

**Playing “Telephone”: Relay Interpretation in Case 002**  
Anne Heindel, Legal Advisor – Documentation Center of Cambodia  
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Ensuring adequate and timely translation and interpretation between the Extraordinary Chambers in the Courts of Cambodia (ECCC)’s three official languages — Khmer, English, and French — has been a continuous administrative, manpower, and financial challenge. The working languages of most international courts include both English and French. France is the former colonial power in Cambodia and has been a major donor to the ECCC since its inception. Nevertheless, today French is not as commonly studied or spoken in Cambodia as English, and the ECCC has consistently suffered from a dearth of Khmer to French translators and interpreters. As one consequence, the Court has had significant difficulties providing competent French interpretation and been forced to adopt a relay system during hearings, resulting in “simultaneous” interpretation from Khmer to English to French and then back again.

The Khieu Samphan team — the only defense team in Case 002 that is co-led by French lawyers — has repeatedly challenged the adequacy and comprehensiveness of document translation into French. The team recently filed a motion highlighting its concerns about French interpretation during trial:

Since the beginning of the substantive hearings, Mr KHIEU Samphan's Defence has been experiencing problems with the simultaneous interpretation on relay of the trial proceedings. ... Whether dealing with a dialogue in Khmer between two speakers or a Khmer-English dialogue, the French interpreter is often unable to complete his/her interpretation before the answer commences. ... Such difficulties create confusion in the French interpretation which affects the substance of witnesses' testimony.<sup>1</sup>

The potential for confusion and time delay is exemplified by the following exchange during one witness’s testimony:

MR. PRESIDENT: Witness, you don't need to respond. The witness already responded to that question.

MR. VERCKEN: Not in French; we did not understand what he answered in French. That's why I'm asking for clarification. Maybe it was understood in Khmer, but I did not understand it in French. So, if I don't have any clarification on the reasons, then —

MR. PRESIDENT: Witness, you do not need to respond. The question has been answered already by the witness. It's a repetitive question. The Chamber has noted that this morning you have asked a number of repetitive questions.

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<sup>1</sup> Request by Mr. KHIEU Samphan’s Defence for Review of the French Transcripts of the Proceedings, ¶¶ 1, 3-4 (May 16, 2012).

MR. VERCKEN: Mr. President, I wish to remind you that we're working in three languages, so if I have — I don't have a translation I can rely on to continue my examination, what you're doing is you are preventing me from continuing with my examination. Maybe in Khmer you know what was said, but for me, in French, it's not clear, and I need this clarification. It's maybe just a question of language, but how do you want me to proceed if I don't have the exact message? It's not a very important issue or — I'm not asking for anything extraordinary....

MR. PRESIDENT: The Chamber has already ruled. You can pose another question. As we have noticed, you have repeatedly put the same questions to the witness.

MR. VERCKEN: That is not correct. So thank God my Cambodian colleague is assisting me....<sup>2</sup>

According to the Khieu Samphan team, the lack of clarity for French speakers during witness testimony is compounded by the importation of errors and omissions into official trial transcripts.<sup>3</sup> The ECCC Internal Rules state that, unless specific applications for corrections are made, “[t]he daily written record of the proceedings prepared by the Greffier shall be deemed to represent faithfully the conduct of the hearings.”<sup>4</sup> The team has compared the French and Khmer versions of several witness statements and highlighted passages where substantial information is missing — five entire sentences on one occasion — or is translated with varying import in the French version. For example, one official French transcript reportedly states:

In 1966, as you may already know, certain important events did occur. That made us realise that a coup d'état could take place at any moment.

In contrast, the Khmer version reportedly states:

In 1966, as you may recall, the 1966-1970 Legislature was established. The forces in the then Senate and Assembly were fully pro-Lon Nol. And I insist on the term "fully", except three progressives, namely Khieu Samphan, Hou Yun and Hun Nim. Apart from these three individuals, there were two other centrist forces, including those of Kao San. The rest were entirely Lon Nol forces. We thus realised that a coup d'état could occur at any moment.<sup>5</sup>

Requesting the Chamber to have all French trial transcripts reviewed for accuracy, the team argued that although their team includes Khmer-speaking lawyers, this task falls outside their responsibilities and would be too time consuming for them to undertake during ongoing substantive proceedings.<sup>6</sup> Noting that repeated requests by the Chamber President for witnesses

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<sup>2</sup> ECCC Transcript of Trial Proceedings – Case 002 at 18-19 (Aug. 2, 2012).

<sup>3</sup> See May 16, 2012 Request, ¶ 7.

<sup>4</sup> Internal Rules, R.97(3).

<sup>5</sup> May 16, 2012 Request, ¶ 11.

<sup>6</sup> *Id.* ¶ 24.

to speak slower have been ineffective thus far, the team further requested the immediate implementation of technical measures to prevent discussion from moving too swiftly for proper interpretation, including “to install a light signal allowing the last interpreter to indicate the end of his or her interpretation and the release of the microphone to the parties.”<sup>7</sup>

In response, the Trial Chamber emphasized, “All ECCC transcripts are currently prepared in accordance with transcription and interpretation standards accepted before all international tribunals, which includes the use of relay languages.” It therefore referred the team’s motion to the Interpretation and Translation Unit (ITU) for comment and noted that specific requests for transcript corrections should be directed to the ITU and not to the Trial Chamber.<sup>8</sup> It remains to be seen if the Khieu Samphan team’s request will be received favorably by the ITU and its financial overseer — the Office of Administration. This appears unlikely due to substantial financial and personnel resources that would be required to review nine months of transcripts.

The Trial Chamber’s response indicates that it sees the French interpretation inadequacies as a technical issue rather than an overarching fair trial concern. This may or may not be true depending on how prevalent and detrimental the problem — a decision that can only be made by the Trial Chamber, not an administrative organ, after a thorough evaluation. Notably, Trial Chamber Judge Lavergne is also a native French speaker. Interpretation problems may thus impact not only the quality of the Khieu Samphan team’s efforts to defend their client but also the legal assessments one of five judges who, it may be assumed, must also rely on the French transcripts in making decisions and deliberating on the final verdict.

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<sup>7</sup> *Id.* ¶ 40.

<sup>8</sup> Memorandum from Trial Chamber President Nil Nonn to All Parties, *Khieu Samphan Defense Motion E195 and Envisaged Future Procedures for Correction of Transcripts* (July 24, 2012).