



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

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

Kingdom of Cambodia
Nation Religion King
Royaume du Cambodge
Nation Religion Roi

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

ឯកសារដើម
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TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

2 May 2012
Trial Day 59

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

The Accused: NUON Chea
IENG Sary
KHIEU Samphan

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MR. ABDULHAK	English
MR. ANG UDOM	Khmer
MR. DE WILDE D'ESTMAEL	French
MR. IANUZZI	English
MR. KARNAVAS	English
MR. KONG SAM ONN	Khmer
MR. MAM RITHEA	Khmer
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. PEAN KHEAN (TCW-504)	Khmer
MR. SALOTH BAN (TCW-586)	Khmer
MS. SIMONNEAU-FORT	French
MR. VENG HUOT	Khmer

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

2 (Court opens at 0907H)

3 MR. PRESIDENT:

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

5 As scheduled, today, we are going to hear the testimonies of
6 witness Saloth Ban; questions continue to be put by counsel for
7 Khieu Samphan. We then proceed to hear TCW-504.

8 Court greffiers are now instructed to report on the attendance of
9 the parties to the proceeding.

10 THE GREFFIER:

11 Mr. President, the Co-Prosecutors are present. Mr. Ieng Sary,
12 Khieu Samphan and Nuon Chea are present. Counsels for Ieng Sary
13 are present. Counsel for Khieu Samphan is present -- the national
14 counsel is present -- and counsels for Mr. Nuon Chea are present.
15 Civil party counsels are present. Witness, who is going to be
16 heard after witness Saloth Ban, is in his waiting room awaiting
17 call from the Chamber. The witness has no relationship or is no
18 way connected to any of the civil parties admitted before the
19 Chamber and the witness has already taken an oath.

20 MR. PRESIDENT:

21 Thank you.

22 [09.09.55]

23 Counsel for Nuon Chea, you may now proceed.

24 MR. IANUZZI:

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

2

1 A very brief point of order, if I may, Your Honours, completely
2 unrelated to this witness or the next witness. It's actually
3 related to something that occurred in the courtroom on Monday;
4 something that we feel requires an extremely brief comment.
5 On Monday afternoon, as my colleague, Michiel Pestman, was
6 discussing our teams consistent position with respect to the
7 effective political interference at the Tribunal, Judge
8 Cartwright visibly -- and I was looking directly at her -- shook
9 her head from side to side and mouthed the words, "blah, blah,
10 blah, blah", as if to indicate -- I don't quite know.
11 [09.10.36]
12 That -- that is the application that we have today, Your Honours.
13 Given the obvious problems associated with such unrecorded
14 gesticulations, we now seek some clarification from the Chamber
15 or from Judge Cartwright, herself, if she's so inclined; was that
16 episode that I just described -- was that simply her usual
17 manifestation of disdain for defence counsel on the Nuon Chea
18 team or was it, in fact -- was it, in fact, an expression of her
19 position on a matter that, according to the Supreme Court
20 Chamber, is still sub judice with this Chamber and that is, of
21 course, the effects of RGC interference, if any -- if any, on
22 these proceedings? What precisely was Judge Cartwright attempting
23 to convey through her now open and, I would say, almost de
24 rigueur expressions of exasperation in response to submissions
25 from this corner of the stage? What is it exactly that Judge

3

1 Cartwright finds so objectionable about the Nuon Chea defence
2 team?

3 It is, of course -- it is, of course, presumed that the Judges of
4 this Bench are impartial. However, we submit -- we submit that
5 such obvious expressions of disapproval are problematic, at best,
6 and potentially far more troubling. We do obviously, as a
7 starting point, expect to plead before a dispassionate Bench. So
8 if we can't be assured of that -- of that basic foundation, at a
9 minimum, it makes our position, our client's position, on this
10 stage, precarious, to say the least.

11 [09.12.03]

12 Your Honours, despite a diligent search over the holiday, I
13 wasn't able to find any international jurisprudence precisely on
14 point, but a certain secondary source almost immediately sprang
15 to mind and I suspect the younger players on this stage will be
16 familiar with this and I'm quoting now, "Some musicians cuss at
17 home, but are scared to use profanity when up on the microphone,"
18 and that, of course, for the uninitiated is Dr. Dre of N.W.A.
19 from "Express Yourself, Straight Outta Compton" 1988.

20 MR. PRESIDENT:

21 Counsel, could you please be slow in your pace. We haven't had
22 any rendition of your application because we, Cambodian Judges,
23 feel that most part of your last statement has been missing and
24 we are not aware of what you are talking about. Please be more
25 precise and make sure that your statement is short and slower.

4

1 Our knowledge is not as high as that of yours and please be
2 reminded that counsel is talking to the Bench, not talking to
3 yourself.

4 [09.13.33]

5 Please repeat your statement and speak at a very lower -- slower
6 pace so that parties can understand your message and that parties
7 will be able to respond to your statement. This is to avoid
8 whether this is your observation, your application, and whether
9 the Chamber is needed to rule on -- rule upon it.

10 MR. IANUZZI:

11 Thank you, Your Honour. I do apologize; I -- I do have a tendency
12 to speak to myself.

13 Your Honours, I just repeat what I said.

14 Despite a diligent search over the holiday, I wasn't able to find
15 any international jurisprudence precisely on point, but a certain
16 secondary source almost immediately sprang to mind and that, as I
17 had mentioned, I suspect the younger players on this stage may be
18 familiar with. I'm quoting now, "Some musicians cuss at home, but
19 are scared to use profanity when up on the microphone," and that
20 is Dr. Dre of N.W.A., "Express Yourself, Straight Outta Compton"
21 1988, I believe.

22 [09.14.44]

23 So my application, to be very clear -- to be very clear, my
24 application this morning is that perhaps, in the future, Judge
25 Cartwright could be advised -- and again I'm quoting Dr. Dre, to

5

1 express with her full capabilities and, that is to say, perhaps
2 she could verbalize her personal and/or judicial positions, as
3 the case may be, with respect to our team, if for nothing else,
4 for the sake of the judicial record; the record, in this case,
5 which we must go on. Thank you, Your Honours, that's all I have
6 today.

7 MR. PRESIDENT:

8 Co-Prosecution -- International Co-Prosecutor, you may now
9 proceed.

10 MR. DE WILDE D'ESTMAEL:

11 Good morning, Mr. President, Your Honours. Once again, the
12 defence for Nuon Chea has just conveyed its consistent strategy
13 with respect to this Bench. They have talked about the usual
14 expression of disdain vis-à-vis their defence team.

15 [09.15.46]

16 I believe that this remark is entirely inappropriate; all the
17 more so because the Defence have been given the opportunity to
18 present their arguments, have been given the opportunity to
19 exercise their rights and to question the witnesses. I do not
20 understand what is the legal basis of that comment and I believe
21 that there is none. Therefore, the strategy to try and
22 demonstrate that Nuon Chea is a perpetual victim of this Chamber
23 is entirely inappropriate and I believe that the Bench should
24 consider imposing a sanction to the counsel of Nuon Chea who is
25 incessantly raising such inappropriate comments. Thank you.

6

1 [09.16.37]

2 MR. PRESIDENT:

3 Counsel, you may proceed, but advise the Chamber how much time
4 you would need to have the final words on this and please tell us
5 the duration of time you would like to be on your feet and how
6 many more times you would like to be on your feet on this.

7 MR. IANUZZI:

8 Your Honour, I'll be extremely -- extremely brief. In response to
9 what my colleague--

10 MR. PRESIDENT:

11 We haven't heard from you as to how much time you would like to
12 address this and how many times more.

13 MR IANUZZI:

14 One minute, Your Honour. In response to what my--

15 MR. PRESIDENT:

16 How many times would you want to be heard on this?

17 [09.17.35]

18 MR. IANUZZI:

19 One minute.

20 MR. PRESIDENT:

21 I'm talking about frequency; yes, you are talking for one minute,
22 but how -- how many often would you -- would you have the floor
23 for this?

24 MR. IANUZZI:

25 I'm afraid I don't understand; one minute.

7

1 [09.17.56]

2 MR. PRESIDENT:

3 I understand that you are talking for one minute, but would you
4 like to have this -- the last floor for your comment or would you
5 like to have the floor again after that one minute?

6 MR. IANUZZI:

7 Well, as a matter of fact, I would like to have the floor, at a
8 later stage, in regard to a message I sent to the senior legal
9 officer but, with respect to this point, I only need one more
10 minute.

11 [09.18.23]

12 Very briefly -- very briefly, to respond to my colleague across
13 the stage, this application is based on the fact -- the accepted
14 fact that Judges of the Tribunal must be either presumed to be
15 impartial and that expressions -- verbal or otherwise -- can
16 indicate that perhaps they are not. So that is the point that I'm
17 trying to make; that Judge Cartwright has consistently made
18 non-verbal expressions from the Bench, since the start of this
19 trial, that suggests a personal biance -- bias, excuse me,
20 against the members of our team. So that is the legal basis of my
21 submission and I would simply ask that the Chamber advise Judge
22 Cartwright, to the extent that she's able, to refrain from making
23 those expressions in the future. Thank you.

24 (Judges deliberate)

25 [09.20.18]

8

1 MR. PRESIDENT:

2 The position by counsel for Nuon Chea concerning Judge Silvia
3 Cartwright is groundless. It is a public allegation against the
4 Judges -- a Judge of the Bench and, for that reason, the Chamber
5 hereby rejects such assertion -- allegation, rather.

6 We would like to proceed to counsel for Khieu Samphan to proceed
7 with their questions to witness Saloth Ban. Counsel is allocated
8 the remaining 1 hour and 10 minutes to put questions to the
9 witness. You may proceed.

10 QUESTIONING BY MR. KONG SAM ONN RESUMES:

11 Thank you, Mr. President, Your Honours.

12 Q. Good morning, Mr. Saloth Ban. I would like to proceed to some
13 additional questions to you. Before yesterday, we left off with
14 your role as the guard and the location of the headquarter of the
15 Party before 1975.

16 [09.21.49]

17 My next question is about the meetings, the meetings between --
18 or before the 17th of April 1975. You responded to questions put
19 to you by the Co-Prosecutor concerning the meetings with Pol Pot
20 in which you indicated that there were one or two secretaries of
21 zone to attend the meetings and the meeting was not very
22 important. When you refer to the head of zones or secretary of
23 zones, who were you actually referring to? Were there members of
24 the Standing Committee secretary of any committee?

25 MR. SALOTH BAN:

9

1 A. The secretary committees included the -- the chief of the
2 zones, the deputy chiefs of the zones; one or two of them would
3 be attending such meetings.

4 [09.23.22]

5 Q. Could you describe to us the functions of each chairman of
6 each zone?

7 A. These people were in charge in all aspects.

8 Q. Including the military, is that so?

9 A. Yes, it is.

10 Q. With regard to your testimonies before the Chamber -- of
11 course, in response to the questions by the prosecutor on the 7
12 of April 2010, document E3/446, you stated that the meetings
13 between Pol Pot and the head of the zones concerning the attack
14 because the attack of Phnom Penh was nearing. How did you know
15 the attack was nearing?

16 A. The term "preparation to attack" suggests that, so far as I
17 recollect, the Mekong River was liberated. The ships for -- of
18 the American imperialists were no longer allowed to transport
19 goods or other things except the airplanes.

20 [09.25.45]

21 Q. Could you please be more precise; what do you mean by the
22 Mekong River being liberated?

23 A. The revolutionary army attacked the Mekong River primarily in
24 order to cut all the routes for the goods transportation by the
25 American imperialists and we -- they managed to control the whole

1 river all the way to Neak Leung.

2 Q. So when you referred to the liberation of the Mekong River,
3 you are referring to the victory over the Mekong River after the
4 attack by the revolutionary army? However, when we referring to
5 Mekong River, we are talking about the lower Mekong River and the
6 upper Mekong River, so are you now referring to both of them?

7 A. Yes. And I wish to also add that the army did not only attack
8 the ships -- the imperialist ships, they also attacked the ships
9 belong to the Lon Nol soldiers; the ships that docked on the
10 Mekong River all the way to Kampong Cham so, in total, 90 per
11 cent of the river was under control of the army.

12 [09.27.53]

13 Q. Can you tell us the time when these attacks took place?

14 A. The severe attacks took place between early seven -- rather,
15 early -- early April 1975.

16 Q. I would like to go back, a little bit, to the small meetings.
17 You indicated that -- were attended by one or two people. Where
18 were the meetings held in the headquarter? You indicated that
19 there were a few huts -- four or five huts in the headquarter and
20 that some of the huts were for the guards and one was for
21 kitchen. Could you please tell us in which location the meetings
22 took place?

23 A. The meetings were held in the hut reserved for meetings and
24 the meeting, at that time, were for the preparation to attack
25 Phnom Penh. The meetings were conducted in a 5X5-metre hut.

11

1 [09.30.06]

2 Q. Could you tell us more about the physical appearance of the
3 hut? Was it the same as the one you described to us on Monday?

4 A. Yes, they were.

5 Q. Thank you. Could you please tell the Court about the guard --
6 guarding timetable and about the number of guards in each time?

7 A. Allow me to describe the guarding procedures. The importance
8 was about the people -- the local people. The village that's --
9 the villages that we were taking charge of were those villages
10 who -- villages who guarded the place. It was the responsibility
11 of the village where the meeting was to be held. The
12 responsibility was about the security.

13 I had minor responsibility. I, as well as the cook, also guarded
14 the place. The cook did not only cook. Everyone was watching to
15 see whether there was any person entering the place and, in
16 total, there were not more than 10 people guarding the place.

17 Q. Can you clarify again whether there were 10 people guarding in
18 one time?

19 A. There were only two or three guards with arms or weapons in
20 their hands.

21 [09.33.00]

22 Q. <So, now I wish you to reconfirm that it is true that there
23 were about two to three people who guarded the place. The rest
24 were, as you mentioned, people like cooks who could be made to
25 guard the place also but who were not regular members of the

1 guard section.>

2 A. Yes, it is.

3 Q. Thank you. Can you tell us about the position of those guards;
4 for example, when those leaders were meeting in a hut, where were
5 those guards positioning?

6 A. Those guards were standing somewhere about 15 metres away from
7 the hut and they were not to be seen by others; they were hiding
8 in bushes. For example, if we had three guards, they would be
9 positioning in a triangle shape and they were to be hiding in
10 bushes and at least they were to be 15 metres away from the hut
11 where the meeting was being held.

12 [09.34.47]

13 Q. Thank you. You said at least their positioning was to be 15
14 metres away from the hut and what is the farthest position they
15 could be?

16 A. The farthest position was about 50 or 60 metres away from the
17 hut.

18 Q. Thank you. Can you indicate to the Chamber that if the guards
19 attempted to spy or to hear about the meeting, was it possible
20 for them to do so?

21 A. I don't think it was possible for them to do so; no, I don't
22 think so.

23 I confirm that even the personal security guard was not allowed
24 to be near them.

25 Q. Thank you. I am now moving into another topic -- the

13

1 International Co-Prosecutor reminded you concerning your
2 interview with the Office of the Co-Investigating Judges. The
3 interview of the 7th November -- rather, April, 2010 -- document
4 DE3/ -- rather, E369/36.

5 [09.37.21]

6 In the interview, you recalled the role of Mr. Khieu Samphan. The
7 International Co-Prosecutor asked you to confirm your answers --
8 the answer 37 -- in that interview, and the ERN in Khmer is
9 00492962. The French ERN 00529510. And the English ERN 00503164.
10 You indicated that -- and -- rather, you confirmed that Mr. Khieu
11 Samphan was not a member of the Standing Committee. Later on, the
12 International Co-Prosecutor asked you to confirm your answer --
13 that is, answer 37 -- concerning the role of Mr. Khieu Samphan.
14 In that interview, you said -- you answered that Mr. Khieu
15 Samphan was the president of the State Presidium. Do you recall
16 this?

17 A. Yes, I recall that.

18 Q. Thank you. Concerning the same document, at question/answer 40
19 -- and with the President's leave, I would like this document to
20 be put on the screen. Again, document E3/446, at question/answer
21 40.

22 MR. PRESIDENT:

23 Assistant is now instructed to put up document E3/446 or D369/36.

24 (A short pause)

25 [09.40.36]

14

1 BY MR. KONG SAM ONN:

2 Q. Mr. Saloth Ban, can you read the document that is put before
3 you? Otherwise, I can provide you the hard copy, if you have
4 difficulty in reading the one on the screen.

5 MR. SALOTH BAN:

6 A. Yes, I can read that.

7 Q. Can you read--

8 A. Yes, I can.

9 Q. So, can you read the portion in the red box?

10 A. "What was the power of the State Presidium?" Answer: "Like in
11 the front, he had no power."

12 Q. Thank you.

13 MR. PRESIDENT:

14 Please wait, Counsel. Yes, International Lead Co-Lawyer, you may
15 proceed.

16 MS. SIMONNEAU-FORT:

17 Yes, good morning, Mr. President, Your Honours. I have simply two
18 questions that were not translated into French.

19 [09.42.08]

20 But I, however, did hear what you said to me in French
21 afterwards. But I have -- two translations of questions are
22 missing.

23 (A short pause)

24 MR. PRESIDENT:

25 Defence counsel for Mr. Khieu Samphan, you may continue your

15

1 questioning. We may examine the transcript afterward, because it
2 seems that the problem applies only to you, Counsel. Maybe your
3 headset ran out of battery. Counsel may continue.

4 BY MR. KONG SAM ONN:

5 Thank you, Mr. President. I now continue my questions.

6 [09.43.34]

7 Q. Mr. Witness, based on what you have read, do you still stand
8 by this answer of yours?

9 MR. SALOTH BAN:

10 A. Yes, I do.

11 Q. Thank you. Now I will ask you about keeping secrecy during the
12 Democratic Kampuchea regime. You answered, in this Court -- and
13 you indicated time and again -- that you minded only your own
14 business, and you did not want to know about others. On Tuesday,
15 the 24th of April, in the morning session, you said that the
16 situation at that time was secretive, and on Monday in the
17 morning, the transcript in Khmer, at page 34 line 13, you said
18 that;

19 "We knew our own business, and we were to know our own business
20 only. That was the general principle to keep secrecy."

21 [09.45.25]

22 I have a number of questions concerning this point, for you to
23 confirm to the Chamber. Was it the theory to keep secrets, as
24 part of the study session?

25 A. This theory was studied during the study session on a daily

1 basis.

2 MR. PRESIDENT:

3 International Co-Prosecutor, you may proceed.

4 MR. DE WILDE D'ESTMAEL:

5 Thank you, Mr. President. There is one point of difficulty here
6 -- is that the witness answers before the light goes on, so this
7 does not allow me to object to certain questions that seem to be
8 leading -- or, at least, not to object to these questions in a
9 timely manner.

10 [09.46.34]

11 So, the witness answers before I get the French translation. So
12 there could -- could there be a bit more delay before the witness
13 answers, because on several occasions, questions have needed to
14 been confirmed, and I could have made an objection, but I
15 received the translation too late.

16 MR. PRESIDENT:

17 Thank you. Counsel and witness are now advised to wait -- or, to
18 pause between question and answer. I have informed the technician
19 concerning activating the mic. I have noticed that witness has
20 been doing very well, that is, he is waiting until his mic has
21 been activated. And as for Counsel, you are advised to pause
22 before you put another question.

23 BY MR. KONG SAM ONN:

24 Thank you, Mr. President. I believe I am at the lowest pace I
25 have, given time.

17

1 [09.47.55]

2 Q. I will now continue my questions. Mr. Witness, can you tell us
3 about the principle of keeping secrecy? Was it stipulated in any
4 rules, within the framework of Democratic Kampuchea?

5 MR. SALOTH BAN:

6 A. We had a slogan. "Disclosing secrecy will lead to death.
7 Keeping secrecy will earn us 80 per cent of victory."

8 Q. Thank you. I have heard that you said, during this Court
9 hearing about the 12 morals. Was the principle of keeping secrecy
10 the same as the 12 morals you mentioned?

11 A. Yes, it was.

12 Q. So you are saying that the two principles were the same?

13 A. Yes, they were.

14 Q. Thank you.

15 [09.50.25]

16 Concerning the principle of keeping secrecy, is it fair to say
17 that we were not supposed to consider others' business? We were
18 supposed to consider our only -- only our own business. Was it a
19 principle within the framework of Democratic Kampuchea?

20 A. Yes, it was.

21 MR. KONG SAM ONN:

22 Thank you, counsel (sic) for your questions to the Chamber. Mr.
23 President, I have no further questions.

24 MR. PRESIDENT:

25 Thank you, Counsel. Thank you, Witness.

18

1 Yes, International Prosecutor, you may proceed.

2 MR. DE WILDE D'ESTMAEL:

3 Thank you, Mr. President. I just require a bit of your time to
4 provide clarification to the Chamber and to the parties.

5 [09.52.19]

6 Monday we spoke in depth about Mr. Khuon David, and for the
7 transcript, I would like to draw the Chamber's attention to the
8 fact that there exists a document on the case file -- document
9 E3/129. Also, D108/26.26, which is a prisoner's list at S-21. And
10 some of the intellectuals coming from France are in this list,
11 and Khuon David is listed as number 36 in this list, and I -- and
12 Khuon David entered S-21 on 12 December 1976. This is also in the
13 list, and I wanted this to be clear, and I wanted this to be in
14 the record for each party to be informed of this.

15 MR. PRESIDENT:

16 Thank you.

17 Thank you, Mr. Saloth Ban. Your testimony has now been concluded.
18 The Chamber would like to express its gratitude to you for your
19 time giving testimony in this Court on the basis of what you
20 knew, you remember, and you experienced.

21 [09.54.16]

22 You now can be excused and go back to where you want to go. We
23 also thank the duty counsel for your time being here. Court
24 officer is now instructed to facilitate with WESU to help this
25 witness return to his place.

19

1 (Witness excused)

2 (A short pause)

3 And next, the Chamber will hear TCW 504. Court officer is now
4 instructed to bring in TCW 504 -- or, please wait. I have noticed
5 defence counsel for Mr. Nuon Chea is on his feet. Yes, Counsel,
6 you may proceed.

7 MR. IANUZZI:

8 Thank you, Mr. President. Your Honours, I did send an email
9 yesterday to the Senior Legal Officer indicating that we take the
10 position that there is an issue with respect to
11 self-incrimination with this witness, and that we ought to,
12 pursuant to Rule 28.8, briefly move into an in camera proceeding
13 to discuss that. I think everybody was copied on that email.

14 MR. PRESIDENT:

15 Yes, International Co-Prosecutor, you may proceed.

16 MR. ABDULHAK:

17 Yes, indeed. Thank you, Mr. President. Good morning.

18 [09.56.25]

19 We were indeed copied on that email, and I'm on my feet simply to
20 state that we don't consider there is a need for any hearing.

21 Just as a matter of order, the statement on the basis of which
22 this belated application is made was first disclosed in 2007. We
23 did recently disclose, about two weeks ago, an un-redacted
24 version, which we became aware of. There was nothing new, as far
25 as the issue that my friend is raising is concerned. Our position

20

1 is that, if you look at the statements of this witness, on their
2 face, there is simply no basis to make the application that my
3 friend is making.

4 [09.57.17]

5 But, in any event -- in any event -- perhaps all that needs to
6 happen is that -- if the Chamber confirms that the witness has
7 been advised, or has had access to legal advice, then this issue
8 is superfluous, and there's no need for an application.

9 We acknowledge that there is some difficulty with Rule 28,
10 insofar as sub-rule 8 technically requires counsel to make these
11 applications, where they consider that an issue of
12 self-incrimination arises. We say that no such issue arises, but
13 also we say that there's no need for counsel to keep making these
14 applications if the Chamber confirms that, under Rule 28.2,
15 witnesses are informed of their rights and of the privilege
16 against self-incrimination. So there's no need to go into a
17 closed session.

18 And just lastly, I do note that this issue has been dealt with.
19 It was in closed session, so I'll refrain from quoting from the
20 transcript, but I think Judge Cartwright's comment's make it
21 clear that applications should be made in advance. And I think
22 that email can be considered -- that application, or the raising
23 of the issue with the Trial Chamber.

24 [09.58.44]

25 I don't think we need to go into a closed session to deal with

21

1 this any further. Thank you.

2 MR. IANUZZI:

3 Your Honour, if I may reply--

4 MR. PRESIDENT:

5 International Lead Co-Lawyer, you may proceed.

6 MS. SIMONNEAU-FORT:

7 Yes, Mr. President. We also do not see any ground for this
8 application for an in camera session. We don't understand the
9 reason for this. The witness was informed of his rights, and the
10 Chamber can inform him of his rights again. He is perfectly aware
11 of all of this, and he is aware of the reach of his testimony,
12 and we all are mindful of being transparent, so there's no reason
13 to have an in camera session for this witness' testimony.

14 MR. PRESIDENT:

15 Counsel for Nuon Chea, you may now proceed.

16 Mr. IANUZZI:

17 Thank you, Your Honour.

18 [09.59.50]

19 I do agree with my colleague that the matter was, technically,
20 raised yesterday, and I raised it at the first instance when I
21 became aware that there was an issue of self-incrimination. I
22 have, yesterday, in fact, reviewed other documents on the case
23 file -- not just the statement of this witness -- that suggests,
24 very clearly, that there is an issue of self-incrimination. Now,
25 I agree, perhaps we don't need to move into closed session. I

22

1 could make reference to these documents by their document number,
2 and I could, very briefly, explain why I think there's an issue
3 of self-incrimination. I don't know if it's appropriate to do
4 that in front of the public, given the comments that were made
5 the last time I raised this issue.

6 [10.00.31]

7 So let me be very clear. The application is based on the witness'
8 statements that my colleague referred to, but also -- in
9 conjunction, that is -- with other statements of other witnesses
10 on the case file. That, in my opinion, suggest that there is an
11 issue -- could be an issue under the terms of -- correct myself
12 -- may be an issue under the terms of Rule 28.8 of
13 self-incrimination. So I'm entirely in Your Honours' hands as to
14 how to proceed here. I'm just trying to discharge my obligation
15 under Rule 28.8, and I'm ready, willing, and able to explain that
16 in camera, if necessary.

17 MR. PRESIDENT:

18 Thank you, Counsel.

19 (Judges deliberate)

20 [10.05.45]

21 MR. IANUZZI:

22 Your Honour, I should have mentioned this earlier, that the
23 reason that I raised this is because -- the reason I raised this
24 is because I may -- I'm not saying I will -- I may delve into
25 these areas on cross-examination, and I didn't want to be

23

1 accused, at that stage, of not having raised the issue at the
2 appropriate time. So I may, as I said. I don't know yet whether I
3 will. But I may go into it in cross-examination. And, perhaps as
4 a time-saving measure, I could simply send an email to all the
5 parties outlining what I see to be the problem. Your Honours
6 could review that during the break, and that would avoid going
7 into the closed session, if you were so inclined to do that.

8 MR. PRESIDENT:

9 Thank you very much, Counsel. However, counsel for Nuon Chea is
10 advised to provide the list of documents you would wish to raise
11 during the examination of this witness, and make sure that the
12 list of the documents are forwarded to the greffiers of the
13 Chamber so that the Chamber is able to rule on how the
14 proceedings would be conducted on this witness.

15 MR. IANUZZI:

16 Thank you, Your Honour.

17 [10.07.05]

18 I've done that already through the interface, whatever it's
19 called. We have submitted the documents. Let me briefly just read
20 out the numbers, for everyone's reference. We submitted the
21 documents D224.14, D224.15, D125/143, D125/144, and D125/--

22 MR. PRESIDENT:

23 Counsel, please be slower than this. You may repeat document --
24 from document number 3 you mentioned.

25 MR. IANUZZI:

24

1 Yes, I'm sorry again, Your Honour. D125/143, D125/144 and
2 D125/207. That last document is, more or less, a summary of the
3 two previous documents. So, really, you could simply rely on that
4 one.

5 [10.08.20]

6 Our submission is that, these documents, when read in conjunction
7 with the witness' statement -- one of the witnesses' statements,
8 excuse me -- E187.1. That's the SOAS statement. That statement,
9 read in conjunction with the documents I've just referred to,
10 suggests, very clearly to me -- that there is, potentially, an
11 issue with respect to self-incrimination of this witness. Now, I
12 don't think it's appropriate to give the factual scenario in open
13 session. I could do that, but -- the witness isn't here. Would
14 that assist?

15 MR. PRESIDENT:

16 Thank you for the information.

17 [10.09.14]

18 I think it is reasonably enough for our consideration. Since it
19 is now appropriate time for adjournment, we take a 20 minute
20 adjournment. The Chamber wishes also to remind party that, when
21 the next session is resumed, we will conduct an in camera session
22 to address all the issues before we proceed to a public hearing.
23 Public, please be informed.

24 Counsel for Ieng Sary, Mr. Karnavas, you may proceed.

25 MR. KARNAVAS:

25

1 Thank you, Mr. President, and good morning to everyone in and
2 around the courtroom. My intervention is slightly different.
3 There is one document -- E187.1 -- which is an un-redacted
4 version of an earlier document. It's an SOAS quote unquote
5 "interview". We did raise -- we sent an email to the Senior Legal
6 Officer making some inquiries regarding this document which
7 mysteriously has been retyped over previous -- it was retyped
8 from a previous document.

9 [10.10.48]

10 We don't know how it was generated. It's claimed to be an
11 interview, presumably by Heder, who is from SOAS. When one reads
12 it, it's very clear that it is a summary and not an actual
13 interview. We don't have anything other than this, and at this
14 point in time we would object to this being used. Now, the
15 gentleman -- or, the witness who's about to appear did provide an
16 interview to the Co-Investigating Judges -- to their
17 investigators. That, too, is a summary, but nonetheless, it has
18 been -- it's acceptable practice here, and we do have tape
19 recordings of virtually all the interviews that we could review,
20 which we do review to see whether the summaries are actually
21 accurate. On this one -- this document -- both the redacted and
22 the un-redacted versions -- we have nothing to support that the
23 interview or that the document itself represents exactly what was
24 said, verbatim. There's no question, there's no answer.

25 [10.12.04]

1 It's as if this person knew exactly what to say, and it's a
2 simple summary. So we would object to this document being used.
3 Unless, of course, the Prosecution can provide us with more
4 guidance as to how the document was generated, whether they are
5 in possession of any tape recordings that we could review, or
6 whether they can give us any other indicators that, perhaps, may
7 alleviate some of our concerns. But at this point in time, we
8 would object to this document being used for any purpose. Thank
9 you.

10 MR. PRESIDENT:

11 Counsel for Khieu Samphan first, you may now proceed.

12 MR. KONG SAM ONN:

13 Thank you, Mr. President. Your Honours, on behalf of Khieu
14 Samphan, I strongly concur with the observation by counsel for
15 Ieng Sary. This document cannot be used to verify or to impeach
16 the witness, as we have no proof that the document is obtained
17 from the witness, and there is no mentioning on the document to
18 prove that this was done officially and that the document is a
19 brief summary of the interview, and we have no source to verify
20 it.

21 [10.13.52]

22 Since witness is summoned, and will be appearing before the
23 Chamber, we may question the witness directly, rather than
24 referring to this document prepared by that person. And we can
25 also refer to the written records of interviews by the

1 Co-Investigating Judges if we need to question the witness for
2 verification. And we would like to reject the introduction of
3 E181.1 -- rather, 187.1

4 MR. PRESIDENT:

5 Counsel for Nuon Chea, you may proceed.

6 MR. IANUZZI:

7 I don't mean in any way to quarrel with my colleague on this side
8 of the stage.

9 [10.14.49]

10 I support their position, but perhaps, as I can confirm that that
11 document was in fact created by Professor Heder -- perhaps the
12 best course of action is to have Stephen Heder in the courtroom
13 to give testimony on that document, and the many other documents
14 which he authored, which are part of the case file. I believe
15 that's an application we've made in the past. I think that would
16 be entirely appropriate.

17 MR. PRESIDENT:

18 International Co-Prosecutor, you may now proceed.

19 MR. ABDULHAK:

20 Thank you, Mr. President. We did, indeed, also receive Mr. Ieng
21 Sary's notice of this application.

22 [10.15.39]

23 And we oppose it on a number of grounds. First of all, there's no
24 basis given for this application. No legal basis, that is, other
25 than the argument that, because it is a summary, it shouldn't be

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1 brought into evidence, and that because we don't have a full
2 transcript, that this document cannot be used.

3 First of all, that's not a rule that applies under the Internal
4 Rules of this Court and it's certainly also not applicable at the
5 international level, and I'll refer to only two decisions which
6 specifically hold that summaries prepared by non-parties are
7 admissible provided they bear the minimum indicia of reliability.

8 [10.16.30]

9 And those two decisions are in Milutinovi?, a decision on
10 evidence of 1 September 2006. At paragraph 16, the Trial Chamber
11 deals specifically with summaries and reports prepared by
12 non-parties such as the summary that is before you.

13 And also in Gotovina, in its judgement, the Trial Chamber of the
14 ICTY at paragraph 45 deals with the issue and indicates that it
15 had admitted into evidence summaries prepared by third parties.

16 Coming a little bit closer to the -- some of the arguments we
17 just heard. Of course, the issue of admission of written
18 statements is before the Chamber -- it was briefed last year --
19 but it is relevant to note that the basis on which both Ieng Sary
20 and Khieu Samphan objected to the admission of statements taken
21 by non-court individuals other than officials of the Court.

22 [10.17.55]

23 The basis for that objection was that the witnesses must appear
24 at trial, and so that's the position we're in. We have a document
25 which we have the basic information as to the -- its provenance

1 and circumstances of its creation and we have the witness. The
2 witness, at least in part, testifies to the acts and conduct of
3 the accused and he is before Your Honours, and the Defence can
4 make use of this document. It is only appropriate that all prior
5 statements of a witness who is before the Court are also -- also
6 put before the Chamber and, of course, it's so that the parties
7 can make use of them.

8 There is just -- we see no prejudice that could possibly arise
9 from the admission of this document. The Defence will have the
10 opportunity to examine the witness and to ask him about this
11 document if they so wish. Thank you.

12 MR. PRESIDENT:

13 Lead Co-Lawyer for the civil parties, you may now proceed.

14 [10.19.12]

15 MS. SIMONNEAU-FORT:

16 Mr. President, once again we have before us an example of
17 confusion over admissibility and probative value. As Mr.
18 Co-Prosecutor has said, there's been no information or elements
19 brought forward to us that would show that these documents would
20 be inadmissible because they were summaries or something else, or
21 that they had lesser value than any documents that have been
22 admitted by the Co-Investigating Judges.
23 Now, barring any further debate on the issue of admissibility, I
24 would implore you to reject this application put forward by the
25 Nuon Chea defence.

30

1 To say that we have to reject a document is absurd because that
2 would mean that all documents concerning this witness would have
3 to be dismissed, and this includes written records of witness
4 interview that have been conducted the Co-Investigating Judges.
5 It's entirely routine and usual to rely upon these documents as
6 we would any other document. Thank you very much.

7 MR. PRESIDENT:

8 Mr. Karnavas, you may now proceed.

9 [10.20.35]

10 MR. KARNAVAS:

11 Thank you, Mr. President.

12 Something must have been lost in translation. Nobody is
13 suggesting that the document, albeit a summary from the
14 Co-Investigating Judges, is not admissible. I personally find
15 that the summaries are inappropriate but we are in the system
16 that allows these sort of summaries, you know, however they may
17 be. But the point is, we do have a tape recording of the actual
18 interview from the investigators of the Co-Investigating Judges,
19 so that if we wish to check what was actually said, we're able to
20 do that.

21 [10.21.22]

22 Those of us who have been practicing for a while and have done
23 actual investigations know that it is very easy to coach someone
24 into saying something or to get them to agree to a position by
25 suggesting the answer.

1 That is why it is important -- that's why it is important to be
2 able to see what was the question posed, how was it posed, and
3 what was the actual answer, and it's the question and answer that
4 are relevant.

5 It's also important to know whether the -- the witness was shown
6 any particular documents; if the memories were refreshed; if,
7 indeed, there was a conversation with the witness in advance.
8 Many times if we have tape recordings we're able to glean a lot
9 more and to be able to demonstrate that perhaps the summary is
10 not quite as accurate; it is neither accurate nor complete.

11 [10.22.28]

12 Here we have a document generated by Heder who published a book
13 where he named individuals who he thought should be prosecuted
14 and are guilty. He then worked for the Prosecution, he worked for
15 the Co-Investigating Judges; he's obviously not just a non-party.
16 He is a committed advocate who strongly believes that everyone is
17 already guilty and does not necessarily mean that he has changed
18 his position simply because he wore the hat for the Prosecution
19 or the Co-Investigating Judges.

20 We believe that a summary prepared by him, of all people, is
21 suspect. That's why we maintain that it shouldn't come in.

22 Now, the Prosecution makes a point. First, they point to ICTY,
23 and I find it rather curious that when I point to ICTY I'm
24 reminded by the Bench that this is not the ICTY. When the
25 Prosecution does it, it appears that we should embrace that

1 concept. That's number one.

2 [10.23.40]

3 Number two. At the ICTY, I'm entitled to cross-examine, to ask
4 leading questions, and this is rather common in civil law

5 provisions. It may not be common in France or Cambodia, but in
6 other civil law traditions I can assure Your Honours I am fully
7 aware that parties are entitled to ask leading questions.

8 So I'm not able to do that, so it poses some constraints, and
9 that's why we cannot just simply adopt what happens at the ICTY.

10 But, lastly, should the Trial Chamber buy into the Prosecution's
11 argument, then we need some leeway, some additional time, to go
12 into those areas, which means that a time allotted for the
13 Defence, which I believe is three-quarters of a day, may not be
14 enough. And so we may need some latitude from the Trial Chamber
15 in order to challenge -- or in order to elicit information from
16 the witness to see exactly how was the statement generated,
17 whether he was shown any documents, and to the best of his
18 recollection what else he might have said at the time.

19 [10.24.56]

20 So if the Trial Chamber is inclined to adopt the Prosecution's
21 position, then some leeway should be provided to all parties so
22 we could see, you know, exactly whether this summary accurately
23 reflects what the witness said.

24 Co-Investigating Judges' statement, we have the tapes, we can
25 verify. This one, we do not, and there lies the difference, and

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1 that's why I raise it.

2 MR. PRESIDENT:

3 Does any member of other parties wish to make any further
4 comment?

5 If not, the Court is now adjourned until 10 past 11.

6 Parties and the public, please be informed that the next session
7 at 10 past 11 will be in camera and this closed session will be
8 conducted until lunch break.

9 Counsel for Ieng Sary, you may now proceed.

10 [10.26.20]

11 MR. ANG UDOM:

12 Thank you, Mr. President, Your Honours.

13 I am here on my feet not to add any other new points on top of
14 what my colleague already mentioned, but I wish to indicate that
15 -- indicate that my client wishes to be excused and that he be
16 allowed to follow the proceedings from his holding cell from now
17 on until the remainder of the day.

18 Thank you very much, Your Honours.

19 MR. PRESIDENT:

20 Mr. Co-Prosecutor, you may now proceed.

21 MR. ABDULHAK:

22 Mr. President, I apologize. I don't wish to extend this debate
23 any further. I think that the submissions are clear; I'll stop
24 there.

25 [10.27.06]

34

1 I just wanted to direct your attention to three documents which
2 have, in fact, already been assigned E3 numbers and deemed put
3 before the Chamber and which are from within this collection.
4 They are E3/198; E3/392; and E3/393. All three documents are very
5 similar in form to the document that we're discussing, and I
6 believe they were admitted by the Chamber since they were
7 referred to in a relevant part of the Closing Order.
8 And I just put that on the record for Your Honours to assist in
9 your deliberations.

10 MR. PRESIDENT:

11 The Chamber now decides on the request of Mr. Ieng Sary that has
12 been made through his counsel. The Chamber grants the request
13 that has been made through his counsels, to waive his rights to
14 present directly in this courtroom and to follow remotely -- to
15 follow the proceeding remotely from a holding cell downstairs
16 through audio-visual means for the remainder of today's
17 proceedings.

18 The Chamber requires that defence counsel for Mr. Ieng Sary
19 submit immediately the waiver with a signature or thumbprint of
20 Mr. Ieng Sary.

21 The AV Unit is now instructed to live the proceedings to the
22 holding cell for this accused to follow remotely.
23 Detention -- detention personnel are now instructed to bring this
24 accused person to a holding cell downstairs for him to follow
25 from there.

1 The Court is now adjourned.

2 (Court adjourns into closed session at 1029H)

3 (Court resumes in open session at 1333H)

4 MR. PRESIDENT:

5 Please be seated. The Court is now in session. For this
6 afternoon session, the Chamber will hear testimony of TCW-504.

7 Before calling on the witness to be brought to this Court, the
8 Chamber would like to inform the parties and the public that
9 during the closed sessions this morning, the Chamber has heard
10 arguments from defence counsel for Nuon Chea concerning Witness
11 TCW-504 and other arguments concerning the admissibility of
12 document E187.1.

13 [13.35.20]

14 The Chamber decides that this document is admissible. Now Court
15 officer is instructed to bring in witness TCW-504 into this
16 courtroom.

17 (Witness enters the courtroom)

18 QUESTIONING BY MR. PRESIDENT:

19 Q. Good afternoon, Witness. Can you hear me okay?

20 MR. PEAN KHEAN:

21 A. Yes, I can.

22 Q. Please wait before you answer any questions that are asked to
23 you -- please wait until your mic has been activated. That will
24 mean that the mic is working, so that you can be heard by anyone
25 in this courtroom -- especially by the interpreting team, from

1 Khmer to either English or French. These are the three working
2 languages at this Court.

3 [13.38.13]

4 Do you understand?

5 A. Yes, I do.

6 Q. What is your name, Witness?

7 A. My name is Pean Khean.

8 Q. Do you have any other names, besides Pean Khean?

9 A. No, I do not. This is my only name.

10 Q. How old are you Mr. Pean Khean.

11 A. I am 62 years old. This year, I am 62 years.

12 Q. What is your current address? Please wait, Mr. Witness. Wait
13 until your mic is activated.

14 A. Presently, I am living in Romeang village, on Trung (phonetic)
15 commune, Samraong district, Takeo province.

16 Q. What is your job?

17 A. I am a carpenter. I also do the farming.

18 Q. What is your father's name?

19 A. My father's name is Pean.

20 Q. And your name?

21 [13.40.19]

22 Rather, your mother's name? And, again, please wait until you see
23 the red light on your mic before you answer. What is your
24 mother's name?

25 A. My mother's name is Khay.

1 Q. How many children do you have? Mr. Pean Khean, how many
2 children do you have?

3 A. I have three children.

4 Q. What is your original nationality?

5 A. My nationality is Kravet.

6 Q. Do you know Khmer language clearly?

7 [13.41.35]

8 How much do you know about Khmer language?

9 A. I can write -- I can write some Khmer. I can read some Khmer,
10 but I am not very good at Khmer language.

11 Q. Thank you. Mr. Pean Khean, from the report of the greffier
12 this morning, to the best of your knowledge, you do not have
13 parents, wife or relatives who have been admitted as civil
14 parties to these proceedings, and you are not connected or
15 affiliated to either Mr. Ieng Sary, Mr. Khieu Samphan or Mr. Nuon
16 Chea.

17 [13.42.38]

18 Is this correct?

19 A. Yes, it is.

20 Q. Thank you. The report also says that you have already taken an
21 oath before you come here; is this correct?

22 A. Yes, it is.

23 Q. Now the Chamber would like to remind you of your duty and your
24 rights as a witness. Mr. Pean Khean, in your capacity as a
25 witness to these proceeding before this Chamber, you are entitled

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1 to refrain from answering any questions that may lead to
2 self-incrimination. This is your right against
3 self-incrimination, which means that, because of your answers,
4 you may be prosecuted.

5 [13.44.02]

6 Have you ever been informed of this right by the WESU?

7 A. Yes, I have. I have been informed of this right.

8 Q. You are here to give testimony before this Chamber, and
9 according to Internal Rule 28.9, in order to safeguard the
10 possibilities that you can self-incriminate, the Chamber may
11 provide you a duty counsel who could advise you on this matter,
12 that is, to assist you not to give any answer to the questions
13 that may lead to self-incrimination. Now, we want to know whether
14 you require a duty counsel when you are to give testimony before
15 this Court.

16 A. Yes, I do, Your Honours.

17 Q. Thank you. Now, the Chamber would like to inform you of your
18 duty as well. In your capacity as a witness, you are obliged to
19 give testimony to this courtroom -- that is, to answer to
20 questions put to you by parties, except when those questions
21 require your answers that lead to self-incrimination. You are to
22 provide only true information on the basis of what you know, you
23 hear, or you remembered or witnessed. These are your duties in
24 your capacity as a witness.

25 [13.46.42]

39

1 Court officer is now instructed, as required by the witness
2 himself, to invite the duty counsel for this witness to this
3 courtroom and bring him to sit beside the witness.

4 (Counsel enters courtroom)

5 Once again, Counsel, can you tell us your name?

6 MR. MAM RITHEA:

7 Good afternoon, Mr. President. Good afternoon, Your Honours. My
8 name is Mam Rithea. My ID number is 619.

9 MR. PRESIDENT:

10 Thank you, Counsel.

11 [13.48.14]

12 As prepared by WESU, Mr. Witness, you are now provided with a
13 duty counsel. During the hearing of this witness' testimonies,
14 the Chamber would like to inform the Prosecution that the floor
15 is first handed to the Prosecution before any other parties.
16 Prosecutors are also reminded that the time given to you,
17 together with the Civil Party Lead Co-Lawyers is this whole
18 afternoon session, and tomorrow, the first half -- and the first
19 half of tomorrow morning's session. So the floor is now yours,
20 Mr. Co-Prosecutor.

21 QUESTIONING BY MR. VENG HUOT:

22 Thank you, Mr. President.

23 Q. Good afternoon, Mr. Pean Khean. I am from the Office of the
24 Co-Prosecutor, and my name is Veng Huot.

25 Mr. Pean Khean, do you hear me?

1 MR. PEAN KHEAN:

2 A. Yes, I do.

3 Q. Right. My first question will be about before 17 April 1975.

4 [13.50.12]

5 My questions concerned the revolution movements, various offices,
6 and the policies of Democratic Kampuchea. I want to know when you
7 joined your revolution.

8 A. I joined the Khmer revolution--

9 MR. PRESIDENT:

10 Yes, defence counsel for Mr. Nuon Chea. You may proceed.

11 MR. IANUZZI:

12 I'm sorry to interrupt. It appears that the witness is reading
13 from a document. Is -- does everybody see that? It seems to me
14 that the witness has a document in his hand and he's -- well,
15 he's not reading from it. He's studying it.

16 [13.51.06]

17 Is that his statement, or what is that document?

18 (Judges deliberate)

19 MR. PRESIDENT:

20 The Co-Prosecutor may continue. The Court officer is instructed
21 to tell the witness not to read any document. He can read
22 documents when the Chamber decides that a particular document is
23 for him to read.

24 (A short pause)

25 MR. PRESIDENT:

41

1 You may proceed, Mr. Co-Prosecutor. The Defence is not -- was not
2 rejecting the question on the basis that the question was a
3 leading question. Please be reminded that the witness is not of
4 the Khmer nationality. His nationality is Kravet.

5 BY MR. VENG HUOT:

6 Thank you, Mr. President. Thank you, Defence Counsel.

7 [13.53.01]

8 Q. As you are aware that my time is limited, as indicated by Mr.
9 President -- that is why I am going into this issue very quickly.
10 Now, I put to you again, Mr. Witness -- my question is: When you
11 join the revolution?

12 MR. PEAN KHEAN:

13 A. I joined the revolution in 1966. It was in Malik commune,
14 Andoung Meas district, Ratanakiri province.

15 Q. Thank you. My other question is: Could you please describe the
16 procedure for you to join the revolution? Do you understand my
17 question? The procedure -- I'm talking about the procedure for
18 you to join the revolution. If you do not understand my question,
19 please ask me to elaborate on this, and I will assist you with
20 that.

21 A. I do not really understand the question.

22 Q. I will elaborate the question, and I give -- I seek
23 forgiveness from defence counsel. Please tolerate us.

24 [13.54.40]

25 My question is: How old were you when you joined the revolution?

1 A. I joined the revolution when I was probably 16 years old.

2 Q. Thank you. Who introduced you into this revolution?

3 A. There were Pang, Thoat, who was the chairman of the office of
4 the messengers in the Northeast Zone.

5 Q. Were you told about the purpose of joining the revolution?

6 A. I was told that we joined the revolution in order to liberate
7 the nation, to liberate the nation from the capitalist, from the
8 feudalists, that is, to escape from the oppression of these
9 people, the oppressions over the farmers.

10 Q. When you first joined the revolution were you told to write
11 biography?

12 [13.56.34]

13 A. I was asked to write my biography mentioning my place of
14 birth, my parents' name, and my class.

15 Q. After you joined the revolution, were there any criticism or
16 self-criticism meetings?

17 A. The criticism and self-criticism meetings were held in the
18 evening, but it depends.

19 Q. What were you told to do after you joined the revolution led
20 by the Khmer Rouge leaders?

21 A. My duty was to deliver letters. I was a messenger; I delivered
22 letters from one base to another base, from Andoung Meas to Veun
23 Sai, from Veun Sai to Andoung Meas.

24 Q. Thank you. You were a messenger; for whom?

25 A. At the time, I was told that I was a messenger of the

1 revolutionary Angkar.

2 Q. Did you know the most senior chairmen, the ones that you
3 thought was the Angkar?

4 A. I did not know them; I only heard from the subordinates.

5 Q. What did they tell you concerning the names of the leaders?

6 [13.59.56]

7 A. I was not told about the names of the leaders. I was told
8 about Angkar but I did not ask them further what Angkar was.

9 Q. I think I need to go back a little bit.

10 Just now, you said you were a messenger and that you delivered
11 letters. Could you tell the Court whether you knew anything about
12 the contents of those letters?

13 A. I didn't know anything about the letters, what inside the
14 letters, because the letters would be placed in a bamboo tube and
15 no one could be allowed to open them other than the intended
16 recipients.

17 Q. As a messenger, and that you did not know what -- or who
18 Angkar was, how were you supposed to send the letters to -- or
19 who were actually the intended recipients of the letters?

20 [14.01.38]

21 A. There were places prepared to receive letters and we -- I had
22 to go to one place. For example, I would deliver the letter to
23 Andoung Meas location and people would pick up from Andoung Meas
24 to Veun Sai and vice versa.

25 Q. Do you know the person by the name Koy Thuon?

44

1 A. I know this person and I used to live with him.

2 Q. What did Koy Thuon do?

3 A. I did not know who he was, but I know Koy Khuon was one of the
4 leaders. At what level his role and responsibility could have
5 been, I didn't know.

6 Q. As the messenger, apart from delivering letters, had you ever
7 delivered foodstuff to Koy Thuon?

8 [14.03.33]

9 A. I once brought some food, a chicken, through Pang to him.

10 Q. Could you describe the situation Koy Thuon was at that time --
11 was in at that time?

12 MR. PRESIDENT:

13 Mr. National Co-Prosecutor, could you please be advised to be
14 precise on the exact date concerning the facts. Please indicate
15 clearly the exact date when this happened, otherwise we will be
16 misled by the statement by both the witness -- because you were
17 putting questions concerning the facts before 1970 in Mondolkiri
18 and we don't know in which part of the date we are now.

19 Counsel for Khieu Samphan, you may proceed.

20 MR. KONG SAM ONN:

21 Thank you, Mr. President.

22 The prosecutor used some names that are not consistent because
23 prosecutor used the name "Koy Thuon" when the witness responded
24 with "Koy Khuon". So there should be some clarification on this.

25 [14.05.07]

1 MR. PRESIDENT:

2 Co-Prosecutor, you may now proceed.

3 MR. VENG HUOT:

4 Thank you, Counsel. I would like to seek clarification from the
5 witness.

6 BY MR. VENG HUOT:

7 Q. Witness, we have the names "Koy Thuon" and "Koy Khuon". Since
8 you are from a tribal ethnic minority group, were you saying "Koy
9 Thuon" or "Koy Khuon"?

10 MR. PEAN KHEAN:

11 A. The person I was referring to not Koy Thuon, it was Koy Khuon
12 with the K-H-U-O-N.

13 [14.06.00]

14 Thank you, Witness.

15 You said you brought rice to -- foodstuff to Koy Khuon; is that
16 correct, not Koy Thuon?

17 Then I would proceed to another question.

18 Where were you between 1966 to 1975 -- 1966 to 1975?

19 A. In 1966, I was in Ratanakiri. By 1970, I went to Kampong Thom.

20 Q. What did you do back then?

21 A. I was with Koy Khuon working as a messenger -- that they
22 called back then. Now, this position is known as the bodyguard. I
23 was with his wife. I would deliver food to him and also escorted
24 him places when he went.

25 Q. Thank you.

1 Do you know who were the secretary of Zone 304 between 1966 and
2 1975?

3 A. Only until 1975 did I know that Koy Khuon was the secretary of
4 Zone 304.

5 [14.08.50]

6 Q. In 1966 -- or from 1966 to 1975, had you ever met or heard the
7 person by the names Pol Pot, Nuon Chea, Ieng Sary or Khieu
8 Samphan? Please respond to my question.

9 A. At that time, I heard of Pol Pot alone. Back then, he was not
10 called Pol Pot but I don't remember his secret name. That was the
11 only person I remembered having heard of, but by 1975 I started
12 to know other names.

13 Q. Were you referring to the names of the people I just mentioned
14 in my question?

15 Could you please wait until the mic is activated before you
16 respond.

17 The names I mentioned to you, Pol Pot, Nuon Chea, Ieng Sary,
18 Khieu Samphan, were you referring to the names of those people
19 you just learned at a later date?

20 A. Yes.

21 [14.10.43]

22 Q. Were you aware of their activities? As a messenger, what could
23 you tell us about your knowledge of their activities?

24 A. As the messenger, I knew very little. As I indicated, I did
25 not even have any access to any documents. Even the letters were

1 placed in the bamboo tubes and I could never read them.

2 Q. According to your best recollection, at which offices were
3 these people working?

4 A. After Phnom Penh was liberated, I recall K-1, K-3 and K-7. K-7
5 was at the riverfront. K-3 and K-1 were at the riverfront to the
6 south of the Independence Monument. That's all I remember.

7 Q. Have you ever heard anything about Office 100?

8 A. No, I haven't.

9 Q. Thank you.

10 Do you know Ken alias Lin?

11 [14.13.32]

12 A. I know this person very well.

13 Q. When did you get to know him?

14 A. I started to know him very well after the liberation of Phnom
15 Penh at K-1.

16 Q. Before 1975, did you know Pang?

17 A. Pang was the person I knew first before others.

18 Q. What was your relationship with Pang?

19 A. I had no connection to Pang, but Pang was the superior -- or
20 supervisor -- of the messengers and he was the one who oversaw
21 the affairs and he was in charge of these affairs.

22 Q. Thank you. Earlier on, you said you had never heard anything
23 about Office 100. My question is: Do you know Office 102?

24 [14.15.48]

25 A. I never heard anything about Office 102 either.

1 Q. Thank you. You said you knew K-1 and K-5 and K-7. How did you
2 know these offices?

3 A. K-1 was a place where Pol Pot would stay.

4 K-3 was a joint office where Om Pol Pot, Om Hem or Khieu Samphan,
5 Om Ieng Sary, and Om Son Sen worked.

6 K-7 was told to me that -- no, I -- rather K-7 was a place that I
7 did never know what it was functioning.

8 Q. Did you know anything about K-5?

9 A. No, I didn't, I only knew K-1, K-3 and K-7.

10 [14.17.36]

11 Q. Have you ever heard the office -- of the Office K-71?

12 A. I have heard of it, but I don't know much about it.

13 Q. Before Phnom Penh collapsed in 1975, where were the leaders?

14 A. I don't know because I had never heard or seen any of them. I
15 heard that Pol Pot was in Ratanakiri and, later on, I heard he
16 was coming to Kampong Cham and Kampong Thom. That's all I know. I
17 don't know any other persons.

18 Q. Are you aware of Office B-5?

19 A. No, I'm not.

20 Q. I would like to proceed to another question concerning the
21 living condition of the people during 1966 through 1975.

22 Could you describe to the Court concerning the living condition
23 of the people under Khmer Rouge control?

24 [14.20.30]

25 A. I cannot tell you about this because I had never been living

1 in the base with the people. I spent my entire time in the
2 jungle.

3 Q. When you were in the jungle, had you had any opportunities to
4 visit your families or your home town?

5 A. No, I could not go anywhere other than being confined to the
6 location where I supposed to carry out my tasks. I never managed
7 to come visit my home. I was not allowed.

8 Q. And later on, how did you know how people lived their life?

9 A. When the Vietnamese came, I had already left Phnom Penh and I
10 heard from people who told me about the living condition; the
11 situation that I had never been aware of.

12 Q. As a boy, a 16 year-old boy who was tasked with the messenger
13 duty, when you would like to go home to visit your parents, did
14 you ask for permission? And, if you did, were you allowed to do
15 so?

16 [14.23.19]

17 A. I used to ask for permission to visit my parents, but I was
18 not allowed.

19 Q. If young people at your age, for example, could manage to
20 visit their home, what could have been the measure taken against
21 those people?

22 A. According to my understanding, people of my age could never
23 get away without being punished if they were found to have
24 visited home without permission.

25 Q. Are you talking about people being afraid or Angkar had some

1 kind of intimidating influence?

2 A. I was saying that what happened in the jungle no-one could be
3 of any assistance. It would be part of our karma.

4 Q. Do you think that, back then, people could follow their
5 religious belief or listen to the Buddhist sermon?

6 [14.25.40]

7 A. At the beginning, everyone of any ethnic minority could
8 practice their own respective religion. They could practice it
9 without abandoning it.

10 Q. Did you ever notice that people could go to pagodas by way of
11 saying that they could not abandon their religion?

12 A. (Recording malfunction)

13 Q. Thank you. I would like to move to another question.

14 Back then, in the regime, had you ever seen monks in pagodas?

15 A. Before Phnom Penh was liberated, there were normal pagodas and
16 activities, there were monks, there were pagodas; people would go
17 there and pay homage to the monks at those pagodas before 1975.

18 [14.27.29]

19 Q. What happened after 1975?

20 A. After 1975, such practice were in no existence. There were no
21 pagodas; pagodas were removed and there were no priests.

22 Q. Do you know where monks were taken to?

23 A. I don't know, but I heard people saying that monks were
24 defrocked or disrobed.

25 Q. I would like now to proceed to the policy of the CPK. My next

1 question is: How did the Khmer Rouge treat an individual Lon Nol?

2 Was he treated as an enemy to the revolution?

3 A. Yes, indeed, Lon Nol, himself, was treated as an enemy of the
4 revolution including his soldiers.

5 Q. Thank you. I would like to ask you a little bit concerning the
6 authority -- the suppressing of the authority of the suppressor.

7 Is this term referred to Lon Nol, himself, or to the officers or
8 officials of the Lon Nol regime?

9 A. That refers to the monarchy regime -- rather, the government
10 officials.

11 [14.30.39]

12 Q. I would like to ask for confirmation and if I am wrong, please
13 correct me. So the Communist Party of Kampuchea referred soldiers
14 -- government officers of the Lon Nol regime as the oppressors;
15 is this correct?

16 A. Yes, it is.

17 Q. Thank you. I now ask you further questions. If a person was
18 considered a soldier -- rather, a soldier of the Lon Nol regime,
19 a government officer of the Lon Nol regime was considered as the
20 oppressor, what would happens to him or her once he or she was
21 arrested?

22 A. Because they were considered enemies, if they were arrested,
23 they were to be smashed.

24 [14.32.17]

25 Q. Thank you. In your capacity as a messenger, what did Angkar

1 trained you after you joined the Communist Party?

2 A. I do not understand the question.

3 Q. Thank you. I ask you again. After you joined the Communist
4 Party, did the Party train you anything?

5 A. I was taught to join the movement to be part of the national
6 liberation that was to liberate the nation from the oppressive
7 class; to free the peasants, that was what I was explained.

8 Q. Did you frequently go to study with others? Can you explain
9 this? Was it done weekly or how frequent was your study session?

10 A. I was explained in the evening meeting.

11 [14.35.02]

12 Q. Who taught you at that time?

13 A. He was from the Standing Committee; his name was Pang.

14 Q. During the study session, were you given any documents or any
15 books?

16 A. During such ordinary meeting, we were not provided with any
17 materials.

18 Q. Did you ever hear of the "Revolutionary Flag" or the "Youth
19 Revolution" -- rather, the "Revolutionary Youth"; have you ever
20 heard of this?

21 A. I have heard of the "Revolutionary Flag." I have seen it too.

22 Q. Thank you. Now, I move on to talk about the period of 1975. In
23 early 1975, before the victory of the Khmer Rouge, where were
24 you?

25 A. My location, at that time, was not in one place; sometimes, I

1 was in Samraong district but, at other times, I travelled from
2 place to place. It was nearly in 1976 when I came to live in
3 somewhere called Damnak Sandaet or Smach and I was close to Koy
4 Khuon.

5 [14.38.12]

6 Q. Concerning Koy Khuon or Koy Thuon, I want to know who
7 appointed you a messenger of Koy Thuon?

8 A. It was Pang who appointed me to be with Koy Thuon. Pang
9 introduced me.

10 Q. In 1975, as a messenger, what were you responsible for?

11 A. Before 1975, I was not responsible for anything, but later on,
12 I came to live with Koy Khuon's wife and my task was to accompany
13 her whenever she travelled.

14 Q. My question move towards 1975, that is, before April 1975.

15 Mr. President, I am aware of the break time; I'm not sure whether
16 I should continue or we should take a break.

17 [14.39.52]

18 MR. PRESIDENT:

19 It is the President's job to control the time when the time is
20 for the break. Why party keep keeps reminding the President of
21 this?

22 (Short pause)

23 MR. PRESIDENT:

24 Now, it is appropriate for us to break. We will take a 20-minute
25 break and we'll resume at 3 o'clock.

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1 The Court officer is instructed to accommodate the witness and to
2 return him to this courtroom along with his duty counsel by 3
3 o'clock.

4 (Court recesses from 1440H to 1501H)

5 MR. PRESIDENT:

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

7 Before we proceed to the Co-Prosecutor to put questions to the
8 witness, the Chamber would like the Prosecution to advise the
9 Chamber how much more time Co-Prosecutors would need to put
10 questions to this witness and how time has already been divided
11 among the civil party lawyers, according to the allotted time,
12 because the time allocated to the Prosecution is supposed to be
13 divided or shared with Civil Party Lead Co-Lawyers as well.

14 MR. ABDULHAK:

15 Thank you, Mr. President. We have been discussing time
16 allocations with -- with our colleagues from the civil party team
17 and we're aware of -- that we've been allocated three quarters --
18 effectively, three quarters of a day approximately and Civil
19 Party Lead Co-Lawyers have told us that they need approximately
20 one hour and perhaps a little bit more; that -- that can be
21 difficult to estimate at this stage.

22 [15.03.33]

23 All I can say, Mr. President, is that we had originally requested
24 three quarters of a day for the Prosecution alone. I think this
25 witness can testify to a number of matters. We would simply ask

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1 for a -- a degree of flexibility if that is at all possible. We
2 will certainly endeavour not to exceed the time that you
3 indicated earlier. If the Chamber is able to give us some leeway,
4 we'll be most grateful. We certainly won't object to the Defence
5 being allowed a little bit of extra time. I think we've had
6 delays already and we'll just -- we'll try and get through this
7 witness as quickly as possible. I'm just concerned that if -- if
8 -- for us to give the civil parties an hour tomorrow simply won't
9 leave enough time for us to get through all the matters, but we
10 will not exceed that time significantly. Thank you.

11 MR. PRESIDENT:

12 Lead Co-Lawyer for the civil party, you may proceed.

13 MS. SIMONNEAU-FORT:

14 Mr. President, this matter of sharing time is always rather
15 complicated. We do need some time. The Co-Prosecutors have --
16 bear the burden of proof and they have questions to elaborate
17 upon. We, as civil parties, have our own line of questioning and
18 reasoning to explore; therefore, we want to be able to not be in
19 a position to plead for additional minutes that may or may not be
20 used up.

21 [15.05.22]

22 Once again, as far as we are concerned, at this stage of the
23 proceedings, we would require approximately one hour; perhaps
24 more, perhaps less and it's difficult to judge when we intervene
25 following other parties in terms of providing you an exact

1 timeframe. However, I would hope, at the very least, we are given
2 one hour for our examination.

3 (Short pause)

4 MR. PRESIDENT:

5 Counsels for the Defence, could you advise the Chamber on the
6 time you would need starting from counsels for Nuon Chea, Ieng
7 Sary, and then Khieu Samphan.

8 MR. IANUZZI:

9 Thank you, Your Honour. We certainly don't object to our
10 colleagues being given a degree of flexibility. I think that we
11 probably won't take -- certainly won't take more than one hour.

12 [15.07.03]

13 MR. PRESIDENT:

14 Thank you, Counsel.

15 Counsels for Mr. Ieng Sary.

16 MR. ANG UDOM:

17 Mr. President, we can estimate that we would need one hour or one
18 hour and a half and that's the -- the time we need.

19 MR. PRESIDENT:

20 Counsel for Mr. Khieu Samphan, you may proceed.

21 MR. KONG SAM ONN:

22 Mr. President, we need no more than one hour.

23 MR. PRESIDENT:

24 National Co-Prosecutor, you may now proceed with your
25 questioning.

1 [15.08.03]

2 BY MR. VENG HUOT:

3 Thank you, Mr. President, and thank you, all parties, who are
4 patient and who allow me to continue putting questions to the
5 witness.

6 Q. Mr. Pean Khean, I have a few more questions. Before April
7 1975, as the messenger of Mr. Koy Thuon, were you aware of the
8 CPK's policy to evacuate or transfer the population from Phnom
9 Penh?

10 MR. PEAN KHEAN:

11 A. I don't know. I did not know anything about the evacuation. I
12 saw people moving from the city of Phnom Penh, but I didn't know
13 that it was part of the evacuation plan.

14 [15.09.27]

15 Q. I would like to repeat the question and seek your
16 clarification. As Koy Thuon's messenger, were you aware or had
17 you heard whether the Party had a plan to evacuate people from
18 the city?

19 A. As the messenger, I had not had any role to know important
20 plan like that.

21 Q. Thank you. I would like now to proceed to the 17th of April
22 1975 when Phnom Penh was already collapsed. How did you go to
23 Phnom Penh? Who ordered you to go there and who were the leaders
24 who were coming with you?

25 A. I came to Phnom Penh because I was with Koy Khuon. I came to

1 Phnom Penh with Koy Khuon.

2 Q. Did you know other leaders who came before you to Phnom Penh
3 or came with you when you came to Phnom Penh at that time?

4 A. Before Phnom Penh collapsed, I had been staying in Oudong.

5 Other people had already come to Phnom Penh and I was the last to
6 come and I came with Koy Thuon to stay at the location where Koy
7 Thuon would be supposed to stay at somewhere near Wat Phnom.

8 [15.12.22]

9 Q. Could you describe to the Chamber what Phnom Penh was like
10 back then?

11 A. At the beginning, I took a bicycle from Oudong to Phnom Penh.
12 I saw people walking out of the city and when I got to Wat Phnom,
13 I noted that Wat Phnom was very quiet.

14 Q. Thank you. I would like to ask you my final question before I
15 hand over to my colleague, Mr. Tarik Abdulhak, to proceed with
16 further questions. My final question would be: Who were
17 responsible at K-1?

18 A. (No interpretation)

19 Q. Could you please repeat your response concerning who were in
20 charge of K-1?

21 A. Pang and Lin were the persons who were in charge of K-1, but
22 the person who was regularly in charge was Lin; <Pang oversaw>
23 both K-1 and K-3.

24 [15.14.27]

25 MR. VENG HUOT:

1 Thank you, Mr. Witness.

2 And, Mr. President, and Your Honours, I have no further
3 questions. I would like now to hand over to my colleague.

4 QUESTIONING BY MR. ABDULHAK:

5 Q. Good afternoon, Mr. Pean Khean, and thank you for coming here
6 to testify and assist the Court in finding the truth.

7 MR. PRESIDENT:

8 Could anyone help the witness?

9 (Short pause)

10 MR. PRESIDENT:

11 Witness, can you hear the Co-Prosecutor now?

12 [15.15.45]

13 Mr. Co-Prosecutor, you may now proceed.

14 BY MR. ABDULHAK:

15 Q. Thank you, Mr. President, and, once again, Mr. Pean Khean,
16 thank you for coming to testify here and to assist the Court.
17 I would like to return, very briefly, to the period that you've
18 discussed with my colleague -- before 1975. You said to us you
19 joined the revolution in 1966. At that time, did you become a
20 member of the Communist Party?

21 MR. PEAN KHEAN:

22 A. No, I didn't. I had no role nor function in the Party. I was
23 an ordinary person.

24 Q. Thank you. And did you, at this stage or later on, become a
25 member of the -- of an organization called the "Revolutionary

1 Youth" -- or, rather "Revolutionary Youth League"?

2 A. Before 1975, I was introduced to the Youth League. I cannot
3 recall the exact date when I joined the league.

4 [15.17.51]

5 Q. Thank you very much. You've told the Court that you were a
6 messenger for Koy Thuon -- or, Koy Khuon, as you describe him.
7 Did you start working with him in 1966, or was that a little bit
8 later?

9 A. Koy Thuon had an alias call Thuch. He was not Koy Thuon. He
10 was, indeed, Koy Khuon. I lived with him and worked with him in
11 1968 or 1969.

12 Q. And did you stay close to him -- did you work for him -- from
13 that time until 1975, or did that change?

14 A. I had been living with him since 1967/68, all the way to the
15 time when he was arrested and we were departed.

16 Q. Thank you very much.

17 [15.19.55]

18 I'm going to ask you about -- you've said to us that, I think, in
19 1970, you relocated from Ratanakiri -- I think you said to
20 Kampong Thom. Do you recall the place where you were in Kampong
21 Thom?

22 A. In Kampong Thom, I was in Sandan district. I don't remember
23 the village. Perhaps Samret village. And at Chamkar Leu, I was in
24 the location called Kor-12 or -13. I don't recall it because it
25 was a long time ago and I had never been there -- or, have never

1 been there again.

2 Q. Do you know, at this time -- in 1970 or from 1970 onwards --
3 do you know where the office or headquarters of Thuch was?

4 A. Thuch's office, before 1975, was called the zone office, but I
5 don't remember the details, as Thuch was the chief of the zone --
6 and his wife was the chief of the sector. Madame Yun. I would
7 stay with Koy Khuon, or sometimes I stayed with his wife in
8 Sandan and Chamkar Leu. These two locations where I would spend
9 some time at. I don't remember the name of the office.

10 Q. Thank you.

11 [15.22.28]

12 You said to us that you also understood, at this time, that Thuch
13 was one of the leaders. Did you -- and I think you have mentioned
14 Pol Pot. Can you try and recall whether you knew of any other
15 leaders that were in this area?

16 A. I may go back a little bit to tell you that, between 1966,
17 '67, all the way to 1970, I still recollect that there were some
18 senior leaders, including Pol Pot, Son Sen, and Om Ya. They're
19 only three people.

20 Q. Thank you very much.

21 [15.23.48]

22 And, at this time -- and if you can recall for us -- did you know
23 whether there was a body called the Central Committee of the
24 Party?

25 A. No. As a messenger, I would move from one place to another

1 quite often, and I did not know for sure regarding this.

2 Q. Thank you. Did you, by any chance, in this period, see any
3 meetings of any leaders or senior cadre?

4 A. No, I didn't, because these people were not all together in
5 one place. They were in different places. That's why they used
6 the messenger service to communicate with one another.

7 Q. As far as you recall, did you deliver messages between Thuch
8 and any other of the leaders?

9 A. When I was with Thuch, I would deliver letters from Thuch to
10 his wife when Thuch was at Chamkar Leu as the chief of the zone,
11 and his wife was the chief of sector 32 in Kampong Thom. I would
12 be moving from the two places during those years.

13 Q. Thank you.

14 [15.26.33]

15 Did Thuch and any of the other leaders, to the best of your
16 knowledge -- did they have any armed forces under their command?

17 A. At that time, there were no actual armed forces. There were
18 only body guards -- about five to six people who would be seen
19 giving protection to him.

20 Q. Nevertheless, in this period, were you aware of any fighting
21 between Khmer Rouge forces and forces of the Lon Nol regime?

22 A. Yes, I knew about this fighting. However, I was not engaged.
23 As the messenger, I was not tasked with this. Only the soldiers
24 of the army would be engaged in the fighting.

25 Q. Yes, thank you. We understand, Mr. Pean Khean, you were not a

1 soldier.

2 [15.28.31]

3 In this period, could you tell the Court how long you stayed in
4 Kampong Thom? How long you and Thuch stayed in Kampong Thom? When
5 did you leave that area?

6 A. I had been in Kampong Thom with Thuch's wife from 1972 to
7 1973, all the way to 1974.

8 Q. And where was Thuch in this period?

9 A. He was at Chamkar Leu, in his capacity as the head of the
10 zone.

11 Q. Thank you. And do you know when he left Chamkar Leu?

12 A. My apologies, I do not understand the question.

13 Q. You said to us that, in this period, if I understand correct
14 -- 1973-1974 -- Thuch stayed in Chamkar Leu. And my question was:
15 Do you know when he left this location?

16 A. He left Chamkar Leu in late 1974, before the liberation of
17 Phnom Penh.

18 Q. And do you know where he went?

19 [15.31.15]

20 Just wait for the microphone. I'll just repeat the question. Do
21 you know where Thuch went when he left Chamkar Leu in late '74?

22 A. He came to take charge at the battlefield to begin the attack
23 in Phnom Penh somewhere near Udong. It was called Damnak Smach --
24 the battlefield there.

25 Q. And were you with him at this time, or were you somewhere

1 else?

2 A. At that time, I was with him, until Phnom Penh was liberated.

3 Q. And in that period, near Udong, as far as you recall, did

4 Thuch meet with any of the other senior leaders of the Party?

5 A. Before he came to Phnom Penh battlefield, there were meetings.

6 And after the battlefield began -- the attack began, they did not

7 meet each other again.

8 Q. Do you recall who he met with?

9 A. I did not remember the names of those people, but I knew that

10 those Om -- or senior people -- were discussing the attack.

11 Q. And are you aware of any decisions that the leaders made at

12 these meetings?

13 A. I did not know a lot about that.

14 [15.34.36]

15 I only knew that, after the meetings, they decided to fight and

16 liberate Phnom Penh.

17 Q. And in this period, were you aware -- you said earlier that

18 Lon Nol's soldiers -- if they were captured, they would be

19 smashed. Please correct me if I'm wrong. Were you aware of any

20 places or any incidents where Lon Nol's soldiers were smashed, to

21 use your word?

22 A. Because they were considered enemies, so we were against them.

23 We were life and death enemies -- between the Khmer Rouge and the

24 Lon Nol.

25 Q. And at this time -- and of course, you just -- you've said to

65

1 us, you knew that an attack on Phnom Penh was planned. Did you
2 know -- or did you discuss with any of your fellow colleagues
3 what might happen if a victory is achieved?

4 A. At that time, it was my feeling that - I was worried whether
5 we would obtain victory or not.

6 [15.36.55]

7 I was not certain yet that the revolution will gain victory.

8 Q. Thank you. And -- let's move, now, forward. You said to us, I
9 think -- but please correct me if I misunderstood -- that you
10 went to Phnom Penh shortly after the liberation; is that correct?

11 A. I arrived in Phnom Penh sometime at 5 p.m., shortly after the
12 liberation.

13 Q. Would that be on the 17th of April, the same day that the city
14 was overrun by Khmer Rouge forces?

15 A. It was on that day. I arrived at 5 p.m. I arrived at Wat
16 Phnom.

17 Q. Thank you.

18 [15.38.40]

19 Do you recall what -- when Thuch came to Phnom Penh?

20 A. Thuch came to Phnom Penh shortly after the liberation of Phnom
21 Penh. He arrived at approximately 2 or 3 o'clock. He came before
22 I did. I followed him.

23 Q. And as far as you know, did anyone else enter Phnom Penh with
24 him?

25 A. I did not know or see anyone besides him. He was alone at that

1 time.

2 Q. Did any of his -- were any of his deputies in Phnom Penh when
3 he arrived or shortly after he arrived?

4 A. At the time, no. There was none. As I understand, he came with
5 his troops, who accompanied him to Phnom Penh, and those troops
6 were from 304 Zone.

7 Q. Do you know if any of the other Oms or senior leaders arrived
8 in Phnom Penh on this day or in the days following?

9 A. I was not aware of that. I did not know when other Om or
10 senior people came to Phnom Penh. I only knew what I have just
11 told you.

12 Q. Thank you.

13 [15.41.31]

14 What was the road that you took? You said to us that you entered
15 Phnom Penh on a bicycle. Do you remember which road you took as
16 you entered Phnom Penh?

17 A. At the time, I came through Udong, and I arrived in Kampong
18 Speu. But I could not recall the road number. I went through
19 Kampong Speu, and that led me to Phnom Penh. I arrived at Wat
20 Phnom.

21 Q. And you said to us earlier that you saw people leaving the
22 city. Can you describe the people that you saw? Was it a large
23 group of people? And how were they travelling? Were they
24 travelling in cars or on foot or otherwise?

25 A. I saw those people -- some of them were taking vehicles, but

1 most of them were on their foot.

2 Q. And do you recall if this was a small number of people or a
3 large number of people that you saw?

4 A. It was a large group of people.

5 [15.43.44]

6 People were in a very long line.

7 Q. As far as you could tell, why were these people leaving the
8 city?

9 A. As I heard, because I was not sure, those people were
10 evacuated out of the city because it was easier for them to
11 cleanse the enemies.

12 Q. And when you said it was easier for them to clean the enemies,
13 who was cleaning the enemies?

14 A. The enemies were the Lon Nol soldiers. They were influenced by
15 the Lon Nol. So people from that regime were to be cleaned. Later
16 on, people said that there were -- there must not be any CEI in
17 Phnom Penh -- rather, CIA.

18 Q. Do you recall, Mr. Pean Khean, who told this? Who said to you
19 that the city had to be cleaned of enemies, including Lon Nol's
20 soldiers?

21 A. I heard from mouth to mouth. I did not study this from any
22 document. I just heard of this from friends, from subordinates.

23 Q. And did you see -- at this time or in this period -- did you
24 see any enemies or Lon Nol soldiers that were captured?

25 [15.47.15]

1 A. At the time, I did not see that.

2 Q. Did you hear about any enemies in your discussions with other
3 cadre -- did you hear about anyone being captured? Any of these
4 enemies that were to be cleaned?

5 A. My apologies, I do not understand the question.

6 Q. That's fine, Mr. Pean Khean, we'll move on.

7 What did you do on the 17th of April '75? Where did you go and
8 what did you do, after you came to Phnom Penh at 5 PM?

9 A. I was always with Koy Thuon. I offered him food services -- I
10 cooked for him, in addition to my messenger works. I had no role.
11 That was my work.

12 [15.49.00]

13 Q. And you say you were always with him -- did you see any of the
14 other leaders, or see any members of the Party in this period,
15 immediately following the 17th of April?

16 A. After 1975 liberation -- it was probably two months after the
17 liberation, it was probably in July -- after Koy Thuon was
18 arrested, Pang took me to K-1.

19 Q. Thank you. Just before we move on to Koy Khuon's arrest -- at
20 this time, following the 17th of April, was he still the chief of
21 Zone 304 or did he have any other responsibilities?

22 A. As far as I know, prior to that he was the chairman of Zone
23 304, and later on he was in charge of the Ministry of Commerce,
24 rather -- before he was arrested.

25 Q. And where did he live and work, before he was arrested?

1 A. As I know, he was living in Wat Phnom Bat (phonetic). He
2 usually travelled from Phnom Penh to Kampong Som.

3 [15.52.04]

4 One time, when he came from Kampong Som, Angkar arrested him.

5 Q. Were you aware at all of a location of a place called Chraing
6 Chamres, in this time?

7 A. I know Chraing Chamres. I lived there for a while. It was also
8 one of Koy Khuon's locations.

9 Q. And do you know what -- apologies, do you know who arrested
10 Koy Khuon?

11 A. I did not witness the arrest of Koy Khuon. I did not know who
12 arrested him, either. After he disappeared, we heard about his
13 arrest -- that it was done by Angkar.

14 Q. Very well, you -- obviously, you didn't see the arrest.

15 [15.53.58]

16 You say it was ordered by Angkar. Do you know who that was?

17 A. Back then, the word "Angkar" referred to the leaders of the
18 revolutionary Kampuchea.

19 Q. And did you know then who those leaders were? And -- if you
20 can recall any of their names?

21 A. The leaders back then, as I recall, were Brother Number One,
22 Pol -- Om Pol, rather. Before the liberation of Phnom Penh, I
23 remember that he was the only leader, and I did not come to know
24 others yet.

25 Q. Did you come to know any of the leaders subsequently, after

1 the arrest of Koy Thuon, in the months and years following?

2 A. Later on, in 1976, I came to know those senior leaders. They
3 included Pol Pot, Nuon Chea, Ieng Sary, Son Sen. I did not know
4 Nuon Chea before that. I did not know Mr. Khieu Samphan before
5 that. It was in 1976 that I know them.

6 Q. And when you learned of their names, in 1976, do I understand
7 correctly that you understood them to be the leaders?

8 A. I did not hear clearly.

9 (A short pause)

10 [15.57.40]

11 Q. I'll repeat my question. You said to us that you came to know
12 other senior people, including Nuon Chea, Ieng Sary, Son Sen, and
13 Khieu Samphan, whom you didn't know before 1976. My question was:
14 Did you understand those men to be the leaders -- the senior
15 leaders?

16 A. I knew that they were so, because in 1976 I stayed at K-1. It
17 was Pol Pot's place. I -- rather, K-1 and K-3 were their
18 locations. K-1 was the permanent place for Pol Pot. As for K-3,
19 it was for Om Khieu Samphan, Om Nuon Chea, Om Ieng Sary. And as
20 for Son Sen, he only came in once in a while.

21 [15.59.06]

22 K-3 was a place where they came to meet each other, and they were
23 addressed as Om. That means they were the leaders.

24 Q. And as you recalled the situation at the time, did you and
25 other people living and working in Phnom Penh understand these

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1 people to be the leaders?

2 A. I don't understand the question.

3 Q. I do apologize. It was a confusing question. I will move on.

4 Mr. Pean Khean, what happened after Koy Thuon was arrested? As

5 far as you know, where was he taken?

6 A. It was on one occasion that I went to the south of Pol Pot's

7 house--

8 MR. PRESIDENT:

9 We hear nothing.

10 [16.00.46]

11 We have problem hearing -- I think there could have been some

12 technical problem. Can we hear now?

13 Witness, could you repeat your response, because we haven't heard

14 anything from you.

15 MR. PEAN KHEAN:

16 A. I met Mr. Koy Khuon on one occasion, because Pang asked me to

17 bring chicken to Koy Khuon, when he was at a location to the

18 south of Om Pol's house. He was about 3 meters from Om Pol's

19 location.

20 BY MR. ABDULHAK:

21 Q. Thank you very much for that comprehensive--

22 A. Rather, 300 meters.

23 MR. PRESIDENT:

24 Thank you very much, Witness, and thank you very much,

25 Co-Prosecutor.

1 [16.02.08]

2 Since it is now time for the -- today's adjournment, the Court is
3 now adjourned. The next session will be resumed tomorrow by 9
4 a.m.

5 Mr. Witness, since the Hearing on your testimony has not yet come
6 to a conclusion, you are expected to come back tomorrow,
7 including your duty counsel as well. So please come here again,
8 before 9 a.m., both of you -- the duty counsel and Mr. Witness.
9 Court officer is now instructed to coordinate with the WESU in
10 order to ensure that the witness is well-accommodated, and that
11 he be brought to the courtroom before 9 a.m.

12 Security personnels are now instructed to bring all the three
13 accused persons to the detention facility and have them returned
14 to the courtroom by 9 a.m. tomorrow.

15 The Court is adjourned.

16 (Court adjourns at 1603H)

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