



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា
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Chambres Extraordinaires au sein des Tribunaux Cambodgiens

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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

11 December 2012
Trial Day 138

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

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MR. ABDULHAK	English
MR. ANG UDOM	Khmer
JUDGE CARTWRIGHT	English
MR. DE WILDE D'ESTMAEL	French
MR. HUN CHHUNLY (TCW-247)	Khmer
MR. IANUZZI	English
MR. KARNAVAS	English
MR. PHAN VAN (TCW-307)	Khmer
MR. KONG SAM ONN	Khmer
JUDGE LAVERGNE	French
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MS. SIMONNEAU-FORT	French
MR. VERCKEN	French

1

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

2 (Court opens at 0902H)

3 MR. PRESIDENT:

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

5 As the Chamber already informed the public and the parties to the
6 proceeding, that -- during today's sessions we continue hearing
7 Witness Hun Chhunly, questions to be put by counsels for Mr. Ieng
8 Sary, and we would continue hearing TCW 307 after the conclusion
9 of the first witness.

10 [09.03.51]

11 Mr. Duch Phary, you are now invited to report to the Chamber the
12 current status of the parties to the proceedings.

13 THE GREFFIER:

14 Good morning, Mr. President and Your Honours. All parties to the
15 proceedings are present, except Mr. Ieng Sary, who is present,
16 but in his holding cell, due to his health concerns.

17 Mr. Hun Chhunly is now in the courtroom.

18 The following witness, TCW 307, is ready to be called. According
19 to the witness, the witness said that -- the witness has no
20 connection to any of the parties to the proceedings, including
21 the civil parties. The witness already took an oath this morning.
22 Counsel Mam Rithea is the duty counsel assigned for the witness.
23 And the witness, again, Mr. President and Your Honours, is ready
24 and waiting at the holding room.

25 [09.05.21]

2

1 MR. PRESIDENT:

2 Thank you, Mr. Duch Phary.

3 Before we proceed to counsel for Mr. Ieng Sary to put questions
4 to this witness, the Chamber would like to hand over to Judge
5 Silvia Cartwright to rule on the submission submitted by counsel
6 for Mr. Ieng Sary.

7 Judge Cartwright, you may now proceed.

8 JUDGE CARTWRIGHT:

9 Thank you, President.

10 The Trial Chamber has deliberated on the Ieng Sary defence
11 request for an oral hearing to make submissions on the
12 permissibility of audio recording the Accused and his treating
13 physician in the holding cell.

14 The Chamber considers an oral hearing is not required, as it has
15 requested written submissions citing appropriate legal
16 authorities on this issue.

17 [09.06.22]

18 The Chamber also notes that the Pre-Trial Chamber decision of 11
19 June 2010 does not appear to provide guidance regarding the
20 specific practices at issue here.

21 Therefore, the Trial Chamber reiterates the Ieng Sary defence
22 must seek leave to resume the audio recording of the Accused,
23 pursuant to Internal Rule 92, and the request for oral hearing is
24 denied.

25 That's the end of the Trial Chamber's ruling, President. Thank

1 you.

2 MR. PRESIDENT:

3 I thank you, Judge Silvia Cartwright.

4 We would like now to hand over to counsel for Mr. Ieng Sary to
5 put questions to Witness Chhunly.

6 MR. KARNAVAS:

7 Good morning, Mr. President. Good morning, Your Honours; and good
8 morning to everyone in and around the courtroom.

9 [09.07.30]

10 And before I begin my questioning, in light of the decision, we
11 do seek leave at this point to audiotape the -- and record what
12 transpires down there between our client and our case manager and
13 when the doctors communicate, for the following reason.

14 By the time we make these submissions in writing, the Prosecution
15 responds, you enter a decision, two or three weeks would have
16 gone by.

17 We submit that making audio recordings would be -- would not
18 prejudice anyone. Certainly, if the Trial Chamber were to decide
19 down the road that such recordings were impermissible, they
20 certainly could destroy the tape recordings.

21 But the ruling itself, as it is, prevents the Defence from making
22 an adequate record.

23 I don't wish to take a whole lot of time; I just want to make
24 sure that my record is very, very clear.

25 We find that your decision by way of email to us, citing no

4

1 authority, and the decision today can and does have a chilling
2 effect for future purposes. I don't want to go into the entire
3 argument, but in any event, we are seeking leave -- and we would
4 also give assurances to the Trial Chamber that those tapes would
5 not be in any way shared to the public, and in fact, we are
6 willing to provide the tapes to the Trial Chamber at the end of
7 each day.

8 [09.09.07]

9 Therefore, I think this is a rather reasonable measure to take.
10 It doesn't prejudice anyone, it assures us of a record, and it
11 allows you, Your Honours, to then destroy such tape recordings
12 if, in the event, you find it is in the interest of justice not
13 to have something rather transparent, verifiable, objective that
14 may support the Defence's position, at some point, that our
15 client is not able to follow the proceedings and, therefore,
16 cannot, and is not, and will not be enjoying all of his fair
17 trial rights.

18 Thank you.

19 MR. PRESIDENT:

20 The International Co Prosecutor, you may now proceed.

21 MR. ABDULHAK:

22 Thank you, Mr. President. And we'll be brief, in the interests of
23 getting on with the hearing of the witness's testimony. We
24 submitted a preliminary response to one of Mr. Ieng Sary's
25 requests last night and gave some preliminary submissions on this

1 issue.

2 Without going into the law, we're of the view that the recent
3 recording of the conversations, with doctors in particular,
4 exceed the limited authorization that was in place pursuant to a
5 Pre-Trial Chamber decision.

6 [09.10.24]

7 Having said that, there is a decision, there is an order now by
8 the Trial Chamber for the -- for all recordings to cease. That
9 order is, of course, in force and to be observed by all parties.
10 As to our learned friend's interim application for recording, we
11 leave that in Your Honours' capable hands, we take no position on
12 it. We note our learned friend has undertaken to submit the tapes
13 to be in the custody of the Chamber and to be dealt with by the
14 Chamber as you - as you see fit and as you decide ultimately on
15 the application.

16 Thank you.

17 (Judges deliberate)

18 [09.11.52]

19 MR. PRESIDENT:

20 The Chamber has already ruled upon this, and we wish not to
21 reconsider it. We will wait until things will be arranged and
22 settled by parties, according to the memorandum of the Trial
23 Chamber.

24 Without further ado, we would like now to hand over to counsel
25 for Mr. Nuon -- Ieng Sary to proceed with their line of

1 questionings to this witness.

2 QUESTIONING BY MR. KARNAVAS:

3 Thank you, Mr. President. Thank you, Your Honours, for your
4 prompt denial of our request.

5 Now, sir, my name is Michael Karnavas. I am here with Mr. Ang
6 Udom, and we represent Mr. Ieng Sary. Good morning.

7 Q. I would like to begin by going back to your qualifications.

8 Let me begin by asking you, when did you complete and graduate
9 from medical school?

10 MR. HUN CHHUNLY:

11 A. I graduated from Medical School in Phnom Penh in 1967, after
12 had been in the practicum sessions for 20 months at the Calmette
13 Hospital. During that time, I was also assigned to practice my
14 medical profession at Battambang province from 1967 until 1973.
15 By mid of 1973, I was asked to join the army, working as the
16 military doctor at Battambang until '75.

17 [09.14.14]

18 Q. Thank you. We're going to go step by step.

19 How many years did you actually go to Medical School? And did you
20 actually complete your medical studies?

21 A. It took me more than seven years to finish my medical studies.

22 Q. Thank you. And what specialty did you have, if any?

23 A. I am a general physician.

24 Q. The reason I'm asking these questions, sir, is, when you
25 testified, you told us that having been a doctor from '67 to '73

7

1 in the civilian hospital, you were then transferred to the
2 medical -- the military hospital, where you were a medic -- not a
3 physician, not a doctor, but a medic. Do you recall giving us
4 this evidence?

5 A. I remained a general physician all along.

6 [09.16.00]

7 Q. So, when you testified last week that you were merely a medic,
8 and not a doctor, at the military hospital from '73 to '75, were
9 you misspeaking?

10 A. (No interpretation)

11 MR. PRESIDENT:

12 Mr. Witness, could you please hold on?

13 Co Prosecutor, you may now proceed.

14 MR. ABDULHAK:

15 Your Honours, I'm reluctant to interject early, but it may well
16 be an issue of translation, and the best way to resolve it is by
17 reading to the doctor the relevant passage so that it can be read
18 to him in Khmer, and he can understand the exact words that were
19 used by him, and we can understand the words that were
20 interpreted so that we understand exactly what was said and then
21 we can resolve if there are any inconsistencies in the accounts.
22 Thank you.

23 [09.16.59]

24 MR. KARNAVAS:

25 Mr. President, I appreciate the guidance from the Prosecutor, but

1 I would like to go step by step.

2 The gentleman was able to write a book after 25 years, with great
3 detail, without any notes. Surely his memory is good enough that
4 he would remember what he said last Friday or last Thursday.

5 BY MR. KARNAVAS:

6 Q. And I would like to ask him, did he ever testify last week
7 that he was a medic in the military hospital.

8 MR. HUN CHHUNLY:

9 A. I was a doctor at the civilian hospital and I remained,
10 somehow, a doctor at the military hospital because I still
11 practiced my profession as a physician there.

12 Q. All right. Well, let me just quote here from September 7th --
13 that would be Friday, Your Honours. This is on page 37. So, I'm
14 reading from the English because this is what I have to rely on;
15 I don't know what was said in Khmer.

16 [09.18.28]

17 It says here on line 4: "I became a physician in 1967, and with
18 the permission of the government, I was assigned to work in a
19 civilian hospital in Battambang.

20 Question: "Until when did you leave Battambang?"

21 "I had worked at Battambang Hospital until 1973, mid-1973. And
22 after -- rather, in 1973, I was asked to join the army and worked
23 as a military medic in hospital for" - something is inaudible --
24 "from 1973 until 1975."

25 Do you recall being asked these questions and giving these

1 answers, sir?

2 A. I believe that the interpreting itself could be slightly
3 different from what I was saying. Even though I worked at the
4 military hospital I still maintained my position as a doctor.

5 Q. All right. Well, the day -- it would seem that the day before,
6 on December 6th, 2012, you said something similar. And perhaps
7 you can assist us.

8 [09.20.06]

9 Here, on page 76, starting with line 21, you said:

10 "For me, I did not say I used to be a military medic. I said I
11 used to be a physician at Battambang Province Hospital because,
12 at Battambang, [everybody] knew me -- that I was a civilian
13 doctor or physician, then a military medic. I had been working as
14 a civilian physician for a long time before I was assigned and
15 given a position as a military medic."

16 This goes on to page 77, for the record.

17 So it would appear that at least on two occasions you have
18 indicated that you -- when you were transferred from the civilian
19 hospital to the military hospital, you went from being a doctor
20 to a medic, because clearly, on both occasions, you don't say you
21 became a military physician, you say "military" -- you say
22 "medic". So, can you please clarify that? Were you a medic?

23 MR. PRESIDENT:

24 Could you please hold on, Mr. Witness?

25 I would like to hand over to Judge Lavergne.

10

1 [09.21.36]

2 JUDGE LAVERGNE:

3 Thank you, Mr. President.

4 I think it might be the right time, before we ask the witness to
5 clarify what he says in the English transcription, to be a little
6 bit more accurate about things, and I would like the Ieng Sary
7 defence to tell us at precisely what time these words were spoken
8 that they are referring to.

9 And the second thing is that if there is to be a clarification,
10 it should be made from the Khmer, and not from the English.

11 Thank you.

12 BY MR. KARNAVAS:

13 All right, we'll go with the time first.

14 On 6 December, it starts -- it's after time 14.16.39. And I would
15 just say it's immediately before 14.20.47.

16 On the following day, 7 December, when he says "medic" for the
17 second time -- or at least that's what translated -- the -- it's
18 11.02.30; that is the time, 11.02.30, where he says "physician"
19 in the civilian hospital, "medic" in the medical -- in the
20 military hospital, and there lies the conundrum.

21 Q. Is there a distinction? Maybe the military uses "medic" for
22 "doctor", but I have to go with what I have.

23 [09.23.55]

24 MR. HUN CHHUNLY:

25 A. I would like to make it clear once and for all.

11

1 What is rendered in English as what you stated could not have
2 been the right interpretation of the term I used in Khmer at that
3 time because I said I was a physician at the civilian hospital
4 and at the same time, when I worked at the military hospital, I
5 was the same position.

6 At Battambang province, everyone knew me as a civilian physician,
7 then a military doctor or medic because I worked at the civilian
8 hospital for a long time. And at the military hospital, I worked
9 only briefly. And although I worked for -- at the military
10 hospital, I did not show people that I had any rank. And again,
11 to be precise, I was still a physician, a civilian physician,
12 although working at the military hospital.

13 And perhaps there was some kind of a discrepancy in the rendition
14 itself.

15 Q. All right. Well, again--

16 (Judges deliberate)

17 [09.26.45]

18 MR. PRESIDENT:

19 Counsel Karnavas, do you have any concern regarding the Khmer
20 transcript? And you are guided to refer to Khmer transcript as
21 the basis for your argument, if you may, because it is not
22 entirely appropriate to rely heavily on the English transcript
23 when challenging a witness who spoke in -- originally in Khmer.
24 And it appears to us that you should proceed to another question
25 which is on another topic rather than on this. If you wish you

12

1 dwell on this again, then refer to the Khmer transcript, please.

2 MR. KARNAVAS:

3 Very well, Mr. President.

4 Just earlier -- that is, before you had this meeting to confer --

5 I heard - again, I don't know what was said in Khmer, but I heard

6 the translators, who have been with us for a long period -- and

7 we have to rely on them -- he said that when he meant to the

8 medical - when he went to the military hospital, he was "a doctor

9 or medic". That's what he said today, that's what I heard,

10 "doctor or medic". Now I'm listening very carefully. So, that was

11 my follow up question, because that's what I'm hearing.

12 [09.28.28]

13 Now, maybe they're using the words interchangeably in the booth.

14 But did the gentlemen say "doctor" or "medic"? Are they two

15 different words in Khmer? Is he using these words? But that's

16 what's being translated, and I have to rely on the translation.

17 MR. PRESIDENT:

18 National counsel for Mr. Ieng Sary is now instructed to also

19 verify the Khmer version of the testimony to see whether there is

20 any discrepancy in the rendition. And, indeed, it is justice for

21 the witness as well that we have to serve.

22 MR. ANG UDOM:

23 Mr. President and Your Honours, we have not ready to prepare this

24 Khmer version, as our case file manager should be the one who

25 helps us with this, but he is at the holding cell.

13

1 With Mr. President's leave, I would like go to down a little bit
2 to see him because I have problem contacting him through the
3 Sametime application, and for that, I cannot really communicate
4 with him effectively.

5 [09.30.02]

6 MR. KARNAVAS:

7 Mr. President, the real issue is today, did the gentleman say
8 "doctor" or "medic"? That's what was translated to us. Now,
9 either he's saying this or it's being mistranslated. Either way,
10 this is what I heard, and I'm going on that. So, I'm not talking
11 about what happened last week, I'm talking about what happened
12 today. This is what I heard.

13 Now, maybe the gentlemen in the booth is using "medic"
14 interchangeably, or in addition to.

15 MR. PRESIDENT:

16 We thank you, Counsel, for you reiteration of the matter, but we
17 believe that there could be even the situation that is -- for
18 example, that -- we need further clarification on this. And we
19 would not wish you to be alone talking about it; we would like to
20 clarify.

21 And you may also sit.

22 But we would like to hand over to the prosecutor first.

23 [09.31.25]

24 MR. ABDULHAK:

25 Thank you, Mr. President. What we'll -- just for the record is

14

1 complete, I mean, we certainly heard the witness reiterate at
2 least twice that he was also a doctor at the military hospital
3 from '73 to '75, and he said in addition that, indeed, everybody
4 knew him in the area as a doctor, and he testified last week, of
5 course, that after the arrival of the Khmer Rouge, he couldn't
6 hide his identity because everybody knew him as a - as a doctor
7 and someone who had worked in two hospitals.

8 Now, I think it's unfortunate our learned friends don't have the
9 transcript prepared, but in these circumstances, the witness's
10 evidence is clear, and I think we should move on unless counsel
11 can produce a Khmer transcript and point to any inconsistency. We
12 should just move on, in the interest of time.

13 MR. KARNAVAS:

14 I'll move on, but it still doesn't clear up the matter, what he
15 said, actually, today. Did he say "doctor" or "medic"? Did he say
16 it? Because, if he didn't say it, then the booth needs to be
17 instructed not to put words into the witness's mouth. If he did
18 say it, then he can explain why he said "doctor" or "medic".

19 MR. PRESIDENT:

20 (Technical problem, no audio recording)

21 [09.36.27]

22 MR. PRESIDENT:

23 We shall now resume.

24 You may proceed, Counsel.

25 BY MR. KARNAVAS:

15

1 Thank you. I'll move to another section and then come back to
2 this issue because were not through with it yet.

3 Q. Now, sir, on Friday you testified that you wrote this entire
4 book based on your memory. Do you stand by that?

5 MR. HUN CHHUNLY:

6 A. Yes, I do. I maintain my testimony. I wrote this book based
7 solely on my memory.

8 Q. And that would mean that over the years you did not read any -
9 you did not rely on any material from the books that you read to
10 describe events in your book; is that right?

11 A. Yes, it is correct. It is the book, the book I wrote, and it
12 is my personal writing; I did not copy form any other
13 literatures.

14 [09.38.03]

15 Q. All right. Well, did you do any research? Did you go to
16 DC-Cam, for instance, and look at any of their archive?

17 A. No, I never -- I've never been to DC-Cam. But after I
18 completed my write-up, I brought two books I wrote to the DC-Cam
19 and five additional books to the National Library.

20 Q. All right. Now, from reading your book, it would appear that
21 you read and, perhaps, even understand quite well French and
22 English; is that correct?

23 A. Yes, I speak French and a little English.

24 Q. And back then -- that is, during the period of '75 to '79 --
25 you also understood and was able to read English; is that right?

1 A. (Microphone not activated)

2 Q. Could you please repeat your answer? We didn't get it.

3 A. I could read French well and I could understand and comprehend
4 reading material in English.

5 [09.40.00]

6 Q. Well, you discuss that you had at one time two English books,
7 between 1975 to 1979, one being a copy of "Tom Sawyer" from, you
8 know, the great American author Marc Twain, and then there was
9 another book, "The World of the Afterlife", written by an
10 American journalist. Were those books in English or were they in
11 Khmer or French?

12 A. As a matter of fact, I did not only read the two books when I
13 was working over there. At the time, I took the risk to read
14 those books between 1975 to 1979. Altogether there were three
15 books, one of which was in French, entitled "L'Histoire de la
16 Russie" -- which is "The History of Russia" -- and the second of
17 which was in English, entitled "The World After Life". As for the
18 book "Tom Sawyer", which was the last book of the three, I read
19 when I was transferred back to the civilian hospital.

20 Q. All right. I just want to make sure that you were able to read
21 and understand English and French.

22 Now, you told us on Friday that after 1979 all the way until the
23 time that you began writing your book, which would have been 2004
24 and thereafter, you read a lot of books about the Khmer Rouge
25 period, and in fact, you told us two. Do you recall making that

17

1 statement?

2 [09.42.16]

3 A. Yes, I do, but I did not say that I had read many books. I did
4 say that I read some books concerning the Khmer Rouge, namely the
5 book written by Madam Laurence Picq, which is entitled "Beyond
6 the Horizon", and the other one is--

7 Q. The other book--

8 A. -"Prisoner of the Khmer Rouge".

9 Q. The other book would have been the one written by Prince
10 Norodom Sihanouk; right?

11 A. Yes. There was a book written by Samdech Norodom Sihanouk,
12 entitled "The Prisoner of the Khmer Rouge".

13 Q. Now - so, if we are to understand your testimony, what you're
14 telling us is, over the period from '75 - '79 to 2004 and
15 thereafter, the sum total of your reading, as an intellectual, on
16 this period of '75 to '79, are those two books, and those two
17 books only?

18 [09.44.04]

19 A. During the Khmer Rouge period, I only read the three books.

20 Q. I'm asking you after. You've told us on numerous occasions
21 that you were and are an intellectual, and I now want to find out
22 exactly how many books you read from '79 to 2004. You claim only
23 two. Is that what you stand by, those two books, and only those
24 two books?

25 MR. PRESIDENT:

1 Witness, please hold on.

2 Mr. Prosecutor, you may proceed.

3 MR. ABDULHAK:

4 I think my learned friend is misrepresenting, perhaps
5 inadvertently, the witness's evidence.

6 The witness never testified that he only read two books since
7 1979; that was in response to a question by Nuon Chea defence
8 counsel as to how many books on the Khmer Rouge he had read, and
9 he said those two books after 1979.

10 So, I think it's important to present his testimony to him in an
11 accurate manner.

12 [09.45.16]

13 MR. KARNAVAS:

14 Mr. President, I thought that it was rather obvious that I'm
15 referring to two books concerning this period, not two books in
16 total, because he's indicated to us that he hasn't been
17 influenced by anything that he's read.

18 BY MR. KARNAVAS:

19 Q. So, I want to pin down the witness to tell us exactly how many
20 books he read on the KR period.

21 MR. HUN CHHUNLY:

22 A. During the Khmer Rouge era, when I was working at P2 Military
23 Hospital, I read two books, but those two books were not relevant
24 to the Khmer Rouge regime. But when I returned to P1, which was
25 the civilian hospital, I read another book, "Tom Sawyer". And

1 then, later on, I also read a book by Madam Laurence Picq and the
2 other book by Prince Norodom Sihanouk. And then, later on, I read
3 other books, but I could say that I did not read many books and I
4 do not recall the titles of those books. And I did not go through
5 the books orally either, but when I was -- when it was during the
6 Khmer Rouge period, I read every single page of the three books I
7 read.

8 But what I would like to emphasize is that the books I have read
9 did not influence my writing.

10 [09.47.08]

11 Q. Thank you.

12 All right, let's talk about this period of '75 to '79. You've
13 told us and you've written about having a radio. I believe it was
14 a Sony radio. Do you recall writing about that?

15 A. I had a small handy Sony radio and I took the risk to listen
16 to it at night. I had small earplugs to listen to this radio and
17 I only listen to it at night.

18 Q. And can you please tell us the size of this radio back in
19 1975?

20 A. (Microphone not activated)

21 THE INTERPRETER:

22 Inaudible for interpreters.

23 MR. PRESIDENT:

24 Witness, please hold on until you see the microphone is
25 activated.

1 [09.48.25]

2 MR. HUN CHHUNLY:

3 A. It's about -- the radio is about 10 centimetre width and 20
4 centimetre long. And as for the earplugs, I did not plug with the
5 radio; I had to put it separately, somewhere, to hide from
6 others.

7 BY MR. KARNAVAS:

8 Q. All right. Now, when you were describing the size, it
9 appeared, at least from your hand movement, that the size was
10 somewhat in the vicinity of a shoebox -- that sort of size or
11 maybe slightly smaller. So, help us visualize the size of this
12 radio. Would that be about right? If not, please correct me. It
13 will become relevant.

14 MR. HUN CHHUNLY:

15 A. The size of this radio is not big. I covered it under a
16 plastic bag and I used this plastic bag as part of my pillow as
17 well.

18 [09.49.41]

19 Q. All right. Now, you've told us about the three books that you
20 had. You also describe in your book having a Rolex -- a Rolex
21 watch, a rather expensive watch -- that you had all the way
22 through 1979; is that correct?

23 A. Yes. I got this Rolex -- Rolex I'm wearing now.

24 Q. And you also talked about possessing gold because it was gold
25 that you used to purchase batteries for your radio, which, you

1 claim, was operating all the way until July 1979. So, you had
2 gold with you, as well, in your possession.

3 A. As for gold, I actually did not keep it for myself; it
4 belonged to my mother.

5 Q. Well, who was hiding it? Who had it physically on them -- your
6 mother, or did you have it and, when you needed gold, you would
7 go to mom to get the gold?

8 A. My mother had the possession of this gold.

9 Q. And the batteries that you bought for your Sony, where were
10 you able to buy -- from whom were you able to buy the batteries?

11 [09.51.44]

12 A. During the Khmer Rouge era, we had gold, and generally the
13 evacuee had to barter gold with sugar, rice or battery. And we
14 had to do it secretly at that time.

15 Q. All right. Now, if you could answer my question? My question
16 is: With whom were you bartering for the batteries? Was he a
17 Khmer Rouge cadre? Was he someone that owned a store prior and
18 managed to have his stock someplace?

19 A. I barter with the other evacuees. We exchange items with them.

20 Q. So, as late as July or June 1977, the evacuees were able to
21 have on them such items as batteries, even though, by your own
22 account, you were constantly being searched?

23 A. Yes, they were under constant search for any possession, but
24 the bartering process was still available at that time, secretly.
25 We bartered items for other items that we needed.

1 [09.53.52]

2 Q. All right. Now, you claim that you had a notebook where you
3 took notes but you destroyed it because you were constantly being
4 searched and, therefore, you were afraid. Would you have gotten
5 into trouble for having a radio the size of a shoebox?

6 MS. SIMONNEAU-FORT:

7 Mr. President, just a brief comment, please--

8 MR. PRESIDENT:

9 Witness, please hold on.

10 And, Lead Co-lawyer for the civil parties, you may proceed.

11 MS. SIMONNEAU-FORT:

12 I beg your pardon, Mr. President, just a very brief observation.

13 Would my learned colleague be so kind as to observe a pause
14 before he begins his next question, as we have already missed the
15 beginning segments of several answers? Thank you.

16 [09.54.49]

17 MR. KARNAVAS:

18 Apologies--

19 MR. PRESIDENT:

20 Witness, please respond to the last question posed by the
21 counsel, if you still recall it.

22 MR. HUN CHHUNLY:

23 A. I think I have forgotten the last question posed by Counsel
24 Karnavas. If you don't mind, please repeat it.

25 BY MR. KARNAVAS:

1 Q. I'll go step by step. Let me ask you this: Would the radio --
2 if they had discovered the radio that you had, would that have
3 gotten you into trouble?

4 [09.55.40]

5 MR. HUN CHHUNLY:

6 A. Yes. I would risk my life if I had been discovered possessing
7 a radio or even read books. But at that time I was starving for
8 information, I was hungry for reading to get information. That's
9 why I dared take the risk to do so.

10 Q. And so, by your own account, the books, French and English,
11 would have also gotten you into trouble.

12 A. I had to -- you know, play some tricks as follows.

13 When I was with the hospital--

14 Q. Sir. Sir. Sir, I got little time. I don't mean to be rude, but
15 I just want an answer. You can tell us all about the tricks when
16 I get to why you then used trickery to maintain your notebooks
17 that you claim you destroyed. For right now, tell us: Would the
18 books have gotten you into trouble? Yes or no?

19 MR. PRESIDENT:

20 Witness, please hold on.

21 (Judges deliberate)

22 [09.57.44]

23 MR. PRESIDENT:

24 I now hand over to Judge Jean-Marc Lavergne to proceed. You may
25 proceed, Judge.

1 JUDGE LAVERGNE:

2 Thank you, President. Three brief comments.

3 Firstly, the witness has already answered the question that has
4 been posed by Counsel Karnavas. The question is therefore
5 repetitive.

6 Secondly, the Chamber notes that the tone with which Counsel
7 Karnavas is asking his question is entirely inappropriate.

8 Counsel Karnavas has said that he does not wish to be impolite or
9 rude, and the Chamber simply wishes to remind him of this.

10 [09.58.36]

11 BY MR. KARNAVAS:

12 Q. Sir, would gold have gotten you into trouble? Could you have
13 lost your life if they had found that you were in possession of
14 gold and using that gold to buy batteries?

15 MR. HUN CHHUNLY:

16 A. I believe that some of the evacuees -- not just me, myself --
17 had to bring along with them some gold to make sure they could
18 barter for some goods or items if they felt they were much
19 needed.

20 Q. Now, could you please -- could you kindly answer my question?

21 I don't think it's repetitive for me to ask you to tell us
22 whether, if you had been discovered with gold, that would have
23 gotten you into trouble. It's a rather simple question.

24 A. Yes, if they learned that we're in the possession of any gold,
25 then we would be taken -- the gold would be taken.

1 Q. And what about the Rolex? Were you wearing the Rolex openly or
2 did you also have that hidden away with the radio and the books?
3 [10.00.20]

4 A. In my book, I also wrote something about this. I hid the Rolex
5 in a plastic bag -- several layers of plastic bag -- and had it
6 buried underground. By 1979, I had to uncover it.

7 Q. Yet you tell us that you prepared notes and you were writing
8 notes but you destroyed them because you were -- you feared for
9 your safety. How is it that you had a radio, a fairly large one,
10 three books, which also take up some space, the gold you would
11 occasionally get, the batteries you would barter -- you would get
12 from bartering with gold -- okay, the Rolex was buried, but how
13 is it that you now claim that you actually took notes but
14 destroyed them, when you were able to hide these rather large
15 items that take up quite a bit of space, keeping in mind that you
16 were travelling quite a bit?

17 [10.01.48]

18 A. I would like to say this in more broad terms.
19 For books, I read them at the military hospital, because at the
20 military hospital I was given a separate room, where I could work
21 alone. And I had to remove the cover pages of the book I read.
22 And, after reading a few pages, I would then remove those pages I
23 read and discard them or for rolling tobacco. And I made use of
24 the read pages -- the pages I read and offered them to someone to
25 roll the tobacco. And I kept doing this; having read a few pages,

1 I would then proceed to remove them.

2 And, when it comes to the watch, I had to bury it.

3 And for the notes, again, I had to have them destroyed because I
4 was fearing for my safety. I was afraid that it -- they would --
5 it would be found.

6 And at the cooperative, the search was so rigorous, and I -- by
7 the time I got to the cooperative, I couldn't manage to read or
8 to hide anything, but to have them thrown or discarded would be
9 the best option. And I buried the watch and radio -- not radio; I
10 buried the watch when I was at the cooperative, but I could
11 really hide the radio by blending it with my cushion because I
12 wrapped it and it looked like a cushion; no one take any notice.

13 [10.04.01]

14 Q. So, are we to believe that your room wasn't searched? Because
15 otherwise, if it was searched, they would search also your bed,
16 your pillows. And by your own admission -- this is on page 80 of
17 your book -- you say that the last news you got were in July --
18 was in July 1977 because you ran out of money to buy batteries.
19 So it would appear that up until July 1977, even though you're
20 moving around -- or they're moving you around -- you were able to
21 hide this rather large object, yet you were not able to hide your
22 notes.

23 A. I would respond to this in two parts.

24 As I indicated, at the provincial hospital -- the military
25 hospital, indeed, I was given a small -- a house to me, and -- a

1 separate house. So, with this advantage, I could manage to read
2 some books, but I did not really read it in the open and I had to
3 remove some pages, including the cover pages of the book after
4 reading -- after finishing reading them.

5 [10.05.50]

6 And with regard to the radio, during the time when I was at the
7 hospital and when I became the cattle tender, I had to wrap it in
8 a bag that mixed up with my mosquito net and to make a pillow,
9 and I have a separate hut, as well.

10 Q. Let me move on. From 1979 all the way up until 2004, you made
11 no efforts to try to reconstruct the notes that you had taken. It
12 wasn't -- in other words, it wasn't until 25 years later, 2004,
13 that you began writing all the details that are in this book from
14 your memory.

15 A. The experience I lived through the Khmer Rouge still lives
16 with me, and I never forget it. So, it's just a matter of time; I
17 can recollect every detail of the event.

18 Q. All right. Well, let me just look at an example here. On page
19 11 of your book -- page 11 in English; in Khmer, it's 00678756 to
20 57 -- let me repeat that: 00678756 to 57; my apologies for not
21 having the French.

22 It says here -- this is the second paragraph: "At 9 a.m. a
23 helicopter landed at the children park along the bank of the
24 Chamkar River." Let me stop here.

25 Did you witness this helicopter landing? And it's a yes or no,

1 please.

2 [10.08.16]

3 A. On the 17 of April, 1975, at 9 a.m., the helicopter landed at
4 the children playground, and a few people walked past the bridge,
5 the metal bridge, and then boarded the helicopter and departed.

6 Q. And did you witness that, or is that what somebody told you --
7 what happened at 9 a.m., that is?

8 A. As I stated, I saw this.

9 Q. Okay. Well, it wasn't translated, so my apologies.

10 Now, you've also told us - there are some parts in the book where
11 you didn't actually see, but others told you; is that right?

12 A. Could you please be more precise to which part you're
13 referring to here?

14 Q. Well, let me ask you this: Since you have a rather vivid
15 memory of what happened 25 years ago, could you please tell us,
16 do you recall whether, on Thursday or Friday, you told us under
17 oath that you heard events, as opposed to witnessing those
18 events? And those questions were posed both by the Prosecution
19 and by the civil parties, and, I believe, by the Defence. Do you
20 recall saying that?

21 A. I may wish to ask you a question because I appear to not
22 understand what you're talking about.

23 [10.10.22]

24 Q. All right. Let me go to page 6, though, of your book. Here you
25 say, page 6 -- and this would be in, Khmer, 00369675, third

1 paragraph in the preface: "I am writing what I did, what I saw,
2 what I heard."

3 Now, when you say "what I heard", is that what -- are you telling
4 us what you heard from other people, or are we to believe that
5 you're -- today's testimony is that everything in this book is
6 strictly from your memory and your actual observation, as opposed
7 to what others may have told you?

8 MR. PRESIDENT:

9 Witness, could you please hold on?

10 International Co-Prosecutor, you may now proceed.

11 MR. ABDULHAK:

12 Again, I think my learned friend is misrepresenting or
13 misstating, perhaps inadvertently, the evidence.

14 Clearly, last week, the doctor testified extensively and
15 confirmed that some of the events he saw in person, that other
16 events he heard about or learned about from other people. So, I
17 think to be suggesting to him that he is now telling us that he
18 saw every event described in the book is not a fair -- it's not
19 fair to the witness, and his testimony should be - should be put
20 to him in a - in a more accurate manner.

21 [10.12.07]

22 MR. KARNAVAS:

23 Mr. President, I concur with what the Prosecution indicated, what
24 the witness stated.

25 Perhaps one point may be that the witness does not have such a

30

1 good memory since he's not able to recall what he said on
2 Thursday or Friday last week, which goes to his credibility as to
3 what he wrote after 25 years; also, it might be that the
4 gentleman today has had a change of mind and wishes to change his
5 testimony; perhaps he feels that he misspoke. That's why I wanted
6 to give him the opportunity.

7 But if the prosecution is confident and we can accept the
8 Prosecution's representations that what's in this book is not
9 entirely what the gentleman actually saw and experienced himself,
10 but what was told to him -- hearsay, double hearsay, or even
11 triple hearsay -- then I'm perfectly willing to move on.

12 [10.13.13]

13 MR. PRESIDENT:

14 Co-Prosecutor, you may proceed.

15 MR. ABDULHAK:

16 Your Honours, I apologize for taking up time again; and I'm only
17 on my feet because my learned friend was inviting us to make
18 certain concessions.

19 The proper way to proceed is to distinguish between the accounts
20 which the witness saw with his own eyes and witnessed - and other
21 accounts he learnt about in other ways. Clearly, the evidence
22 needs to be treated for what it is, each account on its own
23 strength and on the - on the witness's observations.

24 I think the witness has been more than clear as to which events
25 he witnessed personally and what the sources of other events that

1 he has described – that he has described were.

2 And, of course, we'll be making those representations in due
3 course in our final submissions.

4 [10.13.59]

5 BY MR. KARNAVAS:

6 Let me ask my next question, Mr. President.

7 Q. Sir, you told us last week that you had no real freedom of
8 movement. Do you stand by that?

9 MR. HUN CHHUNLY:

10 A. Yes, I do. It is true, I did not have the freedom to move, and
11 the other people had the same problem.

12 Q. And in the preface, on the same page that I referred to
13 earlier, you indicate that the book only covers Battambang in two
14 -- two districts. Is that because that was the extent of your
15 universe during that period, from 1975 to '79 -- that was the
16 range of movement that you would have had?

17 A. During the Khmer Rouge regime, I worked in two hospitals: in
18 the provincial town and also at district hospital, in Doun Teav
19 district, which is now renamed as Aek Phnum district. I also
20 worked in Moung Ruessei district. These are the confined areas I
21 moved to and I could write about.

22 [10.15.49]

23 Q. Now, nowhere in your book do I see and nowhere in your
24 testimony did I hear, from last week, where you attended any
25 meetings of a high level where policy decisions may have been

1 discussed; am I correct?

2 A. I was a doctor who was asked to work at a district hospital
3 and at the sector hospital; at the P2 hospital and P1 civilian
4 hospital.

5 When I worked there -- I believe that interpreter may have
6 misstated my position. I didn't work at a senior doctor at the
7 hospital; I was more or less working in my capacity as a
8 political prisoner at the hospital or a very simple employee or a
9 medical staff among the other Khmer Rouge medics at that time. So
10 I did not hold any senior or significant position as a doctor at
11 that time.

12 Q. All right. Well, it seems, at least from what we're hearing
13 today -- and I think you allude to it in your book a little bit
14 -- that from '79 - from '75 to '79 you actually did not work in
15 the same capacity as you had worked before. In other words, you
16 were not treated as a doctor, you were there as an assistant; you
17 might have been in the hospital, but you were not necessarily
18 viewed as a doctor. Is that what we are to understand?

19 A. (Microphone not activated)

20 [10.18.08]

21 MR. PRESIDENT:

22 Mr. Witness, hold on. You may now proceed.

23 MR. HUN CHHUNLY:

24 A. Yes, it is correct. But I wish you also add that I was asked
25 to help others as an assistant and, at the same time, I was a

1 prisoner and a subordinate, a low-level employee.

2 Q. Right. And, if I understand, what you told us today and what
3 you're saying right now is that you were not invited to any
4 meetings where significant issues, or matters, or policies were
5 being discussed; is that right?

6 A. Yes, it is correct. I, as indicated, was called to assist
7 other people, and then I was at the same time a prisoner and
8 low-level worker.

9 Q. Right. And, so today, as you are testifying, you're not in a
10 position to tell us what the policies were, or were not, or might
11 have been during that period; you're able to recount what you
12 remembered, what you experienced, but as far as the actual
13 policies, you're not in a position to tell us; are you?

14 [10.20.05]

15 A. No, I am not.

16 Q. Thank you.

17 Now, let me move on a little bit to 1979. In the last page of
18 your book - in the last page of your book -- it's 145 in English,
19 and in Khmer the section would be in 00679 -- 8941 to 42 -- you
20 state the following: "I was Director of Battambang Hospital from
21 1979 to 1986 and Director of Battambang Provincial Health from
22 1986 to 1992."

23 I take it you stand by what you wrote.

24 A. Yes, I do. After the fall of the Khmer Rouge, I worked at the
25 Battambang Provincial Hospital as the head of the hospital until

34

1 1986, when I was then promoted as the head of the health section
2 or unit of the hospital until 1992, and then I was transferred to
3 the Ministry of Health.

4 [10.21.46]

5 Q. Okay, thank you. Now, it would appear -- or help me out here
6 -- if I'm correct, you would have been appointed to those
7 positions by the new regime and/or by the Vietnamese, who were at
8 the time running the country, as you seem to allude to in your
9 book; is that right?

10 A. I was appointed by the Government of Cambodia, not by the
11 Vietnamese.

12 Q. All right. But you do recall in your book how you describe --
13 all the way until, I believe, '89 -- how the Vietnamese were
14 controlling the situation in Cambodia?

15 A. It is -- it was not unusual that there were some Vietnamese
16 experts at some ministries.

17 Q. All right. Now, was it because of your position and/or the
18 Vietnamese or the Cambodian Government that you say in your book
19 -- and I don't need to go into details, but you say in your book
20 that in 1986, six or seven years after the fall of Phnom Penh to
21 the Vietnamese -- that you were sent to Vietnam for a six-month
22 brainwashing session? Whose decision was it -- was it the
23 Cambodian Government's or was it the Vietnamese Government's?

24 [10.23.36]

25 MR. PRESIDENT:

1 Witness, please hold on.

2 And, Mr. Co-Prosecutor, you may now proceed.

3 MR. ABDULHAK:

4 Your Honours, we didn't object initially because we want to give
5 counsel a fair opportunity to demonstrate some relevance, but
6 this -- on this particular issue you've already ruled that the
7 purpose and content of the sessions in Vietnam are beyond the
8 scope and not relevant, particularly given that the witness has
9 confirmed that they've had no impact on his recollection and his
10 book.

11 So we object to this question.

12 MR. KARNAVAS:

13 Just so I can be heard on the matter, we do think it's relevant
14 because he writes -- he's demonstrated to us that he has no
15 notes, he had destroyed them. He writes the book 25 years after.
16 He's installed in a fairly high position by the then government
17 that was working with Vietnam. Seven years after the event, he
18 goes, by his own admission, to a six-month brainwashing session
19 in Vietnam, and the whole purpose of brainwashing is so that one
20 who's being brainwashed would actually not know or be in a
21 position to describe and to be - and to be aware of the extent of
22 the brainwashing.

23 [10.24.53]

24 And we would maintain that, perhaps, some of what he recounts 25
25 years later may be coloured by what he's learned and what he's

1 experienced subsequent to the events. So that's why we asked the
2 question.

3 If I'm not permitted to explore this issue, then I'll move on,
4 but I would like a ruling.

5 MR. PRESIDENT:

6 The objection is sustained. The Chamber already ruled on this on
7 Friday last week.

8 BY MR. KARNAVAS:

9 Thank you, Mr. President. My position was slightly nuanced, but I
10 accept the ruling.

11 [10.25.43]

12 Q. But sticking with the Vietnamese -- because I do think this is
13 relevant and wasn't covered -- if you look on page 114, which is
14 Khmer 06628900, you state as follows -- and now we're talking
15 immediately around January 6th, 1979, so we're still in the
16 temporal period -- you state that "the following day, Phnom Penh
17 radio [...] announced the new name [of] the country: 'People's
18 Republic of Kampuchea' and an 'Agreement Treaty of 25 years' with
19 the Socialist Republic of Vietnam.

20 "A vague sceptical feeling ravaged my mind: Are Cambodian people
21 trapped again in another similar situation like this saying:
22 'Between the crocodile in the river and the tiger on the land'?
23 Another Communist regime, led by the same Communist group and
24 backed by a Communist country that had used to swallow Cambodia's
25 territory, is coming to replace the Khmer Rouge Communist regime.

1 Actually, the situation of Cambodia under the Khmer Rouge is too
2 ripe for Vietnam. If there was not for the so-called Khmer United
3 Front, Vietnam would have set up another Khmer Front to be used
4 as a pretext for entering Cambodia and over throwing this evil
5 Democratic Kampuchea, and create a new Cambodian government
6 controlled by Vietnam. The appearance could be different, but the
7 essences are the same, and even more disastrous... Does Ho Chi
8 Minh's long-term vision over Cambodia has come true? What's
9 Cambodia going to be? What is the future of our children,
10 grandchildren, and our future generation? What are the meanings
11 of the 25-year Agreement Treaty, since it was signed between
12 'helpers' and the persons who had 'begged' for their help?"
13 [10.28.32]

14 Do you recall writing this passage?

15 MR. HUN CHHUNLY:

16 A. Yes, I do.

17 Q. All right. Now, if we could well on this just for a few
18 moments because I don't want you to discuss what happened after
19 '79, such as in places like K-5 and what have you, but rather I
20 want you to reflect on what you wrote, because it would appear
21 that here you're asking rhetorically about "Ho Chi Minh's
22 long-term vision" of Cambodia and you're talking about Vietnam
23 swallowing parts of Cambodia.
24 Now, can you please explain that, why you had this feeling that
25 was ravaging your mind just as you were being liberated?

1 [10.29.42]

2 A. I believed that it is not uncommon that a country - a country
3 that is assisted by foreigners who help overthrow a regime - so,
4 the helper had some kind of clear objective. And, as I stated in
5 the book, the Khmer Rouge had conflicts with Vietnam, but during
6 the time of conflict, the Khmer Rouge killed their own people
7 instead of killing the enemies. So I also wrote in the book that
8 -- who did not love Cambodia? Who, at the same time, did not pray
9 for the end of the Khmer Rouge?

10 Q. Thank you. Now, if you could focus on--

11 MR. PRESIDENT:

12 Counsel, could you advise the Chamber as to how much time you
13 would need to put questions to this witness, please?

14 MR. KARNAVAS:

15 Your Honour, I think, if I can manage within the next five -
16 well, I would say seven to 10 minutes, if I can get through this
17 line of questioning with the gentleman, I believe I can sit down,
18 having completed my examination, but I do need to explore just a
19 few more questions on this particular issue raised.

20 [10.31.27]

21 MR. PRESIDENT:

22 You may proceed.

23 BY MR. KARNAVAS:

24 Thank you, Mr. President.

25 Q. Now, let me go back, because -- I'm using your own words --

1 you're talking about - you're talking about, "led by the same
2 Communist group and backed by a Communist country that had used
3 to swallow Cambodia's territory". Was it your belief then, back
4 in January 1979, that the Vietnamese had swallowed Cambodian
5 territory in the past?

6 MR. PRESIDENT:

7 Witness, please hold on.

8 And, Mr. Prosecutor, you may proceed.

9 [10.32.10]

10 MR. ABDULHAK:

11 Your Honours, we would object on the basis of relevance.

12 What views the witness held about the history of Cambodia and the
13 history of Vietnam on the 6th of January 1979, there's no
14 relevance to the issues before you. It has no legitimate
15 exculpatory purpose.

16 We've held off objecting in the hope that counsel might go toward
17 something more relevant, but these questions are clearly not
18 relevant and do not, in any way, elicit evidence that might
19 assist Your Honours in finding the truth.

20 MR. KARNAVAS:

21 Let me be heard. Let me pause first; let me pause for the French.

22 Let me be heard why this is relevant.

23 The prosecutor -- and perhaps even the UN -- would like us to
24 believe that something magically happened on the 17th of April
25 '75, and something magically happened on the 6th of January 1979,

1 and nothing happened before or after.

2 [10.33.14]

3 Now, I am not interested in the after, although I would say it is
4 pertinent for historical content, but perhaps the power that set
5 up this establishment would not want to go into that.

6 Be that as it may, the issue has been, and will be, and continues
7 to be, throughout this trial, that there was this fear of the
8 Vietnamese from the very inception of 1975 of the Khmer Rouge
9 regime, and even before that, that there was fear of what the
10 Vietnamese were attempting to do.

11 Now, this gentleman is not a Khmer Rouge cadre. He tells us he
12 hasn't been brainwashed, yet he writes a book and he talks about
13 Ho Chi Minh's long-term plan, he writes a book where he talks
14 about Vietnam's past swallowing of Cambodia.

15 And so, when we are going into issues that are dealing with
16 Vietnam's involvement or the fears of the Khmer Rouge regime
17 towards Vietnam and the events that occur, we have to look at it
18 in the historical context. So, if the average person recognizes
19 that there was this inherent historical fear, then why is it not
20 relevant for the Defence to raise it? Why is it, then, that the
21 Khmer Rouge regime was somehow making this fantasy about Vietnam
22 wanting to swallow up or having territorial ambitions in
23 Cambodia?

24 I think it is relevant. It's a matter of one or two questions.

25 You may decide what, if anything, to do with it, but to suggest

41

1 that we can somehow try this case in a vacuum is illogical.

2 (Judges deliberate)

3 [10.35.56]

4 MR. PRESIDENT:

5 The objection and -- the grounds for objection by the prosecutor
6 is appropriate and thus sustained, so the counsel is now
7 instructed to move on.

8 MR. KARNAVAS:

9 Thank you, Mr. President. Before I move on or sit down, I do wish
10 to be - to have a clarification from the Trial Chamber.

11 Is it your decision that the Prosecution can talk about evidence
12 with the Vietnamese, but the Defence is not permitted to go into
13 those areas? Because, if that is the case, one, aside from there
14 being a double standard, it clearly shows that the Defence is not
15 permitted to make a proper record in order to then argue the
16 facts and the evidence in the - in a proper historical context.

17 So I would like a ruling: Does this -- is this ruling just on
18 this gentleman or this a ruling that bars, from now on and
19 forever, until the trial is over, the Defence from going into any
20 areas dealing with Vietnam, their behaviour before, during, and
21 after, the killings that they committed, the suspicions that
22 everyone -- ordinary citizens had about Vietnam, which also would
23 reflect the suspicions that the Khmer Rouge had and acted upon.

24 So, I need a clear ruling, Your Honour, and after that I'm
25 prepared to sit down.

1 (Judges deliberate)

2 [10.37.55]

3 MR. PRESIDENT:

4 The issue has already been ruled upon, and the ground for this
5 objection is based on the specificity of each question posed by
6 parties, and the Chamber is of the opinion that the witness
7 before us now is not an expert witness, he is not a historian.
8 The determination to summon this witness to testify before the
9 Chamber is to hear his experience, what he has come across in
10 relation to the administrative structure of the Khmer Rouge
11 regime, as well as the initial phases of population movement. And
12 if you refer to the initial determination of the hearings of the
13 witness, the counsel should look into the instruction advised by
14 the Chamber.

15 So, this issue is ruled upon, and the question posed by parties
16 -- and once there is any objection to this question, the Chamber
17 will rule from time to time based on the specificity and
18 relevance of the question.

19 MR. KARNAVAS:

20 Thank you, Mr. President, but before I sit down I must comment
21 for the record that when the Prosecution was asking questions,
22 they went into other areas and treated him like a witness. But--
23 [10.39.33]

24 MR. PRESIDENT:

25 The matter has been ruled upon.

1 And the time is now appropriate for adjournment, and the hearing
2 of the testimony of this witness has come to an end, as well.

3 Mr. Hun Chhunly, your testimony before the Chamber has now come
4 to an end, and we do not need your testimony anymore, but we
5 would like this opportunity to thank you very much for taking
6 your time to testify before the Chamber. And you may now return
7 to your home or anywhere which you would like to go.

8 And the court officer is instructed to coordinate the return of
9 this witness to his home.

10 Mr. Hun Chhunly, you are now released. You can go back home.

11 And after coming back from the break, the Chamber will hear
12 another witness, TCW-307.

13 And the Court is now adjourned for 20 minutes, and we will resume
14 at 11.00.

15 (Court recesses from 1040H to 1100H)

16 MR. PRESIDENT:

17 Please be seated.

18 Court officer is now instructed to call the witness and the duty
19 counsel.

20 (Mr. Phan Van and Counsel Mam Rithea enter courtroom)

21 [11.02.18]

22 QUESTIONING BY THE PRESIDENT:

23 Good morning, Mr. Witness.

24 Q. What's your name, please?

25 MR. PHAN VAN:

1 A. (Microphone not activated)

2 Q. Please wait until you see the red light activated on the
3 console before you proceed to respond. You may proceed.

4 A. I am Phan Van, Mr. President and Your Honours.

5 Q. Apart from being known as Phan Van, do you use other names?

6 A. I also am called Kham Phan, my original name at birth.

7 Q. What do you -- what name do you use, actually, these days?

8 A. I am known now days as Phan Van.

9 Q. How old are you?

10 A. I am 53 years old.

11 [11.03.35]

12 Q. Where do you live?

13 A. I live in Malai.

14 Q. What do you do for a living?

15 A. I am a farmer.

16 Q. What's your father's name?

17 A. He is Laing.

18 Q. What is his surname, please?

19 A. I'm afraid I don't remember.

20 Q. What is your mother's name?

21 A. She is Kham Kan.

22 Q. What is your wife's name?

23 A. She is Hun Char Vy (phonetic).

24 Q. How many children do you have?

25 A. I have three children.

45

1 Q. Mr. Witness, so, officially, you are known as Phan Van? Are
2 (sic) you agree that we now call you Phan Van?

3 [11.05.06]

4 A. Yes, I can be called Phan Van, Mr. President.

5 Q. According to the record -- report by the Greffier of the Trial
6 Chamber, you are not related biologically to any of the parties
7 to the proceedings, including the civil parties and the accused
8 persons; is that correct?

9 A. Yes, it is.

10 Q. According to the same report, you took the oath already; is it
11 true?

12 A. Yes, it is.

13 Q. Mr. Phan Van, as the witness before this Chamber, you can
14 reject to respond to any questions that are self-incriminating.
15 You therefore enjoy the right against self-incrimination of
16 witnesses. In other words, as the witness, you shall respond to
17 questions posed to you by the Bench or parties to the
18 proceedings, and indeed, you can refuse to respond to any
19 questions that are - the responses that are incriminating.

20 [11.06.57]

21 And as the witness, you shall only tell the truth, nothing but
22 the truth, the truths that are relevant to your experiences --
23 what you saw and what you witnessed. Do you understand this?

24 A. Yes, I do.

25 Q. Mr. Phan Van, do you read and write Khmer?

1 A. Yes, I do read and write some Khmer.

2 Q. I'm talking about reading and writing in Khmer. Is it what
3 your response was--

4 A. Yes, it is Mr. President. I can read and write Khmer language.

5 Q. Mr. Phan Van, we thank you.

6 My next question to you is: Have you ever given any interviews to
7 the investigators from the tribunal?

8 A. Yes, I have.

9 Q. How many times did you give such interviews, and where, and
10 when?

11 A. I gave interviews to these people on three occasions, in
12 Malai.

13 [11.08.40]

14 Q. Do you remember the exact dates and times for these three
15 interviews? If you remember the date, tell the Chamber. So, if
16 not, just say you don't remember.

17 A. I don't remember the date, Mr. President.

18 Q. Thank you.

19 Before you appear before this Chamber, had you have any
20 opportunity to read the records of your interviews, or have the
21 record of interviews -- read out to you to reflect or refresh
22 your memory of the events?

23 A. No, I haven't read any of the record of the interviews.

24 Q. Has anyone read out these to you?

25 A. Indeed, my duty counsel did that to me.

1 [11.09.54]

2 Q. According to your best recollection of the events, does the
3 record read out to you by your counsel -- duty counsel reflect
4 the actual events or accounts you provided during the three
5 occasions in the interviews?

6 A. Yes, the accounts are consistent to what I gave during the
7 interviews.

8 MR. PRESIDENT:

9 Thank you.

10 During these testimonies of this witness, the prosecutors will be
11 given the opportunity to put questions to the witness first,
12 before the Lead Co-Lawyers for the civil parties.

13 Please be reminded that both civil party counsels and the
14 Co-Prosecutors will have one full day to put questions.

15 [11.11.00]

16 QUESTIONING BY MR. DE WILDE D'ESTMAEL:

17 Thank you very much, Mr. President. Good morning to the Panel of
18 Judges and all of the parties. Good morning to the witness. My
19 name is Vincent de Wilde. I represent the Co-Prosecutors.

20 I'm going to ask you some questions today, up to the end of the
21 day, and I may even go over, just a little bit, into tomorrow
22 morning. After that, the civil party lawyers will be asking you
23 some questions for about one hour. During the day, please be so
24 good as to answer as to answer as accurately as possible to the
25 questions you're asked. If you don't understand, please let us

1 know.

2 I'm going to work forward chronologically and start by going back
3 to events that you lived through or that you were told about from
4 before 1970, and then going up to the end of the Khmer Rouge
5 regime.

6 [11.12.16]

7 Q. Let me begin, then, with a few questions about the period that
8 precedes 1970.

9 Can you tell us what province you lived in in the years before
10 1970?

11 MR. PHAN VAN:

12 A. Before 1970, I lived in Mondulkiri province.

13 Q. And where did you learn to read and write -- in a village, in
14 the jungle, or somewhere else?

15 A. I learned in the jungle.

16 Q. And why, precisely, were you in the jungle? And who were you
17 with at that point in time?

18 A. I was with my parents.

19 Q. Could you tell us why your parents were in the jungle in the
20 years before 1970 -- what exactly were they doing there?

21 A. They ran into the jungle.

22 Q. Thank you.

23 [11.13.59]

24 Could you help us with a few more details on the questions I'm
25 asking you?

1 What I was trying to know was: Why did they run away into the
2 jungle?

3 A. At that time, I was too young to know what happened. The only
4 thing I know is that they ran away into the jungle.

5 MR. DE WILDE D'ESTMAEL:

6 Mr. President, I'd like to read an extract from an answer that
7 was given by the witness to the Co-Investigating Judges. It's
8 E3/58, and on page 2 in both the languages. So, with your leave,
9 I would also like to refer to the three records of the interview
10 and I would also like to put page 2 in Khmer of document E3/58 on
11 the screen, if I have your permission, sir.

12 MR. PRESIDENT:

13 You may proceed.

14 [11.15.30]

15 And court officer is now instructed to also bring a hard copy
16 from the Co-Prosecutor for the witness's examination.

17 BY MR. DE WILDE D'ESTMAEL:

18 Q. So, this is the record of witness interview from the 21st of
19 November 2008. And on the second page, it said:

20 "I learned to read and write in the forest in the vicinity of Au
21 Tang, Ou Leav in Ratanakiri province, near the Vietnamese border.
22 At the time, I was young and I had to follow my parents to live
23 in the forest. The leaders who were in the forest included Ta Ya,
24 Ta Vang alias Vy, Ta Thang Sy (who died after the Vietnamese came
25 in 1979) and Ta Laing, my father." End of quote.

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1 Does that help to remind you about the answer you gave us? And
2 can you tell us if Ta Laing, your father, and Ta Ya, Ta Vang
3 alias Vy, and Ta Thang Sy were all part of a political movement
4 in those days?

5 [11.17.04]

6 MR. PHAN VAN:

7 A. I still remember this. These people were the people -- the
8 cadres in the Resistance Movement, including my father.

9 Q. Thank you. What was your father's role in that Resistance
10 Movement before 1970?

11 A. At that time, I didn't know; I was too young.

12 Q. After, did your father talk to you about this? Did he tell you
13 what he was doing in the Movement in the early 1970s?

14 A. Yes. Later on, I learned that he was the secretary of the
15 sector. And I already state that in the record.

16 Q. Thank you, but I'm still, in fact, talking about before 1970,
17 when you were a child in the jungle in Ratanakiri. Did you meet
18 Pol Pot, Ieng Sary, Khieu Samphan, or other Movement leaders in
19 Ratanakiri province before 1970?

20 [11.19.00]

21 A. No, I didn't.

22 Q. Thank you.

23 In that case, let's go on to mid-1970 -- to the end of 1973 and
24 the start of 1974.

25 And you told the Investigating Judges that you had lived and

1 worked in B-20. Can you tell us where B-20 was between 1970 and
2 1973?

3 A. I don't remember this very well and I already stated earlier
4 on about the location of this place. I know that it was somewhere
5 kilo number 10.

6 Q. Thank you. The aim of our questioning here is for you to say
7 what you know about the events of the time, even if you've
8 already told the Investigating Judges.

9 So, you told us that this was near kilometre marker number 10,
10 but where are we talking about? In which province was B-20
11 situated?

12 A. I'm not sure on this.

13 [11.20.55]

14 Q. Thank you.

15 In that case, perhaps I might read an extract from E3/58 to
16 refresh your memory, because it comes under the first question
17 you were asked at that session. It's in page 2 in the Khmer,
18 French, and English versions -- in the English, it's 2 and 3. And
19 what you said was: "...Office B-20, next to Kilometre 10, Boeng
20 Ket. It might be Stueng Trang district of Kampong Cham province."
21 Does that help you to recall the place where B-20 was? Was it, in
22 fact, in Stueng Trang district or at least maybe in that
23 district?

24 A. Yes, it is perhaps in that district.

25 Q. So, you lived in B-20, you said. Did you work there? Did you

1 study there? If so, can you please give us some details?

2 A. I lived there and worked at the same time.

3 [11.22.46]

4 Q. Thank you. What was your work?

5 A. I was a messenger.

6 Q. Thank you. Before we go on to what you might have studied,
7 let's just talk about the work you did as a messenger.

8 Who did you carry messages for?

9 A. I served uncles at the office.

10 Q. Thank you. And, when you refer to these "uncles", could you
11 give us the names of the so-called uncles who were working in
12 Office B-20?

13 A. These uncles include Uncle Nuon, Uncle Hu Nim, Uncle Hou Youn,
14 and Uncle Pol Pot.

15 Q. Were there other uncles apart from Nuon, Pol Pot, Hu Nim, and
16 Hou Youn? Can you remember now?

17 [11.24.43]

18 MR. PRESIDENT:

19 Witness, please hold on.

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

21 MR VERCKEN:

22 Thank you, Mr. President. Perhaps you could ask the witness to
23 avoid re-reading his statement during the intervals between the
24 questions being put to him. He's - he's refreshing his memory by
25 doing the reading -- it's what he's doing at this very second, in

1 fact -- and I'm not sure that this is advisable, Mr. President.

2 MR. PRESIDENT:

3 Mr. Witness, you are now asked not to necessarily read the record
4 of your interviews when questions are being put to you. You can
5 read the record only when any certain portions of such records or
6 report are referred to, please.

7 [11.26.04]

8 BY MR. DE WILDE D'ESTMAEL:

9 Thank you, Mr. President. I fully agree.

10 Q. My question to you was to know if, in addition to Pol Pot,
11 Nuon, Hu Nim, and Hou Youn, there were other leaders living or
12 working in B-20 and who you actually saw there.

13 MR. PHAN VAN:

14 A. No, I didn't see any other uncles.

15 MR. DE WILDE D'ESTMAEL:

16 Thank you.

17 With the leave of the president, I will read another extract,
18 this time from E3/57, which dates back to the 10th of March 2009.
19 And this is the very first question that was put on pages 2 and 3
20 in Khmer -- ERN 00287701 -- 00287701 to 02; in French, on page 2;
21 and in English, on page 3.

22 And as usual, Mr. President, I'm going to ask you permission to
23 put this up on the screen.

24 MR. PRESIDENT:

25 You may proceed.

1 [11.27.40]

2 BY MR. DE WILDE D'ESTMAEL:

3 I don't know if the witness has got E3/57 before him, but it will
4 be on the screen.

5 And what he said was that "in B-20, there was Nuon Chea, Pol Pot,
6 and a number of intellectuals, including Khieu Samphan, Hu Nim,
7 and Hou Youn. Ta Mok and Son Sen came to this office
8 occasionally. Briefly speaking, all the leaders of the sectors
9 and zones came to meet here". End of quote.

10 Do you remember, apart from Pol Pot, Hu Nim, and Hou Youn,
11 telling the Investigating Judge that you had also seen Ta Mok and
12 Son Sen at that place?

13 MR. PHAN VAN:

14 A. Yes, I do. I saw them there because that place was a common
15 office where people would come to meetings. However, these people
16 did not stay on a regular basis at this place.

17 [11.29.03]

18 Q. So, you said that you were a messenger -- that you carried
19 messages for all of those senior people. Who did you carry these
20 messages to?

21 A. I carried these - these messages from one uncle to another,
22 for example from Uncle Nuon to Uncle Pol Pot, from one house to
23 another.

24 Q. When you were working as a messenger, were all the uncles in
25 the same place or were some of them working a little bit further

1 away than B-20?

2 A. They were in the same place.

3 MR. PRESIDENT:

4 Witness, could you hold on?

5 Counsel Karnavas, you may now proceed.

6 MR. KARNAVAS:

7 Thank you, Mr. President. I believe the way the question was
8 phrased is rather confusing.

9 "Were all the uncles" -- Who does he mean by "all" - "all" that
10 he just referred to, after having his memory refreshed, "all" as
11 in the universe of all, whatever that - that may be? I just think
12 that it's not creating a clear record, it's confusing, and it may
13 even be leading the witness.

14 Thank you.

15 [11.30.40]

16 BY MR. DE WILDE D'ESTMAEL:

17 I shall rephrase my question, therefore, Mr. President.

18 Q. Witness, you confirmed what you said before Co-Investigating
19 Judges, that Ta Mok and Son Sen were there. I'm referring to the
20 other zones. Nuon Chea, Pol Pot, Khieu Samphan, Hu Nim, and Hou
21 Youn-- were those five uncles working and living in the same
22 area? Were they working and living in B-20 or, on occasion, did
23 they work or live somewhere else?

24 MR. PHAN VAN:

25 A. They stayed there altogether, but others came once in a while.

1 Q. At the time, did you know what roles these various leaders
2 played?

3 A. That I did not know.

4 Q. In the passage that I identified earlier, you stated that the
5 zone leaders had met in the Centre. Were you aware of any
6 meetings amongst high-ranking officials and the senior leaders at
7 B-20?

8 A. I only learned about that later on.

9 [11.32.38]

10 Q. Thank you. Now, at the time, you were also working as a
11 messenger. Did you learn anything at B-20?

12 A. At the time, I was made to study the decoding of telegrams.

13 Q. And who oversaw you learning and training in the decoding of
14 telegrams?

15 MR. PRESIDENT:

16 I note that national counsel for Mr. Khieu Samphan is on his
17 feet. You may proceed.

18 MR. KONG SAM ONN:

19 Thank you, Mr. President. I would like to object against the
20 question because the witness, just now, talked about the telegram
21 decoding, but the prosecutor was asking about the telegram -- the
22 translation of message. And you--

23 [11.34.02]

24 MR. PRESIDENT:

25 In Khmer, it's different. The telegrams and the typewritten

1 documents, it's different.

2 MR. DE WILDE D'ESTMAEL:

3 Mr. President, my question was based on the translation that I
4 was working on, which refers to the decoding of telegrams. And I
5 know that in the first written record of witness interview, there
6 does seem to be that confusion, because there's reference to
7 "translation" of telegrams, whereas in the second P.V., there's
8 reference to the "decoding" of telegrams. I know that there is a
9 slight shift in the Khmer version.

10 BY MR. DE WILDE D'ESTMAEL:

11 Q. However, in order to clarify exactly what the witness said, I
12 wish to know who taught him -- or who administered his training,
13 and -- in response to the question that was put to him during the
14 interview. Perhaps he can confirm that very question.

15 MR. PHAN VAN:

16 A. This is called "telegram" at the time.

17 [11.35.33]

18 Q. Thank you for that clarification.

19 However, my question was: Who taught you to decode telegrams
20 while you were at B-20? Who was the name of the person who taught
21 decoding of telegrams?

22 A. At the time, a woman by the name of Sim was the trainer.

23 Q. Was there also a person called Yos who was working within the
24 Telegram Section at B-20?

25 A. I do not recall and -- I do not recall this name.

1 Q. Thank you. Perhaps this is on account of my mispronunciation
2 of the name. But in your P.V. classified under E3/57, on the
3 third page of the Khmer version, on the third page of the French
4 version, and also on the third page of the English version, you
5 stated:

6 "The instructor of the children was called Sim" -- a woman who is
7 since deceased. "My telegram teacher was called Yos." Spelled in
8 English -- or transliterated in English, Y-o-s.

9 [11.37.15]

10 Does this refresh your memory, Mr. Witness, with respect to the
11 person who taught you to decipher telegrams?

12 A. Yes, there was a man by the name of Yos; he is deceased.

13 Q. At B-20, did you ever meet a person called Norng Sophang,
14 alias Phang -- spelled P-h-a-n-g? Did you meet a person called
15 Dim -- spelled D-i-m -- or a person called Pang, P-a-n-g? Did you
16 ever meet those people at B-20?

17 A. No, I didn't.

18 Q. And, when you were learning to decode telegrams, were you
19 taught to draft or encrypt telegrams? Did you learn the codes
20 that were being used and applied by the Khmer Rouge?

21 A. Yes, I was trained how to encode telegrams.

22 Q. And in practice, did you encode and decode telegrams that were
23 sent to and from the various uncles, from B-20 to other areas?

24 A. No, I was trained but I did not practice it in any way. I
25 never decoded it.

1 [11.39.47]

2 Q. Thank you.

3 I wish now to move to the period after you departed from B-20.
4 Before the Co-Investigating Judges, you stated that you
5 accompanied your father, Ta Laing, to Ou Doun Kroam (phonetic).
6 You went to Sector 105. Can you please tell this Chamber when,
7 exactly, you left B-20 to go to Ou Doun Kroam (phonetic)? And
8 please forgive me for my pronunciation.

9 A. I do not recall the exact date.

10 Q. Even if you do not recall the precise dates, do you have an
11 idea of the approximate period, or time, or year, or season
12 during which you left B-20?

13 A. I do not recall the year, but it could have been either in
14 1972 or 1973.

15 Q. Thank you. When you accompanied your father, what exactly did
16 you do for him? Did you work for him?

17 [11.41.40]

18 A. I was assisting him in decoding telegrams.

19 Q. And when you were at Ou Doun Kroam (phonetic) -- can you
20 please tell the Chamber where exactly Ou Doun Kroam (phonetic)
21 was located? Was it in the province of Mondulkiri?

22 A. Yes. Yes, it was located in Mondulkiri province.

23 Q. And, while you were there, did leaders such as Pol Pot, Nuon
24 Chea, Khieu Samphan, and Ieng Sary visit that area?

25 A. No, they didn't.

60

1 Q. How long did you stay at Ou Doun Kroam (phonetic) before
2 leaving for Phnom Kraol, in Sector 105?

3 A. I cannot catch your question.

4 Q. I'm sorry; I seem to be struggling with the pronunciation of
5 names.

6 [11.43.18]

7 You stated that when you accompanied your father, you arrived at
8 a place called Ou Doun Kroam (phonetic) and then you went to go
9 live at Phnom Kraol. Therefore, perhaps you can tell us when you
10 arrived at Phnom Kraol.

11 A. I left for Phnom Kraol when we were about to liberate Phnom
12 Penh.

13 Q. Did the office at Phnom Kraol have a codename?

14 A. There was an office there by the codename K-17.

15 Q. Thank you.

16 I wish now to focus on your duties and the administrative and --
17 the administrative structure at Sector 105.

18 [11.44.48]

19 You referred to the liberation at Phnom Penh. You stated that you
20 were in Sector 105 just prior to the liberation. Were there
21 people who were being evacuated from Phnom Penh or other cities
22 and who were sent to Mondulkiri -- who were sent to Sector 105
23 after April 17th, 1975? Did you witness the arrival of evacuees
24 while you were there?

25 A. No, I did not.

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1 Q. Thank you.

2 Earlier, we talked about communications within Sector 105 or
3 between Sector 105 and the Centre. However, to fully grasp
4 exactly how communications were sent, I wish to ask a few
5 questions with respect to the organization and structure of
6 Sector 105.

7 Prior to April 1975, what were your father's duties at Sector
8 105?

9 A. My father was the secretary of the sector.

10 Q. Earlier, you stated that you did not recall the various
11 revolutionary names of your father. Now, did he have several
12 revolutionary names, and were they altered frequently?

13 [11.46.51]

14 A. Laing and Horm were used as his aliases.

15 Q. Did he use any other aliases in signing off on his telegrams,
16 based on your recollection?

17 A. No, he did not use any other alias in the telegrams.

18 Q. And in his capacity as Secretary of Sector 105, do you know to
19 whom your father reported from April 1975 onwards?

20 A. My father had to report to Office 870.

21 Q. Thank you. How did you know that he reported to Office 870?

22 A. That was in accordance with the telegrams.

23 MR. PRESIDENT:

24 The Counsel for Mr. Khieu Samphan, you may proceed.

25 [11.48.33]

1 MR. KONG SAM ONN:

2 Thank you, Mr. President. I have a brief observation to make in
3 relation to the additional question by the prosecutor.

4 The witness testified that his father went to Office 870, and --
5 sent to 870, and then the Prosecution added that the telegram was
6 sent to Office 870.

7 So I would like to ask the prosecutor to please stick to the
8 answer provided by the witness, without adding any additional
9 words.

10 MR. DE WILDE D'ESTMAEL:

11 I was simply asking to whom he reported and how the witness knew
12 or came upon the knowledge that he reported to Office 870, only
13 based on the telegrams that he's familiar with.

14 BY MR. DE WILDE D'ESTMAEL:

15 Q. Did you know under whose authority or auspices he was
16 positioned or to which Khmer Rouge he reported?

17 [11.49.59]

18 MR. PHAN VAN:

19 A. I'm afraid I do not understand your question.

20 Q. Yes. What I seek to know is: Within the hierarchy of Sector
21 105, where exactly was he ranked? Did he report to a zone or did
22 he report to another body, such as the Office or the Centre?

23 A. 870 belonged to the Centre.

24 Q. Based on what I gather from your response, sir, is it fair to
25 assume that Sector 105 was an autonomous sector?

1 A. If my understanding was correct, it was an autonomous sector.

2 Q. Very quickly, how many districts comprised Sector 105? If you
3 recall the number of districts, can you also, please, provide the
4 names of those districts?

5 A. I do not recall all the names of the districts under Sector
6 105.

7 [11.51.51]

8 Q. Even if you do not remember all of the names, do you recall
9 some of the names of the districts or areas that reported to
10 Sector 105?

11 A. Kaoh Nheaek district, Kaev Seima, Ou Reang, Pech Chenda, and
12 Kaev Seima (sic) districts.

13 Q. Thank you. Were there a good number of cooperatives within
14 Sector 105?

15 A. Well, there were cooperatives attached to each district.

16 Q. And were the cooperatives set up and established prior to the
17 arrival of your father or after his arrival?

18 A. I'm afraid I don't understand the question.

19 Q. Yes. You stated that there were cooperatives within each
20 district. Were the cooperatives up and running prior to the
21 arrival of your father at Phnom Kraol -- that is, before 1975 --
22 or after he arrived?

23 A. Before 1975.

24 Q. Do you know approximately at what dates the cooperatives were
25 established?

1 [11.54.02]

2 A. Since I left B-20; it was in late 1973 or early 1974.

3 Q. Just now, you said 1972 to 1973. Are you, therefore,
4 clarifying that it was only in 1973 or 1974 that you left B-20?

5 A. I do not recollect well.

6 Q. Do you know whether directives were issued by the Movement or
7 the leaders of the Movement who were based at B-20, directives
8 according to which cooperatives would be set up and established
9 in Sector 105 prior to 1975?

10 A. I was very young at the time; I did not understand very much.
11 But what I knew was that, before 1975, people ate collectively.

12 Q. During the time that you were working at Sector 105, you were
13 there with your father in Phnom Kraol. Did this sector dispose of
14 its own military troops?

15 [11.55.58]

16 A. There was the sector military attached to the sector.

17 Q. Therefore, if I understand correctly, the troops reported
18 directly to you father, Mr. Ta Laing.

19 A. That is correct.

20 Q. And who was responsible for security? Who was above your
21 father? Was there a cadre at Sector 105 who led those troops?

22 A. Sophea was.

23 Q. Thank you. And aside from the sector's troops, was there also
24 a division of the Revolutionary Army of Kampuchea stationed at
25 Sector 105?

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1 A. I'm afraid I do not understand the question. Are you talking
2 about the period prior to 1975 or post-1975?

3 Q. No, I am referring to the period between 1975 and the end of
4 1977, and my question is whether there was a division of the RAK
5 that was stationed within Sector 105.

6 A. There was. There was, after 1975. There were their presence in
7 - in mid-1975, the soldiers under the command of the Commander of
8 Division 920.

9 [11.58.07]

10 Q. Who was the leader of Division 920 when it was established in
11 Mondulkiri?

12 A. Chhin (phonetic) was.

13 Q. Thank you. Was Chhin (phonetic) later replaced by another
14 leader as the person responsible for the division? And if so,
15 what is the name of that person?

16 A. Later he replaced by someone else, but I did not know.

17 MR. PRESIDENT:

18 Since it is now appropriate time for lunch adjournment, the
19 Chamber will adjourn until 1.30 p.m.

20 Court officer is now instructed to assist the witness and his
21 duty counsel during the adjournment and have him return to the
22 courtroom by 1.30 p.m.

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

24 MR. IANUZZI:

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

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1 I'm informed that our client awoke this morning with an elevated
2 blood pressure at around 5 a.m.

3 [12.00.00]

4 He was in fact seen by the doctor. He was checked again at a
5 later stage this morning. It seems that his blood pressure has
6 returned - returned to a relatively stable state. However, he is
7 still suffering from a backache, a headache, and a lack of
8 concentration. He would like follow the proceedings this
9 afternoon from the holding cell. He's quite interested in this
10 witness. He's going to do his best to follow the proceedings this
11 afternoon from the holding cell. However, we will keep an eye on
12 him and we will inform you at any stage if he is in fact - in
13 fact -- unable to do that -- that is, to follow the proceedings.
14 So, our application is that he be permitted to retire to the
15 holding cell for the afternoon. Thank you.

16 (Judges deliberate)

17 [12.02.26]

18 MR. PRESIDENT:

19 The Chamber notes the request made by counsel for Mr. Nuon Chea
20 in which Mr. Nuon Chea has asked that he be allowed to observe
21 the proceedings from his holding cell due, to his health
22 concerns. He indicated that he could not remain seated in this
23 courtroom.

24 The request is well-grounded, and that -- Mr. Nuon Chea is now
25 allowed to observe the proceedings from his holding cell

1 downstairs through video or audio means.

2 Mr. Nuon Chea has already made it clear that he has waived his
3 right to be present in the courtroom. Counsel for Mr. Nuon Chea
4 is now instructed to produce the waiver, given thumbprint or
5 signed by Mr. Nuon Chea in due course.

6 AV booth officers are now instructed to ensure that the holding
7 cell where Mr. Nuon Chea will retire to will be well-connected to
8 the audio-visual link so that he can observe the proceedings for
9 the whole afternoon.

10 [12.03.40]

11 And counsel for Mr. Nuon Chea is also informed that, regarding
12 the medical check-up on your client by the doctor, it is up to
13 the doctor who is on duty at this Court, who has the discretion
14 to examine his health when need be, and it is not up to the
15 observation by any counsel of Mr. Nuon Chea concerning the
16 medical matter. It is up to the doctor's decision.

17 Security personnel are now instructed to bring Mr. Nuon Chea and
18 Khieu Samphan to their respective holding cell and have Mr. Khieu
19 Samphan returned to the courtroom by 1.30.

20 Counsel, you're still on your feet. You may now proceed.

21 MR. IANUZZI:

22 Thank you, Mr. President. I just wanted to clarify for the
23 record: I didn't indicate that we would be performing any medical
24 examinations on our client. Obviously, we're not in a position to
25 do that. What I said was, we will keep an eye on him, and we will

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1 do that; we will monitor his progress this afternoon to ensure --
2 to ensure that he is in fact -- that is, actually - actually,
3 effectively participating from the holding cell.

4 [12.05.05]

5 That's all I meant by my comments earlier this morning.

6 Obviously, we're not doctors ourselves.

7 Thank you.

8 MR. PRESIDENT:

9 We thank you very that you fully understand this.

10 The Court is now adjourned.

11 (Court recesses from 1205H to 1332H)

12 MR. PRESIDENT:

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

14 Before we proceed to the Co Prosecution to put further questions
15 to the witness, the Chamber would like to rule orally on the
16 request for testimony of TCCP-1 as follows.

17 [13.33.14]

18 On the 19th of October 2012, the Trial Chamber received a
19 memorandum from the Witness and Expert Support Unit indicating
20 that civil party TCCP-1, age 68, requested to testify by
21 video-link and indicating that: one, she had significant anxiety
22 about travelling to Phnom Penh; two, she continues to suffer from
23 distressing memories of events that befell her before she left
24 Cambodia; third, she has lost everyone she once knew in Cambodia;
25 and, fourth, her husband was unable to travel with her to

1 Cambodia in a supporting role -- document E236/1/1.
2 The Trial Chamber granted the request by Civil Party TCCP-1 to
3 testify via video-link from France and scheduled her testimony
4 for the 12th to the 13th of December 2012 -- document E236/1/1/1.
5 The Chamber noted that TCCP-1 is not an expert, would not likely
6 implicate a large number of documents, and therefore video-link
7 testimony would be feasible. It further noted that TCCP-1's
8 emotional and physical fragility are such that testimony by
9 video-link is required. At that time, the parties were not aware
10 of TCCP-1's request and, therefore, had not lodged any objection.
11 [13.36.09]

12 The Ieng Sary defence now moves the Court to provide further
13 reasoning to support its decision because the Trial Chamber has
14 not demonstrated that TCCP-1's request is justified and requests
15 that TCCP-1 appear in Court to testify -- document E236/1/1/2,
16 The Request, paragraph 17.

17 The Trial Chamber notes that it has broad discretion to permit
18 evidence by video-link whenever necessary so long as such
19 measures are not seriously prejudicial to or inconsistent with
20 defence rights. See ICC decision in Prosecutor versus Bemba of
21 the 3rd of February 2012, paragraph 5. See also Internal Rule 26,
22 subparagraph 1.

23 The Defence submits that accepting TCCP-1's testimony by
24 video-link would prejudice the rights of the Accused because it
25 is not unreasonable to assume that TCCP-1's testimony was

1 inculpatory during the accused Ieng Sary's 1979 trial - Request,
2 paragraph 15.

3 [13.38.26]

4 This is undermined by the Defence's submission that TCCP-1's
5 testimony is not vital to establishing the guilt of the Accused -
6 Request, paragraph 13. Although the Accused maintained his right
7 to object to witnesses testifying in his absence "where the
8 testimony directly or indirectly touches upon me or any alleged
9 conduct or crimes attributed to me in the Closing Order", the
10 accused Ieng Sary previously waived the accused rights to attend
11 the in-court testimony of the TCCP-1 -- E237 -- when Ieng Sary
12 and his lawyers had access to various documents which contained a
13 clear description of the experiences of this civil party during
14 the Democratic Kampuchea era, including the loss of her husband,
15 her daughter, and many other relatives -- documents D22/36,
16 D22/36.2, D199/15.

17 After the Trial Chamber found the accused Ieng Sary fit to stand
18 trial, that waiver was withdrawn -document E237/2 -- and the Ieng
19 Sary defence now submits that video-link testimony will not
20 permit Mr. Ieng Sary or his lawyers to fully access the civil
21 party testimony -- Request, paragraph 16.

22 [13.40.43]

23 As noted by the OCP, this assertion runs counter to international
24 procedural rules established by the ICTY, which has held that an
25 accused does not lose materially from the fact or the physical

1 absence of the witness when testifying by video-link.

2 The Defence further submits that TCCP-1's physical and emotional
3 fragility is not adequately supported by evidence - Request,
4 paragraph 11.

5 The Chamber notes that video-link testimony is fully justified to
6 protect psychological well-being and dignity of its witnesses,
7 subject to the fundamental dictates of a fair trial -- see ICC
8 decision in Lubanga of the 9th of February 2010, paragraphs 15
9 and 16.

10 In addition to the communications from TCCP-1 through WESU,
11 TCCP-1's civil party application makes clear that she suffered
12 physical, material, or psychological injury on the basis of at
13 least one of the crimes alleged in Case 002/01 -- Internal Rule
14 23bis. Indeed, the acceptance of her civil party application by
15 the OCIJ, which was not appealed by the Ieng Sary defence,
16 supports this fact.

17 [13.42.52]

18 Furthermore, the Trial Chamber is now in receipt of a medical
19 certificate attesting to TCCP-1's inability to travel to Phnom
20 Penh due to her health status.

21 For the foregoing reasons, the Trial Chamber rejects the Ieng
22 Sary defence motion to summon civil party TCCP-1 to testify in
23 Cambodia.

24 Next, the Chamber would like to hand over to the Prosecution to
25 continue putting questions to the witness--

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1 Prosecution, you may hold on.

2 Counsel Karnavas, you may proceed.

3 MR. KARNAVAS:

4 Just to make sure that the record is absolutely clear and that
5 our position is clear, it was at 11.53 today that we actually got
6 the medical certificate. Had the Trial Chamber provided this
7 medical certificate in advance, had we been aware of the
8 conditions, as opposed to just merely an assertion, perhaps we
9 would have taken a different posture.

10 [13.44.10]

11 So, I -- it is our position that whenever the Trial Chamber makes
12 decisions on video-linking, we are going to insist that
13 everything be done correctly and by the numbers. And, if we don't
14 have the sufficient information, we will ask that either the
15 person come in person or, in the alternative, for certification
16 to be provided.

17 So, we apologize for the inconvenience, but having -- had we --
18 if we had this information before, we certainly would not have
19 made--

20 MR. PRESIDENT:

21 Counsel, indeed, the ruling has already been made.

22 The floor is now given to the Prosecution, please.

23 [13.44.58]

24 BY MR. DE WILDE D'ESTMAEL:

25 Thank you, Mr. President. Good morning to all parties.

1 Q. Mr. Witness, just before resuming where we left off prior to
2 the lunch break, with respect to discussion on Sector 105, I do
3 have a few questions to put to you for the purpose of
4 clarifications. You stated that you did not witness any evacuees
5 -- or the arrival of evacuees at Sector 105. However, did you
6 note the movement of any villagers or other residents from Sector
7 105 during the period of 1975 to 1976?

8 MR. PHAN VAN:

9 A. I am afraid, Mr. President, I don't quite understand the
10 question.

11 Q. Allow me to simplify. You stated that you did not see the
12 evacuation of Phnom Penh residents arrive in Mondulkiri. However,
13 at Mondulkiri, within Sector 105, did you note any movements of
14 population that had been organized by Sector 105? Did you note
15 any residents from Sector 105 being transferred from one area to
16 another during the period from 1975 to 1979 as authorized by the
17 upper cadres of the district?

18 [13.46.45]

19 A. Yes, there was an evacuation that people -- in which people
20 were evacuated from the mountainous areas to do farming in the
21 lower-land area.

22 Q. Do you understand why the evacuation took place and why such a
23 transfer of population was justified?

24 A. I do not know from whom the order was rendered for the
25 evacuation, but I know that such evacuation took place.

1 Q. Thank you. Do you know if people agreed with being transferred
2 from the mountainous area to farming land?

3 A. I do not think I understand about whether they objected to
4 such order or they came – or they came to that place voluntarily.

5 Q. Thank you.

6 I wish to return to some questions with respect to Division 105.

7 Who was at the head of Sector 105? And how far it was from K 17?

8 [13.49.05]

9 A. The headquarters of 920 Division was about 7 kilometres from K
10 17.

11 Q. Thank you. In what commune was Office 920 located? Was it also
12 in Phnom Kraol or was it elsewhere?

13 A. It was in Phnom Kraol.

14 Q. Thank you. What was the role or responsibilities of K 17? What
15 were the general responsibilities that were -- that fell under
16 the purview of K 17?

17 A. At the office of 105, there was a Workshop Unit, for example
18 Auto Repair Unit and the Production – Mobile Production Unit, the
19 unit in which there were people who had to do farming.

20 Q. Thank you. You're referring to Sector 105; I'm referring to
21 Office K 17. I'm not sure we're talking about one and the same
22 thing. I am referring to the office that your father had
23 overseen.

24 What was the role and purpose of K 17 within the overall sector
25 of 105 during the time that your father was responsible for the

1 office?

2 A. At -- I think this place is known interchangeably with 105,
3 because people -- the local people would call it "K 17", when the
4 other would say "105".

5 [13.51.39]

6 Q. Very well. And aside from the garage and the mechanics
7 division, were there any other services that were included within
8 Division 920, under the auspices of Sector 105? Were there any
9 other administrative bodies?

10 A. There were other sections, including the Workers Section and
11 Security, within office of 105. The office was classified into
12 different sections, when people had to work and stay at different
13 houses.

14 Q. Can you please tell us whether K 17, as a central office, held
15 any overarching responsibilities over the activities in
16 Mondulkiri?

17 A. At that time, I did not understand the role or functions of K
18 17 because my father was overly (sic) in charge of K 17 when
19 Phnom Kraol was called "105".

20 [13.53.19]

21 Q. Just a brief clarification, sir, because in P.V. E3/57, on
22 Khmer page 3, 00287702, on French ERN page 3, and also on ERN
23 page 3 of the English version -- with leave of the Chamber, I
24 would like for this passage to be projected on the screen -- sir,
25 you stated the following: "K 17 was responsible for the general

1 affairs of Sector 105. It was where the general assembly,
2 military training, economic updates, as well as transportation
3 and medical affairs were managed."

4 Does this refresh your memory with respect to the operations of K
5 17, particularly with respect to the holding of meetings at K 17?

6 A. That account is correct. However, I have no idea what happened
7 during the meetings or the content of the meetings. I know for
8 sure that my father was the Chief of K 17, but 105 was the
9 overall office covering the whole geographical location of
10 Mondulkiri.

11 Q. Thank you. I will return a little later on to the issue of
12 meetings.

13 Now, you said that your father was at the head of Sector 105. Can
14 you please identify who the other principal leaders were at
15 Sector 105? Can you please identify who the head of meetings
16 were, who the head of section was? And please provide the names
17 and exact roles that they played within Sector 105.

18 [13.55.56]

19 A. These people already passed away. They included Uncle Sophea,
20 An Sy, and another person -- one person who survived is Brother
21 Sarun.

22 Q. And, of those who have passed away, could you please identify
23 who your father's close associates and collaborators were?

24 A. There were these two people, Uncle Sophea and Phoun, and Uncle
25 Mey also, but these people already passed away.

1 Q. Thank you. And, perhaps to assist you in remembering the
2 duties and roles of each and every one, allow me to quote from
3 the same written record of witness interview, which is E3/57, on
4 page 5 and 6 of the Khmer version -- 00287705 to 06 -- on page 6
5 of the French version, and on page 5 of the English version.

6 [13.57.40]

7 You provided the names and roles of the various cadres who were
8 working in Sector 105 and you said the following:

9 "Ta Kham Phoun was responsible for politics and policy. Ta Sarun
10 was the deputy leader. Mey was in charge of education. Cham" -- C
11 h a m - "was a deputy. Ra was a deputy in charge of general
12 issues. There was An Sy, a deputy, and he was the Secretary of
13 Kaev Seima district. There was Chuon (he was the deputy in charge
14 of the Provincial Commercial Unit). There was also Sophea, in
15 charge of the Military Sector. There was Hvieng (Sophea's
16 deputy), as well as La (a deputy of military affairs) and Maing
17 (another deputy of military affairs), as well as Paing (another
18 deputy of military affairs). And they all worked under my
19 father."

20 Sir, do all of these names and duties refresh your memory? And do
21 you stand by that statement?

22 A. Yes, it is correct, what you just quoted.

23 And among these people, only Kham Phoun -- rather, only Uncle
24 Sarun and Maing still alive; the other already passed away.

25 Q. And in regard to Ta Sarun, you stated that he was a deputy

1 chief. Did he also play a role within -- at the district level
2 for Sector 105?

3 [13.59.57]

4 A. Yes, it is correct. He used to work at the district committee,
5 but I don't remember of which district he worked, whether -- yes,
6 I just don't remember.

7 Q. Did Ta Sarun travel frequently to K 17 in order to partake in
8 meetings with leaders, including your father, when he was present
9 in the district?

10 A. Yes, he came there rather often.

11 Q. In the same passage that I read out, you made mention of Mr.
12 An Sy. You characterize Mr. An Sy as the Deputy and Secretary of
13 Kaev Seima district. Was he also a member of your family?

14 A. He was my uncle.

15 Q. Did An Sy pass away or did he survive the Khmer Rouge regime,
16 along with the two individuals you mentioned?

17 [14.01.35]

18 A. He died on a later date.

19 Q. Within Sector 105, there was also an office called K 11; is
20 this correct?

21 A. No, it is not. There was no K 11.

22 Q. Did you ever hear about the existence of an office called K
23 16?

24 A. That I do not recall, but as far as I could recollect, there
25 was no such an office.

1 Q. Who replaced your father as Secretary of Sector 105 after his
2 death?

3 A. Ta Sarun.

4 Q. You told us a little while ago -- you said that you didn't
5 remember which district committee he was on. I'd just like to
6 remind you that in E3/57, on page 6 in the Khmer version, ERN
7 00287705, page 6 in English, and 7 in French -- in that record,
8 you said that:

9 "Ta Sarun replaced my father until the arrival of the Yuon. Ta
10 Sarun at that time was the Secretary of Ou Reang. When Ta Sarun
11 became the secretary of Sector 105, Uncle Loak became his deputy
12 and held that position until the arrival of the Yuon."

13 Do you remember that he, indeed, was Secretary of Ou Reang
14 district?

15 [14.04.11]

16 A. I am not clear about the Secretary of Ou Reang or Pech Chenda.
17 I could not recall it clearly.

18 Q. Thank you.

19 You mentioned that there was a security centre for District 105
20 at Phnom Kraol. Who was in charge of the Phnom Kraol Security
21 Centre between 1975 and '77?

22 A. Leng was in charge of security.

23 Q. So for the transcript, when you say "Leng", can we spell this
24 out? We're talking about your father or somebody else?

25 A. No, he was somebody else, L e n g.

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1 Q. Just now, I said -- you said that Sophea was responsible for
2 security. So, between Leng and Sophea, what was the hierarchical
3 relationship?

4 [14.06.02]

5 A. I do not really understand your question.

6 Q. Just now, you said that Sophea was in charge of security in
7 Sector 105 and you confirmed what you stated to the Investigating
8 Judges, namely that Sophea was responsible for the army in that
9 region. As for Leng, who was in charge of the security centre,
10 did he work closely with Sophea, who was responsible for the
11 military forces of Region 105?

12 A. Sophea was the military commander in charge of security, but
13 Leng was the person who was placed directly in charge of
14 security.

15 Q. Thank you.

16 Were there Sector 105 offices not in Mondulhiri, but in Phnom
17 Penh? And, if there were, what was the purpose of them?

18 A. Could you please simplify your question? Are you asking me
19 about the security office or -- what office?

20 Q. No, I want to know if Sector 105 had branches, offices opened
21 in Phnom Penh, representing 105 in Phnom Penh.

22 A. Yes, there was.

23 [14.08.24]

24 Q. And was there a code name for those offices? And what were the
25 purposes of those offices?

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1 A. The branch office in Phnom Penh was tasked to receive
2 materials and supplies in order to supply to – to Sector 105.

3 Q. Was it known as a trading office or did it have another title?

4 A. Yes, it was called the Commercial -- Office of Commerce of
5 Office 105.

6 Q. When Sector 105 cadres went to Phnom Penh, did they stay in
7 that Sector 105 Office of Commerce?

8 A. Yes, they did, they stayed at the Commerce Office of 105.

9 Q. Thank you.

10 Let's come back to the meetings that you said you didn't know
11 very much about while at the same time saying that there were get
12 together at K 17.

13 Can you tell us how frequently assemblies were held -- in other
14 words, the really big meetings in K 17? How many times a year
15 were these things held?

16 [14.10.28]

17 A. It was held rather frequently. Normally the meeting was held
18 on a monthly basis, but I did not know the content or the subject
19 matters discussed in those meetings.

20 Q. At these monthly meetings, who came from the various
21 districts? What level of representation was there from the
22 districts participating? Was it the district chiefs, or did other
23 people participate, in addition to the Sector 105 Committee?

24 MR. PRESIDENT:

25 Witness, please hold on.

1 Counsel for the -- for Mr. Ieng Sary, you may proceed.

2 MR. KARNAVAS:

3 Thank you, Mr. President. Based on the gentleman's earlier
4 answer, it would appear that he would be speculating if he were
5 to provide an answer, unless, of course, there -- a foundation is
6 laid.

7 He's indicated that he didn't attend the meetings. So, if he
8 didn't attend the meetings, how would he know who was at the
9 meetings?

10 (Judges deliberate)

11 [14.12.36]

12 MR. DE WILDE D'ESTMAEL:

13 If I could answer as well, Mr. President, I think it's perfectly
14 possible to know who was participating in the meetings, who was
15 coming from 105, without necessarily having to go into the
16 meeting room to see who was there. And I think it's a perfectly
17 justifiable question, Mr. President.

18 MR. PRESIDENT:

19 Objection and the ground of objection by the defence counsel for
20 Mr. Ieng Sary are not appropriate and thus not sustained, so
21 witness is directed to respond to the last question posed by the
22 Prosecutor.

23 [14.13.27]

24 BY MR. DE WILDE D'ESTMAEL:

25 Q. I'm going to reword this because a little bit of time has gone

1 by since I first asked it.

2 Who attended these monthly meetings in K 17? Who, in the
3 districts or in the communes or at other levels, was actually
4 attending?

5 MR. PHAN VAN:

6 A. There were representations from various districts. Sometimes
7 the district chief -- but in the past, back then, they called
8 them "district secretaries" -- and they would come to attend the
9 meetings.

10 But there were different formats of the meeting: sometimes the
11 meeting were convened among the district secretary, sometimes
12 they were convened for the deputy district committee.

13 Q. When you were talking to us about "monthly meetings", do you
14 mean the enlarged meetings with the district representatives, or
15 were these smaller meetings limited to the Sector 105 committees?

16 A. They were meant for those who worked in the -- in Sector 105
17 Committee.

18 [14.15.07]

19 Q. And how often did the district secretaries come to K 17 --
20 several times a year was it?

21 A. It was almost once every month.

22 Q. Did all the district secretaries belong to the Sector 105
23 Committee?

24 A. According to the hierarchical structure, of course, they were
25 members of the sector.

1 Q. Thanks for clarifying that.

2 After the -- apart from these regular meetings, were there also
3 political education sessions on a wider scale that were held in K
4 17?

5 A. Yes, there was.

6 Q. And who was entitled to participate in those meetings? Was it
7 Sector 105 Party cadres?

8 A. Generally, they were meant for the cadres of Sector 105.

9 Q. Was there an education school in each district, where
10 political training sessions were held, as well?

11 [14.17.23]

12 A. At the district level, there was no education centre. There
13 was only one education centre located in Phnom Kraol.

14 Q. Thank you.

15 I'd like to read out an extract from the interview record, E3/57,
16 on page 5 in Khmer -- ERN 00287704. In French, it's on page 5,
17 and in English, it's also on page 5. And you said there:

18 "At that time, I was secretary to my father in the region office.
19 There was an education hall for the sector. At the district
20 level, there was also a district education hall. They searched
21 for the enemy through education, study, self-criticism, and
22 reports." End of quote.

23 Can you clarify what you said to the Investigating Judges at that
24 time, that there was that - that there was that district
25 education hall and a hall for the sector?

1 [14.19.01]

2 A. Let me clarify this.

3 Concerning the self-criticism session, it was conducted regularly
4 and generally, and normally the cadres of Sector 105 would come
5 to assemble and receive certain trainings, and then they went
6 back to their respective districts, and then they would call for
7 the self-criticism session. That was the practice. So, this was
8 an -- ongoing sessions that were held regularly at the base
9 level.

10 Q. Did you, yourself, attend education sessions in addition to
11 self-criticism sessions in K 17?

12 A. I attended the training based on the areas of my
13 responsibility. I did attend a -- certain training
14 (unintelligible) for my specific responsibility, but as for the
15 in-large meeting, I did not attend.

16 Now, for example, for the group or squad or so, they would attend
17 regular self-criticism sessions.

18 Q. In that same extract, you said that it was through education,
19 and study, and self-criticism, and reports that the enemy was
20 actually searched for. Can you tell us why it was necessary to
21 identify these enemies in Sector 105?

22 A. That, I did not understand it either, but it was the practice
23 -- general practice at that time, that they would search for
24 enemies during those sessions. During the self-criticism session,
25 those who did not fall in lines with the groups, they would be

1 alleged of being enemies.

2 [14.21.47]

3 Q. Apart from the self-criticism sessions where certain
4 individuals had different positions to those of the groups --
5 apart from that, was it made clear to you who were the actual
6 enemies of Democratic Kampuchea?

7 A. At that time, it was never clear; I did not know -- I did not
8 know who were the targets of the Party. But normally, those who
9 attended those sessions returned to that base, and then they
10 mysteriously disappeared, and those people were thought of being
11 the enemy.

12 Q. When you were talking to the Investigating Judges, you
13 mentioned the fact that there was a 12-point moral code and you
14 kept a copy of it in your pocket so as to be able to read it.
15 Before going into these points, tell us, was somebody who didn't
16 respect any of those 12 moral or disciplinary precepts considered
17 an enemy?

18 A. At the time, they were not all alleged of being the enemies,
19 because there were different types of enemies: there were
20 conscientiousness enemy or different -- or other types of enemy.
21 But for conscientiousness enemy, they would not be removed.

22 [14.23.48]

23 Q. Thank you. You've told us about various types of enemy. Apart
24 from enemies of conscience, what about other kinds of enemies?
25 Could you quote some examples?

1 A. As I told you earlier, the ideological enemies, those who did
2 not fall in lines with the organization at the time, were also
3 alleged to be the enemy of the Party, but I did not know how they
4 characterized those groups of people. I did not understand it at
5 that time.

6 Q. Can you tell us a little bit more about the 12-point moral
7 code that had to be adhered to?

8 A. I do not recall the 12 moral codes, but most important of all
9 was the moral livings.

10 In the early days, many people supported these 12 moral codes,
11 but later on everyone was alleged of the enemies of the Party.
12 That's why people did not abide by these 12 moral codes anymore.
13 Of course, the essence of these moral codes was to respect each
14 other in society, pay respect to Buddhist monks, and so and so
15 forth. But later on people did not adhere to these 12 moral
16 codes; they lived by their own moral codes.

17 [14.26.02]

18 Q. Thank you. Were the Party cadres asked to regularly write
19 their biographies?

20 A. Yes, they were.

21 Q. Do you know what a pure biography would look like under the
22 Khmer Rouge?

23 A. I did not understanding - I did not understand the requirement
24 of the personal biography at the time, but most important of all,
25 we did not own any properties by ourselves, everything belongs to

1 the collective group, and we only had with us plain clothes on
2 our body -- only two sets of plain clothes.

3 Q. Thank you.

4 Before coming on to ask you about your work, and in particular
5 the telegram communication work, I'd like to ask you one or two
6 questions about your brothers and sisters. Can you tell us the
7 names of your brothers and sisters and their revolutionary names,
8 starting with the eldest and finishing with the youngest?

9 [14.28.00]

10 A. As for my biological brothers and sisters, I have a youngest
11 brother by the name of Tiet (phonetic), and he is still alive
12 now; Ty (phonetic), La (phonetic), Tith (phonetic), Hann
13 (phonetic), and myself. Oh! One more: Vanny. So I have three
14 brothers and three sisters.

15 Q. Do you have a brother called -- a sister, excuse me, called
16 Phan Sovan Han?

17 A. Yes, I do.

18 Q. Was her second name Bopha?

19 A. The original name was Bou Phan, actually.

20 Q. Thank you. Did that elder sister work for your father in
21 Sector 105? And what particular duties did she perform, if she
22 did?

23 A. She worked for my father only very briefly in the Telegram
24 Section.

25 Q. Thank you.

1 You also refer to your sister Ty (phonetic). Are you referring to
2 Phan Ty (phonetic) who was born in 1959?

3 [14.30.38]

4 A. Yes, it is correct.

5 Q. And did she ever work in Sector 105 with your father?

6 A. No.

7 Q. Where did she work during the Khmer Rouge regime -- very
8 briefly, sir?

9 A. I'm not quite sure where she worked, but she worked with Ta
10 Touch. Later on -- later on she lived elsewhere.

11 Q. Thank you. Can you please tell us where your younger brother,
12 Vanny, worked?

13 A. He is now in the district -- in the hometown, of course.

14 Q. I'm sorry; what I meant was: Where did your younger brother,
15 Vanny, work during the Khmer Rouge period?

16 A. Vann, at that time, perhaps worked with Pol Pot.

17 [14.32.48]

18 Q. In your interview before the investigators of the
19 Co-Investigating Judges, you stated that Vanny had been adopted
20 by Pol Pot. Was your father, Laing, close to Pol Pot,
21 particularly during the years of struggle before he came to
22 power?

23 A. During the time when they ran away into the jungle, they
24 passed the Centre and they got to know my father. I did not know
25 how well they knew one another, but they stayed some time in

1 Mondulkiri.

2 Q. Thank you.

3 Let us just return, for a moment, to the work of Bou Phan, Sovan.

4 Did this person work within the service or was seen by your

5 father? Because you stated that Bou Phan worked for a short

6 period of time.

7 A. It happened at a later date.

8 Q. You stated before the Co-Investigating Judges that you decoded

9 telegrams for your father. You were also working as a personal

10 messenger. Were you also serving as your father's secretary?

11 A. I don't understand the term "secretary" because, at that time,

12 that was not my title; I was a messenger and a driver.

13 [14.34.56]

14 Q. Thank you. And as a messenger and as a driver -- but you also

15 stated that you decoded telegrams -- can you please tell us to

16 whom you delivered messages within Sector 105 during the time

17 that you were working at K-17?

18 A. "Messenger", at that time, did not only mean that you had to

19 carry messages for -- to someone; you were expected to also do

20 some kind of security work.

21 Q. Thank you for that detail. However, in addition to your duties

22 as a messenger and in addition to your security duties, did you

23 deliver any messages to cadres working within Sector 105?

24 A. I used to carry messages to district chiefs and also had to

25 transport them back and forth to attend meetings.

1 Q. Thank you. Which district chief are you referring to? Are you
2 referring to one single secretary of a district or are you
3 referring to several district heads to whom you had delivered
4 messages?

5 A. It depends on the service I had to offer. For example, if each
6 chief of district would like me to carry the letters or messages
7 to him or her, then I would go to a particular district.

8 [14.37.36]

9 Q. Could telegrams be sent from the districts to K-17 or other
10 offices? Was there any particular section of telegrams organized
11 within the district?

12 A. At that time, there was no such telegram section at district
13 level in Mondulkiri. We had to use letters or messages to
14 communicate with one another.

15 Q. Thank you. And were those various letters and messages that
16 came from the district chiefs encoded?

17 A. The letters from district would not be decoded; they were
18 placed in envelopes. They were just ordinary letters, but we were
19 not authorized to open and read them.

20 Q. Mr. President, perhaps one final question before we break, if
21 I may: Did you travel -- did your father travel frequently to
22 Phnom Penh between 1975 and 1977?

23 A. Yes, he did. He did travel to Phnom Penh rather frequently
24 during the time when there was fighting with the Vietnamese.

25 [14.39.38]

1 MR. PRESIDENT:

2 Thank you.

3 We would like now to adjourn for 20 minutes. The next session
4 will be resumed by 3 o'clock.

5 Court officer is now instructed to assist the witness and his
6 duty counsel during the adjournment and have them returned to the
7 courtroom by the said time.

8 (Court recesses from 1440H to 1502H)

9 MR. PRESIDENT:

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

11 And we would like now to hand over to the Co-Prosecutor to
12 continue putting questions to the witness.

13 [15.02.48]

14 BY MR. DE WILDE D'ESTMAEL:

15 Thank you, Mr. President. I shall try and speed up and get as
16 much covered as possible today.

17 Q. The last question, Mr. Witness, was to ask you if your father
18 went regularly to Phnom Penh, and you said yes.

19 Now, did he go there on his own, or were there other sector
20 committee cadres who would normally go with him?

21 MR. PHAN VAN:

22 A. Sometimes he went there on his own, sometimes he was
23 accompanied by another cadre.

24 Q. As a messenger and somebody who was also responsible for
25 security issues, did you go with your father sometimes when he

1 went to Phnom Penh for meetings?

2 A. I only went to the Commercial Office, where – I could wait for
3 him there.

4 Q. The question was: Did you go often? I understand you didn't
5 play an active role in the meetings, but did you often go with
6 your father to the Commerce Office quite frequently?

7 [15.04.28]

8 A. Yes, I went there every single trip when my father was there.

9 Q. Can you tell us who summoned your father to these various
10 meetings?

11 A. I do not know who actually was calling him, but I knew that
12 someone at the upper echelon could have done that.

13 Q. Thank you. We'll come back to this a bit later.

14 Do you remember if your father and you, yourself, went to Phnom
15 Penh in the month before the liberation, on the -- of Phnom Penh,
16 on the 17th of April 1975 -- in other words, May 1975?

17 A. I remember this.

18 Q. Can you tell us what kind of meeting your father took part in
19 in May 1975?

20 A. He also attended meeting during the Khmer New Year, but I
21 don't know what kind of meeting it was.

22 Q. Thank you. When you went to Phnom Penh in May '75, was Ta
23 Sarun with him?

24 [15.06.41]

25 A. Yes, he was, although I'm not quite sure. But I believe that

1 he could have been with Ta Sarun at that time.

2 Q. Can you remember where the large gathering took place in May
3 1975 in Phnom Penh?

4 A. It was conducted at the stadium.

5 Q. And were you at the stadium at the same time?

6 A. No, I wasn't. I went there only at night to watch the play.

7 Q. Thank you.

8 Let's talk about other kinds of meetings that happened after
9 that.

10 Who did your father normally meet with in Phnom Penh, among the
11 Party leaders, when he went to the capital -- if you know, that
12 is?

13 A. No, I don't know.

14 [15.08.36]

15 Q. Do you know where he would go for the meetings he was
16 attending?

17 A. No, I don't know.

18 Q. Mr. President, I'd like to read from E3/57, the interview
19 record, on page 5 in the Khmer, at 00287704, in French it's also
20 on page 5, and in English it's on page 4.

21 And the question is: "Did you receive any messages about the
22 purge of the Chams or the Vietnamese?"

23 And your answer was: "There was none at the time. If a purge was
24 to take place, instruction would be given in the great assembly
25 during the policy studying session in Phnom Penh. Mostly, they

1 called sector and district committees to go to study at the
2 Centre."

3 In French, there is a mistranslation that does not apply to the
4 English.

5 Continuation: "The district and sector committees took turn in
6 going to study at K-3." That's the end of my quote.

7 [15.10.03]

8 Mr. Witness, does this enlighten you on the fact that the region
9 head, who was your father, and the district chiefs had meetings
10 in K-3?

11 A. I may wish to emphasize that I'm not pretty sure on that. I
12 did attend the session -- rather, during the session, in my
13 capacity, I only stopped at the Commercial Office.

14 Q. Thank you. Apart from meetings, did your father, Ta Laing,
15 also go to Phnom Penh to attend major annual assemblies, for
16 example commemorating the 30th -- the 17th of April or the 30th
17 of September for each year?

18 A. Yes, he did.

19 Q. And what about yourself? Did you attend major celebrations on
20 the occasion of the 17th of April or the 30th of September in the
21 stadium?

22 A. When I was at the sector, I went there only on one occasion.

23 [15.12.03]

24 Q. So, who, from all of those B-20 leaders, took the floor when
25 you were attending the big assemblies?

1 A. I saw Uncle Pol Pot who took the floor.

2 Q. Did your father or yourself attend political study sessions in
3 Borei Keila?

4 A. No, I didn't, but I don't know whether my father also went to
5 the session at that place.

6 Q. Thank you. When you father got back from Phnom Penh after
7 these various meetings, would he normally convene one or several
8 meetings for Sector 105 to tell the cadres and the Sector 105
9 members about the different instructions that he, himself, had
10 been given?

11 A. Yes, he did. Normally, after getting back from Phnom Penh, he
12 would convene meetings where he invited people from district to
13 attend.

14 Q. What were the subjects of these meetings, usually, in which he
15 debriefed on instructions he had been given in Phnom Penh?

16 [15.14.07]

17 A. I don't know what actually was being discussed in those
18 meetings, but I saw district chiefs would be coming to attend
19 such meetings.

20 Q. And, apart from your father and the cadres who would go with
21 him to Phnom Penh, did other 105 cadres go to Phnom Penh for
22 training sessions or for meetings?

23 A. Yes, there were the deputy chiefs, first, and, second, deputy
24 secretaries of the sector who would attend such meetings.

25 Q. Would 105 cadres who had been convened to meetings in Phnom

1 Penh often not come back to Sector 105 after?

2 A. (No interpretation)

3 Q. I'm afraid I didn't get the French translation of the
4 response. Could I please hear that again?

5 A. Yes, that was the case.

6 [15.16.15]

7 Q. Who, as far as you were aware because you worked in the
8 Telegram Section, convened the 105 cadres, the ones who didn't
9 come back after? And who sent the telegrams?

10 A. I don't know, but normally the telegram would be addressed to
11 870.

12 Q. Thank you. Those are the telegrams that were sent by the
13 sector to 870, but here I'm talking about the convocations to
14 meetings in the Centre -- in other words, messages from the
15 Centre. So was this 870 or was it particular individuals who were
16 sending these convocations?

17 A. Normally, no name was mentioned in the letter or on the
18 envelope; it only addressed 870.

19 Q. Thank you. Let me read out an extract from the interview
20 record E3/58, dated 21 November 2008, on page 4 in the Khmer
21 version, ERN 00239937; in French, page 4; in English, also page
22 4.

23 And this is what you told the investigators -- I quote:

24 "Apart from that, Nuon Chea sent to the region, Ta Sophea or to
25 my father, typewritten messages to go to study in Phnom Penh. My

1 father and Ta Kham Phuon (sector deputy chief) were killed while
2 they were sent to study in the final session in Phnom Penh.
3 Before my father and Ta Kham Phuon were called to go and study,
4 there was a typewritten letter in an ordinary writing (non-coded)
5 form from Nuon Chea to K-17 Office calling the sector deputy
6 chiefs in charge of education, including Ta So Kim An alias Mey
7 and another district chief, Cham, to go to study, and they
8 disappeared forever." End of quote.

9 [15.19.29]

10 Do you remember saying that? And how did you know that it was in
11 fact Nuon Chea who sent the summons?

12 A. Yes, I do. That happened occasionally, and when 870 addressed
13 a letter to him, then they would put the term "Nuon" or "Hem".

14 Q. And concerning the convocation to Mey and to Cham, was it Nuon
15 who sent that invitation or was it Hem?

16 A. It was Uncle Nuon who would call or ask for some men or
17 forces.

18 Q. What about Ta Chuon -- C-h-u-o-n? Who sent for him to come to
19 Phnom Penh?

20 A. They would be sent at the same time with others.

21 Q. Can you remember if Ta Chuon, and Mey, and Cham were arrested
22 when you were still in Sector 105 -- in other words, before your
23 father's death?

24 [15.21.46]

25 A. Yes, I do remember this.

1 Q. For the needs of the transcription, we have on file E3/1645,
2 where Ta Chuon's name appears as number 128 of a list of S-21
3 prisoners of November '77.

4 Also on file, there is the S-21 confession of So Kim an alias
5 Achar Mey, dated 26 October 1977 and which carries reference
6 D175/3.78 -- D175/3.78.

7 Mr. Witness, apart from those cadres whose names I have quoted to
8 you and which you mentioned yourself, were there other -- were
9 there many arrests during transfers to Phnom Penh from Sector 105
10 when you were there?

11 A. At that time, there was -- no huge arrest was made yet; only
12 these three people were arrested -- these three individuals. And
13 later on more people were arrested.

14 Q. Thank you. We will come back to this.

15 When did you start working on decoding telegrams in Sector 105?
16 Was it, as I believe you said this morning, before April 1975 or
17 was it after that date?

18 [15.24.14]

19 A. It's before April 1975.

20 Q. Did your father receive telegrams from the Centre before 1975?
21 I say the "Centre"; that can be the place where the Khmer Rouge
22 leaders were situated -- not in Phnom Penh, of course.

23 A. Prior to 1975, yes.

24 Q. Do you know what the telegrams that you were entrusted with
25 decoding were about? What sort of content did they have?

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1 A. It is more about the day-to-day situation and with some brief
2 instructions. During that time, the country was in war.

3 Q. But in those instructions, was there already references to
4 enemies that had to be singled out?

5 A. No.

6 Q. All right. And when did that begin? Was it after April 1975?

7 A. Yes.

8 Q. As for your qualification as a telegram decoder, did you ever
9 go to Phnom Penh for some further training on secret telegram
10 codes between 1975 and the end of 1977?

11 A. No.

12 [15.27.00]

13 Q. Could you briefly tell the Chamber what procedure was followed
14 for incoming telegrams to be decoded in Sector 105? In absolutely
15 practical terms, what happened when a telegram came in from the
16 Centre to Sector 105? What were the different phases of the
17 decoding process?

18 A. Can I clarify this? Are you referring to the messages --
19 telegrams to the Centre or from the Centre? How we reported or
20 how we decode our letters?

21 MR. PRESIDENT:

22 Mr. Co-Prosecutor, the witness appears to have problem
23 understanding the question. Could you repeat it?

24 BY MR. DE WILDE D'ESTMAEL:

25 Thank you, yes.

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1 Q. I want to hear about the procedure that was followed when
2 telegrams coming into Sector 105 from the Centre for your father
3 were firstly received and then decoded before the message
4 actually got to your father.

5 [15.28.38]

6 MR. PHAN VAN:

7 A. First, the letters would then be typed by group of typists,
8 and the telegrams decoders would be assigned to deal with the
9 letters separately. For those who decoded telegrams, they were
10 tasked with this particular duty. And, when it comes to the
11 secret codes, then, only some certain people understood this; but
12 those who received the telegrams, they were meant to receive the
13 telegrams, nothing else.

14 Q. Were there different kinds of telegrams? Were there telegrams
15 that weren't in code? Were there others that had a simple code
16 and others that had a more cryptic code?

17 A. There were two types of codes used in the telegrams: the
18 10-digit coding -- coded telegrams, and another one which is more
19 complicated to understand.

20 Q. Did you master all of those codes, or were there certain sets
21 of codes that were too cryptic and that you could not access?

22 A. I only understood the 10-digit kind of coding system, not
23 other technique.

24 [15.31.06]

25 Q. Then what kind of codes were you unable to decode? What types

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1 of telegrams were you unable to decode because they may have been
2 more confidential? Can you please tell us anything about the
3 messages that your father would have received?

4 A. No, my father didn't tell me about this. However, when we
5 looked at the telegrams, we could see the number coded into
6 different numbers, the numbers that we didn't understand but
7 understood by others.

8 Q. Before the Co-Investigating Judges, as recorded in E3/58, on
9 Khmer page 4, ERN 00239937, and on page 4 of the French and
10 English versions, you said the following:

11 "In terms of security work, I sent messages to Nuon Chea or Om
12 Nuon, Brother Number 2 -- typewritten letters. There were coded
13 numbers, but I cannot recall them. It had to be written in coded
14 letters. I could not understand the contents of those coded
15 letters. It was only my father who could understand those
16 contents because there was another set of secrets codes for
17 reading them." End of quote.

18 [15.33.03]

19 Mr. Witness, can you please tell this Chamber what you did with
20 messages that were encrypted in sets of codes that you were
21 unable to decode or to which you did not have access, messages
22 that were from Nuon Chea on security matters?

23 A. A point of clarification. The encrypted number was in the
24 numerical form. For example, it may read "102". We do not
25 understand what it was meant. But, if you look at the title, it

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1 addressed to Brother Number 2. But as for the number, we did not
2 decode the number because it needs another level of decoding,
3 which was not within my responsibility. I left the number as it
4 was.

5 But as for the title, we did not -- we did not keep it there; we
6 had to decode it. For example, if this message was addressed to
7 any particular recipient, we would decode it. So, normally, we
8 decode from the numbers into letters and we had to put them
9 together to make sense as a message.

10 Q. Thank you.

11 I have some supplementary questions regarding telegrams that were
12 sent from the Party Centre or that were sent from your father,
13 from Sector 105.

14 Can you please tell us who within Sector 105, aside from your
15 father, had the power to communicate directly via telegram with
16 the Centre of the Party? Was there any one individual within
17 Sector 105, aside from your father, who had the discretion to
18 communicate with the Party Centre?

19 [15.35.31]

20 A. At that time, none; no one was allowed.

21 As for Division 902, they had their Telegram Office and they
22 would communicate by themselves, but as for -- as far as the
23 Sector 105 was concerned, he was the only person who communicated
24 via telegram to the Centre.

25 Q. Thank you. And, since Division 920 also had its own Telegram

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1 Office, were telegrams exchanged between Division 902 and Sector
2 Office 105?

3 A. No, there was no telegram communication between Division 902
4 and Sector 105.

5 Q. Just now, you talked about Office 870 -- Party Centre. Do you
6 know what the purpose of that office, Office 870, was exactly?

7 A. That I do not know.

8 [15.37.04]

9 Q. And if you're unaware or -- of its raison d'être, which cadres
10 worked at the Party Centre? Which cadres worked at 870? When a
11 telegram was sent to 870, do you know who, exactly, was the
12 recipient?

13 A. At the time, the telegram was sent to uncles.

14 Q. And when you talk about -- or when you refer to the "uncles",
15 do you know exactly who the "uncles" are referring to or referred
16 to?

17 A. During the Democratic Kampuchea era, "uncles" referred to Nuon
18 Chea, Pol Pot, Khieu Samphan. We addressed them as "uncles" or
19 "Om Om".

20 Q. Did Sector 105 ever receive telegrams from Mr. Pol Pot
21 himself? Or did Sector 105 ever address telegrams specifically to
22 Mr. Pol Pot, without making direct reference to Office 870?

23 A. No, it did not mention it.

24 Q. Just now, you stated that Mr. Nuon Chea would summon cadres
25 from Sector 105 to attend meetings and you stated that

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1 confidential messages would be sent to Mr. Nuon Chea on matters
2 of security. How was Mr. Nuon Chea addressed on those telegrams
3 summoning cadres to attend meetings? What was the name that he
4 used?

5 [15.39.47]

6 A. Through telegrams, my father addressed him as "Brother" or
7 "Bong". I did not address him so, but my father did address him
8 as "Brother" or "Bong".

9 Q. Did Nuon Chea ever send telegrams to the sector, concerning
10 security matters and activities related to security matters?

11 A. I do not recall.

12 Q. Mr. President, with your leave, I wish to quote an additional
13 passage from document E3/58, ERN Khmer page 4, 00239937, on page
14 4 of the French version, as well as on page 4 of the English
15 version. It relates to security matters and telegrams that were
16 written in secret code.

17 I wish to quote an additional passage:

18 "Prior to the death of my father, Nuon Chea had given regular
19 instructions on security matters, such as the need to be vigilant
20 of Vietnamese enemies or infiltrated enemies or the ambitions of
21 Vietnam and ideological tasks for education at the district
22 level. He summoned certain cadres to take part in educational
23 sessions in Phnom Penh, and as we saw later, those cadres never
24 returned."

25 [15.42.16]

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1 Did you ever witness Nuon Chea issue instructions on security
2 matters, on maintaining vigilance, and on the presence of
3 enemies, in those telegrams?

4 A. I recall some instruction. At the time, instruction also
5 served as the reminders for cadres in general; of course, there
6 was such instruction.

7 Q. And can you please specify as to whether those instructions
8 were issued via telegram or if those instructions were made
9 during meetings? Is that part and parcel of the response you are
10 providing? Are you referring to telegrams or are you referring to
11 instructions that were issued during meetings held in Phnom Penh
12 and that -- in which your father took part?

13 A. There was instruction through telegrams that we had to raise
14 our vigilance. The situation, at that time, was very pressing,
15 and we had to adhere to the instruction.

16 Q. Thank you. And, when you talk about "vigilance of the
17 enemies", what exactly do you mean? How was vigilance construed
18 during the Khmer Rouge period?

19 [15.44.24]

20 A. At that time, there were enemies fighting with our forces
21 along the border and there were also warfare among different
22 faction -- different groups internally. That's why we had to
23 adhere to the instruction. If I had to elaborate on the situation
24 of enemies at the time, it would be very long running because
25 there were a lot of elements of enemies at that time.

1 Q. Very well. So, in short, when you refer to "infiltrated
2 enemies" in this particular context, what exactly is -- are you
3 referring to?

4 A. To my understanding -- my personal understanding, the
5 infiltrated enemies were the ones who did not fall in lines with
6 the instruction of the organization, those who deviated from the
7 instruction. So, those people were no longer trusted by the
8 organization and they were no longer given any task to handle.

9 [15.45.37]

10 And in addition, in certain circumstances, they would be detained
11 as well. So, that was only the differing views from the
12 organization, and those people were considered infiltrated enemy.
13 They were not the enemy -- the Vietnamese enemy who were fighting
14 along the border.

15 Q. Was it possible for some cadres within Sector 105 to be
16 accused of being traitors or spies?

17 A. Back then, those who had disappeared, they announced that
18 those people were the traitors. Some were accused of the members
19 of the traitorous network or CIA. Mey was also charged of --
20 charged with the network of CIA and Mey was also charged of
21 associating with the Vietnamese enemy.

22 Q. Thank you very much for that explanation.

23 In addition to telegrams that were signed by Office 870, did
24 Division 105 ever receive telegrams signed by Doeun? D-o-e-n
25 (sic) is how the name is spelled.

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1 A. I do not recall. I don't think that that name existed.

2 Q. Did Sector 105 ever receive telegrams from Mr. Khieu Samphan
3 himself?

4 [15.48.00]

5 A. That I am not clear.

6 Q. Mr. President, with your leave, of course, I wish to read out
7 another extract from P.V. E3/58, on page 4 of the Khmer. The
8 passage is also found on pages 4 of the French and English
9 versions.

10 The witness says the following in response to a question put by
11 the Co-Investigating Judges:

12 "With respect to issues relating to material, social affairs, and
13 anything that didn't have to do with security matters, telegrams
14 were sent to Khieu Samphan alias Hem in plain language. When he
15 sent back his instructions or assignments, he signed them and
16 used the name Hem. For instance, when he attributed assignments
17 to the sector, the sector -- K-17, for instance -- would further
18 assign to the trade or economic section logistical tasks to
19 support the Central Level on matters pertaining to petroleum,
20 machinery, medicine, clothing, etc." End of quote.

21 [15.49.46]

22 Just now, you stated that Hem also received telegrams just as he
23 had sent telegrams. Therefore, do you stand by this statement,
24 Mr. Witness -- in terms of the issues that were being dealt with,
25 Mr. Khieu Samphan sent telegrams relating to material, equipment,

1 healthcare, and social affairs, etc.?

2 A. Yes. As I stated there, whenever it was related to equipment
3 or so, as you enumerated, he would sign it with the initial
4 "Hem".

5 Q. Thank you. On the same issue, did Sector 105 send rice to the
6 Party Centre?

7 A. That I do not recall. To my recollection, it sent
8 approximately twice per year.

9 Q. Were there problems of malnutrition or famine within the
10 cooperatives of Sector 105 during the period from 1975 to 1977?

11 A. Yes, there was. There was the prevalence of malnutrition and
12 food shortages, but it was not in a desperate situation.

13 Q. And despite that, rice was sent to Phnom Penh twice a year; is
14 this accurate?

15 A. Yes.

16 [15.52.18]

17 MR. DE WILDE D'ESTMAEL:

18 I wish now to present the witness with a certain number of
19 telegrams, since he worked within the Decoding and Encoding
20 Section under his father.

21 With your leave, Mr. President, I wish to have projected E3/1191
22 and to begin with this particular telegram before moving on with
23 subsequent ones.

24 MR. PRESIDENT:

25 You may proceed.

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1 BY MR. DE WILDE D'ESTMAEL:

2 Q. The telegrams that I will be presenting are rather short. They
3 do not exceed one page.

4 The first telegram is dated 12 October 1976. It's entitled
5 "Telegram 00", signed by a certain Laing, and addressed to
6 "Beloved and Missed Comrade Doeun". There's reference to 105.
7 [15.54.00]

8 I will read out the first two items of this telegram:

9 Number 1: "We arrived at 105 on 11 October at noon."

10 2: "I've also changed my name. My new name is Comrade Chhan." The
11 French contains an error; the French says "Phan", but in fact,
12 the correct transcription is Chhan -- C-h-h-a-n.

13 "Please only refer to me as Comrade Chhan," point number 2 reads.

14 Mr. Witness, this telegram was received by the Party Centre and
15 decoded at the Centre. Was the sender of this telegram, a
16 so-called Laing, indeed your father?

17 MR. PHAN VAN:

18 A. Yes, back then at Mondulkiri, Laing was my father's name, and
19 that was the only name over there.

20 But as for this particular telegram, I never saw it at the time.

21 Q. And if you never saw this telegram, are you still able to tell
22 this Chamber whether this telegram is consistent with the types
23 of telegrams that you encoded or decoded during the time -- that
24 is, they contain the same headings? For instance, at the top of
25 the page, you see "Telegram: 00". Does the form correspond to the

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1 signatures and salutations that were generally used -- also used
2 and applied by your father, for example? Are you familiar with
3 the type of format that was used for telegrams that were sent
4 from and to Sector 105?

5 [15.56.25]

6 A. I -- my brother might have known it better because back in
7 1976, I was at that time tasked to drive the truck. So, my
8 brother was at that time the one who was involved with this kind
9 of task.

10 Q. Thank you. And what was the name of that brother?

11 A. Not my brother, my elder sister; my -- my elder sister by the
12 name of Han.

13 Q. And in that telegram, Laing, your father, states that
14 henceforth, he must be called Chhan. In fact, he even emphasizes
15 in item 2 to only be referred to as Comrade Chhan -- C-h-h-a-n.
16 Are you familiar with this?

17 A. Chhan or Phan? Are you referring to Chhan or Phan?

18 Q. The English reads "Chhan", C-h-h-a-n. The French reads "Phan",
19 P-h-a-n. And then a second reference is made to "Chhan" in the
20 same French version -- C-h-h-a-n. I would ask you to be directed
21 to paragraph 2 of the original Khmer version and please confirm
22 as to whether or not "Comrade Chhan" does indeed refer to your
23 father?

24 [15.58.34]

25 A. Phan was the family name of my father because Phan was my

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1 grandfather's name, but as for my father, I don't think, any
2 point in time, he changed his name to Chhan. I did not know.
3 In 1976, my elder sister was close to my father, working on this
4 matter. She would have known this better than I did.

5 MR. DE WILDE D'ESTMAEL:

6 Thank you.

7 I wish now to show a second document, E3/1192, which was sent on
8 the same day, on the 12th of October 1976. This is a one-page
9 telegram that was sent by Laing and addressed to "Beloved Brother
10 Nuon".

11 Now, it's quite likely that the witness did not -- or has never
12 seen this telegram because it is dated the same date. I therefore
13 seek leave from the Chamber to show the witness this particular
14 document and base my question on that.

15 (Judges deliberate)

16 [16.01.01]

17 MR. PRESIDENT:

18 You may proceed.

19 BY MR. DE WILDE D'ESTMAEL:

20 Thank you very much, Mr. President.

21 Q. This is a telegram, as you can see, sent by Laing. Now, is
22 this Laing your father, who's signing at the bottom?

23 MR. PHAN VAN:

24 A. Yes.

25 Q. So, it's addressed to "Beloved Brother Nuon". Now, earlier,

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1 you told us that "Nuon" meant Nuon Chea. Can you confirm to us
2 that that is also the case on this telegram?

3 MR. IANUZZI:

4 I'm sorry, I need to--

5 MR. PRESIDENT:

6 You may proceed.

7 [16.02.27]

8 MR. IANUZZI:

9 Thank you, Mr. President. I think perhaps the first question
10 should be: Is the witness familiar with this document? He did
11 tell us that he wasn't doing translation at this time, that he
12 was a driver, I think he said. So, perhaps first we could see if
13 he's familiar.

14 Of course, he knows his father's name -- obviously, he knows the
15 name of his father, but whether or not he's familiar with this
16 document, perhaps that foundation could be laid first, and then
17 we could get into the substance.

18 MR. DE WILDE D'ESTMAEL:

19 Mr. President, I believe that earlier on I said that the telegram
20 that is -- bears the same date as the previous one -- that
21 probably his sister encoded the telegram. So, I explained that I
22 didn't think that the witness had seen it, but I do wish to know
23 if the witness can tell us if this is the way that his father
24 would normally address Nuon Chea -- "Beloved Brother Nuon".

25 [16.03.44]

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1 MR. IANUZZI:

2 Well, I can tell you that my client's name is Nuon Chea -- I can
3 tell you that. And I can tell you that the witness's father's
4 name is Laing. So I'm not entirely sure what the purpose of this
5 exercise is.

6 The document speaks for itself.

7 The witness hasn't been asked yet if he's seen the document. He's
8 already said that on this date he wasn't in the business of
9 dealing with telegrams; he was doing something else entirely.
10 So, again, I think we really need to orient ourselves in time,
11 each and every time, and if it's outside the scope of the
12 witness's particular duties at that time, then I just don't see
13 the utility of it.

14 BY MR. DE WILDE D'ESTMAEL:

15 I'll ask the question, but we know the answer already, Mr.
16 President.

17 Q. Witness, have you ever seen this telegram?

18 [16.04.44]

19 MR. PHAN VAN:

20 A. No, I haven't seen it. However, the format of the telegram is
21 familiar because it's my elder sibling who was attached to
22 dealing with this, when I was driving.

23 Q. Thank you. And, when you were told to encode telegrams, you
24 said that your sister worked for your father for a short period
25 on telegrams. And then, when you were doing this -- well, can you

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1 recognize on this telegram the way in which your father would
2 tend to address Nuon Chea?

3 A. It would be addressed the same way as the message already
4 stated. He would address him as "Brother", or "Bong".

5 Q. Thank you.

6 In the second paragraph of the telegram, it says: "We have
7 assigned a commerce group for Phnom Penh. Comrade Chuon has
8 received them." C-h-u-o-n, for Chuon.

9 [16.06.15]

10 Is this the same Comrade Chuon that you mentioned earlier on, who
11 was a member of the 105 Sector Commerce Group?

12 A. Yes, he's the same person.

13 MR. PRESIDENT:

14 Thank you, the Co-Prosecutor and Mr. Witness.

15 It is now appropriate moment for today's adjournment. The Chamber
16 will adjourn now, and the next session will be resumed by
17 tomorrow, at 9 a.m.

18 For tomorrow's session, the Chamber continues hearing the
19 testimony of Phan Van, alias Kham Phan, and also we will hear the
20 testimony through video-link of TCCP-1 after the conclusion of
21 this civil -- this witness.

22 Mr. Phan Van, your testimony has not yet been complete, and that
23 -- the Chamber wishes to hear your testimony for tomorrow's
24 sessions as well, so you are now invited to come to the Chamber
25 again tomorrow.

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1 [16.07.44]

2 Court officer is now instructed to assist with WESU unit to
3 ensure that the witness is properly accommodated safe and sound
4 and also have him returned to the courtroom by 9 a.m. tomorrow.
5 Security personnel are now instructed to bring all the accused
6 persons back to the detention facility and have him - or, rather,
7 have them returned to the courtroom by 9 a.m., except Mr. Ieng
8 Sary, who is ordered to be brought only to his holding cell
9 downstairs where he can observe the proceedings through remote
10 participation.

11 The Court is now adjourned.

12 (Court adjourns at 1608H)

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