and
24 starvation while they were detained?

25 [09.53.46]

1 A. During that one month, no one died from diseases or
2 starvation.

3 Q. I want to know about interrogation. During one-month detention
4 there, were you ever interrogated?

5 A. I was not interrogated, but they said that we were all
6 traitors.

7 Q. In a written record of an interview, E3/7694, ERN in Khmer,
8 00236706; English ERN, 00242144 (sic); French, 00276803; there is
9 a question in relation to interrogation, whether you were
10 tortured. And you stated that:

11 "There was no torture <during the interrogation,> but <I was
12 yelled at and> threatened <due to the fact> that I had been
13 working with San Ra, <who was a district chief>, <but> I did not
14 know about <the upper echelon>."

15 So do you recall that?

16 A. I do not recall it well. I do not know that the statement that
17 I gave the previous day was recorded in the document.

18 Q. In relation to the execution of detainees or prisoners, were
19 detainees sent to be killed <during the time that you were
20 detained there>?

21 A. Those who were detained with me on the ground floor were not
22 sent to be killed <during the month that I was detained there>.

23 [09.56.36]

24 Q. Among your -- <> the people who had been detained together
25 with you on the ground floor were not sent to be killed. Now I am

21

1 asking about your detention.

2 After you had been arrested and detained, were you provided the
3 right to counsel when you were detained?

4 A. To my recollection, <there was> no lawyer at that time. <>
5 They <did it> arbitrarily.

6 Q. At the time, were there judicial officers, courts or lawyers
7 provided to you or adjudicating your case?

8 A. No. I did not enjoy such latitude. I did not have lawyers, and
9 there was no court.

10 [09.57.54]

11 Q. I have another question in relation to the time when you were
12 detained. Were you, together with other detainees, assigned to do
13 some tasks?

14 A. To my recollection, security guards -- the security guards
15 sent the jute seeds for us to beat.

16 Q. I have <a few> question<s left>. While you were beating jute
17 seeds, what kind of tools did you have and what was the -- what
18 were the working hours?

19 A. They gave us the jute seeds, and we stomp on those jute seeds
20 while our hands were tied up.

21 Q. From what you said, <prisoners> stomped on those jute seeds
22 <while their hands were tied,> and they did not provide you with
23 tools. Is that correct?

24 A. That is correct.

25 Q. What time did you start work?

1 A. We worked for a period of one hour or two hours, and then we
2 stopped.

3 MR. SENG LEANG:

4 Because of time, Mr. President, I would like to cede the floor
5 for my international colleague to put further questions.

6 [09.59.58]

7 QUESTIONING BY MR. KOUMJIAN:

8 Q. Good morning, Mr. Witness, Sir.

9 You said that you were arrested. Do you recall when it was, even
10 the year that you were arrested?

11 MR. CHAN TOI:

12 A. From my recollection, that happened in 1977.

13 Q. Thank you. Do you recall the month? If you don't, just say so.

14 A. It was probably in November. Of course, I did not have
15 anything to take note of that.

16 Q. Who was it that arrested you?

17 [10.01.02]

18 A. Kam and Sot were the one who drove to pick us up.

19 Q. Who were they? Were they members of some kind of security
20 force? Can you explain?

21 A. They were a part of the security force.

22 Q. For the district, for the sector? Do you know?

23 A. There was no security force at the district. There was only
24 one at the sector.

25 Q. Okay. Thank you. Did you ever learn who ordered your arrest?

1 A. I did not know who issued the order for the arrest. However,
2 to my knowledge, after some senior people disappeared or
3 arrested, including Kham Phoun and Ra, we who were their
4 subordinates were arrested.

5 Q. In addition to you being arrested, were any members of your
6 family arrested?

7 A. Yes. All the members of my family was arrested, including my
8 siblings and my mother.

9 Q. At that time, were you married?

10 A. Yes.

11 Q. Did you have any children?

12 A. No.

13 [10.03.22]

14 Q. You told us this morning you were 56, so in 1977, if my math
15 is right, that was 39 years ago, you would have been about 17
16 years old. Does that sound right?

17 A. I got married when I was pretty young.

18 Q. So do you think you could have been about 17 -- go ahead.

19 MR. KOPPE:

20 I think, Mr. President, the math of the International
21 Co-Prosecutor doesn't seem to add up.

22 If my math is correct, he was born on the 17th of May of '56,
23 then he must have been 21 rather than 17 in '77.

24 [10.04.23]

25 MR. KOUMJIAN:

24

1 I think the difference is that the witness said this morning that
2 he was 56 years old, which would not make him born in '56, but
3 born in '59 or '60. So that's what I heard, is that the witness
4 said he was 56 years old.

5 MR. KOPPE:

6 True, but his WRI says 17 -- he was born on 17 May 1976 (sic).
7 It's not terribly important, but.

8 MR. KOUMJIAN:

9 Fine. I'll move on anyway.

10 MR. PRESIDENT:

11 International Co-Prosecutor, you may try to get the witness to
12 respond to your question whether he actually provided the actual
13 date of birth to the OCIJ investigators, so we'll try to find
14 which one is the correct date of birth before you move on to
15 another subject.

16 BY MR. KOUMJIAN:

17 Q. Certainly. So, Mr. Witness, perhaps you can help us. We have a
18 record of your interview in 2008. You were interviewed, if you
19 recall, at the Ratanakiri provincial town -- in Ratanakiri
20 provincial town. And in that interview, they indicate that you
21 gave them a date of birth of 17 May, 1956.

22 Is that your date of birth, or are you 56 years old today, or
23 were you born in '56? Do you know?

24 [10.06.20]

25 MR. CHAN TOI:

1 A. I did not know my age exactly, but that was what my mother
2 told me.

3 Q. Okay. Thank you. What happened to your wife when you were
4 arrested?

5 A. When I was arrested, my wife was arrested along as well. And
6 at that time, we had no hope of surviving.

7 Q. Why is that, that you felt so hopeless? What had you seen that
8 made you feel so hopeless when you were arrested?

9 [10.07.22]

10 A. During the Pol Pot regime, usually when people were arrested,
11 none survived, and that's how we felt. We felt that, after our
12 arrest, we would be dead.

13 Q. Now, you indicated that your own relative was arrested and
14 that many people were arrested, if I understood you correctly,
15 because they were related in some way to Kham Phoun. Is that
16 correct?

17 A. Yes.

18 Q. Why was it that, in the regime, people were -- or why was it
19 on this occasion that people were arrested just because they were
20 related to someone else? Can you explain that?

21 A. To my knowledge, during the Pol Pot regime, when the father
22 was arrested, his wife, his children and his parents would also
23 be arrested.

24 Q. Now, in the location where you were being detained, you said
25 you were tied.

1 Can you explain to us how you were tied? Were you just tied your
2 hands together, were you tied to something else?

3 A. They used a string to tie us up and attach us to a row of
4 chair. And actually, during the nighttime, our feet were also
5 tied, but during the daytime, our feet were untied so that we
6 could stomp the jute seeds.

7 [10.09.29]

8 Q. You indicated the children were not tied. Were the children
9 allowed to move around where you could speak to them? Were you
10 allowed to speak to them?

11 A. The children lived also in the building, and when they needed
12 to relieve themselves, they would ask the guard and the guard
13 would let them out. But they were not tied.

14 Q. Were you ever able to speak to the children or to the guards?

15 A. We did not dare to, or we did not have a right to speak to the
16 guard. As for the children, we could.

17 [10.10.31]

18 Q. Did you ever learn who was being held upstairs, not in your
19 room, but in the other room?

20 A. I did not know who were detained on the upper floor.

21 Q. Did you see anyone being removed during the night when you
22 were there, people being taken away?

23 A. Personally, I did not see that.

24 Q. Did anybody disappear that was in your room?

25 A. None of the detainees in my room disappeared.

1 Q. Mr. Witness, I'd just like to read to you something from your
2 interview with the investigators in 2008. And in French it's,
3 00276804; in English, 00242144; and in Khmer, 00236706.

4 He asked you, "Do you know if any of the other prisoners were
5 taken and killed?"

6 And they recorded you as saying, "Twice, I saw prisoners taken to
7 be killed. The first night, there were five of them, and the
8 second night, there were three."

9 They asked, "Where were they taken to be killed?"

10 And you answered:

11 "As far as I know, they probably killed them not far behind Phnom
12 Kraol. Those eight were the direct siblings and nephews of Ta
13 Kham Phoun. As for the siblings of Ta Ham, they were not arrested
14 or killed."

15 Do you recall telling the investigators that? Does that remind
16 you of what you told them?

17 [10.13.02]

18 A. I cannot recall exactly what I said during my interview with
19 the investigator. And at the time, children were not tied and
20 they ran around in the office. And <they said that> people were
21 taken out at that time, though I cannot recall the exact number
22 of those people. And it is my personal conclusion <that> when
23 those people were taken out, it means that they were taken out
24 and killed.

25 Q. And do you recall that, among those taken out, were the direct

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1 siblings and nephews of Ta Kham Phoun?

2 A. The -- most of the Kham Phoun's relatives disappeared since.

3 [10.14.09]

4 MR. KOUMJIAN:

5 Does Your Honour want to take a break now? Is this the

6 appropriate time?

7 MR. PRESIDENT:

8 It is now convenient for a short break. We'll take a break now

9 and resume at 10.30.

10 And the Chamber wishes to inform the parties that after we

11 return, we'll listen to the Nuon Chea request for a document that

12 the original of it was in German and that they want to use that

13 document to put questions to the expert, 2-TCE-88.

14 And court officer, please assist the witness during the break

15 time and invite him back into the courtroom later, after I give

16 you instruction.

17 The Court is now in recess.

18 (Court recesses from 1015H to 1034H)

19 MR. PRESIDENT:

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

21 And before I hand again the floor to the Co-Prosecutor to

22 continue putting questions to the witness, the Chamber wishes to

23 hear responses from parties to the submission by the Co-Defence

24 Counsel for Nuon Chea to use a document to question Expert 88.

25 And that is in reference to document <E307/5.2.8>.

1 And actually, in our previous <decision issued in June 2015 in>
2 document, that is, E305/7, we delayed our decision awaiting the
3 translation of the original German language into the working
4 languages of the ECCC. And so far, the requested document in
5 E307/5.2.8 has been translated into English.

6 And yesterday, senior legal officer of the Trial Chamber informed
7 the parties that, today, the Chamber wishes to hear responses
8 from parties on the admission of this document after the short
9 break this morning. And for that reason, it is now the time to
10 hear responses from the parties.

11 And first I'd like to give the floor to the Co-Prosecutors to
12 make their response or observation to this request by the defence
13 team for Nuon Chea. You may proceed.

14 [10.36.45]

15 MR. KOUMJIAN:

16 Mr. President, thank you. Respectfully, we believe it would be
17 much easier for us to respond if we hear what it is that Nuon
18 Chea believes is relevant to the testimony of the expert who's
19 testifying on the Cham from these documents.

20 Frankly, we don't see it at this point, but perhaps he can
21 explain it and we would see it.

22 MR. PRESIDENT:

23 In order to refresh everyone's recollection, since this matter
24 has been put off for quite a while, I'd like to hand the floor
25 now to the defence team for Nuon Chea to make their presentation

30

1 in relation to their submission for this document, the nature of
2 it and the reason for its submission so that the party is clear
3 on this issue.

4 You may proceed.

5 [10.37.52]

6 MR. KOPPE:

7 Thank you, Mr. President. Yes. I'm certainly happy to do that.

8 What we are talking about, Mr. President, is a set of originally
9 German documents. Documents that were drafted and made up by the
10 East German Security Service, in German called Stasi, S-T-A-S-I.
11 At one point in time we received, from an expert in this area,
12 copies of these East German documents. The main part of these
13 East German documents consists of so-called "kurz biographie",
14 K-U-R-Z B-I-O-G-R-A-P-H-I-E, translated into English into short
15 biographies -- biographies.

16 What happened at the time, as we can distill from these
17 documents, is that certain -- of a certain amount of -- a certain
18 number of Khmer Rouge cadres, Vietnam, presumably the Vietnamese
19 intelligence service in '77 or '78, possibly '79, made short
20 biographies of people ultimately belonging -- making up the
21 National Salvation Front. These are Vietnamese biographies and
22 then, presumably, at one point in time, given to their East
23 German counterparts. And they translated these original
24 Vietnamese language documents.

25 We received a set of those short biographies. I shall list the

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1 nine names of the people that we, at this point in time, assume
2 to be the most important and relevant.

3 [10.40.23]

4 We have short biographies of, respectively, Heng Samrin, Hun Sen,
5 Chea Sim, Pen Sovan, Hor Namhong, Keo Chanda, Pen Navuth, Ouk
6 Bunchhoeun, and Mat Ly.

7 So -- and as I said, there are others as well, but let me
8 concentrate on those nine people first.

9 In those biographies, you can see what those respective people
10 have done since they joined the revolution and what they have
11 done to resist the CPK at one point in time.

12 So we believe that the background of these nine and other people
13 are relevant and are important in the ascertainment of the truth,
14 more specifically, to get a clearer picture of which former CPK
15 cadres were screened by the Vietnamese and what their possible
16 roles were in resisting the CPK of which, of course, they,
17 themselves, were all high-ranking members.

18 [10.42.05]

19 More specifically, when it comes to the expert, we would
20 concentrate on possibly putting questions in relation to these
21 biographies of only three or four people, possibly five, those
22 who we believe played an important role in Sector 21 or, more
23 broadly, in the East Zone.

24 As I indicated yesterday in parts of my questioning to the
25 witness, we believe Heng Samrin has an important -- had an

1 important role as a military commander and deputy chief of the
2 military staff in the East Zone, also in 1975.

3 The same goes to Prime Minister Hun Sen. Of course, Ouk
4 Bunchhoeun, being the deputy secretary of Sector 21 is also an
5 important person in relation to the events relating to the Cham.
6 The same goes for Mat Ly, whose name is redacted, but from the
7 way his kurz biographie is drafted and made up, we presume that
8 that is, in fact, Mat Ly.

9 [10.43.36]

10 Other persons that I just mentioned like Keo Chanda, who was the
11 President of the Pol Pot-Ieng Sary Tribunal, of course, he is
12 less relevant for the upcoming expert.

13 Same goes to Hor Namhong, but he might be more important when we
14 come to speak about S-21 at one point, and Prey Sar.

15 So we believe that the description of the biographies, or these
16 biographies, are important because they all relate to
17 high-ranking CPK cadres who subsequently defected to Vietnam. For
18 instance, in this -- in one of those documents relating to Prime
19 Minister Hun Sen, one can read that he defected, indeed, to
20 Vietnam in June 1977.

21 It also says something about proper revolutionary spirit of -- at
22 least according to the Vietnamese, of these people and when they
23 started resisting the CPK.

24 So for numerous reasons, we believe that these Stasi kurz
25 biographie are very relevant to the ascertaining of the truth.

1 [10.45.20]

2 JUDGE FENZ:

3 I have a question which, admittedly, goes at least partly to
4 probative value, but not only.

5 I note you said the descriptions are important, so I suppose you
6 consider them reliable or want the Chamber to consider them
7 reliable.

8 Now, the first issue you, yourself, mentioned this has gone
9 through a translation and is -- I mean into German. It has
10 already gone through a translation from Vietnamese, so we don't
11 have the originals. That's my understanding, yes. That's just an
12 observation.

13 But the second is more, I agree it's interesting when it comes to
14 the internal workings of intelligence agencies, but when it comes
15 to the information contained within, do you have any information
16 on what was the basis for these short biographies which quite
17 often include assessments obviously made by the person who made
18 it?

19 As far as you know, is the basis only an interview with this
20 person, or what other information, if any, came in? Can you
21 enlighten the Chamber on that?

22 [10.46.30]

23 MR. KOPPE:

24 I would really like to have an answer to that question. The only
25 thing that we know is that these documents are now to be found in

1 the Stasi archives in Berlin. They are, in principle, accessible,
2 I believe, to everybody.

3 Who at the time from the East German Intelligence Service was
4 involved in making this translation, who were the Vietnamese
5 counterparts, that is unclear to us.

6 That would -- that would mean that we'd have to do further
7 investigation. However, the chief of the defence office was only
8 willing to give us a very limited amount of money in order to do
9 this investigation, so this is, based on the resources, what we
10 got out.

11 It doesn't mean that your answer -- your question cannot be
12 answered, but we simply lacked the resources to go further than
13 this.

14 I'm actually quite convinced that there should be additional,
15 very interesting material, but because of our limited resources,
16 we have only come up with these short biographies of the key
17 players in the rebellion who apparently -- who obviously were
18 alive in '79, when most of them formed the new regime as of
19 January 7 1979.

20 [10.48.10]

21 JUDGE FENZ:

22 One additional question. Two cases, there are unknown
23 individuals. The reason you want them admitted is because you
24 think you know who they are because, otherwise, unknown
25 individual.

1 MR. KOPPE:

2 Actually, there are certain individuals that we do not know who
3 they are. We just got them. Sometimes out of the description, it
4 could possibly be an interesting person.

5 For instance, what we can say with 95 percent certainty is that
6 one biography, which is redacted, that that must be Mat Ly
7 because it -- the personal information is very similar as to what
8 we know from his interviews.

9 [10.49.00]

10 But there are also certain names which we are not certain of who
11 they are, but we admitted them because they might play an
12 important -- more important role when we arrive at the segment of
13 the purges or the internal armed conflict within DK.

14 MR. PRESIDENT:

15 Judge Lavergne, you have the floor.

16 JUDGE LAVERGNE:

17 Yes, just a clarification. You are requesting that these
18 documents be admitted into evidence in order to be able to
19 examine the expert <Hinton>, or are you asking that these
20 documents be considered <admissible> generally, because <they
21 are> relevant to the scope of Case 002/02? <> I'm a bit lost.

22 [10.50.14]

23 MR. KOPPE:

24 The request is, obviously, to have them admitted into evidence
25 because we find the documents very relevant as to the

1 ascertainment of the truth, particularly in relation to rebellion
2 and the armed conflict within Vietnam. The concrete reason to
3 speak about them now is the issue that we would like to present a
4 few of them to the expert because they are relating to people who
5 are actually high-ranking cadres in Sector 21 and in the East
6 Zone in which, at the time, most of the Cham lived.
7 So that -- we would like to put them before the expert, so -- not
8 all of them, but just a few. But the request is to have them
9 admitted into evidence, and that request relates to all those
10 short biographies.

11 [10.51.25]

12 MR. PRESIDENT:

13 The International Counsel for Khieu Samphan, you have the floor.

14 MS. GUISSSE:

15 Yes. Thank you, Mr. President.

16 I think it is necessary for me to make my remarks now so that the
17 parties may be able to respond to all the <observations> of the
18 defence teams. <We do not oppose the request made by Nuon Chea's
19 team.> We have two remarks regarding questions that have been
20 asked by the Judges this morning.

21 A number of documents have been admitted into evidence by the
22 Chamber which indicated that it would assess the probative value
23 of these documents subsequently, <which> is important in the case
24 of such documents. <And> it reminds me of another document whose
25 admission into evidence we requested and the Chamber accepted,

1 document E3/9644. That was an excerpt of a Russian document drawn
2 from Vietnamese archives at the time. And we're <in the context
3 of an> armed conflict and the period of the Cold War. And we know
4 that the documents emanating from one camp or another may have
5 some kinds of connotations and interpretations that may be
6 <particular> to the camp in question.<>

7 [10.52.54]

8 In any case, as regards the use that the Defence <or> the Chamber
9 may want to <make> of these documents in its deliberations, <it>
10 is to have contextual elements that are important <> to know what
11 was in people's minds or what was considered by the Vietnamese
12 camp at the time as well as by the German camp at the time,
13 because we are dealing with a Cold War context. And these are
14 indicia of assessment that are useful since we are talking of a
15 political movement, the CPK, <of which> the defence have said on
16 several occasions that <it was not> a monolithic movement. And it
17 is important for us to, therefore, consider assessments, <whether
18 they are judged> truthful or not.

19 [10.53.40]

20 It is important to know <that these were the assessments> at the
21 time. It is relevant to the proceedings before this Chamber to
22 have a global vision of the <CPK movement> and how the CPK was
23 perceived by allies <or> others who <were> not allies, <who were
24 looking at> the persons within the CPK movement <who may have
25 been> considered as allies as part of an armed conflict or

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1 political conflict. So these remarks are worth taking into
2 account because <it is not only a matter of> assessing the
3 probative value<>, <in the sense of> the veracity of the
4 information in <the> document<, but simply> to know <that it was>
5 the vision of <a> political movement <or a> country at the time.
6 These are the remarks I wanted to make. Thank you.

7 MR. PRESIDENT:

8 Thank you, Counsel.

9 And I'd like to hand the floor once again to the Co-Prosecutor to
10 respond to the submission by the defence team for Nuon Chea.

11 [10.54.43]

12 MR. KOUMJIAN:

13 Thank you, Your Honours.

14 Your Honours, I think it's important to distinguish two questions
15 before the bench today, and the one is, do the documents get
16 admitted, are they relevant to the issues in the trial or the
17 defence theory and, secondly, are they relevant to the expert
18 witness who's here to testify or is testifying solely on the
19 treatment of the Cham.

20 And frankly, I haven't heard anything in the defence submissions
21 that would show relevance to the treatment of the Cham. Counsel
22 has mentioned one biography of a redacted name that he believes
23 is a name of a Cham. He hasn't said how that's relevant, but I
24 would say I probably would not.

25 We don't object if he wants to put that particular biography to

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1 the expert witness, but asking an expert who's here to talk about
2 the Cham about the East Zone resistance and the politics of the
3 East Zone, that's outside of his expertise. And it would, I
4 think, deflect from -- distract from the issues that the witness
5 is here to testify about, the treatment of the Cham.

6 [10.56.01]

7 Now, on the admission of these biographies overall, I would say I
8 understand the defence submissions. They think it's somehow
9 relevant and probative for their theory of the CPK being always
10 internally in factions. I would say it's -- that would be
11 relevant. We think it actually proves the opposite, but we see
12 the relevance.

13 We think it proves that, in fact, there wasn't resistance until
14 the purges were in full swing very late in the regime.

15 And again, even if the information is not correct, it may have
16 some probative value. I agree with Khieu Samphan's submissions on
17 that. For example, we know from, I think, the East Germans and
18 the Soviet intelligence -- this is in Stephen Morris' book --
19 that the Vietnamese believed that Nuon Chea was their man within
20 the CPK. So we do object to the use of all of these except for
21 the biography of a Cham with the expert witness. We don't object
22 to their admission for general purposes.

23 [10.57.20]

24 MR. PRESIDENT:

25 Judge Lavergne, you have the floor.

1 JUDGE LAVERGNE:

2 You will tell me whether I have properly understood what you have
3 just said. You are objecting to the use of those documents or the
4 majority of those documents for the examination of the experts,
5 but you do not object to the admissibility <> of those documents
6 in view of the fact that they are relevant to the case of the
7 Defence as regards the entirety of Case 002/02. Is that correct?

8 MR. KOUMJIAN:

9 That's correct. Of course, I don't believe in the Defence
10 interpretation, but I certainly see that they have an argument of
11 relevance, so exactly as, Your Honour, has stated. We don't
12 object to the admission of all of these documents on the case.
13 However, the Defence or none of us should go beyond the expertise
14 of the witness. That's wasting time.
15 If we have a witness to testify an expertise on the treatment of
16 the Cham and they're being asked in general about the resistance
17 in the East Zone, I think that would be irrelevant.
18 Irrelevant, I should say, beyond the expertise of the witness.

19 MR. PRESIDENT:

20 Counsel Koppe, please be seated. You may have the floor last.
21 And I'd like now to hand the floor to the Lead Co-Lawyers for
22 civil parties.

23 MS. GUIRAUD:

24 Thank you, Mr. President, and good morning to all of you.
25 We will rely on the Chamber's wisdom regarding this issue. Thank

41

1 you.

2 MR. PRESIDENT:

3 And I'd like now to hand the floor to the defence team for Nuon
4 Chea to make your last response to all those responses or
5 observations by the parties, in particular, the observations by
6 the Co-Prosecutors and the Lead Co-Lawyers, if you wish to do so.

7 [10.59.48]

8 MR. KOPPE:

9 Yes, Mr. President. Thank you.

10 Allow me to respond as to the relevance for the upcoming expert.

11 As I said earlier, one of the short biographies belongs to Ouk
12 Bunchhoeun. Ouk Bunchhoeun was deputy chief in Sector 21. Sector
13 21 consists of Krouch Chhmar district, in which towns like Kaoh
14 Phal, Svay Khleang, etc. are situated.

15 [11.00.27]

16 In this Vietnamese biography, we can read that, on the 1st of
17 July 1975, in German, he became, (German spoken - No
18 interpretation); that means he became deputy secretary of Sector
19 21.

20 More interestingly, he says that on the 25th of May, according to
21 this biography, he, and I quote in German again, (German spoken -
22 No interpretation); meaning he left the reactionary organization,
23 meaning the CPK, already in -- on the 25th of May 1975.

24 He is saying, in German, (German spoken - No interpretation).

25 This means, in English, "I conducted the battle against the

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1 reactionary Pol Pot, Ieng Sary, in Sector 21."

2 Did he do that as of May 1975? How does that relate to him
3 leaving his position only in May 1978?

4 So the authority structure as widely discussed by the expert in
5 relation to Sector 21, I think, is very -- that is very important
6 for us to get the proper understanding of it.

7 This seems to be an indication that might possibly prove our
8 theory, that the resistance didn't start in '78, didn't start in
9 '77, but started almost immediately after 17 April 1975.

10 As a matter of fact, Prime Minister Hun Sen says the same thing.
11 So -- and when it comes to the policy of the Cham in relation to
12 the East Zone, we believe that this, for instance, is a document
13 that we should be able to present to the expert because he, as
14 you know, has been questioned on authority structure within
15 Sector 21 as well.

16 [11.03.10]

17 MR. PRESIDENT:

18 And the defence team for Khieu Samphan, do you wish to make any
19 further remark on this submission?

20 MS. GUISSÉ:

21 Yes, yes. I was saying no but, in fact, well, I'd simply like to
22 recall what you decided regarding the document I was speaking
23 about earlier in your decision <E347/1.56>, and you explained
24 that the document that we were presenting seemed, on face value,
25 relevant because it dealt with the armed conflict between Vietnam

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1 and Cambodia as well as with the historical context.

2 So we believe that the same should apply for the document that is
3 being proposed by the Nuon Chea defence team.

4 [11.04.06]

5 MR. PRESIDENT:

6 Thank you. We now conclude the hearing the submissions and
7 responses in relation to the submission by Nuon Chea's defence,
8 and this will be used as the basis for the Chamber's ruling on
9 that request by Nuon Chea. And we will issue our decision in due
10 course, that is, prior to hearing the testimony of Expert
11 2-TCE-88.

12 Court officer, please return the witness into the courtroom.

13 Thank you.

14 (Witness enters the courtroom)

15 [11.05.43]

16 MR. PRESIDENT:

17 The floor is now given to the International Co-Prosecutor to
18 continue putting questions to the witness. You may now proceed.

19 BY MR. KOUMJIAN:

20 Q. Sir, you told us this morning that you were detained at Phnom
21 Kraol. Can you tell us a bit more where that location -- where on
22 Phnom Kraol the building was that you were detained? Was it at
23 the bottom, at the top? Can you describe a bit the location?

24 [11.06.27]

25 MR. CHAN TOI:

1 A. As I told you in the morning, I was detained on the ground
2 floor. I was detained at the Phnom Kraol detention office. <It
3 was a concrete building.>

4 Q. Thank you. Perhaps I wasn't clear. What I'm asking is; the
5 building that you were detained in, was that at the bottom of the
6 hill, at the top of Phnom Kraol? Where was it?

7 A. The building was located on the mountain within the military
8 compound of the -- currently the military compound.

9 [11.07.22]

10 Q. Thank you. Sir, do you have any knowledge of killing fields,
11 of places where corpses of people killed during the DK regime --
12 do you have any knowledge of such locations in your district --
13 in that district, near Phnom Kraol?

14 A. When I was arrested and detained, I did not know, but later
15 on, I heard about the killing and about the corpse.

16 Q. Can you tell us what you know, what you learnt?

17 A. As I told you, I knew only about this. At that time, I did not
18 witness any killing or pits.

19 Q. Okay. Thank you. Well, do you know if there were pits
20 discovered after the regime?

21 A. No one made announcement about them since that time until now.
22 And I am not interested in this matter, either. I hated the
23 regime so much and, as a result, I did not pay much attention to
24 it.

25 Q. I want to talk to you a bit about a man you've mentioned this

45

1 morning, Phan Khon. Forgive my pronunciation if it's not correct.

2 Phan Khon. Did you know him, Phan Khon? You said he was the

3 assembly representative. Is that correct?

4 Sorry. I take that back. I'm confusing two names here. I want to

5 talk about Phan Khon. Can you tell us, who was Phan Khon?

6 [11.10.31]

7 A. I don't know the person by the name Phan <Khorn (phonetic)>.

8 <If it's Phan Khon,> I know <>.

9 Q. I'm not asking you now about Kham Phoun. I'm asking you about

10 Phan Khon.

11 Phan Khon, do you know him?

12 A. I know the person named Phan Khon.

13 Q. I'd like to show you something, and it's E3/1645. Mr.

14 President, if I could have the witness be given the Khmer version

15 of this document so he could look on with me.

16 MR. PRESIDENT:

17 The Chamber grants your request.

18 BY MR. KOUMJIAN:

19 Q. Thank you. And this is a list with the date on it of 23

20 November 1977, and it's a list of the names of prisoners who

21 entered S-21 on that date.

22 I'm not going to go through all of the names on there, but you'll

23 see that beginning at number 97 there appear to be -- and

24 particularly at number 106 -- from 106 up through 143, there are

25 indications that these are people from Sector 105.

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1 And I want you to direct your attention to number 128; so that's
2 the second column. It indicates a Phan Khon with the alias of
3 Chuon.

4 MR. SENG LEANG:

5 Chuon.

6 BY MR. KOUMJIAN:

7 Chuon, who is listed as 35 year-old male and says, "State
8 Commerce Member, Sector 105".

9 Do you know this person?

10 Let me just repeat it. I'll read it for you, sir. Number 128
11 indicates -- I'll have my colleague read it so it's more clear.

12 [11.13.40]

13 MR. SENG LEANG:

14 Number 128 in Column 2, the name of the person is Phan Khon,
15 alias Chuon. Age 35, Male, from Sector 105. He is in charge of
16 commerce in Sector 105.

17 BY MR. KOUMJIAN:

18 Q. Sir, do you recall this person?

19 MR. CHAN TOI:

20 A. I know Phan Khon.

21 Q. Thank you. Can you tell us what was his position in the DK
22 regime? What positions did he hold?

23 [11.14.46]

24 A. Phan Khon was based at the commerce office. His transporting
25 -- he transported and delivered <oil or> clothes to people.

1 Q. Thank you. And this Phan Khon, did he have any family
2 relation; was he related in any way to Ham Puon (phonetic)?

3 MR. SENG LEANG:

4 Kham Phoun.

5 BY MR. KOUMJIAN:

6 Kham Phoun, the man earlier that you talked about who was
7 involved in the incident you heard in Phnom Penh where Ham was
8 killed in an exchange of fire?

9 Was Phan Khon, the man on the list that you just saw, related to
10 Kam Pan (phonetic)--

11 MR. SENG LEANG:

12 Kham Phoun.

13 BY MR. KOUMJIAN:

14 Q. Excuse me, Kham Phoun?

15 [11.15.48]

16 MR. CHAN TOI:

17 A. Phan Khon was the <younger> brother-in-law of Ta Ham. Based on
18 my knowledge, maybe people in the -- in Ta Ham's network got
19 angry and dislike people in Ta Kham Phoun's network. That's why
20 arrests were made with people in Kham Phoun's network.

21 Q. Sir, have you heard or were you aware at the time, that is,
22 during the regime, that Phan Khon had been arrested?

23 A. I did not know at the time the incident occurred. I learnt
24 about this later on after the liberation day.

25 Q. And do you know anything about what happened to Phan Khon's

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1 family; if he had a wife or children, siblings or parents? Do you
2 know anything about what happened to his family after he was
3 arrested?

4 [11.17.32]

5 A. Yes, I knew about this. When Phan Khon disappeared, his wife
6 and children also disappeared. <They have since disappeared.>

7 Q. You also told us that your boss, Ra, was arrested. What
8 happened to his family?

9 A. Ra was Kham Phoun's nephew, so when Ta Kham Phoun passed away,
10 peoples in Ta Ham Ham's network arrested Ra <and his entire
11 family>.

12 Q. What about Ra's family? I don't know if he had any, did he
13 have a wife, children, siblings and, if so, do you know what
14 happened to them?

15 A. Ra's relatives also disappeared until now.

16 MR. KOUMJIAN:

17 Thank you. Mr. President, I'd like to have the witness shown
18 E3/156 in the Khmer. I have it here if the usher would be
19 permitted to bring that to the witness. It's a one-page document.

20 MR. PRESIDENT:

21 Your request is granted.

22 (Short pause)

23 [11.19.40]

24 BY MR. KOUMJIAN:

25 Q. Mr. Witness, I'm going to read from the document and you can

1 follow along. It indicates in the top-left that it's a telegram
2 and the numbers "54" appear after that; "Radio Band 290". It's
3 addressed to "Respected Brother" and written next to that is
4 "Uncle Nuon".

5 It then talks, in the first paragraph, saying that, "Situation of
6 the outside enemy, Yuon spies entered the division location."

7 I won't read the rest of that. The second paragraph, "Based on
8 analysis, the division--

9 [11.20.30]

10 MR. PRESIDENT:

11 Please hold on. The floor is given to Defence Counsel for Mr.
12 Khieu Samphon. You may now proceed.

13 MS. GUISSÉ:

14 Yes, Mr. President. Before the Co-Prosecutor reads out this
15 telegram to the witness, maybe introductory questions should be
16 put so we can understand the link between the witness and this
17 document. And what is the link that the Co-Prosecutor establishes
18 between that, and how the witness would be in a position to
19 comment <on> the document.

20 So the preliminary steps were not completed, so I object to
21 reading out the document to the witness without putting these
22 preliminary questions to him.

23 MR. KOUMJIAN:

24 Your Honour, I am about to get to the connection to the witness
25 because, in fact, this does concern the gentleman who I just was

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1 talking about, who's also mentioned in this telegram, known by
2 the moniker Chuon.

3 So I can satisfy Counsel if I can read -- I hope to satisfy her
4 if I read a bit more.

5 [11.21.50]

6 MR. KOPPE:

7 If I may, Mr. President, I didn't object because I -- I know the
8 Chamber doesn't require any nexus between the witness and the
9 document; however, just saying that Chuon is in a document;
10 obviously, it's not any reason to connect this document to the
11 witness.

12 The witness has absolutely no idea what this document is. He's
13 neither the recipient nor the sender. He has no position,
14 whatsoever, in Sector 105. It has absolutely no relevance to ask
15 these questions to this witness; however, I know you will allow
16 it.

17 [11.21.57]

18 BY MR. KOUMJIAN:

19 Your Honour, we just had the Defence make an application to admit
20 documents by an unknown author with unknown sources.

21 I'm going to ask this witness what he knows. He may not know
22 anything, but there's some individuals named and I'd like to know
23 if he knows the fate of the individuals. He is from Sector 105
24 and he was working there.

25 Q. So sir, a -- going on to the third paragraph, it indicates the

1 -- the sit -- excuse me, the issue of the situation inside the
2 Party, Comrades -- I'll have my colleague pronounce the name.

3 MR. SENG LEANG:

4 Comrade Sot. Sot.

5 BY MR. KOUMJIAN:

6 "Comrade Sot, Sot, chairman of the repair factory, has committed
7 immoral acts with a woman. Now, the arrests have been made; both
8 the man and the woman have been arrested. The comrade previously
9 -- was previously implicated in the confession of the traitor A
10 Chuon. At that time, the sector monitored his activities."

11 So sir, do you know -- have you ever heard of a Comrade Sot, the
12 chairman of the repair factory?

13 [11.24.10]

14 MR. CHAN TOI:

15 A. Sot, I -- I know him. But when you ask about the letters; I
16 have no knowledge of it. I did not know where this letter was
17 sent to and from whom; for example, I had no knowledge of it.

18 Q. Well, sir, the letter indicates it's signed by Sarun; is that
19 the name of the man that you said replaced Ham as district
20 secretary -- excuse me, as sector secretary?

21 A. Yes, that's correct.

22 Q. And what happened to Sot; do you know? Did he survive the
23 regime?

24 A. At that time, Sot stayed in the area near Phnom Kraol in the
25 vehicles-repairing workshopped and I did not know about his real

1 position; I only knew that there was a person named Sot.

2 [11.25.44]

3 Q. Okay, so again, if you don't know, that's fine; but do you
4 know whether or not this Sot was arrested or whether or not he
5 survived the regime? This telegram is dated April 1978. Do you
6 know or you don't know, that's fine; just tell us?

7 A. As I told you earlier, what happened at the upper level, I
8 have no knowledge about it.

9 Q. Okay, sir, I'm not asking you what happened at the upper
10 level. Have you ever seen Sot since 1978?

11 A. As I said earlier, there was the person named Sot and Kam who
12 came to arrest me and, later on, I have not heard about them.

13 Q. Okay, thank you. Just a -- a few clarifications: When you were
14 a messenger, were you armed; did they give you a weapon?

15 A. When I was a messenger, I was given weapon.

16 Q. And did you have any other duties, any combat duties, besides
17 being a messenger?

18 A. I did not engage in any fighting; <I was just standing
19 guarding,> and I stopped holding <a> gun when I was arrested and
20 put in the detentions office, and I was there until the
21 liberation day.

22 Q. Okay, thank you. Now, during the regime; that is, from April
23 1975 to the end of 1978, were there any Vietnamese in your
24 district?

25 [11.28.27]

1 A. Based on my observation, there were none because the regime,
2 at that time, practice very strict policy. Every single
3 Vietnamese were singled out and taken away to be killed.

4 Q. Do you know if any Vietnamese refugees passing through your
5 district were, to your knowledge, recaptured; former soldiers of
6 the Thieu anti-communist regime or Montagnards or Chinese? Do you
7 know if any refugees were caught in your district?

8 A. During the Pol Pot's regime, there were no Vietnamese or any
9 other ethnicity passing through my area.

10 [11.29.33]

11 Q. Okay, thank you. How about in your area, did some of your
12 fellow -- your neighbours have relatives who had been Lon Nol
13 soldiers?

14 A. Yes, there were; for example, my father-in-law who was
15 arrested and taken away to be killed.

16 Q. Why was he arrested and taken away to be killed, if you know?

17 A. Because the regime had a policy that the Lon Nol -- the -- the
18 soldier of the former regimes or the -- anyone who were accused
19 of being spy, regardless whether they are Khmer or any -- any
20 other ethnicity, they were arrested and killed.

21 Q. When you were working as a messenger and armed by them, did
22 they give you any instructions; did you receive any trainings
23 about how to treat enemies?

24 A. No, I was not involved; I only had the responsibility to
25 guard. But when I was arrested, my gun was confiscated.

1 Q. Now, you indicated that you didn't have a lawyer and I presume
2 you didn't have a trial; did you ever see or hear of any judicial
3 proceedings during the regime where people were given a trial or
4 lawyers or told they had rights?

5 [11.31.51]

6 A. No, there were no courts, no lawyers. When we were arrested,
7 people thought that they would die. In that time, in that regime,
8 there was no court, no lawyers. When people were arrested, they
9 were taken away and shot dead.

10 MR. KOUMJIAN:

11 This -- we could break now, Mr. President, if you'd like.

12 MR. PRESIDENT:

13 How much time do you need to put questions to the witness? I
14 would like to inform you that the witness comes to testify only
15 for one day.

16 [11.32.43]

17 BY MR. KOUMJIAN:

18 Your Honour, I had one more question and was going to turn it
19 over to the civil parties, at that point, and I believe they need
20 about 20 minutes.

21 Q. Okay, sir, did you lose any relatives during the regime, you,
22 yourself?

23 MR. CHAN TOI:

24 A. I lost my father<. He was> taken away to be killed <during
25 that regime. In the village, mostly, my relatives> and the

55

1 relatives of Ra and Kham Phoun were killed.

2 MR. KOUMJIAN:

3 Thank you, Your Honour, I turn it over to the civil parties.

4 Thank you, sir.

5 MR. PRESIDENT:

6 The -- the Lead Co-Lawyer for civil party, you may now have the
7 floor.

8 MR. PICH ANG:

9 Good morning, Mr. President, Your Honours, and parties around
10 this courtroom. I would like to give the floor to lawyer Hong
11 Kimsuon to put question and he may need 15 minutes.

12 MR. PRESIDENT:

13 Your request is granted.

14 [11.34.05]

15 QUESTIONING BY MR. HONG KIMSUON:

16 Thank you. Good morning, Mr. President and Your Honours and
17 parties. I am Hong Kimsuon, the <> co-lawyer for civil parties. I
18 have questions related to Phnom Kraol detention office.

19 The International Co-Prosecutor asked you many questions related
20 to the events leading to your arrest to the detention office.

21 Q. My question to you is specifically to the district where you
22 lived during Democratic Kampuchea regime. You lived in that
23 district only or you -- you were relocated to other district?

24 [11.35.01]

25 MR. CHAN TOI:

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1 A. I remained living in that district.

2 Q. In Democratic Kampuchea regime, was Kaoh Nheak district given
3 the designated number?

4 A. Yes, the district was given a designated number, but I could
5 not recall it well. It's -- it is probably <R-Mouy>, <R-1>.

6 Q. Now, we talk about the Phnom Kraol <security centre>. Does --
7 did that <security centre> have another name beside the Phnom
8 Kraol?

9 MR. PRESIDENT:

10 The floor now is given to Counsel Victor Koppe.

11 MR. KOPPE:

12 It might be a detail, but I don't think the witness called the
13 place where he was detained a detention office or a prison. As a
14 matter of fact, he specifically said it wasn't a prison; it was
15 the Sector 105 office.

16 He was detained; that's true, but it wasn't, as the civil party
17 lawyer refers to, a -- a prison or a detention office.

18 [11.36.40]

19 MR. HONG KIMSUON:

20 I did not talk about the prison; I asked the witness, based on
21 what's written in the document, about Phnom Kraol <security
22 centre>, so I based my question on what's written in the
23 document.

24 MR. PRESIDENT:

25 Now, Lead Co-Lawyers for civil party, you may continue your

1 questions and for the Defence Counsel, you can ask for
2 clarification when it comes to your turn.

3 BY MR. HONG KIMSUON:

4 Q. In Phnom Kraol Security Centre, you said you were detained in
5 a building with other people and my question is: Were there other
6 buildings within that vicinity?

7 [11.37.42]

8 MR. CHAN TOI:

9 A. The place where I <was> detained actually was an office of the
10 <sector>.

11 Q. And besides the building where you were detained, were there
12 other buildings where people were detained?

13 A. No, I did not see any other detention places. I only knew that
14 -- that it was known as a security centre.

15 Q. I'd like to talk now about your arrest and the arrest of your
16 wife and family members and other peoples totalling about 88. And
17 you said that you were all included the children and the women
18 and my question is: Were you separated according to gender, for
19 example, men in one group, women in another group, and children
20 was in another separate group?

21 A. When they tied, they tied men in a file and women were tied in
22 another file and children were not tied.

23 Q. Did you mean that the people were detained in the same
24 building, but men and women were detained in a separate row?

25 A. Yes, that is correct.

1 [11.39.25]

2 Q. I'd like to ask you about your living condition while you were
3 detained in that building. This morning you testified about the
4 food <ration> given to you; can you elaborate a little bit more?
5 How much food was given to you per meal per each detainee?

6 A. As I testified this morning, we were given a small bowl of
7 rice with pumpkin soup.

8 Q. And how many meals per day were you given and at what time?

9 A. Sometimes, we were given only a meal at noon and we were not
10 given in the evening and sometime, we were given in the evening,
11 but not at noon time.

12 [11.40.29]

13 MR. PRESIDENT:

14 It is now appropriate for a short break. We take a break now and
15 resume at 1.30 this afternoon to continue our proceedings.

16 Court officer, please assist the witness during the break time
17 and invite him back into the courtroom at 1.30 this afternoon.

18 Security personnel, you are instructed to take Khieu Samphan to
19 the waiting room downstairs and have him returned to attend the
20 proceedings this afternoon before 1.30.

21 The Court is now in recess.

22 (Court recesses from 1141H to 1338H)

23 MR. PRESIDENT:

24 Please be seated.

25 The Court is back in session and the floor is given to Lead

1 Co-Lawyers for civil parties to put question to this witness. You
2 have 10 additional minutes.

3 [13.39.13]

4 BY MR. HONG KIMSUON:

5 Thank you, Mr. President.

6 Good afternoon, Mr. Witness. I will now resume my questioning.

7 Q. Before we broke at lunchtime, I asked you about food ration
8 and you stated that you received one meal of a small bowl of rice
9 per day and I'm now focusing on the conditions within the
10 detention centre.

11 What about water for you to drink, was -- were you given water to
12 drink and were you allowed to bathe?

13 MR. CHAN TOI:

14 A. We -- I was not allowed to bathe within that one month and for
15 water, I could only have water to drink in the morning or, on
16 other occasion, only in the afternoon.

17 Q. You stated that you received water to drink on morning and
18 sometimes, on the afternoon only; what about children<>? <Did
19 they have the same conditions or were they different from the
20 adults?>

21 A. The drinking water was given by the security guard to us in
22 the bucket, so if we wanted -- we - if we wanted to drink, we had
23 to get the water from that bucket to drink.

24 [13.41.10]

25 Q. Regarding meal and water -- drinking water, this morning you

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1 stated that around 88 prisoners -- detainees were there in the
2 building. Where -- was food given to you all together or were
3 some get -- were some given food first and then others received
4 food later on?

5 A. The security guard gave us a small bowl of -- of food to each
6 of us to eat.

7 Q. Were there infants and small babies detained within that
8 security centre?

9 MR. PRESIDENT:

10 Please observe microphone before you speak, Mr. Witness.

11 [13.42.16]

12 MR. CHAN TOI:

13 A. No infants, no small babies. There were children of <17, 12, 8
14 or 6> years old<>. <>

15 Q. Did detainees suffer from diarrhoea or swelling body?

16 A. No one got diarrhoea or dysentery <during that one-month
17 period>, but they <> suffered from skin diseases, as I said this
18 morning.

19 Q. I am now asking you again about the security centre of Phnom
20 Kraol. Regarding the sleeping space, how large was the sleeping
21 space and were you given with sleeping mats?

22 A. No blankets, no sleeping mats. At night times, <> our ankles
23 were tied to the string and during the day time, <only> our hands
24 were tied <so that we could use our legs to stomp> the jute
25 <seeds>.

1 Q. What about clothes; what kind of clothes were you allowed to
2 wear?

3 A. We had our set of clothing with us, so we wore our clothes
4 when we were arrested.

5 [13.44.22]

6 Q. <> Were there bedbugs and lice within that place?

7 A. We slept on the floor<>, <> we had no sleeping mats to sleep
8 on, and <I do not know if> there were <bedbugs or what, since we
9 stomped the jute seeds there too>.

10 Q. <You said that you were detained for a month in November 1977.
11 Does it mean that> you were detained until December? Is that
12 true?

13 A. In fact, I was detained in November.

14 Q. <When the Khmer Rouge arrested and detained you,> what season
15 was that time; was it the windy season or the rainy season?

16 A. There was some rain in November <when I was arrested and
17 detained>.

18 Q. I am asking about your release. You stated that you were there
19 for more than one month and after that, you were released. After
20 that time -- after that one-month period of detention, were you
21 freed <or were you> re-assigned to work at other places?

22 A. I was re-assigned to a worksite; <for instance,> 20 of us <>
23 were assigned to one worksite, and on other occasion, 10 <or
24 five> of us were assigned to another location.

25 [13.46.25]

1 Q. Were all <the 88 detainees> freed?

2 A. I cannot recall how many of us were freed and I cannot also
3 recall where some of detainees were sent to.

4 Q. Do you recall <the names of> the detainees <who were released?
5 Or the detainees> that were detained with you? <Are they still
6 alive?>

7 A. Yes, I can still recognize some of them, but for some others,
8 they are already deceased; only the young children, perhaps,
9 <are> still <alive>.

10 Q. You stated that the detainees were released to work at
11 different worksites; were <the> worksites under the control of
12 the security guards at that place or that -- were those worksites
13 were -- belonged to other areas?

14 A. <These worksites were used for tempering or refashioning>. We
15 did not have enough food to eat at that worksite -- at those
16 worksites, rather.

17 [13.47.54]

18 Q. Were children -- small children and women sent to those
19 worksites, as well, to work with all of you?

20 A. Women and men did the same job. We worked day and night.

21 Q. At those worksites, were people arrested and taken away?

22 A. <I was moved from one worksite to another>, so <> I do not
23 know the fate <> of those people. I don't know where they were
24 sent to, <but> some of them <disappeared>.

25 Q. Regarding your relatives and family members, you told this

1 morning that your relatives and family members were also
2 arrested; how many of your family members were arrested and
3 disappeared?

4 A. Many of my relatives and family members disappeared. I do not
5 know where they have gone. I have never received any news from
6 some of them.

7 [13.49.30]

8 Q. Do you happen to know a place named Trapeang Pring?

9 A. There are many Trapeang Prings, so which one are you referring
10 to?

11 Q. Thank you. Regarding Trapeang Pring that I am asking you, it
12 was to the west of Phnom Kraol <security centre>; the distance
13 was around four kilometres away. Do you happen to know that
14 place?

15 A. I do not know the way that Trapeang Pring was located. I never
16 moved around during the time.

17 Q. Thank you. During the Democratic Kampuchea and Khmer Rouge
18 time, when you were living in Kaoh Nheaek <district>, were there
19 senior cadres and leaders of the country going to your location?

20 A. There were senior people and all of them were the sector and
21 district committees. They went to visit and observe the
22 irrigation system.

23 Q. Have you ever heard the names Khieu Samphan and Nuon Chea? And
24 have you ever heard that -- that they visited your sector?

25 A. I heard of their names over the radio. I have never seen their

1 faces.

2 [13.51.23]

3 Q. My last question: You were asked by the Co-Prosecutors and you
4 stated that you do not want to know and want to hear about Pol
5 Pot regime or Khmer Rouge regime; do you <think> that it was the
6 <Democratic Kampuchea> policy to arrest <you or> your family
7 members and relatives during the time?

8 A. It is my understanding that it was the policies of Khmer Rouge
9 itself to arrest <> people at the time. It was not foreign policy
10 <> of other countries to arrest people.

11 MR. PRESIDENT:

12 Now, the floor is given to the defence team for Mr. Nuon Chea to
13 put question to this witness.

14 [13.52.20]

15 MR. KOPPE:

16 Thank you, Mr. President.

17 Good afternoon, Mr. Witness. I have a few questions that I would
18 like to put to you this afternoon.

19 (Short pause)

20 [13.52.59]

21 QUESTIONING BY MR. KOPPE:

22 Q. Can you hear me now, Mr. Witness?

23 MR. CHAN TOI:

24 A. Yes, I can hear you.

25 Q. This morning you answered a question from the Prosecution

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1 saying that the place that you were detained for a month was not
2 a prison, but was, in fact, the office of the sector; is that
3 correct?

4 A. Yeah, it was in the sector's office.

5 [13.53.44]

6 Q. My -- my question is -- and it is something that you said to
7 the interviewer of DC-Cam, as well. For the reference, Mr.
8 President, E3/7823; English, ERN 00645464; French, 00632712; and
9 Khmer, 00231426; you said:

10 "It was not considered a prison, but when the situation became
11 unstable, all the people were kept there before they were sent to
12 different areas," and then you add, "to be killed or to be
13 brought back to a village."

14 So is it, indeed, correct that the place that you were detained
15 was not a prison?

16 [13.54.06]

17 A. It is my understanding that the detention facility or centre
18 was located in the office -- in the sector's office.

19 Q. The place that you were detained, was that also known as K-17?

20 A. That detention centre was called K-17.

21 Q. Maybe it's something going wrong in translation. The place
22 that you and the others were detained, was that a prison or
23 detention centre or, on the other hand, the sector office with
24 adjacent buildings?

25 A. It is my understanding that the detention centre was located

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1 in the concrete building within sector's office.

2 [13.56.12]

3 Q. Very well. You just answered a question from the civil party
4 lawyer about people that were with you detained and subsequently
5 were released; do you recall any names of people who were
6 detained with you and subsequently released, like -- like
7 yourself?

8 A. I could recall only my relatives, <> and for other people, I
9 do not know where they have gone.

10 Q. In your WRI E3/7694, you speak about your uncle, Savat, and
11 your uncle, Sokhot, and some women. Is that correct; were they
12 released together with you?

13 A. I am not sure about that name: Savat, Sokhot, I have never
14 known that name.

15 [13.57.35]

16 Q. Maybe it's my pronunciation, but let me read to you exactly
17 what you said.

18 Mr. President, it is ERN Khmer, 00236707; English, 00242144;
19 French ERN, I will provide you later. It's at the very last part
20 of the -- of the statement. It says:

21 "I remember that among those held together with me at Phnom Kraol
22 were Uncle Savat, who's now living in Peam Chi Miet Village, Peam
23 Chi Miet sub-district, Kaoh Nheaek district, Mondolkiri province
24 and Uncle Sokhot, who's now living in Koh Meul Krom village, Nang
25 Khi Loek sub-district, Kaoh Nheaek district, Mondolkiri province.

1 Aside from them, there were some women, but I don't know where
2 they are now."

3 Does that refresh your memory?

4 A. As I told the Court this morning, yes, you are right; Neth
5 Savat or Sokhot were my co-detainees within the concrete
6 building. We were detained there together.

7 Q. And they were released together with you; is that correct?

8 A. Yes, we were released on the same day.

9 [13.59.30]

10 Q. In your statement to DC-Cam, on two occasions, you refer to
11 Division 920; what do you remember about Division 920?

12 A. What I can recall is that the division's number was 920. I do
13 not know where that division was from. The Division 920 was in
14 the East and some of its members came to confess, at the time,
15 and they said they were from Division 920.

16 Q. Do you remember who Division 920's leader was; who was the --
17 the commander-in-chief of Division 920?

18 A. I do not know the name of the commander of that division. I do
19 not know who was in charge of that division.

20 [14.00.54]

21 Q. Have you ever heard of Ta Chhin?

22 A. I do not know which Chhin are you refer -- you are referring
23 to. There are many Chhins; Chhin small -- Chhin "touch" and Chhin
24 "thom", Small Chhin and Big Chhin.

25 Q. Maybe it's my pronunciation, but I mean the commander of

1 Division 920, Chhin -- Ta Chhin.

2 So he was the most important person in Division 920. Is that
3 someone that you know?

4 A. No, I cannot recall that.

5 Q. Have you heard at one point in time whether members of
6 Division 920 were arrested and sent to Phnom Penh?

7 A. No, I did not.

8 Q. Have you ever heard that at one point in time at least about
9 100 of those Division 920 members who were detained in S-21, and
10 possibly more, were released?

11 A. No, I never heard about that.

12 [14.02.46]

13 Q. This morning you spoke briefly about the conflict between Ta
14 Ham and Kham Phoun. What was the reason of their conflict? Why
15 did they have problems with each other and why did Kham Phoun
16 probably kill Ta Ham or Laing? What was the reason of the
17 conflict between those two?

18 A. Regarding the conflict between Ta Ham and Kham Phoun, I did
19 not know because they actually came to Phnom Penh.

20 And I didn't know whether they killed each other or they were
21 imprisoned. What I knew is that they disappeared since.

22 Q. This morning in answering a question from the Prosecution you
23 told something that you had heard from Kham Phoun's messengers.
24 Let me read to you something from another DC-Cam statement of
25 another person who said the following about the death of Ta Ham

1 alias Laing.

2 [14.04.26]

3 Mr. President, that is E3/7960; English, ERN 00450296; Khmer,
4 00851665; and French, 0073899.

5 It says as follows: "Kham Phoun was brought to Phnom Penh. In a
6 room, on two separate beds, each slept. Kham Phoun murdered Ham
7 with a piece of iron from a car (Santeah Lan) and then killed
8 himself."

9 Have you ever heard this story also being conveyed to you by the
10 messengers that, in fact, Kham Phoun murdered Ham or Laing, with
11 a piece of iron from a car and then killed himself?

12 A. The messenger told me that the two died but he did not mention
13 the reasons for their deaths.

14 Q. You said you were arrested and detained in November 1977.

15 Would it be possible that Kham Phoun murdered Ta Ham or Laing on
16 or around 26 October 1977, a few weeks before your arrest?

17 A. At that time, I did not learn of this and only later on I
18 heard about it. But when it happened, nobody knew exactly what
19 happened.

20 [14.06.56]

21 Q. I understand but my question is: when you heard the story of
22 the messengers about Ta Ham's death, would that have been one or
23 two or three weeks before your arrest? Would that be possible?

24 A. Yes, that time period was about right but I cannot recall
25 exactly as to when. I was also concerned about myself.

1 Q. Do you know whether Kham Phoun and people associated with Kham
2 Phoun were accused of treason by working closely together with
3 Vietnamese troops?

4 A. No, I did not know about that. I was nowhere near the
5 leadership level so I had no knowledge of this.

6 Q. But while you were detained, did you ever hear anyone speak
7 about plots to overthrow the CPK together with the help of
8 Vietnamese troops?

9 A. During my detention nobody said anything about that.

10 [14.09.05]

11 Q. Who is Svay, Ta Svay? Do you know him, and if yes, who is he?

12 A. I know Ta Svay. Ta Svay was former chief of Kaoh Nheak
13 district.

14 Q. Is he also known as Tit Hem?

15 A. I did not know if he had any other names. I only knew him as
16 Svay.

17 Q. Have you ever heard of a person called Kasy?

18 A. I only heard of Ka Si's (phonetic) name but I never saw this
19 person. He was in or he was from another district.

20 Q. Was he chairman of the Kaev Seima district, District 5, and
21 was he known as Pim (phonetic) alias Kasy?

22 A. I was not sure whether he was the chief or the deputy since he
23 was in another district.

24 [14.11.05]

25 Q. Let me read something to you, Mr. Witness, and then I would

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1 like to ask your reaction.

2 Mr. President, I am reading from again E3/7960 or, particularly,
3 English, ERN 00450295; French, 0073898 and 99; and Khmer,
4 00851665 and 666. It says as follows. This witness talks to
5 DC-Cam and says:

6 "In about late 1976 and early '77, Kham Phoun and Svay were
7 arrested for an alleged plot with the Vietnamese. Kham Phoun
8 brought Vietnamese in through Svay. The Vietnamese were secretly
9 kept near the village." A little bit before, "We have been
10 prepared since the Kham Phoun movement but the guns were in the
11 warehouse but carried."

12 Have you ever heard of Kham Phoun and Svay being involved in a
13 plot to move Vietnamese into Mondolkiri, as this witness is
14 saying?

15 A. No. I did not know anything about this. It could be the
16 matters of the upper level and I have no knowledge about that.

17 [14.13.25]

18 Q. Have you never heard about storage of weapons in warehouses to
19 be used to overthrow the DK government?

20 A. No. I did not know about this about any weapon cache or
21 ammunition; not at all.

22 Q. Have you ever heard whether people, former cadres associated
23 with Kham Phoun fled into Vietnam after the plot was discovered?

24 A. No. I did not know. I did not know who fled. Maybe it happened
25 in another area or district.

1 Q. I don't believe so, Mr. Witness, but if you don't know then
2 that's fine.

3 Have you ever heard -- no, let me ask it differently. Do you know
4 who was the zone chief, who, in 1975 and 1976 all the way up till
5 September, was the zone of -- was the chief of the zone? Do you
6 know who he was?

7 A. No, I did not know anything about the zone level. I only knew
8 my surrounding areas -- that is, Kaoh Nheaek district and where I
9 lived. During the regime, there was no proper announcement of the
10 leadership structure. Everything was kept in secret.

11 [14.15.45]

12 Q. Have you ever heard of an organization called FULRO?

13 A. I only heard of the term "FULRO" during the UNTAC period.

14 Q. Are you sure about that, Mr. Witness?

15 A. Yes, I only heard it after the arrival of UNTAC.

16 Q. Let me see if I can refresh your memory. I am referring to
17 your DC-Cam statement -- that is, E3/7823; English, page 45, ERN
18 00645495; Khmer, ERN 00231459 and 60; and French, 00632742.

19 Question: "Have you ever heard of FULRO?"

20 You say, "Yes, I have." And then you say: "Actually, FULRO was an
21 ethnic group that fought against the Vietnamese."

22 "Which ethnic group?"

23 "They were Rhade and Phnong."

24 [14.16.56]

25 And then subsequently: "Because at that time they didn't want the

1 Vietnamese to spread communism. They didn't want communism. They
2 wanted to live in a free country.

3 "Khmer people couldn't join them, but there were some
4 relationships.

5 "'Was FULRO's office in Kaoh Nheaek district?

6 "Yes." But then, indeed, you are referring to '93.

7 Did this particular excerpt from your testimony to DC-Cam; is
8 that referring to '93 or is it referring to the fighting against
9 the Vietnamese Communists before 1975?

10 A. As I have just stated, I only heard of FULRO after the arrival
11 of UNTAC. And that is the truth. I only knew of this FULRO during
12 the arrival of UNTAC time, and I did not hear of it before.

13 [14.18.45]

14 Q. Let me read again from that same DC-Cam summary that I just
15 referred to, E3/7960. It says: "Kham Phoun brought Vietnamese in
16 through Svay and Kham Vieng told me that the leaders would arm
17 the FULRO."

18 So FULRO apparently did exist in '78 and was very active in 1978.

19 Does that somehow refresh your memory?

20 A. As I have just stated, I only heard of it during the UNTAC
21 period -- that is, 1993.

22 Q. I understand. Mr. Witness, one last attempt just to get your
23 reaction, that's the next page in E3/7960; English, ERN 00450296;
24 French, 00763900; and then Khmer, 00858 -- sorry, 00851667. This
25 is the testimony before DC-Cam of a CPK cadre. He says the

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1 following:

2 "In 1978, FULRO movement contacted us. In 1978, arrests of FULRO
3 was conducted and sent to Phnom Penh. They returned. They had
4 many people and in Krang Teh they had more than 100 soldiers. It
5 would be very difficult for the Vietnamese to come through if Pol
6 Pot armed the FULRO on time. They were strong. FULRO were
7 Vietnamese ethnic minorities. I met them in '79. They wanted to
8 liberate the nation. FULRO included Rhade, Jarai and Ka Ha." End
9 of quote.

10 [14.20.33]

11 Is this something that you have heard, FULRO possibly changing
12 sides, contacting the Khmer Rouge or the CPK?

13 MR. PRESIDENT:

14 Witness, please hold on, and International Co-Prosecutor, you
15 have the floor.

16 MR. KOUMJIAN:

17 There is just one part of the question that I don't think there
18 is a basis for. Perhaps the reason is that I am not aware.
19 Counsel said, "Are you aware of FULRO changing sides?" And what
20 the witness said and what the excerpt says is that FULRO is
21 fighting against the Vietnamese continuously.

22 [14.22.00]

23 BY MR. KOPPE:

24 We have reasons to believe that FULRO, at one point in time,
25 might have been possibly changing sides for its fighting CPK and

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1 subsequently joining them. However, I will withdraw that
2 particular excerpt from my question.

3 Q. Mr. Witness, that excerpt that I just read to you, does that
4 somehow refresh your memory? Is it something that you have heard
5 or you are maintaining your position that FULRO is only something
6 that you heard of after 1993?

7 MR. CHAN TOI:

8 A. As I have repeatedly said, I never heard of it -- that is, <>
9 FULRO <> people. And I only heard of it during the UNTAC period
10 in 1993. And I could not even recall it clearly even when I heard
11 it during the UNTAC period; it was so vague to me.

12 [14.23.20]

13 Q. I will stop with this subject, Mr. Witness. Now, let me move
14 to something else.

15 Have you ever been able to witness Vietnamese military incursions
16 into Mondolkiri, Zone 105? Have you ever witnessed any Vietnamese
17 attacks into DK territory?

18 A. Everybody knows that that happened in the liberation year of
19 1979.

20 Q. Let me read to you again from the same excerpt. Maybe that
21 refreshes somehow your memory. It says -- that is E3/7960, same
22 page:

23 "Since early 1977, I served region military battalion 52 until
24 the Vietnamese liberation. In 1977, there were Vietnamese
25 attacks. We hardly knew the Vietnamese location. They moved. It

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1 was the Vietnamese who started the attack first."

2 So this witness who was a 902 division combatant refers to
3 continuous military attacks by Vietnam in 1977 in Mondolkiri.

4 Have you ever heard of that?

5 [14.25.20]

6 A. No, I did not know about that. I did not know what happened at
7 the front battlefield while I was at the rear. Only the soldiers
8 at the border knew about this. I only knew about my arrest and
9 what happened on the ground where I lived.

10 Q. Moving to Ta Ham again, do you know whether Ta Ham himself was
11 a Jarai?

12 A. I was not sure he was a Jarai or Tumpoun. He spoke Laotian
13 language and Khmer language.

14 Q. But you do not know for certain whether he was himself an
15 ethnic Jarai; is that correct?

16 A. Yes, that is correct. I was not sure of his native ethnicity
17 because in the area where we lived they all spoke the Lao and
18 Khmer languages.

19 [14.27.10]

20 Q. Let me finish, and that is my last question, Mr. Witness.
21 From reading a very small excerpt from a document -- that is,
22 E3/7696 -- if that is all right with you, Mr. President, I will
23 give the Khmer ERN and the French ERN after the break. There is
24 only one sentence so I will read it carefully. It's in English at
25 page, ERN 00384180. This person talks about Kham Phoun, the

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1 person that we have been discussing all day, and he said: "The
2 plot of Kham Phoun was to destroy the Communist Party in August
3 or in September 1977 and it seems that the plot was discovered in
4 July '77."

5 Have you ever heard anything about possible dates of a plot
6 against the Communist Party of Kampuchea or is it something also
7 that you've never heard of?

8 [14.28.35]

9 A. I never heard of anything that you just mentioned. As I said,
10 I was not at the leadership level.

11 MR. KOPPE:

12 Thank you very much, Mr. Witness.

13 Thank you, Mr. President.

14 MR. PRESIDENT:

15 Thank you.

16 And the floor is now given to the co-counsel for Khieu Samphan to
17 put questions to this witness. You may proceed, Counsel.

18 QUESTIONING BY MS. GUISSÉ:

19 Thank you, Mr. President.

20 Good afternoon, Witness. My name is Anta Guisse. I am

21 International Co-Counsel for Mr. Khieu Samphan and it is in this
22 capacity that I will put some additional questions to you.

23 [14.29.32]

24 Q. My first question is as follows: When you were arrested in

25 1977, you were also aware of other arrests and you stated in your

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1 statement before the Co-Investigating Judges, document E3/7694 --
2 the ERN in French is 00276802; ERN in English, 00242142; ERN in
3 Khmer, 00236704. You referred to Kam Phoun's son saying that he
4 had been arrested. Do you remember what you told the
5 Co-Investigating Judges or do you want me to refresh your memory?
6 A. I do not recall what I said. At the time, perhaps, I may have
7 recalled some particular issue but now I may have forgotten. I do
8 not really want to hear about the regime again and I do not want
9 a recurrence of that regime, the Democratic Kampuchea.

10 [14.31.10]

11 Q. I am sorry, Witness, but if you bear with me I will still put
12 some questions to you. I am sorry about that.

13 In the statement whose ERN I gave, you stated as follows:

14 "Initially, there was the arrest of Khamphoun Kham, Kham Phoun's
15 son<, > because he often went to Vietnam."

16 Does that refresh your memory? And <can you> tell us how you knew
17 that Kham Phoun's son<, or Khamphoun himself, if you can specify,>
18 often went to Vietnam<?>

19 A. As I told the Court already, it was concerning the affairs of
20 those who were in the upper level. I do not know about that,
21 particularly about the plan of them. I will tell the Court what I
22 have known.

23 [14.32.33]

24 Q. To be more specific; in fact, I am putting this question to
25 you because this is something you yourself told the

1 Co-Investigating Judges and I would like to know how you came by
2 that information. I have indeed understood today that you don't
3 know what happened at the upper echelon. But you are the one who
4 gave this information to the Co-Investigating Judges so I'd like
5 to know where you got that information.

6 Could you please elaborate on this matter and tell us how you got
7 that information and who gave it to you?

8 A. I do not recall what I talked to the investigator or
9 investigators. I do not think of the issue again after the
10 interview and I cannot recall whether I have talked of that issue
11 at the time.

12 [14.33.50]

13 Q. So if I understand you correctly, you stated that before you
14 were arrested in 1977 you worked as a messenger and that was the
15 only position you held, if I understand you correctly. Am I right
16 in saying so?

17 A. I was simply a messenger.

18 Q. Is it correct to say that as a simple messenger, you did not
19 attend the meetings of the officials of the village, commune
20 officials or district officials?

21 A. Being a messenger, I was not allowed to participate together
22 with the senior cadres from commune or district. As I said, I was
23 assigned to do the laundry, cook meal and deliver messages. It
24 was the same as other messengers. I did not have any authority or
25 rights to participate in meetings of those senior people.

1 [14.35.25]

2 Q. Under those circumstances, is it correct to say that you did
3 not take part in the drafting of policy, be it at local level or
4 at the upper level, and that, for that reason, you <did> not know
5 who issued orders nor how they were executed. Is it correct to
6 say so?

7 A.I did not participate in the meetings as I said. So how could I
8 -- I was aware of the tasks or plans of those senior people in
9 the upper level?

10 Q. In the interpretation I heard that, "I was aware of the plans
11 drawn up by the superiors and the leaders." Did I understand you
12 correctly?

13 A. I do not really understand your question. Could you repeat it?

14 [14.36.49]

15 Q. The French interpretation I heard indicated that you were
16 aware of the plans drawn up by your superiors. Did I properly
17 understand you? Is that what you said or that was an error in
18 interpretation?

19 A. A while ago, I did not say that I was aware of the plans of
20 the upper level. I was not aware of any plans or I was not aware
21 of anything from the upper level. I was simply a messenger, as I
22 said.

23 Q. I would like us to talk about what happened when you were
24 arrested. You said that you were arrested by two persons. <In any
25 case, two persons were in charge of your arrest.> You talked of a

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1 person called Kam and another person called Sot. Are these the
2 persons who personally carried out your arrest? <>

3 A. Kam and Sot drove a vehicle coming to arrest me together with
4 my family members.

5 Q. You stated that you were led to the former sector office where
6 you were detained for a month. You confirmed apparently to my
7 colleague that <> that place was called K-17. Do you know who
8 headed that office -- that is, K-17?

9 MR. PRESIDENT:

10 Please hold on, Mr. Witness.

11 [14.38.50]

12 MR. CHAN TOI:

13 The chief of sector was also the one who was responsible for
14 K-17. It was Ta <Ham>.

15 BY MS. GUISSSE:

16 Q. Yet, if I properly understood your testimony, at the time of
17 your arrest, Ta Ham was no longer in the sector. He was already
18 deceased, or did I not properly understand your testimony?

19 MR. CHAN TOI:

20 A. I do not really get your point. After Ta <Ham> died, Ta Sarun
21 <> came to replace him as the head of the sector. As I told the
22 Court this morning already, I have forgotten some of the facts.

23 Q. When you spent a month at that place, who <were the> guard<s
24 at> that centre, K-17?

25 A. Soldiers were guarding that place.

1 [14.40.35]

2 Q. Do you know the names of some of those guards?

3 A. I do not recall their names. I do not know where those
4 soldiers were from.

5 Q. And did one of those guards mention the name of their
6 superior?

7 A. I cannot recall that well and they did not talk <about them>
8 at the time. They only alluded that we were traitors.

9 Q. And during the month of your detention at the K-17, did you
10 see <Kam and Sot again,> those who arrested you<? Did you see
11 them again> during that period?

12 A. At the time of my detention, Kam and Sot were not there. There
13 were other people. However, I do not know where they were from.
14 Those people were responsible for guarding all of us. Sot and Kam
15 disappeared.

16 [14.42.40]

17 Q. In answer to a question put to you today by the Co-Prosecutor,
18 you stated that you did not see the persons who were above the
19 ground floor of that building where you <were>. Without having
20 seen those persons, did you get to know who they were?

21 A. I told the Court already; I do not know who were the upper
22 level. I was tied up together with others so I did not have right
23 to walk around to find out information about that issue. And if
24 we happened to move around, we would be shot to death.

25 [14.43.43]

1 MS. GUISSÉ:

2 Mr. President, perhaps we can take the break here, but before we
3 go on break, would you allow me to -- I will give the floor to my
4 colleague of the Nuon Chea team.

5 Can we show the witness the first page of document E3/7695? That
6 is the statement of Witness 2-TCW-817. That would enable the
7 witness to see the name without <> <saying> it aloud and then
8 after the break, I will continue examining the witness.

9 With your leave, may I ask the greffier to show the witness this
10 document?

11 MR. PRESIDENT:

12 Your request is granted and now you have the floor, Koppe.

13 [14.44.36]

14 MR. KOPPE:

15 Just I owe you, Mr. President, an ERN number of that excerpt of
16 that witness saying the plot was to destroy the Communist Party
17 in August or September '77; French, ERN 0038423; and Khmer,
18 00231559. Thank you.

19 MR. PRESIDENT:

20 Thank you. It is now break time. The Chamber will take a short
21 break from now until 3 p.m.

22 Mr. Witness, during the break time, please spend some time
23 reading the document, the page of the document handed to you a
24 while ago.

25 Court officer, please assist the witness during the break time

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1 and please invite him back into the courtroom at 3 p.m.

2 The Court is now in recess.

3 (Court recesses from 1445H to 1502H)

4 MR. PRESIDENT:

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

6 The International Co-Prosecutors, you may have the floor.

7 MR. KOUMJIAN:

8 Thank you, Your Honour.

9 I wanted to thank the Defence for the ERNs at the end of the
10 session.

11 You will recall the very last question that counsel for Nuon Chea
12 asked the witness was a statement read from a document about a
13 plot to destroy the Communist Party in 1977. I think it's
14 important for everyone to understand where that came from. That's
15 document E3/7696. It's a DC-Cam interview but at the moment that
16 he is reading, it's the witness reading from the S-21 confession
17 of mister -- the witness we -- the person we've been talking
18 about, Phan Khon. So apparently -- I think it's important for the
19 people to understand that this evidence, this best evidence of
20 the plot is from the S-21 killing and torture machine.

21 [15.04.46]

22 MR. PRESIDENT:

23 The floor is given to Judge Lavergne.

24 JUDGE LAVERGNE:

25 Would it be possible, Counsel Koppe, to tell us if you <knew

1 that> these are S-21 confessions?

2 MR. KOPPE:

3 As a matter of fact, Judge Lavergne, and also in response to the
4 remarks of the Prosecution, the statement of this witness goes on
5 and on and on and he confirms all kinds of aspects, what I read
6 out. But I think we will be able to ask this witness tomorrow or
7 maybe now because it's actually the upcoming witness who gave
8 this testimony.

9 [15.05.32]

10 JUDGE LAVERGNE:

11 Counsel Koppe, can you simply answer my question? I am asking for
12 a yes or a no answer. That's all.

13 Were you aware of the fact that this witness was reading the
14 confessions that were obtained at S-21?

15 MR. KOPPE:

16 I was not aware.

17 JUDGE LAVERGNE:

18 Well, therefore, you are reading a document without knowing what
19 it's about?

20 MR. KOPPE:

21 No. But the thing is, it's a bit confusing as to exactly what he
22 is being presented. However, as I said, in the following pages --
23 that is, from 003848184 and subsequently, he is confirming -

24 [15.06.30]

25 MR. PRESIDENT:

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1 Mr. Koppe, please speak slower because the interpreter needs to
2 follow your reading.

3 MR. KOPPE:

4 As I understand -- let me rephrase it. As I understand the
5 testimony of this witness, he is confirming a plot to overthrow
6 the CPK, to overthrow the DK government. He might be, but that's
7 a little bit unclear to me, reacting to a confession. But
8 materially, he is saying the same thing.

9 JUDGE LAVERGNE:

10 Counsel Koppe, what's maybe not clear is the way that you are
11 using this evidence.

12 MR. KOPPE:

13 I'm not quite sure if I understand your question.

14 [15.07.30]

15 JUDGE LAVERGNE:

16 Counsel Koppe, I believe that it would be honest vis-à-vis the
17 Chamber that when you use such documents, to clarify where it
18 comes from, what the source is of this evidence.

19 MR. KOPPE:

20 Possibly an S-21 confession, but I am not entirely sure as to the
21 way this DC-Cam statement is phrased. So that's why I put it in a
22 greater context and that's why I am saying that he is confirming
23 that question and he is saying basically the same thing. But I am
24 not quite sure if I misread; possibly. I don't know.

25 MR. PRESIDENT:

1 Now, the Chamber gives the floor to the International Defence
2 Counsel for Mr. Khieu Samphan to put questions to the witness.

3 [15.08.43]

4 BY MS. GUISSÉ:

5 Thank you, Mr. President.

6 Q. Witness, I am going to pick up from where we stopped.

7 You therefore have taken the time to read the first page of
8 Witness 2-TCW-817's statement. So please do not speak out his
9 name but simply confirm to me that you were at K-17 with this
10 person while you were detained during that month.

11 MR. CHAN TOI:

12 A. As I told the Chamber already that I was detained at K-17, at
13 the sector<'s> office. So I only repeated what I said in the
14 morning.

15 Q. I am asking you simply to confirm that you were with this
16 person, this person whose name you saw on that page <presented to
17 you>.

18 A. When I was detained <there, Ta Lorn at (unintelligible)> <>
19 was also detained with me.

20 [15.10.22]

21 Q. I would like now to confront you with some of the statements
22 from this witness and to see if this jogs your memory or not.

23 I asked you earlier if -- without having seen these people who
24 were at the upper floor, and I asked you if you knew who these
25 people were and you said no. So before seeing if the statements

1 of this witness jog your memory, I would like to quote to you
2 part of your statement before DC-Cam, which is document E3/7823;
3 French, ERN 00632716; ERN in English, 00645468. It starts maybe
4 at <the previous page, page> 67 <in the English>; and then Khmer,
5 00231430, and on to the following page.

6 And then the DC-Cam staff asks you questions about K-17. And you
7 are asked if you were able to know who was arrested and detained
8 at the same time as you.

9 And this is the question that is put to you: "How did you know
10 that he was arrested and detained over there?" Unfortunately,
11 this document is not clearly organized so we have to back track a
12 little bit to know whom we are speaking about. But anyways, you
13 answered. You said: "I was told about this. It was the people who
14 carried out the arrests<>. <It was soldiers who told me about
15 this.> And they said that so and so was there with us. They were
16 just <little> soldiers who knew nothing about anything. That is
17 to say that they would just come around and chit-chat. They were
18 basically kids. They would just come chit-chat with me and
19 sometimes they would give me a cigarette even."

20 [15.13.02]

21 And the following question that is put to you is: "So were these
22 kids from around Phnom Kraol who would come chit-chat with you?"

23 And your answer was the following: "Regarding these kids, they
24 were not kids from outside of the prison. They were the children
25 of those who were inside the prison and the door was kept open so

1 that they could go to the bathroom and they knew that it was such
2 and such a person who <was> there. They knew the children."

3 Then the question that is put to you is: "Those who told you
4 about this, therefore, were not the children of the soldiers who
5 carried out the arrests, so am I right?"

6 And you answer: "They were the children of the prisoners. <They
7 were the children of that size.> They knew the name of such and
8 such <younger> uncle<, the name of such and such elder uncle,>
9 and they said that they had just met such and such <man>." End of
10 quote.

11 [15.14.10]

12 So after reading your statement before DC-Cam, do you remember
13 that you obtained information about people you didn't see but
14 whom you knew were present there because the children who were
15 allowed to leave the premises would tell you that such and such
16 <uncle> was there? <D>oes this somehow jog your memory?

17 A. As I said in the morning, my memory <has> not serve<d> me well
18 <since I got a head injury>. I am not sure whether I did really
19 say that during the interview. <Honestly speaking,> I myself
20 <have> not <been> interest<ed> in the trial <that much>.

21 Q. I therefore would like to see if I can jog your memory in
22 another way with the statements of the person you <confirmed> was
23 with you during the month you were detained. And this is document
24 E3/7695; French, ERN 00274816; <> Khmer, ERN 00236716; English,
25 ERN 00239486 and until <the next page>. And questions were put to

1 you about how this person's arrest took place, this person who
2 was questioned, and this person describes or speaks about the
3 description of Office K-17 and he says the following:

4 "Office K-17 was Laing's office and it was made up of two
5 stories. The ground floor was in concrete. The first story had a
6 wooden floor <> as well as a wooden wall and <> a corrugated iron
7 roof."

8 So does this description correspond to what you remember of that
9 place?

10 [15.17.10]

11 A. The <ground floor of the> detention building, <where we were
12 tied up,> was <> concrete <with> wooden <walls. It was not a
13 wooden floor>. But for the upper floor, I did not know because I
14 did not have the opportunity to go up and observe it.

15 Q. He also says a little bit later, and I quote:

16 "Regarding the people who were detained on the first floor, based
17 on what I would hear from their conversations, there were about
18 four or five of them, including Sonthan, Tha, Kem Chan, Ra, who
19 was the deputy secretary <of Kaoh Nheaek> district<>." End of
20 quote.

21 So based on this statement, the witness explains that he was able
22 to hear the conversations from the floor above. So does this jog
23 your memory and do these names, the names that I just quoted,
24 remind you of anything? <In the context of> your discussions <>
25 with the children or with this person, do you remember that the

1 <four or> five people mentioned by the witness were detained at
2 K-17?

3 [15.19.06]

4 A. At that time, I could not remember who talked about what, but
5 there were, yes, children who played outside the building. But I
6 could not recall their exact names.

7 Q. But the names Sonthan, Tha, Kem Chan and Ra, who was the
8 deputy district secretary of Kaoh Nheaek, do these names remind
9 you of anything?

10 A. Regarding those names, I knew them but I do not know whether
11 they were detained on the upper floor or somewhere else. <After
12 they disappeared, we were arrested.>

13 Q. Another point that I would like to bring up, and this will be
14 the last point of my cross-examination, and that is that the
15 number of people who were on the ground floor <where you were> at
16 K-17. You said that there were 80 people there. This witness says
17 in the same document, the same ERNs, that there were about 40
18 prisoners <on> the ground floor. So according to this witness,
19 there were only 40 prisoners and not 80, as you said.

20 So does this somehow jog your memory and are you sure of your
21 figure of 80?

22 [15.21.05]

23 A. When I witnessed the people who were tied up in line, I
24 counted in my mind and there were 80 <or a few more than 80> of
25 them, including males and females.

1 Q. I would like to insist upon this point because when you answer
2 the questions put to you by DC-Cam, document E3/7823; French, ERN
3 00632715; ERN in English, 00645467; Khmer, ERN 00231430; and the
4 question that's put to you is the following:

5 "Let's speak about the cell on the ground floor <where you were;>
6 according to you how many people <in total could be> detained
7 there?"

8 And your answer is the following: "Downstairs at the ground
9 floor, there were more than 50 people." End of quote.

10 So in your statements to the DC-Cam staff, you are speaking of a
11 figure of 50 and not of 80.

12 So does this somehow jog your memory?

13 A. I cannot remember it well when you talk about that.

14 [15.23.00]

15 MS. GUISSÉ:

16 Mr. President, I'm done with my cross-examination and my
17 colleague, Kong Sam Onn, has no questions to put to the witness.

18 MR. PRESIDENT:

19 Thank you, Mr. Chan Toi. The hearing of your testimony as a
20 witness has now come to an end. Your testimony may contribute to
21 the ascertaining of the truth. Your presence in this courtroom is
22 no longer required and you may be excused. The Chamber wishes you
23 all the best.

24 Court Officer, in collaboration with WESU, please make necessary
25 transport arrangements to send Mr. Chan Toi to his home or

1 wherever he wishes to go.

2 And the hearing today come to a conclusion because the reserve
3 witness <just arrived at the place where he is staying in Phnom
4 Penh, and he> could not make his way to the <ECCC> on time <this
5 afternoon>.

6 [15.24.12]

7 So the Chamber would like to announce the adjournment of the
8 hearing today and we resume tomorrow at 9 o'clock.

9 And tomorrow, we will hear the testimony of 2-TCW-817 related to
10 Phnom Kraol Security Centre. Please be informed.

11 Security personnel are instructed to bring Khieu Samphan and Nuon
12 Chea back to the detention facility and have them returned to the
13 courtroom tomorrow morning before 9 a.m.

14 The Court is now adjourned.

15 (Court adjourns at 1524H)

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