



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា
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អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
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13 December 2012

Trial Day 140

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MS. AFFONÇO (TCCP-1)	French
MR. ANG UDOM	Khmer
JUDGE CARTWRIGHT	English
MR. DE WILDE D'ESTMAEL	French
MR. IANUZZI	English
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MR. PAUW	English
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MS. SIMONNEAU-FORT	French
MR. SON ARUN	Khmer

1

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

2 (Court opens at 0904H)

3 MR. PRESIDENT:

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

5 During today's sessions and as scheduled, the Chamber continues

6 hearing the testimony of Witness Phan Van.

7 Madam Se Kolvuthy is now instructed to report to the Chamber the

8 current status of the parties to the proceedings.

9 [09.06.13]

10 THE GREFFIER:

11 Good morning, Mr. President. During today's sessions, all the

12 parties to the proceedings are present, except Mr. Ieng Sary, who

13 is present but in his holding cell, due to his health concerns.

14 During today's sessions, starting from the morning, the Chamber

15 continues hearing the testimonies of Mr. Phan Van, who is now

16 before the Chamber.

17 In the afternoon session, the Chamber continues hearing the

18 testimony of Civil Party Madam Denise Affonço through remote --

19 or videoconference. According to the report by the AV booth

20 officers, the equipment are ready for today -- this afternoon

21 sessions.

22 MR. PRESIDENT:

23 Judge Lavergne, would you wish to continue putting a few more

24 questions to the witness?

25 You may now proceed.

2

1 [09.17.14]

2 QUESTIONING BY JUDGE LAVERGNE RESUMES:

3 Thank you, Mr. President. I have a few questions to ask the
4 witness.

5 Good morning, Mr. Kham Phan.

6 Q. If we can, I would like to come back to the administrative
7 structures and to the connections between Sector 105 and the
8 Northeast region.

9 You told us that Sector 105 was, as far as you were aware,
10 autonomous. But can you tell us if there were in fact relations
11 between Sector 105 and the Northeast region, please?

12 MR. PHAN VAN:

13 A. There was a connection between Sector 105 and the Northwest
14 (sic) Zone. There was some kind of connection through the border.
15 However, when it comes administrative communication, the report
16 had to be done vertically -- from bottom up.

17 [09.08.38]

18 Q. There may be a slip here because in my earphones, I heard
19 "Northwest", but we're talking here about the Northeast.

20 A. Well, I was talking about the South - rather, the Northeast,
21 indeed.

22 Q. Thank you.

23 So, you're telling us that all of the communications between
24 Sector 105 and the Northeast Zone had to be organized
25 hierarchically. So, all of the communication had to go through

3

1 who -- through the Central Committee, through Office 870? Who did
2 the communications go through?

3 A. According to my understanding, the communication went through
4 870, but at the same time there was a committee along the border
5 where the communication could channel through. This committee was
6 set up by the Upper Echelon and there were names of individuals
7 in the committee, though I don't remember all the names. But I
8 knew for sure that such committee existed.

9 Q. Who was in charge of the Northeast region? Do you remember
10 that?

11 A. Ta Ya was the secretary of that zone during the time when I
12 had worked there.

13 [09.10.55]

14 Q. Can you remember what happened to Ta Ya? Was Ta Ya also known
15 under the name of Ney Sarann?

16 A. I am afraid I don't know his other name other than Ta Ya
17 because he was popularly known as Ta Ya at that time.

18 Previously, his wife was somehow connected to my mother by
19 marriage - or, rather, his wife was connected to my mother, as
20 she was my mother's cousin, and that -- he was the secretary of
21 the zone. That's all I know.

22 Q. Do you know if Ta Ya was viewed as being an enemy and if he
23 was purged?

24 MR. IANUZZI:

25 Excuse me, Mr. President--

4

1 MR. PRESIDENT:

2 Counsel, you have already been -- rather, a ruling was already
3 made yesterday that counsel is not allowed to object to the
4 question put by any member of the Bench. You are not allowed to
5 do that, so please be seated.

6 [09.12.39]

7 MR. IANUZZI:

8 I understood -- good morning, everyone; excuse me. I understood
9 the ruling yesterday that I'm not permitted to object, so I would
10 just like to make an observation that purges -- purges are--

11 MR. PRESIDENT:

12 No observation is being allowed to make at this moment.

13 BY JUDGE LAVERGNE:

14 Q. Mr. Witness, would you like me to repeat the question or can
15 you remember the question?

16 Just to remind you, do you know what happened to Ta Ya and,
17 possibly, who replaced him?

18 MR. PHAN VAN:

19 A. Yes, I knew about this because after his disappearance there
20 was a public announcement concerning this. He was said to have
21 betrayed us.

22 Q. Why did he betray you? Why was there this announcement that he
23 was considered a traitor?

24 A. We heard that he had been affiliated with the Vietnamese.

25 [09.14.21]

5

1 Q. I want to ask you a series of questions about how we define
2 enemies, and in so doing, I'd like to refer you to a certain
3 number of documents. The first is E3/1111 (sic). The French ERN
4 is 00532706, Khmer ERN 00376671, ERN in English is 00524192.
5 This telegram is headed "Advice Given to 920" and it's dated 23rd
6 of September 1976. It's to "Beloved and Missed Comrade Chhin".
7 So, my first question is -- we've already been talking about a
8 certain Chhin during our discussions. Can you confirm for us that
9 Chhin was the Secretary of Division 920?

10 A. Yes, it is correct. Chhin was that -- was the commander of
11 that division.

12 Q. So, the telegram reads as follows:

13 "Based on the news, the revisionist enemies" -- in the French
14 version, it says the equivalent of reformist, and in English it
15 says revisionist - "especially the group 7, initiated
16 communications with an attempt to burrow from within our army and
17 the base.

18 [09.16.46]

19 "Meanwhile, they contacted some traitors to encourage the people
20 against the cooperatives and oppose the line of our socialist
21 revolution, especially to burrow from inside for long-term
22 purposes.

23 "The following actions, therefore, must be taken:

24 "1. Conducting education sessions for all the division committees
25 in order for them to be well acquainted with the enemy artifices.

6

1 "2. Tracking any persons who have been contracted with group 7 or
2 who have sympathies with group 7 to ensure that they will not
3 hold any leadership positions in the army, whatever their rank.

4 "The ideology of comrades who work as the division
5 representatives and play a role in contacting group 7 must be
6 closely monitored, ideologically speaking, without taking one's
7 attention away from them for one second.

8 "Experience indicates that group 7 people always entice our
9 communication committee to serve their Cambodia invasion
10 policies. Some committee members in some places have already been
11 contacted.

12 [09.18.53]

13 "Therefore, absolute vigilance is needed to prevent them from
14 burrowing within the army -- from cadre to combatants. In
15 particular, contacts with the border division are absolutely
16 prohibited."

17 Signed "Khieu", who one assumes is Son Sen, with copies to
18 "Brother 81", "Brother Som", "Brother Nath", "Brother Ren", and
19 for the "Documentation".

20 Have you heard of the 7 Group?

21 A. No, I haven't. I haven't heard anything about the 7 Group.

22 Q. All right.

23 Well, in that case, I'm going to turn to another document. It's
24 E3/1196. The French ERN is 00597060; in Khmer, 00000879; English,
25 00506647. It's Telegram 33, dated 26 of November 1976, signed by

7

1 Chhan.

2 Perhaps, Mr. President, the witness could be given a copy of the
3 document.

4 [09.21.12]

5 So, the telegram is signed by Chhan and addressed to "Office
6 870". Now, can you tell us who Chhan is?

7 A. I don't know this person clearly.

8 Q. Do you believe that there is any connection between Chhan and
9 somebody called Laing -- perhaps the Laing who is your father --
10 was your father?

11 A. No, I haven't heard about this.

12 Q. In that case, please remove the document from the witness.

13 But I will read it out anyway. Telegram 33:

14 "To Beloved and Missed Office 870

15 "We would like to inform you about the situation at the base. The
16 activity is similar to that of 1974; there has been stone
17 throwing onto houses at many places. People are seen at night,
18 but we were not able to shoot them in time.

19 "2. The situation of the 7 people remains the same. We have
20 adopted military measures. Both the divisions and sector units
21 are in consensus."

22 [09.23.19]

23 I would point out that this telegram was copied to "Brother Nuon"
24 - therefore, Nuon Chea - "Brother Khiev" -- Son Sen, in all
25 probability -- the "Office", and "Documentation".

8

1 I'd now like to look at another document, a document that you saw
2 yesterday. It was presented to you by the Co Prosecutors. It's
3 document E3/877 -- in French, ERN 00283109; in Khmer, 00021513;
4 and in English, 00185226.

5 Here we're looking at a telegram that was sent by "Chhan" to
6 "Beloved and Missed Office 870". And yesterday, unless I am
7 mistaken, you told us that this telegram from Chhan had been sent
8 by your father, unless I got that wrong.

9 So I propose that this document be shown once again to the
10 witness so that he can tell us what he thinks.

11 Witness, do you remember this telegram?

12 [09.25.46]

13 A. During this period, my elder sibling was working at that
14 place. So, to be precise about this person's name, we may need to
15 talk to my sister because this is the secret name. Chhan could
16 have been another person because my father did not use other name
17 other than Laing. However, it was possible that people could have
18 different names because names could be changed from time to time
19 during the Khmer Rouge regime.

20 Q. In the document, there is a reference to suspicions vis-à-vis
21 the Contemptible Som and Chhin -- and we were told yesterday that
22 Chhin was the Secretary of Division 920 - and that such matters
23 were reported to Comrade San. Can you tell us who Comrade San is?

24 A. San was Comrade Chhin's successor at Division 920.

25 Q. And it then goes on to say: "Despite arrests of Unit 920's,

9

1 activities continue one after the other, but we were making
2 arrest after arrest, too."

3 Did you know what was going on in Division 920?

4 [09.27.54]

5 A. At that time, people continued to disappear one after another.
6 I learned about this.

7 Q. Let's look at one last document, E3/1030 -- ERN in French,
8 00623150; in Khmer, 00033312; English, 00324806.

9 This is a telegram from "Sopheha" to "Beloved and Missed Brother
10 Chhan" - "Brother Chhan". Does the name Sopheha mean anything to
11 you? Can you tell us who Sopheha might be?

12 A. I am not sure which Sopheha the message referred to here,
13 because there was a person by the name of Sopheha who was in
14 charge of the military at that time, at that zone.

15 Q. Let me read the document, and then you can tell us what you
16 think:

17 "I would like to report about the situation of the 7 group as
18 follows:

19 "At Au Phlay, they intruded 20 kilometres" -- it says in the
20 French, "metres" in the English - "into our land and cut bamboo.
21 We attacked, and killed, and wounded a number of them on the 17th
22 of June 1977."

23 [09.30.19]

24 Then it goes on to say that there were some clashes.

25 And then, in paragraph 2 it says: "The 7 group attacked us at

10

1 Pech Chenda. They now attacked and entered Pou Chri Chas."

2 Now, when you hear these names and the name of "group 7", does
3 this mean anything to you?

4 A. Having listened to this, I can say that this group 7 could
5 have been the Vietnamese. That's - that's my understanding, and
6 this is how I may conclude, based on the experience during my
7 work there. However, I cannot say exactly this group of people
8 could have been the Vietnamese 100 per cent.

9 Q. To your knowledge, were the soldiers who participated in the
10 revolutionary struggle under the command of the Vietnamese? Were
11 they then, subsequently, considered as enemies?

12 A. I am sorry; I do not understand the question. Could you please
13 clarify it?

14 Q. Among the soldiers who comprised the Khmer Rouge forces, there
15 were soldiers who, under -- at another time had served under the
16 Vietnamese. Do you have knowledge of that or not?

17 A. Yes, I do. At the time, there were some soldiers, particularly
18 those who were in Mondulkiri province; they were also working
19 alongside with their Vietnamese counterpart.

20 [09.33.17]

21 Q. And it would appear that as of 1973 there were agreements
22 according to which those soldiers would no longer be working
23 under the Vietnamese, but they would be serving exclusively under
24 the Khmer Rouge. Do you recall this?

25 A. I recall some of the events. Well, actually, it was not in the

11

1 form of superior command structure. I mean, it does not mean that
2 the Vietnamese were the superior and we were following them, but
3 actually we worked with them as counterparts. But later on, in
4 mid 1975, we were sent to the battlefield along the border, and
5 at that time I was also sent there, as well. I was assisting them
6 in supplying items, or so, or in the transport or logistic
7 support.

8 Q. And how did that alter relations with the Vietnamese?

9 A. At first, we cooperated in order to fight against Thur Ky
10 (phonetic) - Thiev Ky, rather, along the border.

11 [09.35.20]

12 JUDGE LAVERGNE:

13 Very well.

14 I wish to thank you, Mr. Witness, for all of your responses.

15 Mr. President, I have no further questions to put. Thank you.

16 MR. PRESIDENT:

17 Thank you, Judge.

18 Now, I hand over the floor to the defence team for Mr. Nuon Chea
19 to put questions to the witness. You may proceed.

20 QUESTIONING BY MR. IANUZZI:

21 Thank you, Mr. President. Again, good morning, everyone.

22 And good morning to you, Mr. Witness. Thank you very much for
23 coming to give your evidence today and this week. I'm one of the
24 lawyers for Nuon Chea, along with my colleague, Major Son Arun,
25 and we both have some questions for you today.

12

1 [09.36.08]

2 Let me begin by giving you a brief outline of the - of the main
3 areas that I intend to cover: first of all, I'll start with some
4 questions regarding your knowledge of Ta Sarun, who you spoke
5 about; I'll then move on to what you've told us about the
6 communication structure at K 17 and Sector 105; and, finally,
7 time permitting -- but I don't think we'll have a problem with
8 time -- I'll ask you some questions about a variety of other
9 matters, including a few of your experiences prior to 1975.

10 Q. Before I begin with any of that, I would like to first confirm
11 your present address -- your current address. I believe you told
12 us it's somewhere in Malai district. And, if you wouldn't mind,
13 could you please tell me again, exactly, where your current
14 resident is located in Cambodia?

15 MR. PHAN VAN:

16 A. My current address is in Malai Sub-district, Malai district,
17 Banteay Meanchey province, and my house number is 01, Phsar
18 Taprum Street (phonetic).

19 [09.37.43]

20 Q. Very well. Thank you for that, Mr. Witness. How long have you
21 lived at that particular location?

22 A. I have lived in Malai district following the arrival of UNTAC.

23 Q. Thank you. And prior to the arrival of UNTAC, where were you
24 living?

25 A. Prior to the arrival of UNTAC, I was living in 105 -- Street

1 505, rather.

2 Q. In which town, Mr. Witness?

3 A. At that time, it was not a downtown area; it was called
4 Corridor 505, but now it was called Thommoda. And it was the
5 place where Nuon Chea worked, as well, and Pol Pot and Khieu
6 Samphan also had their office over there.

7 Q. Thank you. Is that – is that also in the northwest part of the
8 country?

9 A. It was somewhere along the border of Pursat and Koh Kong
10 province and it was also close to the Trat province of Thailand.

11 Q. Thank you very much. So, just to be absolutely clear, when you
12 talk about the border, you are indeed talking about the border
13 between Cambodia and Thailand; correct?

14 [09.40.26]

15 A. Yes, that is correct.

16 Q. Thank you very much for the preliminary information, Mr.
17 Witness.

18 I'll now move onto those more substantive matters I mentioned.

19 Let's start with Sao Sarun. You've told us over the course of
20 this week that your father -- your father was the Secretary in
21 charge of Office K-17 and that he was succeeded in that position
22 by Ta Sarun - that is, Ta Sarun took over the position following
23 your father's death; is that correct?

24 A. That is correct.

25 Q. Thank you. Now, according to one of the statements you gave to

14

1 the Office of the Co-Investigating Judges -- the investigators
2 from that office -- you were asked whether you knew about any
3 killings that took place in Sector 105, and you gave the
4 following answer -- and I'm quoting now, I'll give you the
5 reference in a moment: "During my father's era, there was no
6 killing; but during the Ta Sarun era, the arrests of whole
7 families were made; but I don't know where those families were
8 taken to be killed."

9 [09.41.52]

10 And, before I ask you a question about that, Mr. Witness, just
11 let me, for everyone's benefit, give the reference to the
12 document. That is -- and you've seen this document already, Mr.
13 Witness -- E3/57; it's a written record of an interview with you
14 and the investigators of the OCIJ. It's dated the 10th of March
15 2009. And the passage I just read is at English page 6, and
16 that's ERN 00290508; Khmer, 00287705; and French, 00353104.

17 So, again, perhaps I'll just repeat it for you: "During my
18 father's era, there was no killing; but during the Ta Sarun era,
19 the arrests of whole families were made; but I don't know where
20 those families were taken to be killed."

21 So, my first question to you, Mr. Witness: Is that a correct
22 statement of your evidence? Is that accurate that during Ta
23 Sarun's tenure in Section 105, whole families were arrested and
24 taken somewhere to be killed?

25 A. That is correct. I did not know the arrests myself, but what I

15

1 knew was that there were arrests of people and then those people
2 never came. And as for my -- during my father's era, there were
3 only a few families who disappeared, like Uncle Chuon, his family
4 disappeared. But, when Ta Sarun came take the place of my father,
5 whole families were taken away and they disappeared. And this was
6 the correct summary of my statement.

7 [09.44.14]

8 Q. Thank you very much for that, Mr. Witness. I'm going to move
9 on -- I'm going to stay with this topic; I'm going to move onto
10 another document.

11 This document has been put before the Chamber, it has an E3
12 number that's been used in Court already; it's E3/1664. It's a
13 DC-Cam document -- that is, a document prepared by the
14 Documentation Center of Cambodia. It's entitled "Khmer Rouge
15 Purges in the Mondulkiri Highlands", and at the bottom it refers
16 to a document series of DC-Cam. The document - the ERN number -
17 excuse me - in Khmer is 00397566 through 00397749; French,
18 00742838 through 00742-

19 MR. PRESIDENT:

20 Counsel, please repeat the ERN numbers because you read it rather
21 fast; it was not followed by the interpreters. Could you please
22 read out rather slowly so that it can be properly rendered?

23 [09.45.32]

24 BY MR. IANUZZI:

25 I will indeed; my apologies to the translators.

16

1 Q. Khmer ERN 00397566 through 00397749; French ERN 00742838
2 through 00742889. I'm interested in two particular passages, and
3 I've only got the English ERNs for those; I don't think this
4 entire document has been translated, but I'll read the bit into
5 the record. The first page is, English, 00397653.
6 Mr. Witness, I'm going to read a passage to you from this
7 document, and then I'll ask you some questions about those
8 passages. I'm actually going to read you three passages, but I'll
9 do that step-by-step, one at a time.

10 So, again, the first one -- I'm quoting now:

11 "With Horm's death, Sarun, an ethnic Lao, became Secretary of
12 Region 105. The conflict between Kham Phuon and Horm and the
13 installation of Sarun as region secretary led to the imposition
14 of stricter rules in the region and coincided with the period of
15 the greatest number of deaths."

16 [09.47.20]

17 So, my first question, Mr. Witness: Can you confirm - can you
18 confirm that Horm was indeed an alias or another name used by
19 your father? Is that correct?

20 A. Horm was one of the aliases of my father. Actually, this name
21 was derived from a Laotian name.

22 Q. Thank you, Mr. Witness. My next question: Is it correct -- is
23 it correct, according to your knowledge, of course, that the
24 rules imposed in Sector 105 became stricter -- that is, more
25 strict, more harsh -- under Sarun's leadership -- that is, after

17

1 your father's death?

2 A. That I do not know because I did not stay in the region at
3 that time. But to my understanding, those were at the sector's
4 level had to follow strictly the instruction from the upper
5 authority; they did not dare to make any decision all on their
6 own. That's what I can clarify it for you. At that time, everyone
7 were self-disciplined.

8 Q. Thank you. And you've already told us that there was an
9 increased number of arrests and, possibly, killings during
10 Sarun's leadership. Would you agree, then, with this passage that
11 under Sarun's leadership -- that that period, rather, was
12 associated with a greater number of deaths than your father's --
13 that is, than the period in which your father was in charge of
14 Sector 105?

15 [09.49.39]

16 A. To my understanding, I actually also learnt it from my
17 friends, as well, that following the death of my father and
18 during the tenure of Ta Sarun, many people disappeared.

19 Q. Thank you.

20 Moving onto the next passage -- and I'm in the same document, and
21 I'm on the following page in English, so that's 00397654, and
22 again, Mr. Witness, I'm quoting from this document: "Many
23 informants mark the beginning of the most radical changes in
24 Mondulkiri to late 1977 and 1978, when Sarun took power."
25 So, again, based on your experience, your personal knowledge,

18

1 what others may have told you, would you agree with that
2 assessment that radical changes took place in Mondulkiri after
3 Sarun took control of the sector?

4 [09.51.00]

5 A. I actually witnessed the disappearance of people. I asked the
6 villagers, for example, where was the family of Mr. A, for
7 example; then they told me that they had already disappeared.

8 Q. Thank you very much.

9 And the third and final passage from this same document, the same
10 page that I just mentioned, Mr. Witness – again, I'm quoting:

11 "After Sarun became the region secretary, they arrested people
12 every day -- four or five people a day. The chief of the
13 cooperative tried to intimidate the people to work harder by
14 telling them Sarun was going to kill the lazy people."

15 Now, again, if you know – if you know, according to your
16 knowledge or experience, is that an accurate statement of the
17 situation in Sector 105 after Ta Sarun became the secretary?

18 A. I tend to disagree with this statement because it was not as
19 harsh as what it is stated in this, because they did not actually
20 kill lazy people as being stated.

21 We can also ask other people who were still – who are still
22 alive, those who have come across the experience. Some of them
23 are now alive and they are living somewhere in Anlong Veng
24 district. We may ask them for further clarification.

25 But I do not think that the policy at that time was that harsh.

1 [09.52.57]

2 Q. Thank you, Mr. Witness. So, just so I understand you clearly,
3 you disagree with the portion indicating that people were killed
4 because they were lazy; is that correct?

5 A. In my personal understanding, I simply do not believe that the
6 only fact that they were lazy was the factor for their execution.
7 Of course, at that time, they did kill people, but these were
8 minor things, and I did not believe that it would amount to the
9 execution of those people; only those who were alleged of being
10 enemies, for example those people were destined to be executed,
11 but it was also the decision of the upper authority, who passed
12 it down to people at the lower lever to carry out the activity.

13 Q. Very well. Thank you for that. I understand. Yesterday -
14 actually, it wasn't yesterday, I believe it was the day before --
15 you discussed with the International Co-Prosecutor a so-called
16 12-point moral code, and I believe you indicated that you did not
17 recall the specifics of that particular code, but nevertheless,
18 the essence - "the essence" of the code, I believe, is how you
19 put it -- was to respect people; is that correct?

20 [09.54.52]

21 A. Yes, that is correct.

22 Q. Thank you. And then you went on to indicate -- in that same
23 exchange with the International Co-Prosecutor, you went on to
24 indicate that later on in the DK regime people deviated from that
25 standard -- that is, they didn't follow that standard -- and they

20

1 lived by what you said -- what you described were "their own
2 moral codes"; is that correct?

3 A. No, I don't think I have said that.

4 Q. Thank you, Mr. Witness.

5 Perhaps I'll just read back what we have quoted in the draft
6 transcript, and then you can correct it for me. And I'm quoting
7 now from the draft trial transcript of page - excuse me, 11
8 December -- that was two days ago -- at page 83, lines 1 through
9 12.

10 And the question was: "Can you tell us a little bit about the
11 12-point moral code that had to be adhered to?"

12 [09.56.09]

13 And the answer was: "I do not recall the 12 moral codes, but most
14 important of all was the moral livings.

15 "In the early days, many people supported these 12 moral codes,
16 but later on everyone was alleged of the enemies of the Party.
17 That's why people did not abide by these [...] moral codes anymore.

18 "Of course, the essence of [the] moral codes was to respect each
19 other in society, pay respect to Buddhist monks, and so and so
20 forth. But later on people did not adhere to these 12 moral
21 codes; they lived by their own moral codes."

22 Now, that's what we have in the draft transcript, so please
23 correct me if that's not what you said or if that's not accurate.
24 Is that -- what I've just read -- an accurate reflection of your
25 evidence?

21

1 A. Yes, that's what I said in Court; it was the truth. And I
2 simply would like to give an example concerning the 12 moral
3 codes.

4 During the war era, the 12 moral codes were strictly applied. For
5 example, in Mondulkiri province, people had to pay a great
6 respect to Buddhist monks and they must not steal, even -- not
7 even a piece of chili of the villagers. But later on the Khmer
8 Rouge confiscated all the belongings of people; they put them
9 into collective use, and people were not very happy with this
10 practice, so they did not follow these 12 moral codes anymore and
11 they did not see Buddhist monks anymore either. And money or
12 currency were abolished; everything was in a collective form, so
13 they no longer abided by these moral codes.

14 [09.58.26]

15 Q. Thank you, Mr. Witness. And would you agree -- or was it the
16 case that your father adhered to the moral codes, that he tried
17 his best to follow those moral codes in the early days of the
18 regime?

19 A. Actually, during my father's tenure, he did not agree with the
20 practice. Everyone wanted to protest, but they dared not do it.
21 And at that time I was too young, as well; I did not understand
22 the politics and I only heard from others what they did. So, at
23 that time, all people did not content with this practice, but
24 they dared not go against it.

25 Q. Just so I have you clearly, are you saying that your father

22

1 and others didn't agree with the - with the DK practices but they
2 still believed in these moral codes you discussed, but they
3 didn't dare to say that? Is that what you meant?

4 A. (Microphone not activated)

5 [10.00.06]

6 MR. PRESIDENT:

7 Witness, please make sure the mic is activated before you
8 proceed.

9 You may now proceed.

10 MR. PHAN VAN:

11 A. Yes, it is correct. Everyone did not prefer these policies,
12 but they did not have - they were not brave enough to challenge
13 it.

14 BY MR. IANUZZI:

15 Q. Thank you.

16 What about Ta Sarun? Would you agree, given what you've told us
17 already about the increased killings under his tenure and the
18 changes that took place during his leadership -- would you agree
19 that Ta Sarun, Sao Sarun, exercised his leadership in a manner
20 quite different from your father and that perhaps he, himself,
21 Sao Sarun, deviated from those moral codes you told us about?

22 MR. PRESIDENT:

23 Mr. Witness, please hold on.

24 International Co-Prosecutor, you may now proceed.

25 [10.01.29]

1 MR. DE WILDE D'ESTMAEL:

2 Thank you, Mr. President; and good morning to everybody. It does
3 seem to me that this question is on the verge of asking the
4 witness to speculate.

5 He, himself, said he wasn't there; the only source of information
6 he had was friends who he probably spoke to well after the
7 events. So, it seems to me that this question is rather expecting
8 too much of the witness, in asking him to identify practices
9 under Ta Sarun, while he, himself, was in Phnom Penh at the time.
10 So, I think that this question is inviting the witness to
11 speculate on what happened when he wasn't there.

12 [10.02.11]

13 MR. IANUZZI:

14 Mr. President, if I could just respond briefly, I'm not asking
15 the witness to speculate. And perhaps I'll rephrase the question
16 and put it in a more direct way.

17 I would just like to say that all of the witnesses -- nearly all
18 of the witnesses that have testified in this court room have, to
19 some degree or another, given us what we would call hearsay
20 evidence -- that is, evidence that -- of things they saw or heard
21 or that other people saw or heard and then told them. So that, as
22 a starting point, would be my first response, that hearsay
23 evidence is not only admissible before this Chamber, it's widely
24 used.

25 Second point I would make is that the witness has already told

24

1 us, based on his experience in talking to people and his own
2 personal experience at the time, that he does have some knowledge
3 of what happened under Ta Sarun's tenure.

4 [10.03.05]

5 BY MR. IANUZZI:

6 Q. So -- perhaps I could break up the question because I think it
7 was a bit of a compound question - let me ask you this, Mr.
8 Witness. You've told us about your father -- about your father
9 and how he believed in that moral code that you described -- but
10 he wasn't able, unfortunately, to adhere to it -- and you've also
11 told us - you've also told us about the several differences in
12 the leadership styles or the leadership - the effects of the
13 leadership, shall we say, of your father and Ta Sarun.
14 So my question is -- let me make it a bit more simple: How would
15 you compare your father and Ta Sarun?

16 MR. PHAN VAN:

17 A. I cannot make a comparison between these two people because I
18 did not stay under the time when Ta Sarun worked there. I, when
19 hearing that people disappeared, asked some questions from the
20 villagers about this. So, it makes it difficult for me to compare
21 the two people's leadership style.

22 [10.04.47]

23 Q. Very well. Thank you, Mr. Witness. I'm going to stay with this
24 topic just a little while longer; I'm almost finished with this,
25 my first area.

25

1 You may be aware -- you may not, Mr. Witness -- that Ta Sao Sarun
2 has already testified before this Chamber -- that is, he sat in
3 the same chair where you're sitting now and gave us some
4 testimony, answered some questions by all of us -- and he was
5 confronted, specifically, with some of your testimony, some of
6 you OCIJ testimony, and in particular he was confronted with the
7 bit that you just confirmed for us this morning -- that is, when
8 you told us that: "During my father's era, there was no killing;
9 but during the Ta Sarun era, the arrests of whole families were
10 made; but I don't know where those families were taken to be
11 killed."

12 That very portion was put to Mr. Sao Sarun, and he very clearly
13 rejected your testimony; he rejected it, he denied it. And what
14 he said was, in particular -- and I'm quoting: "No, no whole
15 family members would ever be arrested. I think the person who
16 stated this" - and there he's referring to you, Mr. Witness --
17 "must be exaggerating, because we never made any arrests of any
18 villager to be executed."

19 [10.06.10]

20 So, he, Sao Sarun, has very clearly rejected your testimony in
21 that regard.

22 So my first question to you is: Were you, in fact, exaggerating
23 when you told the investigators from the OCIJ that whole families
24 were arrested during Sao Sarun's period of leadership, or as
25 you've already told us this morning, was your evidence accurate

1 and correct?

2 A. I did not observe the proceedings during the time when Om Sao
3 Sarun took the stand. But I was - or I am not in any position to
4 exaggerate. I do not know who gave him orders to arrest people,
5 but I learned that people were arrested and a lot of new - a lot
6 more people were disappearing. Another person who was a very
7 honest tribal person was also arrested, and I couldn't believe
8 that such an honest person like him could disappear. And some
9 other people were also believed to have disappeared. I did not
10 really implicate him in making such arrests, but the arrests were
11 made during his tenure. And I asked a lot of people about this,
12 and they confirmed that such arrests did happen.

13 [10.08.09]

14 Q. Thank you for that, Mr. Witness. Do you have any personal
15 knowledge -- any personal knowledge as to why Sao Sarun would
16 reject that piece of your testimony? Do you think he's attempting
17 to minimize his own responsibilities?

18 MR. PRESIDENT:

19 International - rather, Lead Co-Lawyer for the civil parties, you
20 may now proceed.

21 MR. PICH ANG:

22 Mr. President, I take issue with this line of questioning because
23 it invited witness to speculate.

24 MR. PRESIDENT:

25 And, International Co-Prosecutor, we noted you were on your feet

1 a moment ago. You may proceed.

2 MR. DE WILDE D'ESTMAEL:

3 Thank you, Mr. President. It was certainly along the same lines.

4 The Chamber has decided several times that questions should not

5 be put to the witness on the subject of the hypothetical thoughts

6 of another witness who is not there, and the witness is thus

7 being invited to speculate or put himself in somebody else's

8 shoes, and that's not his role before this Chamber.

9 Thank you.

10 [10.09.29]

11 MR. IANUZZI:

12 Again, if I could just briefly respond to that question (sic), I

13 would accept -- I would fully accept that we cannot ask witnesses

14 to speculate as to hypothetical matters.

15 However, I would strongly disagree with the suggestion that a

16 witness cannot know something because someone may have told him

17 that. It's -- I know many things because people have told them to

18 me. I don't experience everything in life, first hand, through my

19 eyes, through my ears, through my senses. Much of what we all

20 experience in life comes from our interactions with other people.

21 I think that's obvious.

22 So, it may be the case that the witness sitting on the stand

23 knows what I'm talking about, has direct personal information

24 about it, and it may be the case that he doesn't, and he is

25 perfectly able, capable, intelligent enough to tell us that. So I

28

1 don't think there's anything wrong with that question I just
2 asked.

3 I believe my colleague wants to make a comment, Mr. President.
4 [10.10.37]

5 MR. PRESIDENT:

6 Indeed, I am waiting for your comment to conclude and I would
7 then give the floor to another counsel.

8 Then, Counsel Karnavas, you may now proceed.

9 MR. KARNAVAS:

10 Good morning, Mr. President. Good morning, Your Honours, and good
11 morning to everyone in and around the courtroom.

12 The questions that are being asked are not only relevant, but
13 they're appropriate. And, when you look at the manner in which
14 the questions are being asked and how they're framed, they're no
15 different than the questions that were framed by Judge Lavergne.
16 I don't think that we're asking the gentleman to speculate. What
17 we're asking the gentleman to do is to make comparisons based on
18 his personal observations and his experiences.

19 [10.11.20]

20 Now, it's for the Trial Chamber to determine, at some point, what
21 weight to give to that evidence. But the gentleman was there; he
22 was able to see what happened before and after certain events or
23 where people were involved in making -- in holding certain
24 positions and he certainly can draw some conclusions. I think
25 that's what was being asked. That's what we normally do.

29

1 And of course, if there's no independent indicia to back up what
2 the gentleman is saying, you will give it little weight. But I
3 don't see anything that would -- that is being asked thus far
4 that we're asking this gentleman to speculate. We're merely
5 asking him to make comparisons based on his observations.

6 And, therefore, I think the line of questioning is extremely
7 pertinent, particularly given that he's now being confronted with
8 testimony that was given by the very same witness to which he's
9 being asked to make comparisons to.

10 And I think, in fairness to the Defence, we should be allowed to
11 explore the same sort of areas. And, if the Judges avail
12 themselves to ask the sort of questions that we're asking, we
13 should be able to ask those questions as well. Thank you.

14 (Judges deliberate)

15 [10.14.38]

16 MR. PRESIDENT:

17 Counsel for Mr. Nuon Chea, you are now instructed to rephrase
18 your question.

19 And please be advised question that invites witness to speculate
20 should be avoided.

21 BY MR. IANUZZI:

22 I will certainly do that, Mr. President. Thank you.

23 Q. Mr. Witness, just to recap what's just happened, again, I've
24 told you that Mr. Sao Sarun has come into this Chamber, has given
25 testimony before this Chamber, explicitly denying, rejecting, not

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1 accepting a piece of your evidence which you have confirmed for
2 us today.

3 So, my simple question is: Do you have any personal knowledge as
4 to why he would do that? Do you have any personal knowledge to
5 indicate that he's attempting to minimize his responsibility
6 before this Chamber as it obviously appears? If you don't, Mr.
7 Witness, if you don't have any personal knowledge, then you can
8 simply tell us, and that's completely acceptable to me. I
9 couldn't expect you to tell us something that you don't know
10 anything about.

11 [10.16.25]

12 MR. PHAN VAN:

13 A. I don't know about this.

14 Q. Very well. Thank you for that.

15 Mr. Witness, I have one more question on this topic, the topic of
16 Sao Sarun, and then I'll move on to my next one.

17 Again, just to refresh your memory, earlier, not very long ago at
18 all, I read three passages to you from a document prepared by
19 DC-Cam, and we had a discussion about those passages. Those very
20 passages, those same passages, passages which, I should add, that
21 you agreed with either wholly or in part -- or in part, you did
22 make some qualifications; however, I would say that you generally
23 agreed with them -- those very passages were put to Mr. Sao
24 Sarun, and again, he rejected them outright, and this is what he
25 had to say to the Chamber:

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1 "My answer to this is that this matter is not correct. Those who
2 reported this [are exaggerating] the facts. I never saw or knew
3 [of] killings of the people. I deny this statement. [...] When I
4 took power, it last only for two months. I was not a strong man
5 who arrested the people. I reject what was read out just now. It
6 was accusing me incorrectly."

7 [10.17.56]

8 So, again, my question would be: Do you have any personal
9 knowledge -- any personal knowledge as to why Mr. Sao Sarun would
10 come to Court and reject these passages which relate to his
11 responsibility? Do you know - do you know -- and tell us if you
12 don't -- that he is attempting to minimize his responsibility
13 before this Trial Chamber?

14 MR. PRESIDENT:

15 Witness is now instructed not to respond to the question because
16 it was inviting you to speculate.

17 Counsel has already been advised. And be cautious when putting
18 questions to the witness. And counsels were asked also not to put
19 questions that inviting such speculation.

20 [10.19.02]

21 MR. IANUZZI:

22 Thank you, Mr. President.

23 I will move on, but before I do that I will just say, for the
24 record, it was a completely appropriate question. It was framed
25 as a search for information that may be within the--

1 MR. PRESIDENT:

2 You may as well proceed.

3 The questions, again, that are inviting a witness to speculate or
4 provide his or her personal conclusion are not allowed.

5 MR. IANUZZI:

6 Thank you. Just to clarify that, did you say "personal
7 conclusion"? That's what came through on the English translation,
8 that we are not permitted to elicit witnesses' "personal
9 conclusions".

10 So my question would be: What else are we doing here?

11 [10.19.55]

12 MR. PRESIDENT:

13 Indeed, the witness is not expected to speculate. That's all.

14 And this has been the practice all along from the very beginning

15 of this trial. It has been more than one year that we've been

16 adhering to the same practices. Questions that -- questions by

17 the counsel to the experts may be of those that are for some kind

18 of personal - rather, speculation, if you like.

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

20 MR. DE WILDE D'ESTMAEL:

21 Thank you, Mr. President.

22 For the purposes of the transcript and so that we all understand

23 each other, when I heard the French translation, it mentioned

24 hypothetical conclusions -- "hypothétique" -- and so that

25 presumably came from the English, and so we're not talking about

33

1 personal conclusions, but hypothetical ones. That, at least, is
2 what we heard. Thank you.

3 [10.21.18]

4 MR. IANUZZI:

5 Perhaps, then, it's just, as so many things are in this Chamber,
6 a matter of translation.

7 I can assure you it was not a hypothetical question. It was not a
8 request for the witness to speculate. It was simply a request
9 whether or not the witness knew that a particular thing had
10 occurred, whether it was in the witness' knowledge that Sao Sarun
11 denied his own -- excuse me, minimized his own responsibility
12 here in Court, whether that's why he denied all those questions
13 that were put to him about his own role.

14 Again, if the witness doesn't know that, there's nothing I can do
15 about that, and I don't want the witness to speculate. So, that's
16 all I have to say.

17 And again, getting back to what you said, Mr. President, about
18 experts, I don't see how that really applies. I wasn't asking for
19 an expert opinion from this witness; I was asking for his
20 personal--

21 [10.22.20]

22 MR. PRESIDENT:

23 Counsel, you may proceed to other questions, please. You are not
24 allowed to give us instruction or teaching us.

25 BY MR. IANUZZI:

34

1 I wouldn't dare, Mr. President. I'll move on to my next structure
2 -- my next questions.

3 Q. And these questions, Mr. Witness, relate to K-17 -- Office
4 K-17 -- and its communication structure. And I'm going to ask you
5 a few questions about what you've told us already. This shouldn't
6 take too long. Hopefully, I can finish this segment before the
7 morning coffee break.

8 Yesterday and the day before, you answered some questions by the
9 International Co-Prosecutor regarding alleged communications
10 between Office K-17 and Nuon Chea, our client, on two issues in
11 particular: Security matters, I believe you said, and invitations
12 to certain meetings in Phnom Penh. And with respect to the second
13 category - with respect to the second category -- that is, the
14 invitation to the meetings -- you have described a certain
15 invitation - a certain invitation that closely preceded your
16 father's death. And, just to reorient you, this is -- this
17 relates, excuse me, to a discussion that you had yesterday with
18 Judge Lavergne, the French Judge on the Bench.

19 [10.23.56]

20 You, no doubt, heard what I had to say yesterday about that
21 issue. I stand by that position, that it's an irrelevant topic --
22 it's an irrelevant topic, what happened to your father after he
23 arrived in Phnom Penh. However, given that the Bench seems to
24 take a particular interest in this, I'm going to ask you just one
25 or two questions about that--

1 MR. PRESIDENT:

2 Counsel, you are instructed not to make a lot of comments before
3 putting questions. You may proceed to the questions right away.
4 Please try not to make a lot -- unnecessary comments that may
5 lead to you putting some leading questions because of the
6 comments. The questions should be simple, short, and precise, and
7 then they must not be repetitive, because if the questions are
8 framed in that nature, you will get straightforward response.

9 MR. IANUZZI:

10 Thank you, Mr. President. I will just say, for the record, at
11 times it is necessary to set a context for questions; everybody
12 does that before this Chamber -- every single advocate who has
13 been on his or her feet has done--

14 [10.25.22]

15 MR. PRESIDENT:

16 But what we what to hear from you now is putting the question
17 right away. Indeed, you are not given the opportunity here to
18 make any comments. You have been told that the floor is given to
19 you to put questions to the witness.

20 BY MR. IANUZZI:

21 Tout de suite, Mr. President. I will do that immediately.

22 Q. Mr. Witness, you discussed the death of your father with Judge
23 Lavergne. Judge Lavergne asked you when that particular episode
24 occurred, and you told Judge Lavergne, if I'm not (sic) correct,
25 that you were not quite sure about the precise date.

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1 So, I'd like to refer you, if I may, to one of your statements,
2 and this is another record of one of those interviews that you
3 gave to the investigators of the Office of the Co-Investigating
4 Judges, and this one in particular is E3/57 -- E3/57 - and,
5 again, I believe that's the same one I mentioned already, so I
6 don't need to read out the ERN numbers again. I will refer you
7 strictly to the page: page 6. Again, it's the same page that I
8 mentioned before.

9 [10.26.53]

10 And you were asked this question: "In what year did you come to
11 Phnom Penh with your father?" And this is very much in the
12 context of what you told Judge Lavergne.

13 And you said: "In late 1977."

14 Now, does that refresh your recollection in any - in any sense as
15 to when you made that, allegedly, ultimate trip -- that is, the
16 last trip your father is said to have made to Phnom Penh? Could
17 it have been in -- or was it in late 1977 as you told the
18 investigators?

19 MR. PHAN VAN:

20 A. I stated that I did not remember this quite clearly.

21 Q. Very well. Thank you, Mr. Witness. So, do you not stand by
22 your statement, then?

23 A. The statement that I stand by is that I'm not quite sure about
24 that.

25 Q. Very well. Perhaps we could try to figure it out.

37

1 You told us that you and your father -- or that your father made
2 many trips to Phnom Penh -- many trips -- and that you
3 accompanied him on those - on those trips; is that correct? He
4 made several trips to Phnom Penh and you accompanied him each and
5 every time?

6 [10.28.52]

7 A. Yes, it is correct.

8 Q. Do you have any idea -- do you have any recollection - and,
9 again, just tell me if you don't -- do you have any recollection
10 as to how many of those trips you made? Was it two or three? Was
11 it 10? Was it 25? Roughly -- can you give us a rough guess or
12 rough estimation? Or, if you - perhaps, if you remember clearly,
13 how many of those trips did you make to Phnom Penh with your
14 father?

15 A. I don't remember this. I may say I don't know.

16 Q. Thank you. Would it be more than 10 or less than 10? Are you
17 able to say that?

18 A. I don't quite understand your question. Are you saying --
19 talking about the frequency of my going with him in a period of
20 one month, one year, or the whole period?

21 Q. No, I'm just -- apologies for not being clear. I'm still
22 trying to see if we can arrive at a rough estimation as to when
23 that final trip took place. So, I'm asking you, did you take more
24 or less than 10 trips in total with your father, if you remember?

25 A. I may say it was less than 10 times.

1 [10.30.36]

2 Q. Thank you. Thank you very much.

3 I will move on now to my second question regarding this alleged
4 invitation to Phnom Penh, the invitation that you discussed with
5 Judge Lavergne.

6 Do you know the reason that was given for your father to go on--

7 MR. PRESIDENT:

8 Counsel, please accept our apologies to interrupt. Indeed, you
9 are now moving to the new topic in your questioning, and since it
10 is now appropriate time for the adjournment, we may adjourn, and
11 that - when we resume, you can proceed with a new line of
12 questioning.

13 Court officer is now instructed to assist the witness and his
14 duty counsel during the adjournment and have them return to the
15 courtroom when the next session resumes. We'll resume at 10 to
16 11.00.

17 (Court recesses from 1031H to 1053H)

18 MR. PRESIDENT:

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

20 Without further ado we would like now to hand over to counsel for
21 Mr. Nuon Chea to continue putting questions to this witness.

22 MR. IANUZZI:

23 Thank you, Mr. President. And if I may, just to give everyone on
24 the stage an indication of where I am in my examination -- where
25 we are in our examination, I believe I had approximately 30 more

1 minutes of questioning. My colleague, Major Son Arun, informs me
2 that he has about 40 minutes himself.

3 [10.53.50]

4 I believe, and I just want to confirm this, that the Defence,
5 collectively, has an entire day with this witness and perhaps
6 more, given the flexibility that we've shown to our colleagues
7 across the stage. So I don't think we'll have any problems
8 fitting all of our questioning into that day, plus, if necessary.
9 And I will move as quickly as I can now.

10 BY MR. IANUZZI:

11 Q. Mr. Witness, welcome back. And, again, good morning.

12 Turning back to the question that I attempted to start just
13 before the break, you again discussed this final trip that your
14 father took to Phnom Penh, with Judge Lavergne, and I've been
15 asking you some questions about it, myself.

16 So, one more question about that: Do you know - or were you
17 informed by your father or anyone else as to the reasons given
18 for that journey, the purpose of that journey? Why, in other
19 words, was your father invited to Phnom Penh on that particular
20 occasion?

21 [10.55.13]

22 MR. PHAN VAN:

23 A. I don't know about this. I only accompanied him because it was
24 my duty to do so.

25 Q. Thank you.

40

1 And now I would like to confront you with something. I'm going to
2 have -- I'm going to make reference to one of your statements to
3 the OCIJ, and this one is E3/58. And I'm looking now at page 4 of
4 that document in English -- page 4 -- and that's English ERN
5 00250089, the Khmer ERN 00239937, and the French ERN 00283915.
6 Now, in this -- as this document reflects to us -- to all of us,
7 to the parties to the Chamber -- there's an exchange between you
8 and the investigator who prepared that statement -- or the
9 investigators and translators who prepared that statement --
10 regarding this event that we've been talking about.

11 However, there was a bit that was left out of the answer you
12 gave, and we know this because we have audio records of these -
13 of these interview sessions. And unfortunately, as we've seen
14 over the course of this trial, often, far too often, the written
15 records don't reflect what actually transpired -- what was
16 actually said completely. We've had -- quite frankly, we've had
17 serious problems with this over the course of the trial.

18 [10.57.08]

19 Now, the Judges don't seem too concerned about this. They've --
20 they haven't taken an interest in these problems at all. However,
21 it is important for us -- it's very important for us, as defence
22 counsel, to be able to confront you with -- well, with what
23 you've actually said, and not what is oftentimes reflected in
24 these - in these statements.

25 Now, as a matter of fact -- turning back to my question, as a

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1 matter of fact, you told the investigators -- you may not recall
2 it, but you told the investigators that your father was called to
3 Phnom Penh on that particular occasion to discuss something to do
4 with Vietnam -- with the situation with Vietnam. Now, that is not
5 reflected in the written record; it is on the audio recording.
6 Does that refresh your recollection at all? Did your father's
7 trip to Phnom Penh -- that final trip -- have anything to do with
8 a discussion regarding the situation -- that is, the conflict
9 between Cambodia and Vietnam?

10 [10.58.09]

11 And please don't answer the question; my colleague is about to
12 object.

13 MR. PRESIDENT:

14 Witness, please hold on.

15 International Co-Prosecutor, you may proceed.

16 MR. DE WILDE D'ESTMAEL:

17 Thank you, Mr. President. I'm not necessarily opposed to the
18 question, but rather the prologue which preceded the question,
19 which could possibly influence the witness. And the reference is
20 made -- I don't believe it is appropriate at all to introduce
21 such subjects which could have been made at a previous stage, had
22 the Defence sought to.

23 And, based on what has already been said, what has already been
24 recorded, the Defence should be in a position to tell us exactly
25 which extracts from the audio transcript they are referring to,

42

1 which ERNs are being referred to, and verify that such words were
2 indeed spoken at the interview before the investigators.

3 Thank you, Mr. President.

4 [10.59.30]

5 MR. IANUZZI:

6 If I could just respond, very briefly, first of all, the purpose
7 of the prologue was not in any way to influence the witness. The
8 purpose of the prologue was perhaps a futile attempt to influence
9 the Trial Chamber, who seems, time and again, uninterested in the
10 shortcomings of the judicial investigation. So, that was the
11 reason for that comment -- for the "prologue", as my colleague
12 put it.

13 The transcript that I'm working from was a -- well, it's a
14 transcript that was prepared by a member of our staff -- a member
15 of our team, and that individual listened to the audio record and
16 made a note of this.

17 So, perhaps I'll just ask the witness again.

18 [11.00.11]

19 BY MR. IANUZZI:

20 Q. Mr. Witness, do you recall - and, if you don't, simply tell us
21 -- that the purpose of that trip -- the purpose of that trip had
22 something to do with the conflict in Vietnam?

23 And, again, I'm going to have to ask you not to answer the
24 question because another one of my colleagues is about to object.

25 MR. PRESIDENT:

1 Counsel for the civil parties, you may now proceed.

2 MS. SIMONNEAU-FORT:

3 Mr. President, once again, I need the references of the hearing
4 with this gentleman. The Defence's notes are not adequate, and I
5 would like to have the precise references. Thank you.

6 MR. PRESIDENT:

7 Counsel for Mr. Nuon Chea, you are now instructed to provide the
8 reference you cite from to both the Chamber and the parties to
9 the proceedings; that's first point.

10 [11.01.21]

11 Secondly, you may proceed putting some specific question and that
12 -- you are instructed to avoid making any lengthy comments that
13 may influence the witness. We have already received observation
14 from the Prosecution on this. And that -- please expedite your
15 line of questioning by not going into that again.

16 BY MR. IANUZZI:

17 Thank you, Mr. President. I will indeed be brief. I've already
18 given the indication of the reference number. It's document
19 E3/58. And, as we all know, on the file are audio recordings of
20 all of those documents. So, this would be, naturally, D125/160;
21 that is the previous designation given to this document before
22 the OCIJ -- 160R, for "Recording". I believe it's the - it's the
23 terminology that's been used all along, since the beginning of
24 these proceedings. So, just to make it clear, it's the audio
25 recording of that statement that I read out.

1 [11.02.38]

2 Again, I really -- I'm just interested. I'm trying to refresh the
3 witness' recollection, if that's possible. If not, that's fine.

4 Q. So, again, Mr. Witness, let me very simply and briefly repeat
5 the question: Do you recall telling the investigators of the OCIJ
6 that the purpose of that trip, the reason for that trip was in
7 order to discuss something to do with the conflict between
8 Cambodia and Vietnam? And, again, if you don't, simply tell us;
9 that's fine.

10 MR. PRESIDENT:

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

12 MS. SIMONNEAU-FORT:

13 Mr. President, I don't know if my learned friend is doing this on
14 purpose, but he is giving us the references of the record of the
15 hearing with the Investigating Judge and he is pointing out
16 discrepancies with what was registered.

17 So, perhaps he should show us what was actually recorded rather
18 than simply giving us the code of the document. Thank you.

19 [11.04.04]

20 MR. IANUZZI:

21 Well, I will just add that I, indeed, do everything on purpose
22 here.

23 That reference was in fact to page 4; I believe I said that
24 already. I read out - I read out the ERNs of that particular
25 question.

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1 Now, as we all know -- as we all know, but perhaps as the public
2 and commentators on this tribunal do not know, that question and
3 answer -- that single question and answer is actually an
4 amalgamation of many, many questions and answers, with portions
5 omitted, portions embellished, portions left out, portions
6 expanded upon -- all sorts of things. We're all aware of this.
7 We're all aware of this.

8 So, it's very difficult. I would have to spend the next 20--

9 MR. PRESIDENT:

10 Counsel, please hold on.

11 (Judges deliberate)

12 [11.06.28]

13 International Co-Prosecutor, you may now proceed.

14 MR. DE WILDE D'ESTMAEL:

15 Thank you, Mr. President. So that the Nuon Chea defence can be
16 fully conversant with what is normally don't in this Chamber,
17 normally one gives the R-letter code and also the time, minute,
18 and second when the exchange took place. I think the Nuon Chea
19 defence might like to draw on Khieu Samphan's defence practice,
20 which provided the parties with three extracts -- three partial
21 transcripts of the audio document relating to the Kham Phan
22 record. And so we have the translation in French and English from
23 Khmer, and we have a reference, and we can identify page numbers,
24 and times, and minutes -- hours and minutes of recordings.
25 Mr. President, can I also point out that once again, in its last

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1 statement, the Nuon Chea defence once again began to make
2 comments about the quality of the transcripts and records and the
3 way in which they have been produced, which had been banned by
4 the Chamber just before. And I would request that he abstains
5 from making such comments in the future with a view to
6 influencing the thinking of the witness. Thank you.

7 [11.08.07]

8 MR. IANUZZI:

9 Thank you for that. I will just respond very briefly to those
10 points.

11 First of all, with respect to what normally -- what normally
12 transpires on this stage, I don't think what transpires on this
13 stage has been normalized in any sense; I think we see a
14 variation of procedures that change, I would say, sort of by the
15 day, by the witness. However, I will move on.

16 I accept that the Khieu Samphan team has been submitting
17 transcripts of audio recordings, and I think that's an excellent
18 practice. We have done that in the past. Unfortunately, at times
19 - at times -- this is cross-examination, and things move quickly,
20 so we listened to this - we listened to this last night and this
21 morning in preparation for our cross-examination, based on
22 questions that were asked by Judge Lavergne yesterday. So, the
23 suggestion that we should have presented some kind of transcript
24 -- again, that we should behave as mind-readers, as this Chamber
25 likes to think sometimes -- it's -- well, it doesn't hold. I

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1 didn't know I was going to use this yesterday. I decided to do it
2 yesterday and I asked one of my team members to helpfully produce
3 a transcript to assist me in the questioning of the witness.

4 [11.09.22]

5 Now, I will certainly – certainly submit a request to the ITU
6 that that portion be transcribed and placed on the case file so
7 that we can then look at that later.

8 I'm simply asking the witness now, and informing him in good
9 faith, based on what my team member has told me, that the record
10 itself, the audio record, contains a reference to a meeting in
11 Vietnam. So, if the witness remembers that, fine. If the witness
12 doesn't remember that, then that's fine. But that's outside of my
13 control.

14 So, perhaps I could just put the question one more time to the
15 witness. He could give us the answer, whatever answer he's going
16 to give us -- I'm not trying to influence him in any way -- and
17 then we will make the request and have the transcript placed on
18 the file.

19 [11.10.08]

20 BY MR. IANUZZI:

21 Q. So, Mr. Witness, again, once last time – and, please, don't
22 take anything that I've said, anything I've said to influence you
23 in any way -- do you remember telling the investigators of the
24 OCIJ that the purpose of that meeting had something to do with
25 the conflict between Cambodia and Vietnam?

1 MR. PHAN VAN:

2 A. No, I don't.

3 Q. Very well.

4 Thank you, Mr. Witness. I'll now move on to another topic within
5 -- I'm still within the communication structure. I'd like to
6 discuss now, for a little while, particular communications --
7 nothing in the abstract, nothing in general, but particular
8 communications, and that would include telegrams, conversations,
9 letters, whatever correspondence that you, yourself, engaged in.
10 So I'm again, as always, interested in your personal experience.
11 Over the course of these days, you've told us quite a bit about
12 some of those communications, and indeed, you told us that
13 members of your family -- your father, your brother, and your
14 sister -- were also involved in the communication structure to
15 various degrees. And you were also shown several telegrams by the
16 International Co-Prosecutor and Judge Lavergne.

17 [11.11.51]

18 So, I would like to ask you a few questions about specific
19 communications. And, again, please limit your answer to your
20 personal experience, your personal knowledge, or anything that
21 those members of your family that you worked with may or may not
22 have told you. And that is also your personal experience, in my
23 submission. So I will end my prologue - I will end my prologue
24 and I would just like to say that, for my part - for my part, I
25 will limit my questions - I will limit my questions to issues of

1 prominence and actual relevance in this trial -- that is, in Case
2 002/01, and that is, obviously, the evacuation of Phnom Penh and
3 those population movements, what we refer to as the second wave,
4 which are said to have taken place between April -- excuse me,
5 late -- April 1975 and late 1976 and, in a few cases, early 1977.
6 So, with that as a background, let me turn to those core issues
7 of the case - those core issues of the case--

8 [11.13.10]

9 MR. PRESIDENT:

10 Judge Cartwright, you may proceed.

11 JUDGE CARTWRIGHT:

12 Thank you, Mr. President.

13 Mr. Ianuzzi, you've been asked repeatedly to stop making comments
14 or, as you call them, prologues or submissions. Please ask
15 questions and please keep your questions brief and slow because
16 we will be unable to use much of what you ask the witnesses if
17 they can't be translated. Thank you.

18 BY MR. IANUZZI:

19 Thank you.

20 And, again, I do apologize to the translators if I've been
21 speaking too quickly.

22 Q. So, again, Mr. Witness, I'm going to ask you, as I've just
23 been instructed, some questions, and I'm going to keep them
24 short, and they are going to relate, as I say, to the core issues
25 in this case.

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1 [11.14.11]

2 So my first question: As far as you are aware -- or did you, your
3 father, your brother, or your sister, as far as you know, have
4 any communication - any communication - with Nuon Chea regarding
5 the evacuation of Phnom Penh?

6 MR. PHAN VAN:

7 A. I don't know anything about this, but I learned that there was
8 contacts by my father with him.

9 Q. Could you be a bit more specific about that? What kind of
10 contact are you talking about?

11 A. I did not know what could have been the content of the
12 communication, but they did meet.

13 Q. Thank you, Mr. Witness. Now, I need to clarify something.
14 You've just said that you did not know the content of their
15 communication. The question was whether or not they had
16 communicated with respect to the evacuation of Phnom Penh, and
17 you said that, indeed, your father and Nuon Chea had done so.

18 [11.15.42]

19 So, just make - let me make sure I've - I've got this clearly. To
20 your knowledge, did your father and Nuon Chea communicate
21 specifically about the evacuation of Phnom Penh? And if so, how
22 do you know that?

23 A. I don't know anything about this.

24 Q. Very well. Thank you.

25 Let me move on now, Mr. Witness, to what we, the parties, refer

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1 to as the second phase of the population movement, and that phase
2 - that phase consists of several alleged instances of population
3 movement said to have taken place around - around September 1975,
4 continuing into 1976 and, in certain outlying instances, 1977.

5 Did you, your father, or your brother or sister, to your
6 knowledge, have any communication with Nuon Chea regarding
7 population movements with respect to the Southwest Zones or the
8 Central Zones?

9 A. No, I don't know. I was too young to know about this.

10 [11.17.24]

11 Q. Thank you. What about the East Zone or the West Zone? Did you,
12 your father, your brother or your sister, to your knowledge, have
13 any communication with Nuon Chea regarding population movements
14 in those zones -- the West or the East Zone?

15 MR. PRESIDENT:

16 Witness, could you please hold on?

17 Madam Simonneau-Fort, you may now proceed.

18 MS. SIMONNEAU-FORT:

19 On that last question, Mr. President, I would like to make an
20 objection or ask that my colleague proceed differently because
21 he's raising a question about the father or sibling of the
22 witness himself. So, I want the question to be put to the witness
23 concerning the witness himself rather than about the members of
24 his family, because that could lead to confusion.

25 [11.18.28]

1 MR. IANUZZI:

2 I'm happy to do that. I'm happy to do that, but before I do, I
3 would just like to state that, in my estimation, 80 per cent or
4 more of what this witness has been telling us throughout his
5 testimony has related specifically to his work with his father,
6 and he's been telling us time and again things that his father
7 told him, things that he learned from his father. So, I will
8 happily break it up, but I don't think there's anything wrong
9 asking this.

10 This witness, in my submission, is here as an agent of his
11 father, in a sense. That's what he's been telling us, that's what
12 the record reflects.

13 So I will proceed.

14 [11.19.06]

15 BY MR. IANUZZI:

16 Q. Again, Mr. Witness, did you personally -- did you
17 individually, personally, yourself, engage in any communication
18 with Nuon Chea regarding population movements in the East or the
19 West Zones of Cambodia, of the country - of Democratic Kampuchea?
20 Excuse me.

21 MR. PHAN VAN:

22 A. I don't know about this.

23 Q. What about your father or your brother or your sister? Did
24 they ever tell you that they engaged in communications with Nuon
25 Chea regarding population movements in the East or the West Zone?

1 A. No.

2 Q. Thank you. What about Sector 106? That's the Siem Reap Sector.
3 Did you ever engage in any lines of communication with Nuon Chea
4 regarding population movements into or out of Sector 106, the
5 Siem Reap Sector?

6 [11.20.34]

7 A. I'm afraid I don't quite understand your question. Could you
8 please repeat it? Because I had nothing to do with the work in
9 Siem Reap.

10 Q. That's fine, Mr. Witness, I'll - I'll accept that - that
11 answer. What about the work in the Northwest Zone, including
12 Battambang, Pursat, and Banteay Meanchey province? Did you engage
13 in any lines of communication with Nuon Chea regarding those
14 areas?

15 A. No, I was too young, again, to know anything about this.

16 Q. Thank you. What about Kampong Thom and Kampong Cham provinces?
17 Did you engage in any lines of communication with Nuon Chea
18 regarding those areas?

19 A. I'm afraid not.

20 Q. That's okay, Mr. Witness. Now, just for the sake of
21 completeness, did you engage in any lines of communication with
22 Nuon Chea from late 1977 up until 1978 with respect to any
23 population movements in the East Zone?

24 [11.22.32]

25 A. No, I didn't.

1 Q. Thank you.

2 Now, I'm going to ask you a question about the telegrams that
3 were put to you. And I believe, if I'm not mistaken, the
4 Co-Prosecutor – the International Co-Prosecutor, I believe he
5 discussed five particular telegrams with you – and I'm sure he
6 will correct me if I'm wrong – and I believe Judge Lavergne – I
7 don't remember exactly – it was three or four.

8 Let me ask you one question and see if you can answer it, and
9 then, if not, we can try something else.

10 If you recall, did any of those telegrams that were shown to you
11 -- any of them -- have anything to do with population movements?

12 A. No, I don't understand the message to be relevant to that.

13 [11.23.39]

14 Q. Very well. Thank you.

15 And now, Mr. Witness, I just wonder -- I wonder if you would be
16 surprised to know that there is not a single allegation in the
17 Closing Order of any forced population movement either into or
18 out of Sector 105, in Mondulkiri province -- not a single
19 allegation in the indictment that we are trying this case on
20 today. Would you be surprised to know that?

21 MR. PRESIDENT:

22 Witness is now instructed to hold on.

23 National Co-Lead Lawyer (sic) for the civil parties, you may now
24 proceed.

25 MR. PICH ANG:

55

1 Thank you, Mr. President, and Your Honours.

2 We have observed that some questions put by counsel for Nuon Chea
3 to the witness, in particular the current question, is put to
4 confuse the public. The questions were inviting the witness to
5 even make comment concerning the procedural matters in this
6 Court, which is not relevant at all.

7 [11.25.14]

8 MR. PRESIDENT:

9 The Co-Prosecutor, you may now proceed.

10 MR. De WILDE D'ESTMAEL:

11 I do believe, Mr. President, that that last question should be
12 reworded so that no comments are made on the contents of the
13 Closing Order with respect to Sector 105, but rather as to
14 whether the witness has any knowledge on this subject -- if the
15 defence is interested in that, of course.

16 But comments on the Closing Order are not required. We should ask
17 him questions about what he knows about Sector 105 or about Phnom
18 Penh with respect to the time he spent there. Thank you.

19 [11.26.02]

20 MR. IANUZZI:

21 Let me respond first to my colleague from the civil parties
22 across the stage.

23 I was not intending to mislead the public in any sense; I was
24 intending, quite frankly, to alert the public that a good deal -
25 a good deal of the testimony we've been hearing is not

1 particularly relevant to the communication structures as they
2 relate to the underlying crimes at issue in this trial. I
3 personally find that strange and I wanted to know if the witness
4 himself found that strange, because it seems to me that if we're
5 interested in things like communication structure or
6 administrative structure, there ought to be some nexus -- there
7 ought to be a nexus between those structures and the underlying
8 crimes that we're talking about.

9 We're not doing a trial in theory -- what may have happened
10 there, what may have happened there. Everything that comes into
11 Court should be relevant, tied to, relating to the crimes, the
12 base crimes, and those crimes, the base crimes, are clearly --
13 and I don't think anyone can contradict me on this--

14 [11.27.10]

15 MR. PRESIDENT:

16 The Chamber has already heard enough.

17 The objections are sustained.

18 Witness is not here bound to make any comments concerning the
19 procedures in the Closing Order as to which particular facts are
20 at issue.

21 Counsels are advised to put questions relevant to the matters as
22 stated in the paragraphs of the Closing Order in the confinement
23 of Case File 002/1, and everyone is aware of this.

24 BY MR. IANUZZI:

25 Thank you, Mr. President. I will move on to some areas which we

1 consider highly relevant to our case and which may be within this
2 witness's sphere of knowledge.

3 [11.28.06]

4 Q. Mr. Witness, you've told us about the various locations where
5 you've resided over the course of your life. If I could take you
6 back to the period approximately from 1969 until 1973 -- and
7 you've given testimony already before the Chamber about these
8 periods; you've told us where you lived.

9 During that time, did you personally experience any bombings by
10 the United States of America of Cambodia?

11 MR. PHAN VAN:

12 A. Yes, I did. I think everyone did.

13 Q. When you say "everyone", do you mean everyone in Cambodia?

14 A. Yes, that's correct, that's what I presume.

15 Q. Thank you. Are you able to describe those bombings in some
16 detail? Are you able to give us, based on your personal
17 experience, an experience, you say, that was most likely shared
18 with the entire country - are you able to give us some
19 information about the intensity of those bombings?

20 [11.29.47]

21 A. I'm afraid I don't understand the question. It would be good
22 if you rephrase it.

23 Q. Indeed, Mr. Witness; I apologize for that. For example, how -
24 how many bombings did you experience - let's start there - if you
25 remember?

1 A. I knew only what happened at my region. I could hear bombs
2 being dropped on -- almost on a daily basis.

3 Q. "On a daily basis"; is that what you said, Mr. Witness?

4 A. Yes, I did.

5 Q. Thank you. Now, do you know - do you know - is it within your
6 knowledge, either something you experienced directly or
7 something, perhaps, that was told to you by a member of your
8 family - do you know whether or not those bombs - those American
9 bombs - destroyed the rice fields in Cambodia - in your area?

10 [11.31.09]

11 A. Yes, they did.

12 Q. Thank you--

13 A. I did not just hear what they told me about this, but I saw
14 this first-hand. At that time, people had built a trench - a
15 bunker at every home and they had to make sure they can cook
16 their rice early in the morning so that they could eat the rice
17 for the whole day when they took refuge in the bunkers.

18 Q. And, just so I have it clearly, they were taking refuge in
19 those bunkers to avoid being killed or injured by those bombs; is
20 that - is that correct?

21 A. Yes, it is.

22 Q. Thank you, Mr. Witness. One last question on this point: To
23 your knowledge - to your personal knowledge, did any Cambodians
24 die, lose their lives as a result of those bombings, those
25 bombings by the United States of America?

1 A. Yes.

2 [11.32.24]

3 Q. Thank you, Mr. Witness.

4 Now, if I may turn to something that you told us -- and I can be
5 very brief here -- you did mention - and I believe it was on your
6 first day of testimony, on Tuesday -- that you encountered Ta Mok
7 at B-20. Did I get you correctly? Is that - is that right? Did
8 you encounter Ta Mok during your time at B-20?

9 A. No, that is not correct. I did not encounter with Ta Mok.

10 Q. Thank you. Did you ever encounter Ta Mok?

11 A. No, I didn't.

12 Q. Thank you.

13 If I may turn -- and this will be the last time I refer to one of
14 your statements -- and this, I believe, is the most recent
15 statement you gave to the Office of the Co-Investigating Judges,
16 and I believe the civil parties made - made quite a bit of use of
17 this one. It contains a lot of information with respect to Ieng
18 Thirith.

19 [11.33.47]

20 However, on one particular page of this document -- and this,
21 again, is E3/447. And, I apologize, I only have the English ERNs,
22 but I have a very, very simple question. The page I'm looking at
23 is English ERN 00486512.

24 And you said in that statement, in that statement of the 28th of
25 February 2010 - you mention that -- and I'm quoting -- "Suon,

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1 Keat Chhon, and Sar Kimlomouth also worked with Ieng Sary."

2 So, my question is: who is Keat Chhon?

3 A. That I do not know. When they went to ask -- when they visited
4 us, they did ask us a question about this person and that person,
5 and I told them that I did not know them personally. I only heard
6 their names, but I did not have any personal contacts or knew
7 them personally.

8 Q. Do you remember telling the investigators that Keat Chhon, as
9 well as those two others, worked with Ieng Sary? Do you remember
10 that? Do you remember any discussion of Keat Chhon with the OCIJ?

11 A. No, I don't.

12 [11.35.43]

13 Q. Thank you, Mr. Witness. And perhaps I'm mispronouncing their
14 names. So, just so it's very clear, that individual is the
15 current Minister of Finance in the Royal Government of Cambodia.
16 Does that refresh your recollection at all?

17 A. No, I do not recall.

18 Q. Thank you. And one last question on this point: Have you heard
19 - are you familiar with the fact that the Minister of Information
20 in Cambodia, whose name, apparently, you don't remember, has
21 refused to cooperate with this tribunal? Have you - have you
22 heard that in recent--

23 MR. PRESIDENT:

24 Witness need not respond to this question; it is not relevant at
25 all.

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1 [11.36.53]

2 BY MR. IANUZZI:

3 Well, I believe I'm on record as saying why I believe that's
4 relevant, so I will move on.

5 Just a few more questions, Mr. Witness, and I will cede the floor
6 to my colleague.

7 Q. Let's - if we could turn back just for a moment to the issue
8 of forced movement of the Cambodian population - and you've told
9 us quite a bit about your experience at K-17 - "Kor-Dop-Prampi",
10 I believe, is how that's pronounced in Khmer -- can you tell us
11 anything about population movements with respect to "Kor-Pram"?

12 MR. PRESIDENT:

13 Prosecutor, you may proceed.

14 MR. De WILDE D'ESTMAEL:

15 Thank you, President. I believe that the witness appreciates that
16 my esteemed colleague is trying to - attempts speaking Khmer, but
17 I don't believe that - for the other parties, we were not able to
18 understand exactly what "ka prom" (phonetic) was.

19 Would my colleague be so obliging as to express himself in a
20 language that we can all understand?

21 [11.38.31]

22 BY MR. IANUZZI:

23 Excuse me; I would be happy to do that. "Kor-Pram" is K-5, and I
24 believe that's well known to all of us here.

25 Q. Mr. Witness, what can you tell us about population movements

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1 with respect to K 5 -- or "Kor-Pram" -- that may have occurred in
2 the Northwest of Cambodia in the 1980s? What can you tell us
3 about that, if anything?

4 MR. PRESIDENT:

5 Witness needs not answer to this line of questioning because it
6 is completely irrelevant.

7 [11.39.15]

8 MR. IANUZZI:

9 Well, I will have to insist on this point because it is relevant.
10 It is relevant to the number of deaths that may have been--

11 MR. PRESIDENT:

12 You are not allowed to comment any further. You may move on to a
13 more specific question. If we grant leave for the witness to
14 respond to the questions, we would not interrupt your line of
15 questioning, but if we find that the question is irrelevant, then
16 we will advise the witness accordingly. And the decision has
17 already been made that you are not allowed to put this line of
18 questioning to the witness.

19 You may move on.

20 MR. IANUZZI:

21 Thank you, Mr. President. I will move on to my final question.
22 Before I do that, I'd just like to make a request for
23 clarification. Is the reason that I'm not allowed to explore K 5
24 because many of the crimes that were committed during K 5 are
25 similar--

1 [11.40.22]

2 MR. PRESIDENT:

3 The issue has already been ruled upon, and the witness has been
4 directed not to respond to the question because the question is
5 irrelevant. The question is completely irrelevant to the alleged
6 facts concerning the co accused. And I repeat: the question is
7 irrelevant to the alleged facts against the co accused.

8 BY MR. IANUZZI:

9 Thank you, Mr. President. I will move on, then, to my last
10 question.

11 Q. Mr. Witness, on Tuesday -- and this is indeed my last question
12 -- on Tuesday, when testifying about a certain meeting that took
13 place at the stadium in Phnom Penh in May 1975, you indicated
14 that you did not attend that meeting. However, you did go to the
15 stadium at night to watch a play.

16 So, my question is: What kind of a play was it? Was it in any way
17 similar to the play that's been unfolding here, on this stage,
18 before this Trial Chamber?

19 MR. PRESIDENT:

20 Witness needs not answer to this question.

21 (Judges deliberate)

22 [11.42.36]

23 Counsel, you may move on to the next question. Otherwise, your
24 act is amounted to a contempt of the Court.

25 MR. IANUZZI:

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1 MR. IANUZZI:

2 Thank you, Mr. President. I will move on. I'm - I'm only trying,
3 in my own borish way, to suggest that if the Trial Chamber
4 continues to work from a script, with cues and stage directions,
5 these proceedings take on all the dignity of a very bad--

6 (Judges deliberate)

7 [11.43.06]

8 --a very bad "Gilbert and Sullivan", was the end of the quote.

9 MR. PRESIDENT:

10 Please, be seated. The Judge is now deliberating. You may sit
11 down.

12 (Judges deliberate)

13 [11.45.17]

14 MR. IANUZZI:

15 Mr. President, that's all I had for the witness.

16 Thank you, Mr. Witness--

17 MR. PRESIDENT:

18 Sit down. The Chamber has not granted you any - the floor to
19 raise any other issue.

20 The Chamber needs to rule upon this issue.

21 (Judges deliberate)

22 [11.48.14]

23 Please rise, Counsel for Mr. Nuon Chea.

24 The Chamber finds that lawyer has abused the proceedings and he
25 has contempered the Court despite repeated warning by the Chamber

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1 throughout the course of the proceedings, and today it is very
2 obvious that the lawyer is intending to obstruct the proceedings,
3 and counsel is also abusing the proceedings.

4 The Chamber, therefore, decides to dispel you from these
5 proceedings.

6 MR. IANUZZI:

7 Do you mean that I should leave, Mr. President?

8 MR. PRESIDENT:

9 Yes, you must leave the courtroom for today, pursuant to Rule
10 38.1 of the Internal Rules, on the misconduct of lawyers. You
11 must leave the courtroom now; you are not allowed to make any
12 comment.

13 MR. IANUZZI:

14 I believe I will remain with my client--

15 [11.50.07]

16 MR. PRESIDENT:

17 You must leave now.

18 (Short pause)

19 Again, the Chamber orders that counsel leave the courtroom for
20 today. And as for the next day, the Chamber will issue a decision
21 accordingly.

22 Security guards are instructed to ensure the order of this
23 courtroom and security guards are instructed to escort Mr. Andrew
24 Ianuzzi, the defence lawyer for Mr. Nuon Chea, out of this
25 courtroom.

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1 MR. IANUZZI:

2 I will await my escort.

3 (Counsel Ianuzzi exits courtroom)

4 [11.52.14]

5 MR. PRESIDENT:

6 Counsel Son Arun, do you have any questions to put to the witness
7 at question now?

8 MR. SON ARUN:

9 Good morning, Mr. President. Good morning, Your Honours. I have
10 prepared my questions to put the witness, and it may take
11 approximately 40 to 50 minutes. And I look at the clock; there
12 remains approximately nine to 10 minutes. I await your decision.

13 MR. PRESIDENT:

14 You may proceed. And try your level best to put your question.

15 QUESTIONING BY MR. SON ARUN:

16 Good morning, Witness Phan Van. My name is Son Arun. I am the
17 national counsel for Mr. Nuon Chea. I would like to follow up
18 with the questions from my international colleague, Mr. Andrew
19 Ianuzzi.

20 [11.53.14]

21 Q. I would like to go back a little bit to your background. I
22 know that the prosecutors and other parties have asked questions
23 about your background, but I am not clear with certain points, so
24 I would like to ask for further clarification.

25 You said you joined the Revolution led by the Khmer Rouge forces.

1 I would like to know, how old were you when you joined the
2 Revolution?

3 MR. PHAN VAN:

4 A. As I mentioned from the start, I joined the Revolution, along
5 with my father, since I was very young.

6 Q. Yes, that's the point. I am asking you to tell me exactly how
7 old you were when you joined the Revolution. Can you please be
8 more precise?

9 [11.54.21]

10 A. I do not recall. I joined the Revolution since I was very
11 young. I do not recall it. I, at that time, joined my father.

12 Q. You then became a messenger for your father. When did you
13 become a messenger for your father?

14 A. I do not understand your question. You -- are you talking
15 about the -- my job as a messenger in the Revolution or for my
16 father?

17 Q. You told the Court earlier on that you joined the Revolution,
18 and first you served as the -- a messenger for your father. So
19 that is the point I would like to seek clarification: When did
20 you become a messenger for your father?

21 A. As I said earlier, I cannot recall the exact date, but after I
22 left from the place and I returned to work with my father, I
23 became a messenger; it was after the war.

24 Q. Prior to the war or after the war? What do you -- which period
25 are you referring to? Is it after 1975 or before 1975?

1 A. It was before 1975.

2 [11.56.08]

3 Q. Apart from being the messenger for your father, did you have
4 any other portfolio?

5 A. No, I didn't. I worked as messenger all along, until my father
6 passed away.

7 Q. You testified in the Court earlier on that -- your relation
8 with Madam Ieng Thirith, and you was once the -- a driver for
9 Madam Ieng Thirith, and at the time Mr. Nuon Chea communicated
10 via telegrams with Sector 105. And you said that Mr. Nuon Chea
11 normally discussed security matters in those telegrams. Can you
12 enlighten the Court what security was all about that Mr. Nuon
13 Chea communicated with Sector 105? What do you mean by "security
14 matters"? And how were security matters handled at that time?

15 A. The term "security" at that time, we had to put it in context.
16 At that time, there were fighting between Khmer soldiers with the
17 Vietnamese soldiers. So, "security matters" was all about the
18 conflict between the two sides.

19 [11.58.34]

20 Q. I do not really get your answer. You mentioned "security
21 matters" was the subject of communication between Mr. Nuon Chea
22 and Sector 105 and you mentioned that "security" was all about
23 the conflict between Vietnamese troops and the Cambodian troops.
24 But what was -- the security entailed?

25 A. It's rather difficult to explain briefly. "Security" needs to

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1 be explained. As you said just now, it encompassed the order and
2 general security, the killing, the fighting, so on and so forth.
3 There were forces who did not get along with each other, and then
4 they took refuge in the jungle, and they were resisting. Those
5 were also part of the security piece and puzzle.

6 And you may ask -- ask them for the details. I think that those
7 uncles also knew me and they knew my father as well. So, if you
8 wanted to find out what security matters entailed, then you had
9 better ask them.

10 [12.00.07]

11 Q. In documents in the hand of the Court, there were a lot of
12 telegrams communicating between Sector 105 and Office 870, and in
13 those telegrams, there were the undersigned by the name of Chhan
14 and other names. And those telegrams were numbered 1133 or 3, so
15 on and so forth. Can you tell the Chamber, please, whether these
16 telegrams are the communications made from 105 all the way to
17 Office 870?

18 I believe that you also have access to these telegrams on your
19 desk. Now, I'll give you an example to Telegram Number 3 and
20 Telegram 00, and Telegram Number 2 -- there are plenty of them.
21 Can you say whether these telegrams were sent from Sector 105 or
22 from elsewhere?

23 A. Having looked at the telegrams, I can say that they are
24 genuine telegrams. However, I do not know something about the
25 names because at that time it was my sister who was the decoder

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1 when I left the work. But the format and the telegrams are
2 genuine.

3 Q. You say that these telegrams are genuine telegrams from 105
4 Sector. Now, looking at the telegrams on your desk, you can see
5 that there are some writing and the head of Naga with writing in
6 Khmer, "tela". What do you understand the notes to be?

7 A. In my paper, there is no term "tela" as you alluded to.

8 (Short pause)

9 [12.03.48]

10 MR. PRESIDENT:

11 Counsel for Mr. Ieng Sary, you may proceed.

12 MR. ANG UDOM:

13 Pardon me, please. Mr. President and Your Honours, I have
14 received the report from my case manager -- case file manager
15 from downstairs that Mr. Ieng Sary did not observe the
16 proceedings from 11.49, and his heartbeat were irregular, as
17 reported also by the doctor.

18 May I ask that we adjourn the meeting - rather, the hearing
19 before we hear update on his medical status?

20 MR. PRESIDENT:

21 Counsel Son Arun and Counsel Ang Udom, since it is now
22 appropriate time for adjournment we would like Counsel Son Arun
23 to prepare his notes, and that -- we now adjourn until 2 p.m.
24 By 2 p.m., the Chamber continues hearing the testimony of Civil
25 Party Madam Denise Affonço through video-link from Paris. We

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1 believe that her testimony will be completed by the end of this
2 afternoon.

3 [12.05.27]

4 Mr. Phan Van, your testimony has not yet been concluded. The
5 Chamber wishes to summon you to come back tomorrow morning. And
6 this afternoon, if possible, you are also invited to come, if we
7 have some time left to give parties to put questions to you. And,
8 for the time being, we would like to ask that you remain
9 somewhere near the vicinity of the Court so that you can be
10 available for such testimony if time fits. We would like to
11 release you immediately after your testimony is complete because
12 we understand that you need to go about your daily life.
13 And we would like counsel for the witness to also be with us
14 today and tomorrow so that you can give some assistance to him.
15 Counsel Son Arun, you may proceed.

16 MR. SON ARUN:

17 On behalf of my client, I would like to request that my client be
18 allowed to observe the proceedings from his holding cell, due to
19 his health concerns, because he has some headache, and lack of
20 concentration, and some lower back pain.

21 The waiver will be submitted to the Chamber in due course.

22 [12.07.30]

23 MR. PRESIDENT:

24 The Chamber notes the request of Mr. Nuon Chea through his
25 counsel, in which he has asked that he be allowed to observe the

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1 proceedings from his holding cell downstairs, due to his health
2 concerns.

3 The request is somehow appropriate and that -- it is granted. Mr.
4 Nuon Chea is now allowed to observe the proceedings from his
5 holding cell through audio-visual link.

6 Mr. Nuon Chea has expressly waived his right to be present in
7 this courtroom. The Chamber would like counsel for Mr. Nuon Chea
8 to submit his waiver signed or given thumbprint by Mr. Nuon Chea
9 as soon as possible.

10 AV booth officers are now instructed to ensure that the AV -
11 audio-visual link is well connected into the holding cell where
12 Mr. Nuon Chea would be observing the proceedings from.

13 [12.08.41]

14 Security personnel are now instructed to bring Mr. Nuon Chea and
15 Khieu Samphan to their respective holding cell and have Mr. Khieu
16 Samphan returned to the courtroom in the afternoon, when the next
17 session resumes, at 2 p.m.

18 And the Chamber will notify parties concerning other relevant
19 issues upon receiving information from the doctor who cares for
20 Mr. Ieng Sary.

21 The Court is adjourned.

22 (Court recesses from 1209H to 1401H)

23 MR. PRESIDENT:

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

25 As the Chamber already informed the parties to the proceedings

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1 already, that -- this afternoon the Chamber continues hearing
2 Civil Party Denise Affonço through video-conference from France.
3 Counsels for the accused persons will have the opportunity to put
4 questions to her.

5 [14.02.51]

6 Good afternoon, Madam Affonço.

7 MS. AFFONÇO:

8 Good afternoon.

9 MR. PRESIDENT:

10 Next, the Chamber would like to hand over to counsels for Mr.
11 Nuon Chea to continue putting questions to you. So please be
12 informed, Madam.

13 MS. AFFONÇO:

14 Thank you. I am ready.

15 MR. PRESIDENT:

16 Thank you.

17 The Chamber would like to now hand over to counsels for Mr. Nuon
18 Chea to put some questions to Madam Affonço if they would wish to
19 do so.

20 [14.04.04]

21 MR. PAUW:

22 Thank you, Mr. President. And good afternoon to everyone in and
23 around the courtroom, and especially good morning to you, Madam
24 Affonço.

25 I, at the moment, do not see you in the screen, Madam Affonço.

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1 Mr. President, is there a way that we could have the civil party
2 shown on the screen?

3 MR. PRESIDENT:

4 We will follow the same practice, and hopefully, when she
5 responds to your questions, then we hope to see her.

6 MR. PAUW:

7 I understand. I will proceed--

8 MR. PRESIDENT:

9 Hold on, please, Counsel. We appear to have experienced some
10 technical difficulties now. We hope these problems are fixed
11 soon, and then you may proceed.

12 (Short pause, technical problem)

13 [14.07.43]

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

15 MR. PAUW:

16 Thank you, Mr. President.

17 Madam Affonço, good morning. My name is Jasper Pauw. I am
18 international counsel for Mr. Nuon Chea and I will be asking you
19 some questions this afternoon -- morning where you are.

20 Madam Affonço, I could not help but hear before the proceedings
21 started, when you did a sound check, that you are rather nervous
22 for this questioning, and I want to tell you that I understand
23 this and that I will be asking today straightforward questions
24 based on your experience. And, if you feel the questions are too
25 complicated or too emotional, please do let me know; then we can

1 move on to a next topic.

2 Is this clear to you, Madam Affonço?

3 [14.09.22]

4 MS. AFFONÇO:

5 Yes, Counsel. I entirely understand. I entirely understand.

6 QUESTIONING BY MR. PAUW:

7 Q. I will today first start by asking you some questions relating
8 to the situation in Phnom Penh before April 1975, and I will then
9 move to the period that you spent in the countryside.

10 First, the situation in Phnom Penh before April 1975.

11 You have testified that during the Lon Nol years, many refugees
12 entered Phnom Penh. Could you give us an estimate of how many
13 refugees entered Phnom Penh?

14 MS. AFFONÇO:

15 A. Well, you are asking this question 32 years later; I can't
16 give you the precise figures. All I know and all I was able to
17 see at the time was that every day crowds of refugees arrived in
18 Phnom Penh, and in the city then there were about 2 million
19 inhabitants. And with all of these refugees who came in towards
20 the end, before leaving the city, there were more than 3 million
21 of us. But this is not a specific calculation that I have made
22 myself.

23 [14.11.25]

24 Q. I understand this. But, when you were in Phnom Penh in that
25 period, did you see the living conditions of those refugees that

1 had entered the city?

2 A. Yes. On their arrival, they had practically nothing; they had
3 lost everything. They had left part of their lives in the
4 villages that they had left. They told us about the trials and
5 tribulations they had had before arriving.

6 Q. And, once they arrived in Phnom Penh, where would they live?

7 A. Some of them had families in Phnom Penh and lived with them;
8 others, who didn't have anybody at all, camped on the pavement.
9 Now, I can't tell you about the living conditions of each and
10 every one of these people because we, ourselves, were
11 particularly traumatized by the situation at the time. There were
12 shells falling and a battle was going on around the city, so we,
13 ourselves, were very traumatized by the living conditions at the
14 time.

15 [14.13.18]

16 Q. And, when you describe that these people camped on the
17 pavements, did they camp on the pavements all across the city, or
18 was that in specific areas of Phnom Penh?

19 A. Well, Counsel, I can't give you any accurate information on
20 the subject, apart from what I have just said.

21 Q. Madam Affonço, I of course want you to only testify as to what
22 you personally have seen. But in those five years of the Lon Nol
23 regime, I assume you moved around Phnom Penh at times, and
24 perhaps you have seen the refugees as they were camping on the
25 pavements. And, if that is true, could you describe whether these

1 refugees were all over the city or whether they were focused more
2 on one or several areas of the town?

3 A. I'm not sure I can tell you much about that.

4 On the other hand, what I can tell you is that we saw a lot of
5 the soldiers and military people from the Pension Fund, and they
6 were sheltering a good many of their family from outside the
7 city.

8 On some of the main boulevards, like Monivong, we saw people
9 living out and camping in a ramshackle way, but I can't give you
10 any precise account of the overall situation. Most of these
11 people were in fact accommodated by their friends and by their
12 families.

13 [14.15.40]

14 Q. Thank you. And you also, yesterday, spoke of the prices of
15 food products, such as rice. Could you tell us a little bit more
16 about the prices of food at the time, in the years of the Lon Nol
17 regime?

18 A. Well, Counsel, for the precise costs and prices, I would need
19 to go back to my book. Now, I am in my seventies, so, if you ask
20 me now to recite off the precise prices, that I can't do.

21 However, in my book, I did put them down, and you can base
22 yourself on that. If there are any mistakes, there's not much I
23 can do about that; it's not infallible. But what you're asking me
24 to tell you now, I really can't answer you.

25 But I do know that all of the foodstuffs' prices went shooting

1 up. There was a big black market. There were Chinese traders, in
2 the cities, who were running the black market. Even the sweetened
3 condensed milk that we made in the Sokilait factory went up in
4 price very considerably.

5 Now, if you're going to ask me this question again, I would have
6 to pick up my book and quote the prices from what I recorded
7 then, including the exchange rates, the riel exchange rate as
8 well, because in the French Embassy I was paid half in francs and
9 half in riel. And my Chinese partner changed the franc's into
10 riel so as to be able to buy enough food to eat.

11 [14.17.42]

12 Q. Thank you. I think that is already a very detailed answer, and
13 there is no need to refer to your book.

14 I will quote one excerpt from that book on this topic. And your
15 book has been referenced yesterday. It is the document number
16 E9/32.2.29, and the ERN is 00678324. And for the translators, I
17 will be quoting in French.

18 Madam Affonço, in that book you speak about - [interpreted from
19 French] -- "an astronomical rise in the price of raw materials
20 such as rice, vegetables, condensed milk, gas, and so forth".

21 [End of interpretation from French] End of quote. And I apologize
22 for my pronunciation. But here, indeed, you describe this strong
23 increase in price of vital food products. That is indeed what is
24 written in your book and that is what you tell us today.

25 Do you know, Madam Affonço, if the refugees that came into Phnom

1 Penh and that were living in Phnom Penh sometimes on the
2 pavement, whether they had enough money to buy elementary
3 foodstuffs all the way up to April 1975?

4 [14.20.07]

5 A. Counsel, once again, let me repeat that I have not had time to
6 garner information so as to know if the refugees who were coming
7 in and who were not actually housed by friends or family had
8 enough to eat. I think that in those days the Lon Nol regime had
9 enough resources, with all the U.S. assistance they were
10 receiving, in order to assist those people. But I personally
11 didn't have the time to deal with all of these issues. My family
12 was quite enough worry for me as it was -- indeed, myself too.

13 Q. Thank you, Madam Affonço, I think that's a very clear answer,
14 and I hear you saying that you do not know the situation that
15 these refugees found themselves in.

16 So I will move to the next topic, and that is the situation of
17 the healthcare in Phnom Penh.

18 Is it true, Madam Affonço, that the French -- or the French
19 Government -- repatriated their doctors in the period before the
20 Khmer Rouge entered Phnom Penh?

21 A. Yes. From March '75 -- in other words, about a month before
22 the Khmer Rouge arrived -- the first military plane arrived at
23 the start of the month of March, and those involved in official
24 assistance and teachers were allowed to take those planes out.
25 Then a second plane arrived in mid March to take everybody else.

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1 And then the final plane came in just before the city fell.

2 [14.22.45]

3 The people who left were the teachers -- all the westerners, the
4 people working in assistance and cooperation, and that included a
5 great many doctors from the hospitals in Phnom Penh.

6 Is that clear, sir?

7 Q. Thank you, that is very clear. Do you know if that also
8 included French nurses?

9 A. I don't know if there were French nurses who left, Counsel. I
10 was in the cultural service; I certainly wasn't in the Ministry
11 of Health. I wasn't working in health matters, I was working in
12 the cultural sphere and I saw teachers leaving.

13 Now, you're asking me about French nurses. No, but there were
14 Cambodian doctors and medical staff in the country. The wealthy
15 people were able to jump ship before it sank. It was the poor who
16 remained behind and who got killed.

17 Q. Thank you. And do you know, Madam Affonço, what happened to
18 the Vietnamese population of Phnom Penh during the Lon Nol years?

19 [14.24.35]

20 A. The Vietnamese population in Phnom Penh during the Lon Nol
21 regime was partly repatriated to Vietnam, but a considerable
22 majority were massacred on the way. I know about this because I
23 saw Vietnamese people being killed in pagodas, and some of them
24 were friends of my mother's. And there was a definite witch-hunt
25 for these people.

1 Now, I didn't take a tally of the numbers and I didn't follow
2 their travels to Vietnam. My mother stayed with me. That's all I
3 can tell you, Counsel, on that point.

4 Q. Thank you. Madam Affonço, also, in your book, you have written
5 about this topic, and I wanted to read that to you to – excuse me
6 -- elicit some comments. And that is the same document number as
7 I gave earlier, and it's on at ERN 00678322. I again will be
8 quoting in French, just for the translator's benefit. And I quote
9 your book, Madam Affonço – [interpreted from English]:

10 "The Vietnamese and the Cambodians of Vietnamese origin underwent
11 authentic pogroms ordained by Lon Nol. It was a radical cleansing
12 operation, a wave of barbaric and bloody terror in the history of
13 Cambodia between 1970 to 1975, followed by the tidal wave of
14 Khmer Rouge savagery. From one day to the next, all the
15 Vietnamese were arrested and brought together in the north of the
16 city, in makeshift camps, in schools, and Chinese pagodas to be
17 'repatriated' to Vietnam. In fact, nothing of the kind happened."

18 [End of interpretation from French]

19 [14.27.15]

20 And then, on the next page, your book continues -- and I quote –
21 [interpreted from French]:

22 "The camps were quickly emptied, and cholera hit the children,
23 and then programmed massacres were put into practice. All of
24 those who left on the boats towards Vietnam were executed, and
25 their bodies were thrown into the water without any kind of a

1 trial. The women were raped, and the male and female monks were
2 accused of complicity with the Vietcong. They were exterminated
3 in their pagodas, were ravaged and burned." [End of
4 interpretation from French] That's the end of the quote.

5 And to avoid any confusion, Madam Affonço, this persecution of
6 the Vietnamese took place during the Lon Nol years, according to
7 your book; is that correct?

8 A. Absolutely. It's quite true, Counsel, but don't forget that
9 the Lon Nol regime was made up of nationalists. They were
10 anti-Vietnamese and they said that in the Vietnamese community,
11 there were refugee Vietcong elements, and that is why they
12 brought them all together and massacred them. They were
13 nationalists.

14 [14.29.30]

15 And all of the disease in the pagodas that I saw, that was
16 entirely true, because I went to see people I knew who were
17 crammed into these Chinese pagodas and these Chinese schools.

18 Q. Thank you, and in that excerpt that I just read to – read out
19 to you, you also speak about pagodas that were burned down. What
20 did you witness relating to those events?

21 A. It was in Kampong Speu. My mother had a friend -- she had two
22 friends who were nuns, and they were living in a pagoda located
23 in Kampong Speu, and it was located in the Province of Kampong
24 Speu. This is where my mother's friends were, and that was the
25 pagoda that was pillaged and burned down and where the nuns were

1 massacred. But in Phnom Penh, the pagodas were spared; they were
2 not burned down.

3 Q. So, as far as you know, this killing of the nuns took place or
4 was conducted by the Lon Nol troops; is that correct?

5 [14.31.18]

6 A. I believe that is correct, because at the time there were only
7 Lon Nol soldiers who were serving in the country. The Khmer Rouge
8 had yet to come to power.

9 Q. Thank you.

10 I move on to the next topic, and that is the evacuation of Phnom
11 Penh, the evacuation itself. And I will have only a few questions
12 relating to this specific topic.

13 But in your book you speak about the city being cut in four. And,
14 if you would like me to read out the excerpt, I can do that, but
15 maybe I can ask you like this: Do you remember the city being cut
16 into four sectors at the time?

17 A. All that I remember very clearly and to this day is that
18 everyone who lived in the south could not travel towards the
19 north end of the city; there were roadblocks everywhere. My
20 mother was in the western end of the city and she wasn't able to
21 join me, and I wasn't able to join her, either. It was impossible
22 for me to even get to the French Embassy, which was in the
23 northern end of the city, as there were roadblocks and barriers
24 everywhere. Everybody was being evacuated according to the sector
25 that they were living in. I was in the south and I had to go

1 towards the south.

2 [14.33.37]

3 THE INTERPRETER:

4 Last segment inaudible for the interpreter. Counsel is advised to
5 turn off his mic when the witness is providing her response.

6 BY MR. PAUW:

7 Q. Thank you, Madam Affonço. I will, just to, perhaps, refresh
8 your memory, indeed, quote the excerpt in your book in which you
9 speak about this division of the city. It is on -- to be found at
10 the ERN 00678330, and I will quote in French - [interpreted from
11 French]: "It was impossible; the city had been divvied up into
12 quadrants. There were soldiers in the northern sector and they
13 were forcing people to go in the subsequent direction, and we
14 were in the south." [End of interpretation from French] End of
15 quote.

16 [14.34.35]

17 Madam Affonço, this corresponds to what you just told us, that
18 the city was divided by roadblocks, and in your book -- let me
19 ask you the question--

20 MS. AFFONÇO:

21 A. (No interpretation)

22 Q. Is this an accurate description, in your book, of what you
23 witnessed at the time?

24 A. I can tell you the following, Counsel. When I realized that I
25 could not go north and that, because I was located in the south

1 end, I was being sent southerly, I wanted to go to the western
2 end because I wanted to join my mother, and because of that, I
3 assumed that the city had been divvied up in that manner. I
4 simply could not go anywhere or move forward in order to verify
5 this. This was an assumption that I had -- a conclusion that I
6 had arrived at, given the situation. I was waiting for my
7 husband, who was living in the western end, and he was being
8 evacuated in the same direction. And that's what I'm telling you
9 today; she had to go to a different direction.

10 [14.36.21]

11 Q. Thank you, Madam Affonço, that is very clear.

12 I now want to move to the time that you spent in the countryside.
13 And in your book, you speak about Ta Man, and in your book you
14 call him a "despot". Could you explain what you mean when you
15 call him a "despot"?

16 A. Ta Man had arrived in the camps two years after our evacuation
17 from Phnom Penh. We met him in Loti Batran. It was in the third
18 camp -- it was in the last camp that we had met Ta Man. He was a
19 despot and he was the one who initiated the purges when he
20 arrived.

21 I cannot list to you all of the Ta's, all the uncles that I knew;
22 there must have been a dozen. There was Ta Chen, Ta Yem, Ta Man,
23 Ta Sok (phonetic), Ta Loeun (phonetic), Ta Kim (phonetic), and Ta
24 Soy (phonetic), the last one who was working in Loti Camp; he was
25 the one who told us how the husbands had been massacred.

1 [14.38.23]

2 Q. And just to be clear, Ta Man, what was his official position
3 at your village? What was his title or role?

4 A. Once again, if I may, I would like to consult my notes
5 because, 32 years after the facts, I'm unable to give you the
6 exact details. But in my book, I have described these facts
7 extensively. Therefore, Counsel, if you happen to have the
8 passages at hand, please consult them. Otherwise, I'm going to
9 have to take a few moments to look at my notes.

10 Q. Madam Affonço, that is no problem. I understand it is hard to
11 remember all these facts, and I, indeed, can read out to you the
12 passage in which you identify Ta Man. And I will, again, be
13 quoting in French, and it can be found at ERN 00678383 - quote -
14 [interpreted from French]: "As far as we were concerned, the
15 village of Ta Chen, Ta Krak, and Ta Lim constituted a 'sahakar'
16 which was led by a chief called Ta Man; he was a ruthless
17 'yothea'." [End of interpretation from French] End of quote.

18 [14.40.20]

19 MR. PRESIDENT:

20 I think that there was an issue in translation. When you were
21 reading in French, I don't know if there was any implication for
22 the translation.

23 MR. PAUW:

24 Thank you, Mr. President. I think the complication may be that in
25 French there are two Khmer words, that I will read out

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1 phonetically, maybe, to assist the translators: it is "sahakar"
2 and "yothea". And I--

3 MS. AFFONÇO:

4 Yes, they were "sahakars"; they were cooperatives.

5 [14.41.26]

6 BY MR. PAUW:

7 Q. And you then say that Ta Man was a "yothea sans pitié" -- and
8 you called Ta Man a merciless "yothea". Is this indeed how you
9 remember Ta Man?

10 MS. AFFONÇO:

11 A. Yes, absolutely.

12 THE INTERPRETER:

13 Inaudible for the interpreter. Counsel Pauw is advised to turn
14 off his microphone.

15 MS. AFFONÇO:

16 A. Yes, it was from that point on that disappearances began and
17 punishments were being meted out. If one had transgressed even
18 moderately from the line of Angkar, they were punished, and
19 people were sacked. And there were at least three or four
20 villages that were grouped together at Loti Batran, which was the
21 last camp, if memory serves me correctly.

22 BY MR. PAUW:

23 Q. And so it would be correct to say that Ta Man was the leader
24 of the "sahakar", as you describe it?

25 (Short pause)

1 [14.43.22]

2 MS. AFFONÇO:

3 A. Yes, indeed. I'm sorry; I thought you were not finished your
4 question.

5 Yes, Ta Man was indeed the person who was the chief of the
6 cooperative.

7 Q. And also in that book, two pages down, at pages 00678385, you
8 write -- and I will quote in French - [interpreted from French]:
9 "Under Ta Man's authority, death penalties abounded." [End of
10 interpretation from French]

11 Is that correct, that when Ta Man became president of the
12 "sahakar", the people that were condemned to die were many folds
13 or were more than before?

14 A. Counsel, as I answered previously to your very last question,
15 when Ta Man arrived at the camp, there were many more
16 disappearances, there were many more executions or punishments
17 that were -- that were being handed out. Does that suffice as an
18 answer, Counsel?

19 [14.45.07]

20 Q. Thank you. That -- that is indeed sufficient for now.
21 You have also testified before the OCIJ -- and that is document
22 number D199/15, and ERN is 00346936 -- you testified about a
23 district chief and you state -- in English: "One of these
24 paramount chiefs judged me for stealing food from a courgette
25 field, and, what's more, he spared my life. Below him were the

1 village chiefs." End of quote.

2 Do you remember this district chief that spared your life? And do
3 you, perhaps, remember his name?

4 A. I clearly recall that episode. I didn't steal zucchinis; I
5 stole eggplants. And I had asked -- and I knew that the spies
6 that the -- I was going to be sent to the West, which was
7 tantamount to death. Perhaps there are a few details lacking, but
8 at one point there are two or three soldiers who took me to a
9 different village.

10 [14.47.11]

11 And from that point onwards I explained my situation to the chief
12 of the village, and he came on bicycle. His name was Ta Yem, and
13 obviously he asked me who I was, what I was doing there, why I
14 stole the food, and I answered all of his questions and I said,
15 "I stole because I was hungry." I said, "Sir, I stole because I
16 was hungry." And he replied, "Well, we're hungry as well. Why
17 don't we steal?" And yet, throughout the entire episode, in the
18 little straw hut, in the kitchen of the hut, there was the wife
19 and children of the village chief who were eating fish and rice,
20 and they were eating to their fill. And that's what I stumbled
21 upon.

22 I asked for forgiveness. I said that I would never commit such an
23 act again and that was when he started asking me questions. "So,
24 you're French. Are you happy here, in Cambodia? Are you happy
25 here? Do you want to go back to France?" And I replied, "It

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1 depends entirely on Angkar. If Angkar wants to send me to France,
2 it is its decision." He asked me, "Do you like the work here?"
3 And I replied, "Yes, I'm very happy to work here."

4 [14.48.57]

5 I simply told him what he wanted to hear. If I said the opposite,
6 well, then, I wouldn't be here today to tell you everything that
7 I endured, Counsel. So I hope that you understand the situation.

8 Q. I understand the situation. And thank you for sharing that
9 story.

10 Based on your experience, was it indeed the case that people like
11 Ta Man, who was the head of the cooperative, and people like Ta
12 Yem, who was a district chief, could decide on issues of life and
13 death, they could decide whether you would live or die because of
14 things you had done?

15 A. I'm sorry; I'm afraid I didn't fully hear your question.

16 MR. PRESIDENT:

17 Madam Affonço, could you please hold on?

18 And, Counsel for the civil parties, you may now proceed.

19 MR. JACOMY:

20 Mr. President, I would like my colleague to be specific about the
21 period he is referring to.

22 [14.50.39]

23 We didn't interrupt him earlier, but the evacuation of - from
24 Tapran (phonetic) only happened as of 1976, which does not fall
25 within the scope of this current trial.

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1 I, therefore, am seeking some clarifications from my esteemed
2 colleague with respect to the exact time period he's referring
3 to.

4 BY MR. PAUW:

5 Thank you, colleague for the civil parties. And I'll be happy to
6 specify the period, but I would be asking this question relating
7 to a rather broad period.

8 Q. If Madam Affonço can answer this, I am referring to the period
9 that she spent in the countryside from the evacuation of Phnom
10 Penh onwards, until early- to mid-1977. That is a period that she
11 spent time in the countryside and experienced the realities of
12 the life in the countryside, and I would ask her to make a -- or
13 give us a description of her experience at that time.

14 [14.52.02]

15 And I understand that the civil party has not heard my question,
16 so I will be happy to repeat the question: Madam Affonço, was it
17 your experience during your time on the countryside -- at the
18 countryside, between 1975 and 1977, that people like Ta Yem and
19 Ta Man could decide on who would live or who would die?

20 MS. AFFONÇO:

21 A. Counsel, in order to answer your question, I can only say that
22 I only saw Ta Yem once, when I had committed that offence. Ta Yem
23 was stationed at the island with us. He certainly wielded
24 discretionary power and he implemented all the orders of Angkar.
25 He would tell us, "You have not followed Angkar's line; you must

1 not lie, you must not do this, you must not do that." If there
2 was any transgression from Angkar's line, we were told, "You will
3 disappear." That is all I can tell you.

4 Q. Thank you. And that takes me, indeed, to the next question.
5 You spoke about this issue yesterday, but I have a few more
6 questions on the topic.

7 Could you explain to us once again what you, at the time,
8 understood "Angkar" to be?

9 [14.54.19]

10 A. The first time I heard the term "Angkar", I had no idea what
11 it meant. I did not know who was "Angkar". I thought it was a
12 specific person, but it was only over the course of my cavalry,
13 only the course of my journey towards hell that I understood that
14 "Angkar" was the Party or the Organization -- I don't know how
15 you would call them today. But this was what everybody told me.
16 Everyone who was giving us orders, day after day, all of the
17 chiefs of the villages, all of those who abused us told us, "We
18 are doing this on behalf of Angkar."

19 The other village chiefs had pseudonyms, but we didn't know who
20 was "Angkar" and who was at the head of Angkar.

21 Q. Thank you. You testified yesterday that you also gave
22 testimony at the trial in 1979, and you have testified that you
23 were encouraged to speak the truth. Are you aware that documents
24 of this trial have survived to this day including your own
25 statements?

1 [14.56.14]

2 A. Up until a few years ago, I didn't know of the existence of
3 the archives for that trial. It was only until the nineties that
4 I realized that the sentence handed out during the first trial
5 had not been validated. And I only received the documents that
6 you may be referring to through my lawyer, Mr. Julien Rivet. Up
7 until this day, I've not seen certain documents nor their English
8 translations. And I noted that there were many deficiencies and
9 mistakes with the French language versions and translations.

10 Q. Can you tell us around when you have read those documents
11 relating to the 1979 trial?

12 A. As I've just stated, Counsel, I only consulted those records a
13 week ago. I did not have time to search through these archives.
14 You will understand that when I arrived in France at the end of
15 1979, I had lost everything; I simply had no time to dwell in the
16 past, and so I did not search through the archives. And it was
17 only since the beginning of this week that my lawyer, Mr. Julien
18 Rivet, has been able to provide me a copy of those records from
19 the 1979 trial.

20 Q. Thank you.

21 I would like to read you a passage from your statement at that
22 trial, and then later I will ask you if that is indeed a correct
23 reflection of what you testified to at the time, especially
24 because you tell us that in the French version there are a lot of
25 deficiencies.

1 [14.58.40]

2 So I want to quote from document number E3/2144R. It's called --
3 the book is called "Genocide in Cambodia: Documents from the
4 Trial of Pol Pot and Ieng Sary", and the passage can be found on
5 -- at ERN 00190592.

6 And at that page you state, according to this document, at least
7 -- quote:

8 "Only when we got to the island did I figure out just what
9 'Angkar' was. 'Angkar' means "the government". Anyone empowered
10 to direct a village or a work team can always speak in the name
11 of Angkar. Angkar is everywhere." End of quote.

12 Is that indeed what you testified to in 1979, that "anyone
13 empowered to direct a village or a work team can always speak in
14 the name of Angkar"?

15 A. Yes, absolutely. That is exactly what I said at the time.

16 [15.00.13]

17 In fact, I think there may have even been a translation error
18 because "Angkar" should not have been translated as "government",
19 but it should have been translated as "organization" or "Party".
20 But unfortunately, I wasn't there to provide advice on the
21 translation from Khmer into French.

22 Q. If I ask you the same question in slightly different form, is
23 it true that anyone in a position of power in those villages
24 could claim to speak in the name of Angkar?

25 A. Yes, entirely. Let me repeat: All of the people who were

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1 leading these camps or these villages spoke in the name of Angkar
2 and they took the decisions in the name of Angkar. When they
3 wanted us to work a bit more, they said, "Angkar is asking for
4 this." When they came to collect the remaining stock of rice,
5 they said that it was because Angkar needed it. When they wanted
6 to send our children away, it was because Angkar had decided it.
7 So, who is "Angkar" today? Kindly explain that to me, if you
8 will. Today I would like to know who "Angkar" is. Is this a man,
9 an organization? Kindly enlighten me on that, Counsel, if you
10 can.

11 [15.02.09]

12 Q. I wish I could, Madam Affonço, but I'm afraid that's not my
13 role. I -- let's hope that this trial sheds some light on that
14 issue.

15 And I--

16 A. Thank you.

17 Q. You have described the actions of Ta Man in your village. And,
18 based on your experience at that village and with Ta Man, do you
19 think it's fair to say that the leaders of Democratic Kampuchea
20 in Phnom Penh did not always know what Ta Man was ordering you to
21 do in your village, even when he was speaking in the name of
22 Angkar?

23 [15.03.17]

24 MR. PRESIDENT:

25 Madam Affonço, please hold on.

1 International Co-Prosecutor, you may now proceed.

2 MR. DE WILDE D'ESTMAEL:

3 Thank you, Mr. President. I believe that this question goes above
4 and beyond what the witness can state.

5 She said from the very start that she had never seen the people
6 who represented Angkar at the central level, in particular the
7 Accused. So how it is reasonable to ask if Ta Man can take a
8 decision with or without consulting the Centre? This is not
9 something that the witness is able to tell us about, on the basis
10 of what we have heard from her so far, and I therefore think that
11 this civil party should not be asked to speculate on this issue
12 because she will not be able to respond. It's not justified.

13 Thank you.

14 [15.04.17]

15 MR. PAUW:

16 Thank you, Mr. Prosecutor, for those remarks.

17 I am not so much asking Madam Affonço to speculate; I'm asking
18 Madam Affonço to testify as to what she experienced when dealing
19 with Ta Man. When he was disciplining on a day-to-day basis, when
20 he was punishing people, when he was allegedly executing people,
21 how did she perceive that? Was Ta Man, indeed, a despot with
22 discretionary power, or was everything and every single action
23 directed from above?

24 But -- so I do think that the civil party should be able to
25 answer this question.

1 BY MR. PAUW:

2 Q. But in the interest of time, I will move on to a next topic,
3 and that is the last topic that I will want to ask some questions
4 about, and that is the tribunal in 1979 that you testified
5 before.

6 [15.05.49]

7 And you told us yesterday that you were not given any
8 instructions; the only instruction that you received was that you
9 had to leave out the information that your husband was a
10 Communist. Do you know why they wanted you to leave that part out
11 of your statement?

12 THE INTERPRETER:

13 Counsel, microphone off, please. Thank you.

14 MS. AFFONÇO:

15 A. Now, Counsel, I understand the decision taken at the time,
16 where I was asked not to talk about Mr. Phou Teang Seng's
17 Communist convictions. If I said this -- if I had said this then,
18 that would have meant that, broadly, all Communists would have
19 been judged guilty. I believe this when I think about this.
20 At the particular time, I was simply asked by Mr. Nguyen Khac
21 Vien, a Vietnamese writer, to not mention this fact. He -- it was
22 -- unfortunately, he's died now. He was a great Vietnamese
23 writer.

24 So, with hindsight, I believe I can say that I have understood
25 the reasons and the situation, but at that point in time I didn't

1 try and understand. All I wanted to do at that time was leave
2 that hell that I never wanted to see again.

3 Is that enough for you, Counsel?

4 [15.07.53]

5 Q. I think I understand slightly better now, but I may get back
6 to this minor topic at a -- at a later point if time permits. But
7 I will move on for now.

8 When you were attending the tribunal as a witness, did you listen
9 to the testimony of any of the other witnesses?

10 A. Yes, Counsel, I was there and I listened to the testimony of
11 other victims who were there; there were monks, there were Chams,
12 there were women.

13 And now, if you ask me exactly who those victims were, let me
14 tell you that you can find their names in the archives, all of
15 those people who came to testify in Court. I didn't take any
16 notes on that day. I was in tears. It was extremely taxing for me
17 to hear all of that testimony. It was extremely hard.

18 [15.09.03]

19 Q. Thank you, Madam Affonço. I will not ask you about their
20 statements as such, but I do want to quote a part of your book
21 again, an excerpt that can be found on page ERN 00678421. And I
22 will quote in French - [interpreted from French]: "The Vietnamese
23 lawyers also come to assist those who want to write out their
24 testimony in French or in English." [End of interpretation from
25 French] End of quote.

1 Do you remember that, Madam Affonço, that Vietnamese lawyers came
2 to assist witnesses with writing up their statements?

3 A. Well, Counsel, in August 1975 (sic), we were in a hotel to
4 prepare that trial. I didn't need a lawyer; I had a hand-written
5 note. But I do remember that there were people who had come in
6 from the countryside who didn't know how to read or write, and
7 there were people who were there to help them. I didn't
8 participate in any of those interviews, on the other hand. The
9 only person I met was that Vietnamese writer I mentioned.

10 [15.10.56]

11 Q. Thank you.

12 And you testified yesterday that you had never heard of people
13 like Pol Pot or Ieng Sary. Yet, when I read your statement before
14 the tribunal in 1979, the names of Pol Pot and Ieng Sary are
15 mentioned by you frequently. Can you explain why those names
16 appeared in your statement if you did not know their names at the
17 time? It may not -- let me ask you the question like this: Why
18 did you use the names of Ieng Sary and Pol Pot in your statement
19 before the tribunal in 1979?

20 A. Counsel, Pol Pot and Ieng Sary were names that I had not heard
21 of until I came out of the hellish camps. The first question that
22 was asked to me by a Vietnamese military doctor was, "Do you know
23 who was behind all of your misfortune?" And I said, "I don't
24 know." And he told me, "He was called Pol Pot, and there was Ieng
25 Sary." And that was the point at which I understood that those

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1 individuals were deeply involved in our wretchedness, and I
2 quoted their names in my testimony at that time. But, until I
3 came out in January 1979, for me, these soldiers were my
4 liberators, and if they hadn't arrived on time, I would no longer
5 be here to be talking to you, Counsel.

6 [15.13.16]

7 Q. Thank you, that is clear.

8 In the same book that I just quoted, at ERN 00190698, there is a
9 speech that was given at the conclusion of the tribunal, and I
10 will quote from the speech:

11 "After five days of sessions and with facts expounded clearly,
12 demonstrated convincingly, and analyzed objectively, this
13 tribunal has shed light on this truth: the crime of genocide of
14 the Pol Pot-Ieng Sary clique is undeniable and indefensible. The
15 proceedings at the tribunal have indicated that every Kampuchean
16 citizen is a victim and at the same time a witness to the most
17 horrible crimes of Pol Pot, Ieng Sary, and their associates."

18 A bit further down, the speech continues:

19 "The People's Revolutionary Tribunal of the Kampuchean People,
20 with probity and uprightness and following normal legal
21 procedure, has condemned Pol Pot and Ieng Sary to death, thus
22 unmasking their reactionary nature, promoting the Kampuchean
23 people's just cause, and affirming the role of the People's
24 Revolutionary Council of Kampuchea as the only authentic,
25 legitimate representative of the people of Kampuchea." End of

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1 quote.

2 [15.14.57]

3 This was a speech that was given by then President, Mr. Heng
4 Samrin, in which he describes that and stresses that "every
5 Kampuchean citizen is a victim and at the same time a witness to
6 the most horrible crimes of Pol Pot, Ieng Sary, and their
7 associates", and it was given at a reception in honour of foreign
8 guests.

9 My question to you, Madam Affonço: Did you attend that speech
10 given by President Heng Samrin?

11 A. No, Counsel, I wasn't there for that speech. And, when I read
12 it out, I didn't really understand who was talking. Now that
13 you've told us, I understand. But I wasn't there.

14 I was called to testify one morning only. I told them everything
15 I had to say, and after that I was released. So I didn't follow
16 all five days of that particular tribunal's proceedings, so I do
17 not remember that.

18 [15.16.25]

19 MR. PAUW:

20 Then I will not ask you any further questions on this topic.

21 Madam Affonço, I have no further questions. On behalf of the Nuon
22 Chea defence team, also in the name of Mr. Son Arun, my Cambodian
23 co-counsel, I thank you very much for your answers and I wish you
24 good luck and strength in the future.

25 And I will cede the floor to my colleagues if they have further

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1 questions.

2 MS. AFFONÇO:

3 Thank you, Counsel.

4 MR. PRESIDENT:

5 Thank you, Counsel.

6 We would like now to hand over to counsels for Mr. Ieng Sary to
7 put some questions to Madam Civil Party if they would wish to do
8 so.

9 [15.17.29]

10 MR. ANG UDOM:

11 Good afternoon, Mr. President. Good afternoon, Your Honours, and
12 good afternoon to everyone in and around the courtroom. And good
13 afternoon to you, Madam Denise Affonço. I am Counsel Ang Udom and
14 on my right-hand side, my colleague, Michael Karnavas. We are
15 counsels for Mr. Ieng Sary. For the moment, we do not have any
16 questions to put to you. Nonetheless, we thank you so much,
17 indeed, for your time.

18 MR. PRESIDENT:

19 Thank you, Counsels.

20 We would like now to proceed to counsel for Mr. Khieu Samphan to
21 put some questions to the civil party.

22 [15.18.23]

23 MR. KONG SAM ONN:

24 Thank you, Mr. President. On behalf of Mr. Khieu Samphan, we do
25 not have any questions to put to the civil party. We thank you.

1 MR. PRESIDENT:

2 Thank you, Counsels.

3 Madam Affonço, it is now the opportunity, as promised, for you,
4 as a civil party, to state -- or to make the statement of your
5 suffering, the sufferings you have endured during the Khmer Rouge
6 regime. If you wish to do so, the floor is now yours.

7 MS. AFFONÇO:

8 Thank you, Mr. President.

9 Indeed, yes, I would like to say today that throughout that
10 entire period, I suffered a huge amount. My life had been
11 proceeding happily in a peaceful country, and it suddenly
12 switched to hell. And from one day to the next, people were
13 expropriated, chased out of their houses; everything that you had
14 built in 30 years was demolished. I was age 30, and everything
15 that I lived through in those 30 years was destroyed from one day
16 to the next.

17 [15.19.53]

18 I have undergone an awful lot of harm as a result.

19 Firstly physical. From the fact that we didn't have any kind of
20 medical care or doctors and that we were malnourished and lived
21 in total absence of any hygiene, I contracted a great many
22 diseases. The major one was tuberculosis. If the soldiers --
23 invaders, if you like -- did not arrive on time, then I wouldn't
24 be here today. I was looked after for three months in the
25 Saint-Antoine Hospital in France for the tuberculosis. I also

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1 caught hepatitis B and malaria. I have sequela from both still. I
2 still have attacks of malaria because you don't get rid of
3 malaria. And those are the physical kinds of harm I suffered.
4 When you are undergoing malaria and you're pulled out of your hut
5 to go and work in the rice fields under a beating sun, then -- I
6 would really like to ask you, Mr. President, Judges, kindly
7 imagine what it must have been like.

8 [15.21.22]

9 As to moral prejudice, I simply can't describe what I've been
10 through. We were deported, we were forced to leave our homes, we
11 were told lies, saying it was just for a few days. Well, in fact,
12 when you leave your house, you never, ever see it again; you
13 don't see any of your possessions again. Once you are in the
14 fields, you are obliged to work.

15 But in addition, as working back-breaking work, you are laughed
16 at, you're made a mockery of, your children are taken away from
17 you, without even telling you where they're going. They were --
18 they simply told you, "Angkar are looking after your children;
19 they're no longer your children, don't worry about them." And
20 when you get back to your children, in fact, they aren't your
21 children anymore because they've been completely indoctrinated
22 and changed.

23 When you see your daughter dying of hunger, and she says, "Mommy,
24 can I have a bowl of rice?", and I was never able to give her
25 that bowl of rice before she died, then I can tell you I have

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1 undergone harm.

2 Everything I really want to know is, have these people been
3 punished?

4 [15.23.00]

5 I appear to be in reasonable health, but I can tell you inside my
6 head, it's not healthy at all. I have to be healthy for other
7 people, for my son, for his children. I have to stay in good
8 health for them. I'm in a world where you have to work to
9 survive, so imagine what it's like and ask yourselves how I
10 survived.

11 And when you ask me about harm, about all the atrocities, all the
12 torture scenes, for young Chinese women who stole some palm sugar
13 and who were stretched out and tied to the ground in the sun
14 while we had to watch. Do you think any kind of human rights were
15 respected there? Do you think we were human beings at all? We
16 weren't. We were totally dehumanized. We became animals. We were
17 utterly dehumanized. That's all I have to say today.

18 And let me tell you again and again, if you want to listen to me,
19 that famine was organized and programmed. It was a way for the
20 system to eliminate us while feeling they had washed their hands
21 of the problem, but they could say, "We didn't kill those people;
22 they died because they've been eating rubbish." Is that not a
23 technique to assassinate somebody without getting your hands
24 dirty? To do this without giving us any care and any medical
25 assistance is a way to simply kill people, and it was programmed

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1 in advance.

2 [15.24.55]

3 That is why I can tell you that my nights are filled with
4 nightmares. That's why I no longer wish to set foot in that
5 country, which I do love. Thirty years have gone by, and I no
6 longer wish to set foot in that country because I am plagued by
7 nightmares, I'm haunted by everything I went through, and in my
8 head, I can tell you--

9 How is it possible that the people of Cambodia endured all of
10 that? I wasn't alone. There were another 2 million Cambodians who
11 suffered this physically and morally. Now that they can speak, I
12 hope they are liberated. We have a very, very high price to pay.
13 I can't rebuild my life. I can't start a new family. I miss my
14 daughter. I only have my son, and that son was so traumatized
15 that he never, ever talks about this. He was tortured, he was
16 beaten.

17 And I want this Court to do its work and the people who committed
18 all of these acts to be duly punished.

19 Thank you very much, Mr. President and the entire Court.

20 [15.26.42]

21 MR. PRESIDENT:

22 The Chamber wishes to thank you very much, indeed, Madam Affonço.
23 Your testimony has now come to a conclusion. We hope the
24 testimony of yours will be contributing to ascertaining the
25 truth. And you are now excused. We wish you all the very best.

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1 And at the same time the Chamber wishes to thank you, Counsel
2 Julien Rivet.

3 And the hearing on the testimony of Madam Affonço now comes to an
4 end. Goodbye, Madam.

5 Court officer is now instructed to assist with the AV booth
6 officers to ensure that the video-conference is disconnected.

7 And the Chamber would like to now hand over to parties to the
8 proceedings to make any observations, if any, on the statement of
9 suffering just made by Madam Affonço.

10 It appears to the Chamber that there is none.

11 And the Chamber wishes to also inform the parties and the public
12 that, next, the Chamber proceeds to hear the testimonies of
13 Witness Phan Van alias Kham Phan, as the Chamber already informed
14 the parties this morning that Kham -- this witness would be on
15 standby in case the testimony of Madam Affonço could be concluded
16 earlier -- early.

17 [15.28.50]

18 Now it is appropriate time for some break. The Court will adjourn
19 for 15 minutes. The next session will be resumed by five to 4.00.
20 Court Officer - rather, quarter to 4.00.

21 (Court recesses from 1529H to 1546H)

22 MR. PRESIDENT:

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

24 And without further ado, we would like to now hand over to
25 counsels for Mr. Nuon Chea to continue putting questions to the

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1 civil -- rather, to this witness.

2 MR. SON ARUN:

3 Good afternoon again to you, Mr. President and Your Honours. I
4 would like now to continue putting a few more questions.

5 Mr. Kham Phan, what should I call you? I call you Kham Phan or
6 Phan Van?

7 [15.48.08]

8 MR. PHAN VAN:

9 Officially, I am known as Phan Van.

10 MR. SON ARUN:

11 Mr. Phan Van, this morning I asked you a few questions already,
12 but I had not completed the questioning. I have a few more
13 questions to put to you.

14 In the telegrams, telegram number 40-

15 Before reading the content of the telegram, I would like Mr.
16 President's leave to bring seven telegrams -- to bring seven
17 telegrams to the witness for examination.

18 MR. PRESIDENT:

19 You may proceed, but please tell the Chamber the identification
20 of the document, for example ERN numbers.

21 [15.49.18]

22 MR. SON ARUN:

23 These documents include telegram 00, telegrams number 2, number
24 3, and another telegram number 3, but different content, and
25 telegrams number 10, 22, and 33.

1 MR. PRESIDENT:

2 We would like you to tell the Chamber the identification of the
3 document which is the ERN number or E number, for example, not
4 just these numbers you said.

5 MR. SON ARUN:

6 (No interpretation)

7 MR. PRESIDENT:

8 (No interpretation)

9 [15.50.13]

10 MR. SON ARUN:

11 Document E3/1196, which is telegram number 33; document E3/1195,
12 telegram 22; E3/1194, telegram number 10; E3/1189, telegram
13 number 3; document E3/1193, telegram number 3 as well; document
14 E3/1192, telegram number 2; document E3/1191, telegram 00.

15 MR. PRESIDENT:

16 You may proceed.

17 Court officer is now instructed to bring these documents from
18 Counsel Son Arun to the witness for examination.

19 MR. SON ARUN:

20 Mr. Witness, are you ready for me to put you some questions? I
21 think you have already obtained the documents.

22 [15.52.13]

23 MR. PRESIDENT:

24 Counsel Son Arun, to assist the proper conduct of the
25 proceedings, I think it would be best if you can put a document

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1 at a time when you're putting questions to the witness, because
2 if you now giving him the seven documents all together, it makes
3 it difficult for him to focus on any particular document you
4 would refer to.

5 MR. SON ARUN:

6 Mr. President, I would like to ask a general question to him, not
7 necessarily any particular content of any of the documents. I
8 would like to ask him about the format of the documents.

9 This morning I was cut short when I was talking about the logo of
10 a Naga and some letters, "tela" -- like that.

11 [15.53.21]

12 MR. PRESIDENT:

13 You may proceed, Counsel.

14 QUESTIONING BY MR. SON ARUN RESUMES:

15 Q. Mr. Witness, you now have the documents in hand. Can I ask you
16 some questions, please?

17 MR. PHAN VAN:

18 A. You may, of course.

19 Q. You decoded the telegrams during the time you worked there.
20 Can you please tell the Chamber, how long had you been decoding
21 the telegrams?

22 A. I worked as a telegram decoder before Phnom Penh fell. A short
23 while after Phnom Penh fell, I was a driver, and my sister was my
24 successor in the Telegram Section.

25 Q. Can you give us some estimation as to how many months or years

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1 you've been working at that section?

2 A. About two years.

3 Q. Thank you. Do you remember when you last decoded a telegram?

4 A. It was late 1975 or early 1976.

5 Q. You said that your sister was your successor in that section;
6 is that correct?

7 [15.55.26]

8 A. Yes, it is.

9 Q. So, in these seven documents that I plan to put some questions
10 to you about, in particular the form and format of the documents,
11 perhaps you are not in the best position to tell the Chamber
12 about them because you did not have knowledge of them. If so, you
13 can say you don't know. Is it -- is it a fair understanding of
14 your situation now?

15 A. Yes, it is. I don't know.

16 Q. Thank you.

17 Before your sister took over from you at the Telegram Decoding
18 Section, and during the period of two years that you had been
19 working in this particular section decoding all these telegrams,
20 do you remember that the telegrams are of the same format like
21 the ones you see right now?

22 A. Indeed, the format of the telegrams and how -- or the layout
23 in the -- of the telegrams are exactly the same.

24 [15.56.57]

25 Q. Now, these telegrams bear some numbers and dates and also the

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1 name of the people who had - had sent them, addressing to some
2 individuals, including Brother Nuon or Khieu. But, if you look at
3 the bottom of the telegrams and you would see the address and the
4 name like "tela" in Latin in Khmer scripts, were these the
5 formats of the telegrams sent out to people during the period
6 when you worked as a decoder?

7 A. During that period, there was no such script -- "tela", like
8 that, but indeed there were dates and names.

9 Q. So, the seven telegrams I showed to you, do you believe that
10 these are the genuine telegrams sent from Sector 105 to Upper
11 Echelon?

12 A. I believe that, as long as the originality of these documents
13 are concerned, it is true that they could have been sent from
14 Sector 105 to the Upper Echelon, but the difference in that is
15 that I never heard of "tela" or seen such script on any of the
16 telegrams before, when I worked there.

17 Q. You said you agreed with us that these are the formats of the
18 telegrams, but now you don't agree that there should be some kind
19 of "tela" script on the pages. What is your testimony now, then?

20 [15.59.04]

21 MR. PRESIDENT:

22 Co-Prosecutor, you may now proceed.

23 MR. DE WILDE D'ESTMAEL:

24 Thank you, President. Just a few points with respect to the
25 Defence's line of questioning.

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1 This morning, prior to the interruption, the witness stated very
2 clearly that it was a telegram -- he validated the authenticity
3 of the telegram, based on its appearance and formatting.

4 Secondly, with respect to whether he was there or not, I think
5 the Defence is trying to mislead the witness. Among the documents
6 presented, some do bear a few common points with those that we
7 have presented, and in fact, they are documents that were sent to
8 the Centre from Sector 105; this was confirmed by the witness.

9 Now, where the Defence is misleading the witness is that these
10 documents were not sent from Sector 105, but in fact, they were
11 simply received by the Centre. And, as it was made very clear,
12 there was a process in place -- either at Sector 105 -- telegrams
13 were typed, written, and coded or decoded.

14 [16.00.41]

15 As far as the documents which were received by the Centre are
16 concerned, they do not bear the same characteristics as those
17 which were sent by Sector 105 or copied. These documents were not
18 used by Sector 105.

19 The Defence should enlighten the witness on which documents were
20 found here, in Phnom Penh.

21 Thank you, Mr. President.

22 MR. SON ARUN:

23 Mr. President, please allow me to respond to the prosecutor
24 briefly.

25 These pieces of evidence are precise and they are now being used

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1 before the Chamber. They're genuine documents.

2 If the prosecutor does not agree that these documents could have
3 been sent from 105 to the Central Committee or if prosecutor
4 rules that -- or submits that these documents are fake, then we
5 would like witness to shed light on this. If witness says that
6 they are not official documents, then let it be.

7 MR. DE WILDE D'ESTMAEL:

8 (No interpretation)

9 [16.02.38]

10 MR. PRESIDENT:

11 Counsel, we see that the documents you've given to witness were
12 the documents typewritten and received in Phnom Penh, and he, the
13 witness, was talking about his knowledge of the formats of the
14 telegrams that he saw at Sector 105, which share the same format.
15 So, if you would like to ask question on this, it would be best
16 if you addressed the questions to those who decoded such
17 telegrams in Phnom Penh because the documents were received in
18 Phnom Penh. And, if you would like to put these documents to ask
19 him some questions, then you would ask him whether he was in
20 charge in Phnom Penh, receiving some telegrams from Sector 105,
21 because if he received the messages at 105 during his tenure,
22 then he would be able to understand or shed light on the format
23 or the documents themselves.
24 We already learned that the same -- or similar incident happened
25 in Case File 001, where annotations would be made on some pieces

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1 of the documents.

2 So, to be clear and so that we are on the same page, the
3 documents here are received -- or were received in Phnom Penh,
4 and that -- this witness did not work in Phnom Penh, so he would
5 not be able to tell you anything about it.

6 [16.04.40]

7 MR. SON ARUN:

8 The purpose of putting such questions to Mr. Phan Van is to know
9 whether he has ever seen the same form of documents during the
10 time he worked there. So, it is -- our understanding is that he
11 already left the place when these documents were prepared. He
12 admitted that these forms of documents were familiar. And I asked
13 question about the dragon -- rather, Naga logo and script-

14 MR. PRESIDENT:

15 Counsel, I think it is not hard to understand. It is the format
16 itself that witness already confirmed to be the same format he
17 was knowledgeable of during that time. So your questions would be
18 more relevant to some more telegram decoders or those who would
19 have been working in Phnom Penh, who would be more familiar with
20 these formats than the witness before us, because additional
21 texts on the telegrams would be impossible for this witness to
22 verify.

23 [16.06.19]

24 BY MR. SON ARUN:

25 Thank you, Mr. President. I would like to continue to other

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1 questions.

2 Q. On almost every telegram sent out from 105, we find that
3 Brother Nuon was copied. Based on your experience working as the
4 telegrams decoder, do you understand this message, the message
5 addressing to somebody, for example, and then copied to somebody?
6 What is the difference between addressing to and copy to?

7 MR. PHAN VAN:

8 A. I don't think I understand this very much because, as a
9 telegram decoder, I would be in -- tasked with decoding the text
10 only, and people who was in charge of typing the telegram would
11 be tasked with typing only.

12 Q. Mr. Kham Phan, you said you worked as a driver and you would
13 drive Madam Ieng Thirith back and forth, and at the same time you
14 also testified that, when you worked at B-20 for some period of
15 time, you got to know some senior leaders, including Pol Pot,
16 Nuon Chea, Ieng Sary, Khieu Samphan, Hu Nim, and Hou Youn. That's
17 what you said.

18 My question to you is: Did you know Nuon Chea very well?

19 [16.08.30]

20 A. Yes, I did.

21 Q. Did you ever encounter him or converse with him in your
22 capacity as the driver?

23 A. Yes, I did.

24 Q. If you knew him very well, can you tell the Chamber, please,
25 what was - what is Mr. Nuon Chea like -- or what was he - what

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1 was he like? Was he a kind of barbaric person, unfriendly
2 individual, or a gentle man, a man of righteousness and
3 consciousness, a man who loved his own nation and countrymen?

4 A. I knew him very well after the Vietnamese entered Phnom Penh,
5 when we went to the jungle together.

6 Q. I do not think you have answered my question yet. Tell the
7 Chamber, please, about your impression concerning his character.

8 [16.10.04]

9 A. Counsel, could you repeat the question?

10 Q. Thank you. I would like now to put you this question again.

11 You said you knew Mr. Nuon Chea very well. You had opportunities
12 to converse with him, both officially and informally. As his
13 subordinate, can you describe his personality? Was Nuon Chea a
14 cruel person, a person who detained each and every one
15 arbitrarily, or was he a gentle man, a good leader, a man who
16 loves justice and his own country like other leaders did?

17 A. As I indicated, we went -- or ran away into the jungle
18 together for the struggle cause. However, as I knew you put this
19 question, you asked whether he loved his own country and
20 countrymen or not; I don't understand the term precisely.

21 I'd been fully engaged in the Movement; I noted that he did not
22 love his own country very much, but he was in favour of
23 individuals. He would implicate people for being enemies, those
24 he didn't like. I do not think he would be the person best
25 described as someone who loved his own country very much.

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1 [16.12.00]

2 Q. Thank you.

3 This morning you responded to questions put by my colleague that
4 the Vietnamese entered the country and Sarun had been in power.

5 When Sarun had been in power, more and more people kept
6 disappearing. With that, when you said a lot of people
7 disappeared, did you learn about this first hand or did you hear
8 about it? Could you please tell the Chamber your position or
9 knowledge about this?

10 A. I knew about this. I didn't see this first hand. I learned
11 about this because I asked people some questions. I was
12 suspicious when I didn't see the people I used to see every day,
13 and they told me - the people I asked told me that these people
14 had disappeared or executed.

15 Q. So, this means that you learned about this through other
16 people?

17 A. Yes, I did.

18 [16.14.02]

19 Q. Before the Chamber, yesterday, you also stated that Mr. Nuon
20 Chea sent telegrams to your father and Mr. Kham Phuon, inviting
21 them to go to Phnom Penh for a study session, but your uncle,
22 Kham Phuon, and your father died during this period, when they
23 were in Phnom Penh. Did you know or were you aware that the
24 telegram sent to your father by Nuon Chea was received by your
25 father personally, or was it sent through someone else?

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1 A. At that time, my sister was at work and she received the
2 telegram on my father and uncle's behalf.

3 Q. Did you see that telegram?

4 A. No, I didn't.

5 Q. Since you didn't see the telegram, how could you respond to
6 the Chamber? Did you speculate on this?

7 A. I didn't speculate, I was very clear in my mind because my
8 father told me that Brother Number Two sent the telegram for him
9 and my uncle to go to Phnom Penh for work, and I also learned
10 that my father and my uncle prepared to go to Phnom Penh because
11 of the telegram.

12 [16.15.53]

13 Q. When Ta Laing, your father, came to Phnom Penh at the
14 beginning, did he go there alone or was he accompanied by another
15 person?

16 A. I don't recollect this.

17 Q. In your record of interview before the Co-Investigating
18 Judges, document E3/58 - ERN: in Khmer, 00239937; English,
19 00250089; French, 00288915 -- you stated that:

20 "Apart from this, Nuon Chea wrote typewritten telegrams that he
21 sent to sector secretaries, including Ta Sophea, member of the
22 sector in charge of military, to my father, and to other people
23 so that they could be invited to attend study sessions in Phnom
24 Penh. My father and Kham Phuon were executed during one of the
25 study sessions."

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1 [16.18.06]

2 Here I would like to seek some clarification. You said that these
3 people went to Phnom Penh after they received a telegram from Mr.
4 Nuon Chea. Your father, Ta Laing, indeed, and your uncle, and
5 other person, a witness, and you yourself accompanied them to
6 Phnom Penh. According to your best recollection, did your father
7 and Mr. Kham Phuon go to Phnom Penh alone?

8 A. I already stated clearly that we came to Phnom Penh all
9 together -- my uncle Kham Phuon, my father, I myself, and another
10 person who was their bodyguard.

11 Q. So, when Ta Nuon Chea wrote this letter or telegram, he wanted
12 to invite four people to Phnom Penh, not necessarily inviting Ta
13 Laing alone to Phnom Penh. Is that what we understand from your
14 statement?

15 A. Yes, it is correct. The telegram was meant to invite these
16 people. It invited only two individuals, my uncle and my father,
17 but then two people accompanied them.

18 Q. The telegram Nuon Chea sent to your father was not seen by
19 you, but when you accompanied - but, indeed, you accompanied your
20 father on the trip. Who actually -- or who did actually receive
21 the telegram sent by Nuon Chea?

22 [16.21.05]

23 A. I said that clear already that it was my sister who received
24 the telegram.

25 And, again, let me emphasize on this, the letter or the telegram

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1 was sent to my father and my uncle only, but two additional
2 people accompanied them to Phnom Penh.

3 [16.21.36]

4 MR. SON ARUN:

5 Thank you, Mr. Witness.

6 And thank you, Mr. President and Your Honours. I have no further
7 questions to put to the witness.

8 MR. PRESIDENT:

9 Thank you.

10 And we would like now to proceed to counsels for Mr. Khieu
11 Samphan if you would like to put some questions to him.

12 QUESTIONING BY MR. KONG SAM ONN:

13 Thank you, Mr. President. Good afternoon to members of the Bench.

14 Good afternoon, Witness. I am the national defence counsel for
15 Mr. Khieu Samphan. I have a few questions to ask you. I am
16 conscious of the time; we have a few minutes before we break for
17 the day, and I may resume tomorrow if I cannot finish my
18 questions this afternoon.

19 [16.22.51]

20 Q. I would like to begin my question concerning Mr. Khieu
21 Samphan.

22 You testified earlier that you know Mr. Khieu Samphan. When did
23 you first know him?

24 MR. PHAN VAN:

25 A. I knew him when I was very young. At that time, I was with

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1 B-20 and I knew him from there.

2 Q. Do you recall the year when you knew him back in B-20?

3 A. I do not recall the year, but if you want to be clear about
4 that, you can ask Mr. Khieu Samphan yourself.

5 Q. Well, I can ask him, of course, but I am now asking you, so
6 please respond to my question. And, if my question is not clear,
7 feel free to seek clarification.

8 Now, when you first knew Mr. Khieu Samphan, what was - what was
9 the position he held at the time? Do you know that?

10 A. I was -- I was very young at that time.

11 Q. How old were you back then?

12 [16.24.22]

13 A. I do not even recall my exact age at the time.

14 Q. Well, do you know what position Mr. Khieu Samphan held at the
15 time?

16 A. No, I didn't. I simply addressed him as "Uncle", and everyone
17 called him "Uncle" at the time.

18 Q. Who introduced you to Mr. Khieu Samphan? Or did you only knew
19 him by accident? Could you tell the Court the circumstance that
20 led you to know Mr. Khieu Samphan back then?

21 A. At the time, my father sent me for a training session.

22 Q. Could you please be more precise? Where did you receive the
23 training?

24 A. It was at B-20, as I - as I told you earlier.

25 Q. What did you study at the time in the training course?

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1 A. I was taught how to write as well as to decode a telegram.

2 [16.26.11]

3 Q. Did you learn how to write Khmer or any other languages?

4 A. It was Khmer language.

5 Q. How about the decoding of telegrams? What – what are you
6 talking about? Can you tell us what you really studied at the
7 time?

8 A. We learned how to decode telegrams, as well as the codes used
9 in radio communication.

10 Q. Do you recall who your trainer was at the time?

11 A. As I told you earlier, at the time -- and Sim, to my
12 recollection -- Sim was the instructor.

13 Q. Was she the only instructor, or there was any other
14 instructors?

15 A. I can only recall her.

16 Q. Thank you.

17 Now I would like to look at K-17.

18 Can you tell the Court what K-17 did at the time?

19 [16.28.16]

20 A. Back then it was called the Messenger Office, and its code
21 name was K-17.

22 Q. How long did you work at K-17? And, if you can, please tell
23 the Court from which year to which year.

24 A. Are you asking me about K-17 attached to Sector 105 or K-17 at
25 the Centre? Because I myself was working at K-17 at Sector 105.

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1 Q. Of course, I am asking you about K-17 at Office -- or Sector
2 105.

3 A. At Sector 105, K-17 was called the office of the sector. Now,
4 it was -- in the present day, the equivalent structure of this
5 office was the provincial hall.

6 Q. Can you tell the Court the general structure of Sector 105,
7 particularly K-17?

8 A. I do not recall it well; at the time, I was too young. I could
9 only recall some basic structure. But in terms of the overall
10 structure of this office, I do not recall completely.

11 Q. Can you specify the year when you started your work at K-17
12 and the time you departed or you left this office? What year was
13 it?

14 [16.30.28]

15 A. K-17 was set up before the liberation of Phnom Penh,
16 approximately a year prior to the fall of Phnom Penh, and I
17 stayed there up until the day my father died.

18 Q. Is it fair to say that you started working there from 1974 up
19 until 1977? Is that a fair summary of that event?

20 A. That is correct; it was about this many years.

21 MR. PRESIDENT:

22 The time is now appropriate for the day's adjournment. Thank you,
23 Counsel. The time is appropriate for adjournment.

24 I note that defence counsel is on his feet. You may proceed,
25 Counsel.

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1 [16.31.53]

2 MR. PAUW:

3 Thank you, Mr. President. I will be very, very brief and
4 conscious of the time.

5 I simply wanted to inform you that today will be the last day
6 that I appear before your Chamber. My first appearance before you
7 was almost exactly two years ago, and they have been memorable
8 years.

9 And as a lawyer, I simply want to stress that I feel that this
10 tribunal can do more to promote the rule of law in Cambodia
11 today, and it can do more to promote the accountability before
12 the courts of anyone, regardless of their position, and it can do
13 more to stress the importance of the independence of the courts
14 in Cambodia.

15 I believe that should be part of the legacy that the ECCC leaves
16 behind. I think it is in your hands and the hands of the Trial
17 Chamber and I think it is not too late to start.

18 I thank you all, Prosecution, civil parties, my colleagues from
19 the Defence and--

20 [16.33.10]

21 MR. PRESIDENT:

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

23 MR. PICH ANG:

24 With all due respect, Mr. President, I think that it is not
25 appropriate to make this statement at this juncture, and I

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1 believe that this is a statement that the parties may wish to
2 make, but it may unnecessarily affect the Chamber as a whole.

3 MR. PRESIDENT:

4 Mr. Jasper Pauw, you are not granted the floor to make any
5 further statement.

6 And the time is now appropriate for the day's adjournment. The
7 Chamber will adjourn now and will resume tomorrow, at 9 o'clock
8 in the morning.

9 And tomorrow the Chamber will hear the testimony of Mr. Phan Van.

10 And, following the completion of the testimony of the current
11 witness, the Chamber will hear another witness, TCW-665.

12 [16.34.27]

13 Mr. Phan Van, your testimony has not yet come to an end. The
14 Chamber will resume hearing you tomorrow morning, so the Chamber
15 wishes to invite you once again to come to the Court tomorrow
16 morning, at 9 o'clock.

17 And, Duty Counsel, please be also advised that we will resume the
18 hearing of the testimony of your client tomorrow, and you are
19 also invited to attend tomorrow's hearing.

20 And court officer is instructed now to facilitate the
21 transportation and accommodation for the witness and have him
22 back to this courtroom before 9 o'clock in the morning.

23 And, the Duty Counsel, please also come to the Court by the
24 scheduled time.

25 Security guards are instructed to bring the co-accused back to

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1 the detention facility and bring them back to the courtroom
2 before 9.00 tomorrow morning. And as for Mr. Ieng Sary, he is
3 going to be brought to the holding cell downstairs, where the
4 audio-visual equipment is connected to him to follow the
5 proceedings remotely.

6 The Court is now adjourned.

7 (Court adjourns at 1635H)

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