



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

ព្រះរាជាណាចក្រកម្ពុជា  
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង  
Trial Chamber  
Chambre de première instance

**ឯកសារដើម**  
**ORIGINAL/ORIGINAL**  
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TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

20 September 2012

Trial Day 109

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

The Accused: NUON Chea  
KHIEU Samphan

Lawyers for the Accused:

SON Arun  
Michiel PESTMAN  
Andrew IANUZZI  
ANG Udom  
Michael G. KARNAVAS  
KONG Sam Onn

Trial Chamber Greffiers/Legal Officers:

SE Kolvuthy  
Roger PHILIPS  
DUCH Phary

Lawyers for the Civil Parties:

For the Office of the Co-Prosecutors:

CHAN Dararasmeay  
Keith RAYNOR  
VENG Huot

PICH Ang  
Élisabeth SIMONNEAU-FORT  
LOR Chunthy  
Beini YE  
SAM Sokong  
VEN Pov  
CHET Vanly  
Françoise GAUTRY

For Court Management Section:

UCH Arun

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**List of Speakers:**

Language used unless specified otherwise in the transcript

<b>Speaker</b>	<b>Language</b>
MR. ANG UDOM	Khmer
MR. CHEA SAY (TCW-91)	Khmer
MR. IANUZZI	English
MR. KARNAVAS	English
MR. KONG SAM ONN	Khmer
JUDGE LAVERGNE	French
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. PESTMAN	English
MR. PICH ANG	Khmer
MR. RAYNOR	English
MR. VENG HUOT	Khmer
MS. YE	English

1

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

2 (Court opens at 0901H)

3 MR. PRESIDENT:

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

5 Ms. Se Kolvuthy, the greffier, could you report the attendance of  
6 the parties and individuals to the proceeding today?

7 THE GREFFIER:

8 Mr. President, all parties to the proceeding are present, except  
9 the accused Ieng Sary, who is absent due to his health issue.

10 However, the Accused waived his rights to hear the testimony of  
11 TCW-91. The letter of waiver has been submitted to the greffier.

12 Arthur Vercken, the international lawyer for Khieu Samphan is  
13 absent due to personal affair.

14 And Ms. Françoise Gautry, the civil party lawyer who has already  
15 been recognized by the Bar Association of Cambodia has yet to be  
16 recognized by the Trial Chamber.

17 [09.04.02]

18 As for -- the witness TCW-91, who is to testify today, is waiting  
19 in the room to be called by the Chamber. The witness confirms to  
20 his best knowledge, he has no relation by blood or by law to any  
21 of the three Accused or any of the civil parties who have been  
22 recognized in this case. The witness already took an oath this  
23 morning.

24 The duty counsel is Seng Rethy.

25 MR. PRESIDENT:

2

1 Thank you.

2 In today's proceeding, the Chamber noticed one of the civil party  
3 lawyers who has not yet recognized by the Trial Chamber. And the  
4 Chamber, in pursuant to the applicable Internal Rule, will  
5 initiate the process of recognition of this civil party lawyer.

6 [09.05.37]

7 Pursuant to Rule 22.2(a) of the Internal Rules, the Chamber would  
8 like to invite Mr. Pich Ang, the Civil Party Lead Co-lawyer, to  
9 stand up and request for the recognition of this international  
10 civil party lawyer, as he has not yet been recognized by the  
11 Trial Chamber.

12 MR. PICH ANG:

13 Good morning, Mr. President, Your Honours, and parties to the  
14 proceeding, and everyone.

15 [09.06.21]

16 Behind me is Ms. Françoise Gautry; she is French and she is from  
17 the Advocate Without Border. She is from the Bar Association of  
18 Corrèze from France, and in Cambodia she has been recognized by  
19 the Bar Association of Cambodia. She also took an oath before the  
20 Court of Appeal of Cambodia in 2009. For that reason, I request  
21 the recognition by the Trial Chamber so that she can defend the  
22 interest of the civil parties before this Chamber.

23 I am grateful, Your Honour.

24 [09.17.02]

25 MR. PRESIDENT:

3

1 Thank you.

2 Ms. Françoise Gautry, please stand.

3 Ms. Françoise Gautry, you are hereby recognized by the Trial  
4 Chamber as a lawyer for civil parties for the purpose of the  
5 proceedings before this Chamber. And based on that recognition,  
6 you enjoy the same rights and privileges as those of the civil  
7 party lawyers. Please be seated.

8 [09.08.00]

9 The Chamber would like to inform the parties and the general  
10 public that, during the last few days the Trial Chamber postponed  
11 the proceeding in hearing the testimony for a total of five days  
12 -- that is two weeks -- two days from last week, and three days  
13 within this week. The reason is that the accused Ieng Sary has  
14 health issue -- that he has to be treated in the hospital at the  
15 Emergency Unit at the Khmer-Soviet Friendship Hospital since last  
16 Friday. So far he is still being treated at that hospital.

17 [09.08.54]

18 And the Chamber also schedules to hear the witness TCW-307 last  
19 week, who was summoned by the Trial Chamber as a reserve witness  
20 since the first week of September and the subsequent weeks.

21 However, due to the clear position by the accused Ieng Sary not  
22 to waive his right to hear the testimony of that witness,  
23 TCW-307, the Chamber could not hear the testimony as a result,  
24 and today the Trial Chamber will hear the testimony of the  
25 witness, TCW-91.

4

1 Although Ieng Sary is still being treated at the hospital, as the  
2 Chamber is seized of the letter of waiver of his presence in the  
3 hearing of that witness, TCW-91, by Ieng Sary, dated 18th  
4 September 2012 through his counsel. The document is E11/87.1.  
5 [09.10.12]

6 The Chamber would like to add that, besides the witness TCW-91,  
7 who is waived by Mr. Ieng Sary to hear his testimony, Ieng Sary  
8 also request to waive his direct presence to some other witnesses  
9 and civil party; namely, TCW-475, and for that reason, that  
10 witness may be heard next week starting from Tuesday, the 25th  
11 September, without the presence of Ieng Sary, if he is unable to  
12 do so. So this is for your information.

13 And before I invite the witness, TCW-91, to the courtroom, the  
14 Chamber would like to enquire with the counsel for Ieng Sary  
15 regarding the waiver of the right of your client to hear the  
16 witness, TCW-91.

17 [09.11.30]

18 As dated in the letter on 18 September 2012 -- that is, Tuesday  
19 -- is there any change to that condition or status?

20 MR. ANG UDOM:

21 Good morning, Mr. President, Your Honours, the Co-Prosecutors,  
22 colleagues, and everyone in and around the courtroom.

23 Mr. Ieng Sary attended the hearing in order to expedite the  
24 proceeding before this Chamber. And although he is being treated  
25 at the Khmer Soviet Friendship Hospital -- and as the President

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1 indicated, he waives his direct presence -- or his remote  
2 presence to hear some witnesses, including TCW-91. However, for  
3 these witnesses, in a circumstance where the testimony is  
4 different from what is already in the case file or where the  
5 testimony incriminates my client, then we wish that his waiver is  
6 nulled and void and await his direct presence to hear that  
7 witness. Thank you.

8 [09.13.16]

9 MR. PRESIDENT:

10 Thank you.

11 Court Officer, could you invite the witness TCW-91 into the  
12 courtroom?

13 Defence Counsel, you may proceed.

14 MR. PESTMAN:

15 Thank you. Thank you very much, Mr. President. I would, first of  
16 all, like to say that I am very happy to be back. I haven't been  
17 back in the courtroom since the recess for the summer. I had one  
18 small request for clarification and maybe I can do that - make  
19 that request while we are waiting for the witness to arrive.

20 During my absence, I checked the website of the Court on a  
21 regular basis, and I did so last week as well and I noticed that  
22 the biography of the President of this Court, Nil Nonn, has been  
23 redacted recently-- that the reference to the President -  
24 President's biography, the many publications in the field of  
25 Criminal Law has been taken out of the biography. It's not there



6

1 anymore, while it used to be there until recently.

2 [09.14.30]

3 This is surprising, as I have asked for this list of publications  
4 on various occasions in the past. I asked for this list on the  
5 24th of April, on the 13th of June, and also on the 18th of June  
6 in Court and also in writing to the Senior Legal Officer of this  
7 Court. And I have never received an answer.

8 I am still curious, more than ever, to know why the biography of  
9 the President of this Court was redacted and why we were never  
10 informed about the reasons why the reference to the many  
11 publications in the field of International or Criminal Law has  
12 been deleted.

13 [09.15.20]

14 Does this mean -- we would like to know - does this mean  
15 President Nil Nonn has not published many publications in the  
16 field of Criminal Law, which I am beginning to suspect? And if  
17 this is the case, all this suggests a creative approach to facts  
18 unbecoming a Judge or a Trial Chamber which is supposed to  
19 independently and vigorously pursue the truth.

20 So we would like to have a clarification as to why the biography  
21 of the President of this Chamber has been changed and why the  
22 reference to the many publications in the field of Criminal Law  
23 has been deleted without informing us about the reasons why.

24 Thank you.

25 (Short pause)

7

1 [09.16.48]

2 MR. PRESIDENT:

3 Thank you, Defence Counsel, for your notice regarding my personal  
4 biography.

5 And I would like to state that this is a separate issue, and it's  
6 a minor issue related to my biography. Let me say that I am not  
7 the one who made many publications, I made some publications for  
8 the purpose of internal use of the - some of the national courts  
9 and at the school for judges. And they are summary reports.

10 However, regarding the consultation with some lawyers, they  
11 suggested that those articles or publications should be included  
12 in my biography.

13 [09.17.52]

14 Those articles mainly dealt with the criminal aspect of the law  
15 on the sentencing issues, for instance, so that the articles can  
16 be used at the school of judges. And many of those students are  
17 interested in those articles while I was teaching at that school.  
18 And I wrote many articles regarding the rules for the  
19 administration of the domestic courts. It does not mean I am the  
20 sole author; it means that I have experience in that area at the  
21 level of - at the national level.

22 [09.18.40]

23 And as I observe that, here, the standard of writing is much  
24 higher; in particular, in reference to the footnotes, which is an  
25 international standard -- is much higher than my writing or

8

1 article, and based on that I consulted with the legal officers as  
2 that, there could be controversy coming out of the inclusion of  
3 that portion in my biography, because such writing of article  
4 should not be included in the biography as -- in compared to some  
5 other biographies before the ECCC -- and that is all.

6 And if you would like to find all those articles or publications,  
7 you can go to the school for judges as I left copies there while  
8 I was teaching there and sharing experience there regarding the  
9 rules for sentencing according to the Cambodian law, during the  
10 transitional period, as well as the regulations regarding the  
11 administration - the judicial administration during the  
12 transitional period before the enactment of the code of criminal  
13 procedure, or the code of the civil procedure.

14 [09.20.24]

15 And let me say that you can find those articles. I am not the one  
16 who writes books and sells books as a profession, but those  
17 articles are available.

18 Court Officer, could you invite the witness into the courtroom?

19 My response is more than sufficient for you regarding the matter  
20 you raised. And if you are not satisfied, you can do so further  
21 according to the applicable rule and procedure before this ECCC.

22 And, Mr. Michiel Pestman, if you still have issues regarding this  
23 matter, you can make it in writing to respond to my statement  
24 just then. Because, so far, there has been some controversies  
25 regarding oral and written submissions versus oral and written

1 ruling, or response -- and we already set the schedule that this  
2 morning the floor would be given to one side of the Court, and  
3 for the afternoon session, it will be allocated to the other side  
4 of the Court, and I will not allow the time to be debated on  
5 other issues which was not as part of the scheduling for today's  
6 proceeding.

7 QUESTIONING BY THE PRESIDENT:

8 Q. Good morning, Mr. Chea Say. Is Chea Say your correct name?

9 [09.22.55]

10 MR. CHEA SAY:

11 A. Good morning, Mr. President. My name is Chea Say.

12 Q. Beside Chea Say, do you have any other names or alias?

13 A. (Microphone not activated)

14 Q. Please wait, Mr. Chea Say, until you see the red light on your  
15 microphone. You will see the red light on the head of the  
16 microphone and on the console and then you can start to speak as  
17 three languages are used in this Court.

18 Mr. Chea Say, how old are you?

19 A. I am 59 years old.

20 Q. Where is your current address?

21 A. My address is at Khlong village, Ou Tavau commune, Pailin  
22 district, Pailin city.

23 Q. What is your current occupation?

24 A. I am a farmer.

25 Q. What is your father's name?

1 A. His name is Koeut Chea.

2 [09.24.41]

3 Q. And your mother's name?

4 A. Her name is Chea Pheng.

5 Q. What is your wife's name?

6 A. Her name is Sao Sarun.

7 Q. How many children do you have?

8 A. I have four children, two boys and two girls.

9 Q. What is your level of education?

10 A. I studied literature at a school in a pagoda in year 12 in the  
11 old education system, and I ordained for one year – rather, year  
12 10 in the old system.

13 Q. Can you read and write?

14 A. I can read and write -- that is, the Khmer characters.

15 [09.26.08]

16 Q. Thank you.

17 Mr. Chea Say, as reported by the greffier, to your best knowledge  
18 you have no relation by blood or by law to any of the Accused or  
19 the civil parties in this case? The three Accused are Nuon Chea,  
20 Ieng Sary and Khieu Samphan; is that information correct?

21 A. I have no relation to any of the three Accused.

22 Q. Also, as reported by the greffier, you already took an oath  
23 before you entered this courtroom; is that correct?

24 A. Yes, I took an oath before I came into this courtroom.

25 Q. We would like to inform you of your right and obligation for

11

1 the proceeding before this Chamber. As a witness, Mr. Chea Say,  
2 for the proceeding before this Chamber, you may refuse to respond  
3 to any question which may incriminate yourselves -- that is the  
4 right against self-incrimination. It means if you believe your  
5 response might put you in a position to be prosecuted--

6 [09.27.48]

7 And as a witness before this Chamber, you must respond to  
8 questions put to you by the Bench or by any of the parties,  
9 except in the case where your response to the question, or your  
10 comment could incriminate yourselves.

11 And as a witness, you must tell the truth that you have heard,  
12 have experienced, or have remembered or what you came across or  
13 observed directly in regard to any event in the questions put to  
14 you by the Bench or by any of the parties. Do you understand  
15 that?

16 A. Yes, I do.

17 Q. Thank you.

18 Mr. Chea Say, were you ever interviewed by the investigators of  
19 the Office of the Co-investigating Judges? If so, when, and  
20 where, and how many times, if you can recall that?

21 A. It was conducted at my house, but I cannot recall the rest,  
22 but surely I was interviewed.

23 Q. How many times were you interviewed?

24 A. They came to interview me for one time. But they came to meet  
25 me for two or three times, but they were different people.

12

1 [09.30.06]

2 Q. Before you entered the courtroom, have you seen or read that  
3 record of interview that you gave to the investigators of the  
4 Office of Co-investigating Judges in order to refresh your  
5 memory?

6 A. Mr. President, let me apologize. I tend to forget quite a lot;  
7 my memory is not that great.

8 Q. Have you read the records of your interviews?

9 A. Yes, I have, but my memory doesn't serve me very well and I  
10 have to admit this.

11 Q. According to your best recollection, can you tell the Chamber  
12 after reading your record of interviews, whether the records are  
13 consistent with the accounts you gave before the investigators or  
14 not? Because you say that you gave these interviews at your home  
15 before.

16 A. Yes, indeed, Mr. President, the accounts are consistent to  
17 what I gave before the co-investigators at my home.

18 [09.31.58]

19 MR. PRESIDENT:

20 Thank you.

21 For the Co-Prosecution, during the cross-examination, the Chamber  
22 will allocate the time for the Prosecution to put questions to  
23 the witness before the other parties to the proceeding.

24 And please be informed that both the Prosecution and Lead  
25 Co-Lawyers for the civil party will be allocated the whole

13

1 morning to put questions to the witness.

2 For the afternoon session, time will be solely allocated to the

3 three defence counsels to pose the questions to the witness.

4 Mr. Co-Prosecutors and Lead Co-Lawyers would be also be asked to

5 advise the Chamber on how the time is divided among themselves so

6 that the Chamber is well informed.

7 You many now proceed.

8 [09.33.04]

9 MR. RAYNOR:

10 Mr. President, Your Honours, good morning.

11 The time will be allocated such that the Lead Co-Lawyers

12 anticipate -- for the civil parties -- anticipate that their

13 questioning will only occupy about 10 or 15 minutes of this

14 morning. I hope that helps.

15 MR. PRESIDENT:

16 Yes, it does. You -- we would like to hear also from the civil

17 parties counsel.

18 MR. PICH ANG:

19 Mr. President and Your Honours, Ms. Beini Ye will be allocated

20 the time to put questions and she may need about 20 to 30 minutes

21 for that.

22 MR. PRESIDENT:

23 Thank you.

24 Now, Co-Prosecutor, you may now proceed.

25 [09.34.06]



14

1 QUESTIONING BY MR. VENG HUOT:

2 Good morning, Mr. President. Good morning, Your Honours, and good  
3 morning, Mr. Chea Say.

4 I am from the Office of Co-Prosecutors.

5 Q. Before putting the questions, may I wish to remind you on a  
6 few points. You just stated before the Chamber that your memory  
7 is not very good for the time being. But I wish to read the  
8 document under ERN 00204084 through 85 in Khmer; ERN in English,  
9 00766337 through 38; French ERN numbers 00524341; my apologies,  
10 in French 00524341 through 42.

11 In that document you indicated that, in the previous interviews  
12 you said you worked at K-12 which was part of Office 870, and you  
13 worked at the auto repair unit from 1975 all the way to the time  
14 when the Vietnamese came in 1979. And you were tasked with  
15 repairing cars and also drove trucks to transport medics and  
16 soldiers. And you said that the head of K-12 was Ta Meal.

17 May I ask whether you know the full name of Ta Meal? Is he Sann  
18 Kroeun (phonetic)?

19 [09.36.29]

20 MR. CHEA SAY:

21 A. I wish to respond to your question. I worked with him and I  
22 only know he was Ta Meal; I don't know his full name. He was  
23 supervising a unit -- auto repair unit and that the only name I  
24 know of him.

25 Q. You said Ta Meal was removed or disappeared in 1978; do you

15

1 know what happened to him after his disappearance?

2 A. Although I used to live with him, I did not know what he did  
3 wrong. I just learned that he disappeared and that's all.

4 Q. Who was the deputy head or chairperson of K-12?

5 A. Yes, I know that person by the name of Vuy. I remember his  
6 name although not very clearly, because it was more than 40 years  
7 ago when I worked with him.

8 [09.38.09]

9 Q. You said that K-12 was part of Office 870 under supervision of  
10 Pang; what happened to Pang? Do you know about this?

11 A. Pang was known to me because he worked at K-12 and also Office  
12 870, but he then disappeared.

13 Q. I may wish to also seek clarification from you whether Pang  
14 had disappeared before Meal disappeared.

15 A. Mr. President, I don't remember concerning disappearance. I  
16 know for sure that these people disappeared, but I don't know who  
17 disappeared first and who disappeared later. It was more than 40  
18 years ago.

19 Q. Who was Pang's successor at Office 870?

20 A. At that time I am not sure, but there was a person by the name  
21 of Lin who belonged to a tribe or ethnic minority.

22 [09.40.04]

23 Q. Can you tell the Court, if you remember, where K-12 was  
24 located?

25 A. If you come all the way from Chamkar Mon, then you would pass

16

1 a hospital -- or Chinese hospital -- and that location would be  
2 on the left-hand side just across from the gas station. And K-12  
3 also had its branch office, which is an office for auto repair.

4 Q. How many people were employed at that K-12?

5 A. So far as I remember, there were two groups of people in two  
6 sections. I was tasked with repairing the trucks and driving or  
7 transporting people, and there were about 30 people in my unit.

8 Q. I would like to go back a little bit by putting a few more  
9 questions.

10 As a cadre at K-12, what information did they give you after the  
11 disappearance of Pang?

12 A. Frankly speaking, I was not a cadre. My position, at that  
13 time, was nothing but a worker. I was a person who was tasked  
14 with repairing the cars. If I were the cadre, I could have been  
15 executed or disappeared already.

16 [09.42.14]

17 Q. When Meal disappeared and when Pang disappeared, what kind of  
18 information were you told about them and who could have been the  
19 person who told you about this?

20 A. I - at that time, no one could come to tell us about the  
21 disappearance of anyone. We could just learn from one another  
22 informally because we didn't see them anymore.

23 Q. Can you also tell the Court, please, whether K-12 had already  
24 been established when you arrived or you were part of the founder  
25 of K-12?

17

1 A. K-12 Office had already been established when I came to work  
2 there.

3 Q. With regard to other cadres who worked at K-12, where did they  
4 come from?

5 A. The majority of them came from the North Zone and the East  
6 Zone.

7 Q. I would like to proceed to a more specific question to you.

8 [09.44.24]

9 Was K-12 for serving -- or providing service to Office 870 alone?

10 A. K-12 was a part of auto repair unit for Office 870, I can say  
11 because I used to see Pang coming to that unit talking or working  
12 with Ta Meal.

13 Q. Earlier on you said that there were people employed at that  
14 unit. Do you know these people very well?

15 A. I'm afraid I don't. At that time, they were younger than I was  
16 and they were young people and people went to different places  
17 and I don't remember them very well. And I remember only two  
18 people, Meal and Vuy, one was the head and one was the deputy.

19 Q. You said that 30 people worked in your unit. My question is:  
20 Did all the 30 people in the unit remain intact or some of them  
21 disappeared before 1979?

22 A. The majority of the workers at the repair - auto repair unit  
23 were removed.

24 [09.46.30]

25 Q. Do you know where they could have been removed to?

1 A. No, I don't, but I heard that - heard from others that some of  
2 them were removed to the train repair unit and some would be sent  
3 to the production unit.

4 Q. Among the 30 people, or workers, did you join the group, for  
5 example, during meal times and other discussions and meetings?

6 A. During that time, there was no big problem in my unit. After  
7 work, we could come and sit down and chit-chatted.

8 Q. You were talking about chit-chatting. Were you chit-chatting  
9 about the progress at work or about other topics?

10 A. It depends. Sometimes we discussed about the progress of work,  
11 how we could repair the cars more quickly; sometimes we discussed  
12 about foods and other things.

13 [09.48.51]

14 Q. I would like to ask you more specific questions concerning the  
15 30 people who worked at the auto repair unit. How many of whom  
16 were drivers and how many of whom were workers to repair the  
17 cars?

18 A. For these 30 people, I only refer to the auto repair section,  
19 but for the K-12, there could have been more people than that.  
20 But at the auto repair section -- I mean trucks repair section,  
21 there were only 30 people.

22 Q. You talk about trucks and cars. Who were in charge of  
23 transporting cadres to meetings? What kind of vehicle would be  
24 used to carry these people back and forth?

25 A. Cadres of a lower level would be transported by a normal

1 vehicle. If there were a lot of people, then they would take a  
2 bus and people did not care what kind of transportation used to  
3 accommodate them.

4 Q. You said that cadres didn't care about whether they would be  
5 transported in a small or big vehicle, but what kind of meetings  
6 were they transported to?

7 [09.51.32]

8 A. I, as a subordinate, would not be able to understand the  
9 content of the meeting or what could have been discussed in the  
10 meeting of the cadres.

11 Q. You said that you would not be able to know what happened in  
12 the meetings or about the meetings, but did you ever transport  
13 any of them to any meeting?

14 A. Apart from repairing the cars, or vehicles, I would be asked  
15 on some rare occasions to transport some workers, not cadres. I  
16 was sometime asked to transport garbage to be dumped at the dump  
17 sites.

18 Q. Do you know who would be in the guard units for the senior  
19 leaders?

20 A. These guards, now we could refer them as the body guards, I  
21 think I do not really remember knowing any one of them because I  
22 was so much attached to the auto repair unit and I focussed more  
23 on my work rather than wishing to know more about the others.

24 [09.53.32]

25 Q. Were you ever be promoted -- or were you ever promoted?

20

1 A. At that time, I was nowhere closer to the rank of cadre. I was  
2 merely a member, a person to be used by others, so I did not hold  
3 any position as a cadre of the regime.

4 Q. I would like to ask you a few more questions concerning Office  
5 870.

6 In your interviews, you said that 870 was in charge of  
7 supervising all the K offices and that this office was supervised  
8 by the senior leaders; document 00204084 in Khmer, English ERN  
9 00766338, French ERN 00524342.

10 With regard to this document, I would like to ask you, who else  
11 were in charge of Office 870 apart from Pol Pot?

12 A. Office 870 was supervised by some people, but I don't know  
13 them other than Pol Pot. The thing I am sure is that since Pol  
14 Pot was the top leader he could have been the one who was also in  
15 charge of 870, but I never obtained any precise information to  
16 support this argument.

17 [09.55.40]

18 MR. PRESIDENT:

19 Counsel for Mr. Ieng Sary, you may now proceed.

20 MR. ANG UDOM:

21 Thank you, Mr. President. I am not sure how well this witness is  
22 informed on responding to questions because he used - or he - in  
23 his testimony used the terms as "not sure", "not clear". May  
24 witness be advised to be more precise when giving testimony  
25 because by doing so it can save some objections from defence

21

1 counsels.

2 MR. PRESIDENT:

3 Thank you, Counsel. The Chamber will rule on this finally.

4 If witness gives testimonies that are not clear then, the Chamber  
5 will also decide on the quality of such testimonies, but now,  
6 before us, it is up to counsel or party who is on his feet, to  
7 put questions to the witness to ensure that the testimonies are  
8 straight forward and clear. And only party who is putting  
9 questions to the witness would be in the best position to get the  
10 best answers and for the Chamber, it is difficult for the  
11 President to really tell witness to be more precise than that,  
12 because it doesn't even - or it is not written in the Criminal  
13 Code of Procedure about this.

14 [09.57.49]

15 BY MR. VENG HUOT:

16 Thank you, Mr. President.

17 Q. Mr. Witness, you said that Pang was in charge of 870. Did you  
18 see Pang very often?

19 MR. CHEA SAY:

20 A. Mr. Pang sometimes came to the place to see leaders and I  
21 would see him, but he did not go there very often. He came there  
22 only occasionally.

23 Q. On what occasion that you saw Pang; which means that while you  
24 were driving or under what circumstances you saw him?

25 [09.58.49]



22

1 A. I did not meet him at Office 870 and I went to Office 870 – I  
2 heard about it while I was at K-12. Pang came to inspect the work  
3 occasionally and that was the time that I saw him. I never went  
4 and see him at Office 870.

5 Q. If the vehicle of the leaders broke down, where would they be  
6 repaired?

7 MR. PRESIDENT:

8 Witness, please wait.

9 Defence Counsel, you may proceed.

10 MR. KONG SAM ONN:

11 Thank you, Mr. President. The question by the Prosecution is of  
12 no use in ascertaining the truth as the question incorporates the  
13 word "if". And, of course, this Court cannot use a response to  
14 that kind of question as an evidence.

15 MR. PRESIDENT:

16 Thank you.

17 Witness, you do not need to respond to any of the speculative  
18 kind of question.

19 [10.00.42]

20 BY MR. VENG HUOT:

21 Thank you, Mr. President. I'll move on.

22 Q. Who authorized the use of vehicles to transport important  
23 visitors or guests to and from the airport?

24 MR. CHEA SAY:

25 A. Could you please repeat your question, as it's not clear to

1 me?

2 MR. PRESIDENT:

3 There is a correct procedure, Mr. Witness. If you are unclear,  
4 then you ask the questioner to repeat the question, as -- if you  
5 think the question is unclear, then you do not need to just  
6 plainly respond; you need to understand the question first before  
7 you respond. Otherwise, you may ask the questioner to repeat the  
8 question.

9 [10.02.00]

10 As for the national prosecutor, please rephrase your question so  
11 that it can be understood by the witness. And the witness already  
12 informed us of the limited level of education during the old  
13 regime and that he ordained for one year. And, if he studied  
14 during the times that he worked, it will be in a different  
15 circumstance.

16 So please try to simplify your questions so that the witness can  
17 understand it and respond appropriately.

18 BY MR. VENG HUOT:

19 Thank you, Mr. President.

20 Q. Let me repeat my question, Mr. Witness. When foreigners or  
21 representative of a foreign country came to visit Cambodia or  
22 leaving Cambodia through the airport, which K office that had the  
23 authority for the authorization of using vehicle to transport  
24 those visitors back and from the airport?

25 [10.03.32]

1 MR. CHEA SAY:

2 A. As for the foreign visitors coming in and going out of  
3 Cambodia, K-12 had the duty to transport them. However, that  
4 would fall under the car unit; I was at the truck unit, so I did  
5 not have this knowledge.

6 Q. (Microphone not activated)

7 THE INTERPRETER:

8 Please turn on the microphone.

9 MR. PRESIDENT:

10 The Prosecutor, could you speak on your microphone when you  
11 speak?

12 BY MR. VENG HUOT:

13 Thank you, Mr. President.

14 Q. Witness, I'd like to ask you another question. Which K office  
15 provided the transport to carry people from K-1 to K-3?

16 [10.04.40]

17 MR. CHEA SAY:

18 A. I cannot recall that. As I said repeatedly, my memory does not  
19 serve me well. I have been sick a lot since 1979 and, secondly, I  
20 cannot recall it well, so I decline to respond to this question.

21 Q. Can you recall which K office had the responsibility to  
22 transport leaders to the meeting venues or to where they make  
23 their presentations?

24 A. I am unclear as to what to respond to this question. I do not  
25 really understand the question well.

25

1 Q. The question is that -- which office -- and, as you said you  
2 were at K-12 and there were cars and buses to transport guests  
3 and people.

4 And the question is: During the transportation of leaders to the  
5 meeting venues or to where they would make their presentation,  
6 who would transport them?

7 A. As I stated repeatedly, I did not know much about the  
8 transportation of those leaders. My main duty was different and I  
9 could not know the details of such transportation of the leaders  
10 to this or that location.

11 [10.07.07]

12 MR. VENG HUOT:

13 Thank you, Witness. I have no more questions for you, but I'd  
14 like to give the floor to my international colleague to put  
15 questions to you.

16 Thank you, Mr. President.

17 QUESTIONING BY MR. RAYNOR:

18 Q. Mr. Chea Say, can I please just pick up on the parts of K-12?  
19 You worked, you've said, in the auto repair unit and you've  
20 mentioned that there was another part of K-12. What did you call  
21 the other part?

22 MR. CHEA SAY:

23 A. Office K-12 had different sections designated with the initial  
24 "K" as well, but K-12 was the auto repair; K-4, that's for food;  
25 and K-6 was the medical part. So each designated K section had

1 their respective work and assignment.

2 [10.08.30]

3 Q. Let me put, please, the question in a different way. You were  
4 responsible for the repair of vehicles; was there another part of  
5 K-12 where vehicles, in other words, cars and trucks were  
6 located?

7 A. As I stated earlier, at K-12 Office, there was a section with  
8 small cars for transportation of transporting guests and they  
9 would have their own repair unit within that car section. As for  
10 the truck section, we would be responsible for carrying garbage  
11 or utilities or materials or food.

12 Q. Can you help me on this? Was K-12 responsible at all for the  
13 transport of supplies, food, tools, matters of that kind, out of  
14 Phnom Penh to the provinces?

15 A. K-12 Office had traps transporting supplies to the provinces  
16 which, at the time, they were known as zones. So, materials were  
17 transported to cooperatives. I learned that through my work  
18 colleague and as I stated I worked at the auto repair section and  
19 I only transported around within the Phnom Penh vicinity, not at  
20 a zone.

21 [10.10.42]

22 Q. You said in your OCIJ statement that your job, obviously --  
23 and you've mentioned this already -- was to repair cars, but also  
24 to drive soldiers and medics within Phnom Penh; is that correct?

25 A. Yes, that is correct, because at that time, my main duty was

1 repairing vehicles, but sometimes, when they needed drivers, then  
2 I would be asked to drive. For example, sometimes I was asked to  
3 drive medics to watch a movie. So I was used occasionally as a  
4 driver.

5 And with regard to the transportation of soldiers, it was before  
6 the liberation of Phnom Penh. At that time, I was still a driver  
7 trainer -- trainee.

8 Q. Do you know what S-71 refers to?

9 A. Frankly speaking, you talk about S-1, Mr. Heng Ham Kheng,  
10 during the investigation - during the time that he met me, I was  
11 asked by him regarding that office. Personally, I never knew that  
12 office. I'm even not clear on the number of that office is S  
13 something, S-21 or something? I never heard of that office during  
14 the time that I worked at the auto repair section.

15 [10.12.48]

16 Q. During the time that you worked at the auto repair section,  
17 did you ever see Khieu Samphan?

18 A. I occasionally saw him because at that time his children  
19 stayed at K-12 Office, although I saw him but I did not have any  
20 contact with him. He was a senior person, so I saw him come in,  
21 and then he left. I dare not approach him, but I saw him there.

22 Q. You've mentioned his children. What were they doing then at  
23 the K-12 Office?

24 A. At that time, his children were young. They were children and  
25 they were looked after there. They were about two or three years

1 old at the time.

2 [10.14.08]

3 Q. What was Khieu Samphan doing at the K-12 Office?

4 MR. PRESIDENT:

5 Witness, please wait.

6 Defence Counsel, you may proceed.

7 MR. KONG SAM ONN:

8 Thank you, Mr. President. I observe that the international

9 prosecutor repeats the question again and again, and the witness  
10 already responded clearly to that question.

11 MR. RAYNOR:

12 I haven't repeated the question again, Mr. President. I've asked,  
13 "What was Khieu Samphan doing at the office?" I haven't asked  
14 that question before.

15 The objections are unfounded, in my respectful submission. Can I  
16 please proceed?

17 MR. PRESIDENT:

18 The objection is unfounded, and the witness is instructed to  
19 respond to the last question put to you by the prosecutor.

20 And, Witness, if you cannot recall the last question, you can ask  
21 the prosecutor to repeat that. Prosecutor, you may continue your  
22 time. Please repeat your question. It is likely that the witness  
23 cannot recall it.

24 [10.15.48]

25 BY MR. RAYNOR:

29

1 Q. What was Khieu Samphan doing at the K-12 Office?

2 MR. CHEA SAY:

3 A. K-12 Office was a branch. He drove the car into the office,  
4 but I did not observe what he was doing there, as I was working.  
5 My understanding is that his children were there, so he went to  
6 see his children, but I did not know the details or what he was  
7 doing there, at the time. I was engaging in my work and I would  
8 be blamed if I stopped and just go and follow him and look at  
9 him. My main focus was on the completion of my assignment.

10 Q. Was K-12 responsible for driving the senior leaders around?

11 A. I think that question has been asked already. My main task was  
12 auto repair, so I did not know about the transportation of senior  
13 leaders. My focus is on the repair job. Only those who did the  
14 actual transportation would know about that. I was a minor member  
15 within the team.

16 [10.17.55]

17 Q. I want to move on, please, to the subject of political  
18 education. The ERN's that are relevant to this section are as  
19 follows: English, 00766336; Khmer, 00204083; and French,  
20 00766343.

21 Now, you said, Mr. Chea Say, in your interview with the  
22 investigators that you participated many time in political  
23 education at the Technological Institute and also at Borei Keila.  
24 How many times did you attend, roughly?

25 A. That is correct. At that time, it is common that leaders



30

1 educated the subordinates. Those Uncles taught us politics and as  
2 raised by those who came to interview me, during the political  
3 training, the main theme would be on working hard, on  
4 economization, on engaging in good work. And I remember that  
5 clearly. That was the main theme of the teaching -- that is, on  
6 economization and on working hard to build the country -- and we  
7 were called to the training on occasional basis on these themes.

8 Q. So, how many times, roughly, were you called?

9 [10.20.32]

10 A. I cannot recall that. It's been so, so long ago. It's almost  
11 40 years and, of course, my memory does not serve me well and I  
12 also have a heart issue, but what I can say is that I did attend  
13 the study sessions, but I cannot recall how many times.

14 Q. You said in your interviews, that it was Ta Meal who appointed  
15 you to go on these courses. Was it always Ta Meal who sent you,  
16 or was it ever anybody else?

17 A. It is clear the person who supervised the section was the one  
18 who authorized the study, the staff to go to for the study  
19 session. And when we knew the place, we just gathered around and  
20 went there without having to be late there by the chairperson. It  
21 was at -- usually at the Technical Institute or at Borei Keila.  
22 So, when each particular person, we would just gather ourselves  
23 and went there; as we knew the place already.

24 [10.22.11]

25 Q. You mention that there were 30 people working with you in the

1 auto repair unit; now, would each of those persons also go and  
2 attend these courses?

3 A. Amongst the 30 staff, we took turns to attend the study  
4 session. So, for example, I would go this time, and next time  
5 somebody else would take place and go.

6 Q. Now, thinking of the study sessions that you went on, how long  
7 was the longest study session that you attended?

8 A. As I said earlier, it's been so long already, so I cannot  
9 recall how many days a study session lasted. I can only confirm  
10 that I attended the study sessions, but I cannot recall the  
11 specific duration of a study session. I'm so old now and it's  
12 been since I was 20 years old.

13 Q. Mr. Chea Say, just -- can you confirm this from your testimony  
14 that some of the study sessions lasted days -- in other words,  
15 more than one day? Is that correct?

16 A. The political study sessions lasted at least three days; never  
17 one day. But I could not say whether it lasted six days, seven  
18 days or 10 days, but at least it lasted three days.

19 As for other normal study session, it would be an hour or two. It  
20 did not last that long, but it's different from the political  
21 study session.

22 [10.24.45]

23 Q. I'd like you to concentrate, please, on the political study  
24 sessions. Now, at the start of these sessions, would somebody  
25 give an introductory talk to the people present?

1 A. At that time, those people who were referred to, in the  
2 present time, as MC or Master of Ceremony, although it might not  
3 be the appropriate term at the time, but yes, there were those  
4 who actually made the presentation on the opening of the study  
5 session, and usually it was the senior leaders who would do that.  
6 So, we would say the program opener in Khmer. And as I said, it's  
7 been so long already, it's almost 40 years, so I cannot recall  
8 such detail.

9 [10.26.16]

10 Q. In your OCIJ interview, you said that the teachers on the  
11 political courses were Nuon Chea and Khieu Samphan. I'd like you  
12 to concentrate first, please, on Nuon Chea. At these study  
13 sessions, what did he talk about?

14 A. I think I answered twice already regarding the political study  
15 session. Nuon Chea and Khieu Samphan taught us during the  
16 political study sessions, focussing on those themes that I said  
17 on the economization and on strengthening or working hard. They  
18 did not teach us on doing anything bad, at all, as I can recall  
19 it clearly, that we saw strive to work hard in order to build the  
20 country.

21 And that is the real situation at that time, and that was the  
22 truth as I can recall it clearly. And since then, in my mind, in  
23 my communication or liaison with the people, I always focus on  
24 the good point or positive point, and that has been indoctrinated  
25 in my mind that I should only do good act to other people and not

1 a bad act and to have them if needed. Maybe my response is rather  
2 long, but that is the truth.

3 [10.28.17]

4 Q. Mr. Chea Say, is your memory that Nuon Chea and Khieu Samphan  
5 were covering the same sorts of subjects or different subjects?

6 A. The two -- we can say the two came from the same family; they  
7 spoke on the same subject matters. In short, they talked about  
8 the points that I just raised, because they are from the same  
9 team or, you can say, from members of a same family; they're from  
10 the same party, if you refer to the current situation. So the  
11 political education is the same.

12 Q. Try and help me on this, if you can. If there was a study  
13 session on -- you said that study sessions lasted at least three  
14 days -- what portion of those three days would be taken up with  
15 the addresses by Nuon Chea and Khieu Samphan?

16 A. Could you please repeat your question? Please be more specific  
17 in the question because I find it difficult to respond to, as  
18 it's rather broad.

19 [10.30.29]

20 Q. That's my fault, Mr. Chea Say, not yours. Let me simplify the  
21 question: How long would Nuon Chea speak for?

22 A. Mr. Nuon Chea and Mr. Khieu Samphan talked during the three  
23 days or the four-day workshop - or, rather, training sessions,  
24 and these people were the senior leaders, so they could have been  
25 in the sessions longer than the other low-level cadres, so they

34

1 were there to tell us -- to educate us on how to work very well.

2 MR. PRESIDENT:

3 Thank you, Mr. Witness, and thank you, Mr. Co-Prosecutor.

4 It is now appropriate moment for the morning adjournment. The

5 Chamber will adjourn for 20 minutes. The next session will be

6 resumed by 10 to 11.00 -- rather, by 10 to 11.00.

7 The Court is adjourned.

8 THE GREFFIER:

9 (No interpretation)

10 (Court recesses from 1032H to 1052H)

11 MR. PRESIDENT:

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

13 The floor is once again given to the Prosecution to continue

14 putting questions to this witness. You may proceed.

15 BY MR. RAYNOR:

16 Thank you, Mr. President.

17 [10.52.48]

18 Q. Mr. Chea Say, at the study sessions, did you feel that Nuon

19 Chea and Khieu Samphan explained the political education to you

20 clearly?

21 MR. CHEA SAY:

22 A. Yes, they did it clearly. As I stated, there were those points

23 that I already mentioned. They spoke about economization,

24 engaging in good deeds, etc.

25 Q. Out of the two of them, Nuon Chea and Khieu Samphan, who was

1 the best teacher?

2 MR. PRESIDENT:

3 Witness, please wait.

4 The Defence Counsel, you may proceed.

5 [10.54.08]

6 MR. KONG SAM ONN:

7 Thank you, President.

8 The question by the Prosecution elicits speculative response from  
9 the witness for the Chamber. I would like the Chamber to reject  
10 this question. Thank you.

11 MR. RAYNOR:

12 Mr. President, it's not speculation to ask somebody who was  
13 present at a basic study session for three days, who was the best  
14 teacher. It's not speculative in the slightest. We all know from  
15 our pasts who is a good teacher and who is not.

16 MR. PRESIDENT:

17 Since you already rephrased your question, that is fine. Then the  
18 objection is not valid.

19 Witness, you may respond to the re-phrased question by the  
20 Prosecution.

21 MR. CHEA SAY:

22 Whether the teaching is good or bad, it's difficult, because they  
23 were from the same party. So the main message was the same. I  
24 could not say which one was bad or which one was good. It was the  
25 same message that conveyed. Politically, they were from the same

1 source.

2 [10.55.57]

3 BY MR. RAYNOR:

4 Q. Both bad, both medium, both good -- which is it, please?

5 MR. CHEA SAY:

6 A. Based on my analysis, there was nothing bad at all because the  
7 message was about economization and about engaging in good deeds,  
8 which is stuck in my mind. When you engage in good deeds, it  
9 means you would receive in return good consequence regardless of  
10 which society you are living in. And there was nothing about any  
11 of the bad deeds.

12 Q. At the end of a study session, would there be a closing  
13 address by one of the leaders?

14 A. At the conclusion of the study session, I cannot recall  
15 exactly what happened, because there were many people who  
16 actually opened the study sessions, and I cannot recall who  
17 actually made the closing of the study sessions, and on top of  
18 that, it's been almost 40 years ago.

19 [10.57.44]

20 Q. After a study session, would you go back to your job feeling  
21 motivated?

22 A. At the end of the study session, we did not go anywhere for a  
23 retreat or something like that. We immediately returned to our  
24 workplace because immediately after the war, we had to put our  
25 effort in the rebuilding of the country.

1 Q. Now, if we take a study session lasting at least three days,  
2 what were you involved in, apart from listening to the addresses  
3 from Nuon Chea and Khieu Samphan?

4 A. Besides listening to what was presented, I did nothing else.

5 Q. Let me put the question another way: On a study session that  
6 lasted three days, did the speeches from Nuon Chea and Khieu  
7 Samphan last the whole of the three days?

8 [10.59.46]

9 A. It was a long time ago; I cannot recall. I went to the study  
10 session, and sometimes the speech sessions amongst themselves --  
11 that is, between Nuon Chea and Khieu Samphan -- but most of the  
12 presentation was made by Nuon Chea. And at that time, I was also  
13 rather young.

14 Q. Did anyone -- apart from Nuon Chea and Khieu Samphan -- from  
15 the leadership speak at the study sessions you went to?

16 A. Besides the two, there was no other instructor, or I never saw  
17 any other instructor.

18 Q. To your knowledge, did the head of K-12, Ta Meal, ever attend  
19 a study session?

20 A. Ta meal, who supervised K-12, attended the study sessions as  
21 well. As he was a cadre, he attended more often than ordinary  
22 members.

23 [11.01.30]

24 Q. You said towards the end of your OCIJ interview that in the  
25 period from 1975 to 1979, the people who led the country were Pol



1 Pot, Nuon Chea, Ieng Sary, Khieu Samphan, and Son Sen; is that  
2 correct?

3 A. Those people, I only knew them later on, but during that  
4 regime; I did not know them. At that time, I was part of the  
5 military or the soldiers, if you like, and I did not know about  
6 them.

7 The period from 1975 to '79 where I worked in Phnom Penh in auto  
8 repair section, I did not meet many of them. Only later on I was  
9 told that person was this Uncle or that Uncle, then I learned  
10 about that, but I never, ever had any personal contact or direct  
11 contact with any of them.

12 [11.03.05]

13 Q. You just said in your answer that you didn't meet many of  
14 them. Can you give us an example, apart from the study sessions,  
15 when you came across any of them?

16 A. All those leaders, I never met them face to face, but  
17 sometimes I saw them from a distance. I saw them getting off the  
18 car, for instance, when they went to work and that was on a rare  
19 occasion. As I said, from the beginning, I focused mainly on my  
20 work.

21 Q. Which leaders did you see getting out of their cars going to  
22 work?

23 A. I saw Khieu Samphan and Nuon Chea and Ieng Sary, but I hardly  
24 saw Pol Pot. So I saw Ieng Sary, Khieu Samphan, and Nuon Chea on  
25 a rare occasion. As for Pol Pot, I hardly saw him during the two

1 or three-year period.

2 [11.04.56]

3 Q. During this period, did you ever read the "Revolutionary  
4 Youth" magazine?

5 A. No, I did not. I did not have a time or any spare time to do  
6 that as I spent my day working.

7 Q. In the time that you were chit-chatting with your colleagues  
8 after work, did you ever listen to any broadcasts on a radio?

9 A. At that time, we had a common radio so when -- or if it was  
10 turned on then we would listen to it, but it was not that  
11 frequent. Nobody had any personal radio.

12 Q. Did you ever hear any leaders speaking on the radio?

13 A. Yes, I did. I heard Khieu Samphan speaking on the radio.

14 Q. What was Khieu Samphan speaking about on the radio?

15 A. I cannot recollect it. As I state repeatedly, the same type of  
16 message was broadcast -- that is, about the education, about  
17 economization, about striving hard to work and to build the  
18 country, to raise spirit high, to engage in the production work.

19 [11.07.32]

20 Q. The evacuation or liberation of Phnom Penh took place on the  
21 17th of April 1975. What happened on the anniversary of that day?

22 A. I am unclear on this question, so I decline to comment.

23 Q. Let me rephrase it: Was the anniversary of the liberation ever  
24 marked or celebrated in any way?

25 A. Yes, there were -- there were commemoration of the 17 April,

40

1 but I rarely attended such ceremony as I was busy engaging in my  
2 work. I did not attend any of those commemorations.

3 Q. Did any of your other colleagues at K-12 attend such  
4 commemorations?

5 A. In general, I hesitate to respond as I am unclear and I cannot  
6 recall it well.

7 Q. That's a fair answer. I'll move on.

8 [11.09.50]

9 On the political education courses, you said in your previous  
10 interview that they told us to be cautious and watch the  
11 activities of one another and keep eyes on one another. Which of  
12 the teachers told you this?

13 A. At that time, that was true. For instance, the chief of K-12  
14 instructed us to monitor or be vigilant of people who might  
15 engage in some kind of chaotic activities at our workplace.

16 Q. Are you saying that that only came up when Ta Meal was  
17 speaking to you or did it come up during the study sessions -- in  
18 other words, at Borei Keila or the Technical Institute?

19 A. During the small meetings amongst ourselves, the message was  
20 raised so that we were reminded of it and it was not conveyed  
21 during the big meeting.

22 Q. Why did you have to be cautious? What was the problem?

23 A. There was no activity, but as a principle, we had to be  
24 cautious for any unpredictable actions that may happen.

25 [11.12.16]

1 Q. "Unpredictable actions" by who?

2 A. Usually, there would be enemy against one another or from one  
3 unit to another, so the political point of view is that we shall  
4 be cautious.

5 Q. You spoke in your interview of the "hidden enemy". So, who  
6 were the "hidden enemy"? What sorts of people?

7 A. Because we did not see them; for that reason, we had to be  
8 cautious because we could not see those enemy -- those hidden  
9 enemy and had to rely on these policies of being cautious and if  
10 we could see them, then they would have been arrested and this is  
11 a common practice throughout any of the regimes. Because we could  
12 not see them clearly; for that reason, there was this  
13 preventative policy to be cautious.

14 Q. You just said that the enemy could be from one unit to  
15 another. Was the instruction from Ta Meal that the hidden enemy  
16 were in other units?

17 A. Regarding the hidden enemy, as I already said, the instruction  
18 from above was for us to be caution because we could not know  
19 where the enemy was; whether they were from another unit or  
20 within our unit. For that reason, we shall be cautious all the  
21 time.

22 [11.14.45]

23 Q. Were you ever told what to do if you found one of these enemy  
24 and were sure that they were an enemy?

25 A. If I saw a person destroying things, for example, I would

42

1 tell, but I hardly see -- saw such an incident.

2 Q. You touched on this in your interview. You used the word  
3 "smashing", and this was when you were talking about the  
4 destruction of vehicles. Was the word "smashing" ever used in  
5 connection with people as opposed to property?

6 A. As for a human being, the word "smashing" was not used because  
7 to use that it means it's to degrade a human life. "Smashing" or  
8 "destruction" was used on the things, not on human being.

9 [11.16.43]

10 Q. You mentioned in your interview that some staff from K-12 were  
11 removed for tempering; is that correct?

12 A. At that time, although I cannot say whether that was true or  
13 not, but people were removed. I did not know the reason for the  
14 removal.

15 Q. So, if we take the time when you started at the auto repair  
16 unit in 1975 with 30 people working with you, how many of those  
17 30 people were still working with you in that unit in 1979?

18 A. At the truck unit, there were about more than 10 of us. There  
19 were those who were from the East or from the North, they were  
20 removed. Personally, I came from the East, as well, and I was  
21 uncertain of my safety. I -- it was still a concern to me.

22 Q. In your time at K-12, do you remember ever coming across a man  
23 called Ta Sot?

24 A. I did not hear the name of Sot.

25 Q. I may have said it incorrectly; Ta Sot, S-o-t, Ta Sot.

1 A. I knew the person by the name of Sot. Sometimes, he brought a  
2 vehicle for repairs at my section. Yes, I knew this person. He  
3 was of ethnic minority.

4 [11.20.22]

5 Q. When you were working at K-12, did you ever go to any other K  
6 units?

7 A. Yes. For example, I would go to the medical unit when I was  
8 unwell. As for K-20, it was a production unit. Sometimes, I was  
9 asked to go there to look at the water pan.

10 Q. Did you ever go to K-6 or K-7?

11 A. I went to study sessions, and sometimes I stayed at K-6, and  
12 sometimes I also went to work at K-6. As for K-7, K-7 was located  
13 near the Royal Palace, and I used to go past K-7.

14 Q. Was this when you were driving the soldiers and the medics  
15 around?

16 A. Yes, it was during that time. Soldiers coming from various  
17 zones would go past that part and stayed at K-6, and most of the  
18 participants of the study sessions would also stay there.

19 [11.22.16]

20 Q. Did you ever go to any meetings at the Olympic Stadium?

21 A. I cannot recall whether I attended any meeting at the Olympic  
22 Stadium. So, since I'm not clear, I decline to respond to this  
23 question.

24 MR. RAYNOR:

25 Mr. Chea Say, thank you very much for your time. I have no

1 further questions. Thank you.

2 MR. PRESIDENT:

3 Thank you, Prosecution.

4 The floor is now given to the Lead Co-Lawyers for civil party to  
5 put questions to this witness.

6 QUESTIONING BY MS. YE:

7 Good morning, Mr. President. Good morning, Your Honours. Good  
8 morning, everyone in and around the courtroom. Good morning, Mr.  
9 Chea Say. My name is Beini Ye. I am one of the international  
10 civil party lawyers and I will be putting some questions to you  
11 today.

12 Q. I want to start talking about the time of the liberation,  
13 around the 17th of April 1975.

14 [11.23.45]

15 In your interview with the investigators, you mentioned that,  
16 after Phnom Penh was liberated, you were ordered to help move  
17 civilians out of the city. I can cite the ERNs for that. English  
18 would be 00766337; French would be 00766344; and Khmer ERN  
19 00204084.

20 Now, my question is: When did you receive this order to help  
21 moving civilians out of the city at that time?

22 MR. CHEA SAY:

23 A. In 1975, I was still working as a soldier. At that time,  
24 people had to be evacuated from Phnom Penh when Phnom Penh was  
25 liberated. I did not engage in driving people or removing people

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1 from each home. My commander would ask me, in my capacity as his  
2 subordinate, to help evacuate the people. I took a ship and on  
3 that trip, I was ordered by my commander to protect the people  
4 and I was afraid of being drowned in this -- the river that I  
5 only went on this trip by the ship only on one occasion. I never  
6 went there again.

7 [11.26.07]

8 Q. Let me ask you first, who was your commander who asked you to  
9 protect the people on the ship?

10 A. At that time, he was not really the actual commander of the  
11 division, but he was my superior. I don't remember his name.  
12 Again, the thing happened more than 40 years ago and I can't  
13 remember them well.

14 Q. Can you recall what this commander -- this person told you  
15 about where these orders came from?

16 A. No, I was not told in detail where such orders could have come  
17 from. I was just asked by him to go and help the people during  
18 the evacuation.

19 Q. And did he tell you that on the day of the liberation or  
20 before that?

21 A. He told me when people were being evacuated already because he  
22 said that, as a soldier, I would also be in charge of assisting  
23 the evacuation process. But that this order was not made before  
24 that, it was made during the course of the evacuation.

25 [11.28.15]



1 Q. And can you tell us where exactly you were at when you were  
2 helping to move the people out of Phnom Penh?

3 A. I've indicated I was not engaged in going to people's home to  
4 bring them out of their home during the evacuation. I was only on  
5 the ship with the people who were already boarded the ship.

6 Q. And where did the ship come from? And where did it go?

7 A. I don't remember from which unit this ship could have been  
8 taken from, but I was on that ship only on one occasion at Preaek  
9 Pou location, at the dock, and indeed I was young and was excited  
10 to be part of the trip, but after that I was afraid and I would  
11 not wish to be there again.

12 [11.29.52]

13 Q. And how many people were with you on this ship?

14 A. Are you referring to only the civilians or along with -- as  
15 well as the soldiers?

16 Q. I would like to know for both. How many civilians and how many  
17 soldiers?

18 A. I don't remember because even things that written down on a  
19 piece of paper could easily be forgotten, let alone things that  
20 are stored in your memory, things that happened several years  
21 ago. The ship could have carried 100 people, but then, although  
22 the actual weight could be like 100, the ship may carry like 30  
23 people -- it depends.

24 [11.31.13]

25 Q. So, for you to give me an estimate, was the ship full of

1 people -- crowded with people?

2 A. There were about five soldiers who would be accompanying a  
3 group of 30 people on each trip.

4 Q. Thank you. And were there other ships or were -- was there  
5 only one ship?

6 A. I was on the trip on one occasion only, and there were a lot  
7 of people, and I did not go there again to see whether there were  
8 other ships involved.

9 Q. You said that five soldiers were accompanying 30 civilians.  
10 What does it mean to accompany the 30 civilians; to do what?

11 A. Indeed, we were to protect them; that's what I was saying.

12 [11.33.12]

13 Q. What was the danger that they were facing?

14 A. I could not say what kind of danger that could have been posed  
15 on to those people, but I was asked by my superior to be there so  
16 I had no choice, but we had to be there to be with the people, as  
17 a soldier, so people could feel warm already when they were  
18 accompanied by soldiers.

19 Q. Did the soldiers carry weapons?

20 A. I don't remember whether they were armed. I just don't recall  
21 this, but I can say that most of the time, they were not armed.

22 Q. And did you speak or any of the other soldiers speak to the  
23 civilians?

24 A. As long as we were Cambodians, we were on the same trip; we  
25 would talk to one another.

1 Q. What did you tell them what your role was?

2 A. Without telling them, those people knew very well who I was  
3 because we were in uniforms, so they knew that we were soldiers.  
4 [11.35.37]

5 Q. And did you have any orders on what you should do when  
6 civilians refused to board the ship or refused to go in the  
7 direction they should?

8 A. No, I did not receive any such order because people could have  
9 already been boarding or boarded the ship when I came there with  
10 my colleagues.

11 Q. And who directed them to board the ship and to go where they  
12 should be going?

13 A. At that time, I was rather young. I would just act upon orders  
14 and I did not ask questions concerning this because as a soldier,  
15 we were already tasked with protecting the people there.

16 Q. Did any of the civilians on board refuse to go or made  
17 comments about not willing to leave Phnom Penh?

18 A. No, I don't remember this.

19 [11.37.37]

20 Q. You just said that you spoke to the civilians on the boat. So,  
21 what did you talk about?

22 A. It was a normal conversation. It was just normal, and I was  
23 not in a situation that I was angry with them or they were angry  
24 with us. It was a normal situation and conversation.

25 Q. And do you know where these people went to after they left the

1 ship?

2 A. I took the trip with the people to Preaek Pou location in  
3 Kampong Cham. When we were docking, then the people -- or the  
4 authority in Kampong Cham was handling the civilians and they  
5 took the civilians. From then, I have no idea where they could  
6 have been going.

7 Q. So, throughout the entire trip, the civilians were accompanied  
8 by soldiers from the time they boarded the ship until they left  
9 the ship and beyond; is that correct?

10 A. Yes, it is correct. We were with them all the way from the  
11 beginning until we reached the destination. After the people were  
12 received by the -- the local authority, then we would return.

13 Q. And this accompaniment by soldiers, throughout the entire  
14 trip, was for their protection even though there was no apparent  
15 danger; is that correct?

16 A. I think, as a subordinate, I do not know much about this. I  
17 acted upon orders only.

18 [11.40.18]

19 Q. Now, I would like to talk a bit about the civilians that you  
20 saw on the boat.

21 Between what age were these people?

22 A. These people were from all different range of ages. For  
23 example, in the whole family, we could see people like children  
24 as young as 3 months old.

25 Q. Were there any sick people on the boat as well?

1 A. I think the question is rather detailed and specific. I don't  
2 remember having seen any people getting sick on the -- during the  
3 trip.

4 [11.41.29]

5 Q. Let me clarify my question. I was asking about people who were  
6 sick before they boarded the boat.

7 A. I don't know whether people were sick before they boarded the  
8 ship or not. I didn't pay attention to that.

9 Q. And can you describe what belongings they were carrying with  
10 them?

11 A. They could have been carrying some small belongings -- light  
12 belongings and I think I don't remember the detail, but they  
13 could have been with some belongings.

14 Q. Thank you.

15 I would like to move on to the next topic that has been discussed  
16 already previously. I would like to ask you a couple of questions  
17 on the political study session.

18 You mentioned that during the session the speakers would  
19 encourage you to work hard. Did they tell you anything about what  
20 it means to work hard?

21 A. As a part of political session and education, we were treated  
22 as -- like children as opposed to parents who were our superiors  
23 so we were educated on how to work very well, how to be good at  
24 economization, and I think I already responded to this kind of  
25 question before.

1 [11.43.59]

2 Q. Did the speakers mention anything about what should happen to  
3 people who did not work hard enough?

4 A. Normally, during that time, people would be criticized or  
5 refashioned. They would not be tortured or badly treated. They  
6 were just educated -- or, like, refashioned, as I indicated, when  
7 they did something wrong.

8 Q. And can -- can you tell me, how do you know about the  
9 refashioning or re-education?

10 A. There would be very frequent meetings in the evenings. It was  
11 part of the livelihood meetings; the meetings that could be  
12 convened on a daily basis where people could criticize others and  
13 take criticism.

14 [11.45.36]

15 Q. You mentioned, frequently, that you were focusing on your  
16 work, and that's the reason you could not pay attention to other  
17 things. Was that your understanding of hard working -- to be  
18 working non-stop, 24 hours a day? And was that the meaning that  
19 speakers would give to this?

20 MR. PRESIDENT:

21 Witness, could you please hold on?

22 Counsel Karnavas, you are on your feet. You may now proceed.

23 MR. KARNAVAS:

24 Thank you, Mr. President. I believe the question assumes facts  
25 that are not exactly either in evidence or inartfully or

1 inaccurately put.

2 The gentleman indicated what he was doing, whether he was working  
3 24 hours a day and what have you. That's a questionable part of  
4 the question that I have.

5 So, if it could be rephrased to comport with the gentleman's  
6 actual testimony, I would be most grateful.

7 [11.46.44]

8 BY MS. YE:

9 Q. Let me rephrase the question. You said that you focused on  
10 your work and you did not pay attention to other things.

11 My question is: Was the reason for this because you were told in  
12 these political study sessions that you had to work hard?

13 MR. CHEA SAY:

14 A. To work hard doesn't mean I have to -- I had to work 24 hours  
15 a day. We just had to observe some rest; because by 11 a.m.  
16 people would be allowed to have their lunch, and then we continue  
17 working. So, people could never work 24 hours. Otherwise,  
18 everyone could have all died because of exhaustion. So I can say  
19 that we did not have to work 24 hours to justify the term  
20 "working hard". We worked our best during the allocated time for  
21 our working time. So, again, allow me to state once again that I  
22 was not asked to work 24 hours to prove that I worked hard.

23 [11.48.39]

24 MS. YE:

25 Thank you, Mr. Chea Say. I have no further questions. I wish you

1 a good journey home.

2 MR. PRESIDENT:

3 Thank you very much, Counsel and Witness.

4 I would like to know whether Judges of the Bench wish to put  
5 questions to the witness.

6 Judge Lavergne, you may now proceed.

7 QUESTIONING BY JUDGE LAVERGNE:

8 Thank you very much, Mr. President. I'd just like to ask a few  
9 questions to clarify some of the answers we've already heard from  
10 you, Mr. Witness.

11 Q. First, you told us that you've never heard, during the  
12 Democratic Kampuchea period, of S-21. Am I correct in that  
13 understanding?

14 MR. CHEA SAY:

15 A. Yes, you are, Your Honour.

16 Q. And did you hear of it after the Democratic Kampuchea period?

17 A. No, I didn't. I didn't hear about this after the Democratic  
18 Kampuchea regime. Even after the fall of the regime, when we went  
19 into the jungle, I did never know anything about S-21.

20 [11.50.31]

21 Q. Witness, have you heard anything about the existence of  
22 security centres during the Democratic Kampuchea period?

23 A. I may say simply that, Your Honour, during that time I paid  
24 greater attention to performing my tasks very well, so I was less  
25 interested in knowing the other things.



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1 Q. I'm not entirely sure I understand. Were you interested or are  
2 you interested now in knowing what happened to the people who  
3 disappeared in K-12 or in your office -- other offices?

4 A. What I learned was that people could be removed and regarded  
5 as elements. And at the East, So Phim, who was the head of the  
6 zone, was accused of being a traitor; and as a man who was from  
7 the same East Zone, I was implicated as an element.

8 [11.52.25]

9 Q. All right. Well, what, exactly, were you afraid of?

10 A. I was afraid that I would be killed, so I was -- I was very  
11 worried that I would end up being executed.

12 Q. But why were you afraid of being executed? You have just told  
13 us that you only paid attention to your work and you had  
14 absolutely no idea of what was happening to people who  
15 disappeared around you. What reasons were there for you to be  
16 afraid of being executed?

17 A. Indeed, I worked my best, but I had reasons to be afraid  
18 because I noted that people had been disappearing, and we didn't  
19 know to where they could have gone. So, at the time, when we were  
20 performing our tasks, we couldn't help but being worried having  
21 noted this kind of situation. If we knew that these people could  
22 have been sent to any particular location, our fear could have  
23 been reduced.

24 [11.54.20]

25 Q. So you -- what you were really frightened of was the

1    uncertainty of just not knowing what meaning lay behind those  
2    disappearances. The disappearances, as far as you were concerned,  
3    could also mean that the people had been killed.

4    A. Indeed, we could not guess what could have happened. We only  
5    speculated when people had been removed that they could have been  
6    moved to other locations, but we could never say that they could  
7    have been killed.

8    Q. What did your wife do during the Democratic Kampuchea period?  
9    What was her activity?

10   A. She was tasked with cooking, preparing foods for the foreign  
11   visitors. We were not yet married at that time.

12   [11.55.54]

13   Q. Which office did she work in?

14   A. It was the Ministry of Foreign Affairs. She was at House  
15   Number 2. House Number 2 was for preparing foods for visitors --  
16   for people who would be travelling to provinces.

17   Q. Do you know if she, too, noticed that certain people around  
18   her were disappearing?

19   A. Yes, she did. She used to tell me about having noted the  
20   disappearances of her colleagues.

21   Q. And was she afraid as well?

22   A. I am not in a position to talk on behalf of my wife about her  
23   feeling, but I could guess that she must have been fearful.

24   Q. You had very long days of training with the senior leaders of  
25   Democratic Kampuchea. Did any one of the participants dare to ask

1 any of the leaders what happened to the people who were  
2 disappearing around you?

3 A. I'm afraid I cannot respond to this question because my memory  
4 doesn't serve me very well.

5 [11.58.21]

6 Q. But you, yourselves, were seriously preoccupied. You didn't  
7 know what was happening to your colleagues at work. You were  
8 listening to speeches encouraging you to do your job well, but  
9 did it never occur to you to ask -- I don't know -- Mr. Nuon  
10 Chea, for example, to find out what was actually happening to  
11 your colleagues who were disappearing?

12 A. In that time, I -- in my capacity as an -- as ordinary person,  
13 I could have never been close to such senior people like these  
14 Uncles.

15 [11.59.17]

16 JUDGE LAVERGNE:

17 Very well. I don't think I have any more questions to put to this  
18 witness. Thank you, Mr. President.

19 MR. PRESIDENT:

20 Thank you very much, Judge Lavergne, and thank you, Mr. Witness.

21 It is now time for lunch adjournment. The Chamber will adjourn  
22 until 1.30, when the next session resumes.

23 [11.59.51]

24 During the adjournment, the court officers are instructed to  
25 assist Mr. Witness and make sure he is properly assisted and have

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1 him returned to the courtroom by 1.30.

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

3 MR. IANUZZI:

4 Thank you, Mr. President. Good morning, everyone. Very briefly,

5 I've just been informed that our client is suffering from a

6 backache, a headache, and a general lack of concentration, and

7 for those three reasons he would like to retire to the holding

8 cell for the afternoon. And that's our first application this

9 morning.

10 I have one other brief point I'd like to raise, and I'm referring

11 now to a recent decision of the Supreme Court Chamber, and this

12 is document number E176/2/1/4. And this is the "Decision on Nuon

13 Chea's Appeal Against the Trial Chamber's Decision on Rule 35

14 Applications for Summary Action". And I'm sure everyone recalls

15 those applications.

16 Among many other things, this is what the Supreme Court Chamber

17 had to say with reference to the Trial Chamber's allegation that

18 we had made unduly repeated applications - quote: "The Trial

19 Chamber--"

20 [12.01.20]

21 This is paragraph 21 -- excuse me. Quote:

22 "The Trial Chamber later considered this behaviour," that is to

23 say, the repeated - alleged repeated applications, "in

24 conjunction with other allegations, to constitute evidence of a

25 'consistent pattern of professional misconduct' and referred this

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1 misconduct to the competent Bar Associations. Upon review of the  
2 relevant Khmer and English transcripts, however, the Supreme  
3 Court Chamber is of the view that this persistence was justified  
4 given the Trial Chamber's lack of clarity relating to the  
5 Defence's applications." End quote.

6 So my question for you -- my application, in a sense: Have you or  
7 will you forward this order to those respective Bar Associations  
8 indicating to those Bar Associations -- that is, the Amsterdam  
9 Bar Association and New York Bar Association -- that you have  
10 been overruled by the Supreme Court Chamber? Have you done that?  
11 If not, will you do it, and if not, why not?

12 And that's our application for this morning. Thank you.

13 [12.02.36]

14 MR. PRESIDENT:

15 First and foremost, the Trial Chamber has not forwarded such text  
16 to the concerned Bar Associations.

17 Now, the decision is before the counsel, and if counsels are of  
18 the opinion that the decision is beneficial to them, they could  
19 take the advantage of this opportunity to forward the message to  
20 their each respective Bar Association.

21 And, secondly, the Chamber has noted the professional misconduct  
22 of counsel for Nuon Chea and the Supreme Court Chamber has not  
23 ruled on other issues that are - that are relevant to other  
24 counsels other than Nuon Chea's counsel. So, if Nuon Chea  
25 counsels are convinced that this message is of necessity and

1 beneficial to them, they could do so to forward the message to  
2 their Bar Associations.

3 [12.04.00]

4 After having noted the request made by Nuon Chea through his  
5 counsel that he be allowed to retire to his holding cell due to  
6 his health concerns, the request itself is founded, and Mr. Nuon  
7 Chea, therefore, is allowed to observe the proceedings from his  
8 holding cell through video-link for the entire remainder of the  
9 day.

10 Mr. Nuon Chea has expressly waived his right to participate  
11 directly in the courtroom. Counsels for Mr. Nuon Chea are now  
12 advised to produce this waiver given thumbprint or signed by Mr.  
13 Nuon Chea to the Chamber.

14 And the AV booth officers are now instructed to ensure that the  
15 audio-visual equipment are properly connected to Mr. Nuon Chea  
16 holding cell so that he can observe the proceedings from there.

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

20 [12.05.35]

21 And the Chamber wishes to also inform counsel for Mr. Nuon Chea  
22 that in the decision by the Supreme Court Chamber, the decision  
23 shall always be made in writing, so the Chamber has already ruled  
24 upon this. And if you wish to put an application before the  
25 Chamber, please do so in writing, and that -- the Chamber will

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1 accordingly respond to you in writing. And, indeed, the Chamber  
2 will invite submission – written submission from other parties  
3 concerned regarding any application of yours. So you can only do  
4 that in writing.

5 The Court is adjourned.

6 (Court recesses from 1206H to 1331H)

7 MR. PRESIDENT:

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

9 We give the floor now to Nuon Chea's defence to put questions to  
10 this witness.

11 Nuon Chea's defence, as well as the other two defence teams, we  
12 would like to remind you that the time allocations for the three  
13 teams are for this afternoon session only.

14 You may proceed.

15 QUESTIONING BY MR. PESTMAN:

16 Thank you, Mr. President. My national colleague has no questions;  
17 I have a couple of questions. I don't think it will take more  
18 than 20 minutes, but of course depending on the answers.

19 Q. Mr. Witness, this morning – this morning, you stated that you  
20 could not remember the name of the commander of the unit in which  
21 you served in April 1975; is that correct?

22 MR. CHEA SAY:

23 A. Prior to the liberation of Phnom Penh in 1975, I was attached  
24 to a military – military unit.

25 [13.33.45]

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1 I could recall the senior commanders, but not my immediate  
2 commander. At that time, the commander of regiment was Ta Mit and  
3 Ta Sim. However, later on, I did not meet him or them or know  
4 what happened to them.

5 Q. Do you know what the full or real names were, of Ta Mit and Ta  
6 Sim?

7 A. It's been a long time; I cannot recall the full name of Ta Mit  
8 or Ta Sim. Ta Sim was at Kaoh Soutin, and the other one was in  
9 Khsach Kandal. They were in command of the military sector 22,  
10 but I cannot recall the exact unit number.

11 Q. Can you recall the number of your own regiment?

12 A. No, I cannot. I only knew it was a regiment. It could be  
13 Regiment 24, but I am not a hundred per cent sure.

14 Q. Thank you very much. Just for my understanding, did that  
15 regiment -- maybe Regiment 24 -- was a part of a larger unit, a  
16 division, for example? And do you remember, if that is the case,  
17 the name or the number of that division?

18 [13.36.15]

19 A. I can recall; it's actually Regiment 52, not 24. That's all I  
20 can recall.

21 Q. And the division? Was there a division? And if so, what was  
22 the number of that division?

23 A. I cannot recall the number of the division, whether that  
24 regiment was independent or not or whether it is under  
25 supervision of a brigade or a division.



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1 Q. Thank you. I'm not sure I understand -- understood correctly,  
2 but did you say that you don't know what happened to the former  
3 commanders of the regiment, Ta Mit and Ta Sim? Is that correct?

4 A. As for Sim, he was transferred to supervise in Kampong Som.  
5 However, I heard about it indirectly.

6 As for Mit, I did not know what happened to him because by then I  
7 was in Phnom Penh.

8 Q. And do you know whether they are still alive?

9 [13.38.12]

10 A. No, I have no information from them, so I do not know whether  
11 they are alive or not.

12 MR. PESTMAN:

13 Thank you very much. Those were my questions for today.

14 MR. PRESIDENT:

15 Thank you.

16 The floor is now given to the defence team for Ieng Sary to put  
17 questions to this witness. You may proceed.

18 QUESTIONING BY MR. KARNAVAS:

19 Good afternoon, Mr. President. Good afternoon, your Honours, and  
20 good afternoon to everyone in and around the courtroom, and good  
21 afternoon, sir.

22 Q. Earlier today, you talked to us - you told us that the  
23 investigators came to see you three or four times and that you  
24 gave one interview. Did I hear you correctly?

25 MR. CHEA SAY:

1 A. Yes, that is correct.

2 [13.39.26]

3 Q. And the interview, based on the summary that we have, took  
4 place on December 11th, 2007, so that was about five years ago.

5 A. Yes, that is correct.

6 Q. Now, as I understand it, during the interviewing process, the  
7 interpreter that was there happened to be someone that you were  
8 acquainted with, a cadre from your days back in the Khmer Rouge  
9 period; is that correct?

10 A. He was an intellectual by the name of Heng Ham Kheng; he was a  
11 researcher.

12 Q. But you knew him back then?

13 A. I knew him starting in 1983.

14 [13.40.38]

15 Q. Thank you. Now, as I – from listening to the tape recording,  
16 something that is not reflected in the summary, we can hear,  
17 along with you being interviewed, the voice of your wife. Do you  
18 recall or do I have it right that your wife was next to you  
19 during the interviewing process?

20 A. Yes, that is correct, because the interview took place in my  
21 house.

22 Q. And just as today, where you had problems with your memory, in  
23 recalling certain events, we can hear on the tape your wife  
24 providing answers or helping you with your answers to the  
25 investigators; is that right?

1 A. Yes, that is correct.

2 Q. And would it be correct also to say that your summary  
3 statement that we have here today is not purely from your memory,  
4 but also contains information that was given to you or to the  
5 investigators from your wife?

6 A. Yes, that is correct. And in this written record of interview,  
7 they reflect my statements. I did not fabricate anything, but  
8 it's about the truth that I knew. And it was recorded in this  
9 written record of interview.

10 Q. Right. But some of those statements are based on information  
11 that your wife was giving you during the interview in refreshing  
12 your memory?

13 A. Yes, that is correct, because we had been together and  
14 sometimes we discussed a certain event or confirmed an event  
15 together.

16 [13.43.09]

17 Q. One final question: Had the investigators asked your wife to  
18 be in a separate room while you were being interviewed? Would  
19 that have been a problem with you?

20 A. At that time, during the interview, my wife was nearby, as the  
21 interview was conducted under the house and my wife was within  
22 the vicinity of the house. So, we did not hold the interview in a  
23 secret place or anything; it was done in open.

24 Q. Precisely. But, had the interview - had the - had the  
25 investigators wanted to interview you separately from your wife,

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1 that would have been possible at the time?

2 MR. PRESIDENT:

3 Witness, please wait.

4 Counsel for civil party, you may proceed.

5 [13.44.28]

6 MS. YE:

7 Thank you, Mr. President. I would like to object to this  
8 question, since it's hypothetical.

9 MR. KARNAVAS:

10 Mr. President, it's hardly hypothetical. The person was there.

11 We're not in Mars; he's over there in his village.

12 Now, unless that is the only place on earth that the wife can  
13 stand at the time, certainly the gentleman is perfectly able to

14 answer the question that she could go off to some other house,

15 down the road, in another room. That's the thrust of the

16 question, so it's not hypothetical; it's based on the

17 circumstances of the location in which the interview took place.

18 And the point I'm trying to drive here is that the interview was

19 conducted with two people speaking at the same time, one

20 refreshing the other one's memory, which is now the basis of a

21 summary, none of which -- of all of this is reflected in the

22 summary. And, of course, the purpose of all of this is to assist

23 you to give to this witness's testimony.

24 [13.45.35]

25 Now, whether, as a result, also it points to the continuing

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1 irregularities of the investigation, that's a different matter.

2 And we're not seeking nullification.

3 MR. PRESIDENT:

4 The objection's ground is not valid.

5 Witness, you're instructed to respond to the question as this is

6 going to give the credibility or otherwise to your previous

7 interview with the investigators of the Office of the

8 Co-investigating Judges.

9 MR. CHEA SAY:

10 At that time when I was interviewed, I responded clearly to the

11 question. And let me now respond to the counsel's question.

12 [13.46.30]

13 At that time, there were researchers, including Heng Ham Kheng,

14 and there was a female companion. They put questions to me, and I

15 responded to them.

16 And at that time my wife was also under the house because I have

17 no secrets to keep from my wife; she's my wife. And sometimes she

18 spoke because she had some knowledge. And that was the truth. I

19 gave my statement to the investigators of the Office of the

20 Co-investigating Judges, and it was done in open together with my

21 wife.

22 MR. KARNAVAS

23 Q. Thank you, sir.

24 And just one final question: Before this particular interview,

25 were you ever asked questions before by these investigators or

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1 any other investigators or is this the only time where you  
2 actually were asked questions and provided answers?

3 MR. CHEA SAY:

4 A. That was the first time that I was interviewed by the  
5 researcher, Heng Ham Kheng.

6 [13.48.03]

7 Q. Based on that, let me ask one follow up: Was that the only  
8 time, then, that you were interviewed by the Office of the  
9 Co-investigating Judges?

10 A. Yes, that was the only time, and it was done by Heng Ham  
11 Kheng.

12 MR. KARNAVAS:

13 Thank you very much, sir. We appreciate you coming here to give  
14 your evidence. On behalf of Mr. Ieng Sary, Mr. Ang Udom and I  
15 would like to thank you and wish you good luck and safe travels.

16 MR. PRESIDENT:

17 Thank you, Counsel.

18 The floor is now given to Khieu Samphan's defence to put  
19 questions to this witness. You may proceed.

20 QUESTIONING BY MR. KONG SAM ONN:

21 Thank you, Mr. President. Good afternoon, Your Honours.

22 Q. Mr. Witness, I have some questions for you. First, I would  
23 like to ask you regarding your role while you worked at K-12. You  
24 said you were a repairman for the truck.

25 [13.49.30]

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1 The question is the following: Within your group of 30 people,  
2 were they all repairmen or were they – were some of them workers  
3 working in different groups or teams?

4 MR. CHEA SAY:

5 A. In Unit K-12, in particular for my section -- that is for the  
6 truck section, we had repairmen and drivers.

7 Q. Can you tell us how many men were drivers and how many were  
8 repairmen?

9 A. As I said earlier, I cannot recall it. It's almost 40 years.  
10 We can say that there were more than 10 people in one group.

11 Q. Thank you.

12 What year did you start working at K-12?

13 A. Before 17 April 1975 liberation, I was assigned to live in  
14 Phnom Penh; there were about 40 of us, 10 were the repairmen and  
15 30 were drivers.

16 [13.51.22]

17 As for the exact date, I cannot recall. But as for the year, we  
18 entered Phnom Penh a little bit after the liberation -- could be  
19 the 23rd - the 22nd or the 23rd of April.

20 Q. Thank you.

21 When was K-12 established? Was it established before 1975 or  
22 after your arrival in Phnom Penh?

23 A. In fact, Unit K-12 was - or had been established as there were  
24 repairmen already. We were the supplementary forces to the  
25 existing forces there.

1 Q. You stated before this Court that Mr. Meal was your  
2 supervisor; is that correct?

3 A. Yes, because K-12 was supervised by Meal.

4 Q. Thank you. Can you tell us the superior of Meal?

5 A. Yes. Above Meal was Pang.

6 [13.53.02]

7 Q. Thank you. How well did you know Pang -- if so, since when?  
8 And what was your relationship with him?

9 A. I knew Pang as above K-12 Office because he came to contact  
10 and communicate with Mr. Meal who was supervisor of K-12.

11 Q. Thank you.

12 You also stated that you did not know S-71. Are you still  
13 standing by this statement?

14 A. At that time, I did not know S-11 (sic).

15 Q. It's S-71, not S-11.

16 A. (Microphone not activated)

17 Q. Could you please wait until you see the red light so that your  
18 voice will go through the system?

19 A. Let me repeat; I never heard of S-71, and that is the truth,  
20 because I knew nothing or had nothing to do with that.

21 [13.54.57]

22 Q. This morning you said some staff from K-12 were removed to  
23 repair the railway or to work in the rice fields. How did you  
24 know that?

25 A. Because I knew as people were removed, so they were removed to



1 work elsewhere to the west of Pochentong there, and I heard  
2 people talking about that. That's how I came to that conclusion.

3 Q. Thank you. So, you heard it through other people and there was  
4 no official announcement about that; right?

5 A. That is correct, I heard through my other colleagues; there  
6 was no official announcement.

7 Q. Thank you.

8 Regarding political study session, as you informed the Chamber  
9 this morning, you participate on a number of occasions both at  
10 Borei Keila and the Technical Institute. Can you confirm, within  
11 your working group composed of 30 people, as you stated, how many  
12 of them attended the study sessions with you?

13 A. What I can say is that I cannot recall the names of those  
14 individuals; it's been so long already.

15 [13.57.14]

16 But, yes, some of us went to study there, and we took turn, but I  
17 simply cannot recall the names.

18 Q. Thank you. At the study venue, besides your group, were there  
19 other groups participating in the study sessions?

20 A. When the study session was opened, sometimes the units under  
21 the K offices would be sent there, maybe five or 10 per each  
22 office would be sent to attend the study sessions.

23 Q. Can you confirm, besides your group, those attendees, what  
24 were they -- or what were their status?

25 A. Regarding the political study sessions, it was - it varied.

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1 Sometimes there were cadres, and sometimes the study sessions  
2 would be specifically for combatants, or specifically for cadres,  
3 or sometimes it was a mixture of the cadres and the combatants.

4 [13.59.03]

5 Q. Thank you.

6 In regard to Mr. Khieu Samphan, that you attended a study session  
7 with him, where was that study session held?

8 A. I attended the study session and Khieu Samphan rarely gave  
9 instructions at a study session, mostly it was by Mr. Nuon Chea.  
10 I cannot recall it clearly, whether it was held at K-6 or at the  
11 Soviet Technical Institute, but anyhow I attended a political  
12 study session conducted by him.

13 Q. Thank you. Can you also be more specific when you said Mr.  
14 Khieu Samphan rarely gave lectures during the sessions? What do  
15 you mean by that?

16 A. I was saying that, when I attended the study sessions, I met  
17 him only on one occasion. And on the other occasion it was Nuon  
18 Chea who shared the sessions.

19 [14.00.35]

20 Q. Thank you.

21 Could you also tell the Chamber when you got to know Mr. Khieu  
22 Samphan? Tell the Court the first time you met with Khieu  
23 Samphan.

24 A. I came to know him, as indicated this morning, when he paid a  
25 visit to his children. I saw him from a distance and people

1 called him Uncle Hem. Although his real name is Khieu Samphan,  
2 that's what I learned from others as well. And I got to know him  
3 in the K-12 Office.

4 Q. So the first time you saw Khieu Samphan from a distance was at  
5 K-12; is that correct?

6 A. Yes, it is.

7 Q. Can you please tell the Chamber who told you that the person  
8 who was walking into the room was Mr. Khieu Samphan?

9 A. The person who told me was the person who had been working at  
10 the unit for quite some time.

11 [14.02.31]

12 Q. Did you know the person's name?

13 A. No, I don't remember his name; it's been a long time ago.

14 Q. This morning you testified before the Chamber that when Mr.  
15 Khieu Samphan went to K-12 Office to pay a visit to his children,  
16 he went there by car; is that correct?

17 A. Yes, it is. I only saw him on one occasion.

18 Q. So is it fair to say that you only saw Mr. Khieu Samphan on  
19 one occasion at K-12?

20 A. Yes, it is.

21 Q. Can you please tell the Chamber, as well, how did Khieu  
22 Samphan go to that place?

23 A. Khieu Samphan was seen in a car; he was driven by his driver.  
24 Normally, during that time, Uncles would never drive the cars.

25 [14.04.15]

1 Q. As a mechanic, you could find it is easy to identify -  
2 identify the vehicle. Can you tell the Chamber what kind of  
3 vehicle Mr. Khieu Samphan was in at that time?

4 A. At that time, I did not pay great attention to which vehicle  
5 he was in, but I know for sure that Mr. Khieu Samphan was not a  
6 kind of fussy person who cares so much about what kind of vehicle  
7 he would choose to take.

8 Q. So, is it my understanding that Mr. - you have no idea what  
9 kind of car Mr. Khieu Samphan was in?

10 A. Yes, it is, I don't remember exactly what kind of vehicle it  
11 was.

12 Q. Now, can you tell the Court please about Mr. Khieu Samphan's  
13 children; were they -- they were his sons or daughters and what  
14 were they doing at that place at that time?

15 A. His children were very young, they were about four years old  
16 and they were taken care of by some nannies.

17 Q. I was asking about Mr. Khieu Samphan's children; were they  
18 sons or daughters?

19 [14.06.38]

20 And were they placed in that location to be under the care of  
21 their nannies, or were they placed at the nursery school?

22 A. At that time, I worked in the office but I did not go close to  
23 inspect the children. I knew that they were well taken care of by  
24 some nannies, but I did not pay great attention to know whether  
25 the - they were boys or girls.

1 Q. Was the location for the care of Khieu Samphan's children, or  
2 other children were also placed there to be taken care of?

3 A. At that place, there were some other children as well; not  
4 just Khieu Samphan's children.

5 Q. Thank you.

6 In your statement concerning Office 870, you used the term "870  
7 Office", or "Office 870", "Unit 870", "870 Ministry".

8 [14.08.54]

9 Now, can you tell the Chamber to what extent you are clear about  
10 your understanding of these terms?

11 A. Office 870 was one of the top offices under the Central  
12 Office. The office that supervised are the K offices. For  
13 example, among them, K-12 was also under the supervision of that  
14 Central Office.

15 Q. Thank you. With regard to 870 or Office 870, as you claimed,  
16 where was it?

17 A. I never been there -- I have heard of the unit -- I have heard  
18 of the unit that was on top of K-12 and I only heard or  
19 recognized the name, the code name of the unit, that's all. I've  
20 never been there.

21 Q. Thank you. Do you know who were the leaders of 870?

22 A. I was not sure at that time, but the supreme leaders, at that  
23 time, were these Uncles. No other people could have been in those  
24 positions, and apart from them, Mr. Pang was also in charge.

25 Q. Were you saying this based on your personal observation, or

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1 you said so because you have information to support your claim?

2 A. It is my personal observation because the supreme leaders were  
3 no one else other than these Uncles.

4 [14.12.12]

5 And then below them was Pang. And, again, it is my pure personal  
6 observation.

7 Q. Thank you. Did you have any contact with Office 870? Indeed,  
8 you said you've never been there at 870, but what made you  
9 believe that 870 could have been led by group of people, so on  
10 and so forth?

11 A. The reason I knew that 870 Office was supervising K-12 because  
12 I was told by my superior, who was the head of K-12, that's all I  
13 know.

14 Q. Thank you. Are you saying that your superior told you about  
15 this? Is your superior Mr. Meal?

16 A. Yes. Mr. Meal was the director of K-12, and K-12 was under  
17 direct supervision of 870.

18 Q. Thank you. In your statements -- indeed, the interviews  
19 conducted at your home, questions were already put to you, but I  
20 still have a few questions for some clarification.

21 [14.14.46]

22 At the beginning, the President posed some questions to you  
23 concerning how many times you were interviewed, and you said you  
24 were interviewed on several occasions. You said that, first, you  
25 had to sign on a piece of document, and later on you were

1 interviewed again and again.

2 Could you tell the Chamber who were the interviewers during these  
3 times?

4 A. Yes, I was interviewed on several occasions. First, Mr. Heng  
5 Ham Kheng came to interview me to collect some information from  
6 me, and then people at the Court -- at this tribunal came to me  
7 on another - another two occasions, including the date when I was  
8 taken to the Court.

9 Q. You said that you were interviewed on two occasions, including  
10 the date - the time when you were taken to the Court. Was it the  
11 time that you were - you were taken to this Court today -- I  
12 mean, before you came to this Court today?

13 A. Let me clarify this. First, he came to interview me; and,  
14 secondly, he came to ask me whether I could avail myself to come  
15 to the Court. And then, on another occasion, I was taken by car  
16 to the Court.

17 [14.16.40]

18 MR. KONG SAM ONN:

19 Thank you, Mr. Witness.

20 Thank you, Mr. President. I have no further questions.

21 And I thank you, Mr. Witness, very much for answering my  
22 questions.

23 MR. PRESIDENT:

24 Thank you.

25 (Judges Deliberate)

1 [14.21.48]

2 Mr. Chea Say, the sessions of your testimony come to an end. You  
3 are now excused. You can feel free to go back to your residential  
4 area. And the Chamber wishes to thank you very much indeed for  
5 your time during the whole day of your testimony. We appreciate  
6 your patience and your efforts in giving these testimonies, and  
7 they will be part of the process of ascertaining the truth. May  
8 we wish you safe travel home.

9 Court officers are now instructed to ensure that Mr. Witness is  
10 well assisted and make sure that he is returned home safe and  
11 sound.

12 [14.22.45]

13 Mr. Chea Say, you may feel free to leave the room along with your  
14 duty counsel.

15 It is now appropriate time for the day's adjournment, since the  
16 Chamber has concluded the testimonies of Mr. Chea Say. Indeed,  
17 the session was concluded earlier than anticipated.

18 The Chamber wishes to inform the parties and the public that  
19 tomorrow there will be two separate hearings. These hearings are  
20 not on evidentiary - on evidence.

21 But the first hearing is on the testimonies of two doctors of  
22 Khmer Soviet Friendship Hospital, the treating doctors of Mr.  
23 Ieng Sary. Because Mr. Ieng Sary had been admitted since Friday  
24 last week, the doctors will be here to tell the Chamber on the  
25 medical condition of the Accused. Indeed, the Chamber wishes to



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1 know the update on the medical condition of Mr. Ieng Sary, the  
2 Chamber wishes to know whether he is able to participate in the  
3 proceedings or not, and whether it is possible for him also to  
4 observe the proceedings through remote participation or else. And  
5 we really would like to hear from the doctors on this.

6 [14.25.08]

7 And on another hearing the Chamber will be discussing on the -  
8 during this next hearing, we also will be discussing on the  
9 hearing to be conducted concerning Mr. Philip Short, document E/  
10 -- E172, rather. And during such hearing the Chamber wishes to  
11 hear oral submissions from parties to the proceeding.

12 During tomorrow's sessions, there will be no sessions on  
13 evidence. That's why the Chamber wishes to ask questions to  
14 counsel for Mr. Nuon Chea and Khieu Samphan to see whether they  
15 wish to participate in the proceedings or not, because the  
16 Chamber feels that they are - or the sessions are not relevant to  
17 them. However, it would be good if counsels could advise the  
18 Chamber as to whether their clients would like to participate in  
19 the proceedings or not.

20 MR. PESTMAN:

21 Thank you very much, Mr. President. I haven't discussed this with  
22 my client yet, but I will definitely be here. I understand it  
23 doesn't really concern our client directly, but the right to be  
24 present at trial and to be tried in your presence is something  
25 that, of course, concerns our client as well. So we will not --

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1 maybe not be here in the morning, when they - when you will be  
2 hearing the experts - or the medical experts, but we would like  
3 to attend the follow-up hearing about the hearing of the expert  
4 witness.

5 Maybe you can give me indication of when it will start so that we  
6 can be here.

7 (Judges Deliberate)

8 [14.28.47]

9 MR. PRESIDENT:

10 Michiel Pestman, what is the latest issue you raised? Could you  
11 raise it again, please?

12 The Chamber, actually, informed the parties by email of the  
13 Senior Legal Officer of the Trial Chamber. We just reiterated the  
14 point regarding the proceeding. Usually, the proceeding will  
15 commence at 9 a.m.

16 And the matters are not directly related to your client, and if  
17 he wishes to do so, you need to let us know so that the Chamber  
18 can instruct the detention staff to bring him to the courtroom.

19 If he wishes to waive his rights of presence, please you have to  
20 submit the letter of waiver so that it's easier for the Trial  
21 Chamber to manage and we do not need to instruct the detention  
22 staff to bring your client here, as the hearing tomorrow is in  
23 regard to the procedure and the proceeding for the hearing of the  
24 expert witnesses and the civil parties.

25 [14.30.13]

1 MR. PESTMAN:

2 Thank you very much, Mr. President. Sorry; I was just informed  
3 that my client will waive his right to be present tomorrow.  
4 But I will be here tomorrow morning just in case the medical  
5 experts will be ready very quickly. I'll be here just to attend  
6 the hearing - the initial hearing, and then I would like to  
7 participate in the debate on the right of an accused to be  
8 present during his or her trial.

9 MR. PRESIDENT:

10 Thank you, Counsel.

11 Now, Counsel for Khieu Samphan.

12 MR. KONG SAM ONN:

13 Thank you, Mr. President and Your Honours. Mr. Khieu Samphan does  
14 not intend to participate in tomorrow's hearing.  
15 However, I and my team will participate in the proceeding to hear  
16 the proceeding and its related principle. Thank you.

17 (Judges deliberate)

18 [14.31.45]

19 MR. PRESIDENT:

20 It is clear in the instruction that tomorrow there will be two  
21 separate hearings, and the Chamber invites the parties to  
22 participate. What I - what the Trial Chamber wishes to inquire is  
23 regarding the participation of the Accused so that we can take  
24 necessary steps or give necessary instructions to the detention  
25 facility, or if they decide to waive their presence, then the

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1 relevant counsel needs to submit the letter of waiver to the  
2 Trial Chamber. And, of course, we invite them to attend the two  
3 hearings.

4 And thank you for the information that you have given to the  
5 Chamber.

6 The proceeding today comes to an adjournment, and we shall resume  
7 tomorrow morning -- that is, Friday -- starting from 9 a.m.

8 Security guards, you are instructed to take the three - the two  
9 Accused back to the detention facility and have them returned to  
10 the courtroom on the morning -- that is, Tuesday -- or the 25th  
11 September 2012, before 9 a.m.

12 The hearing is now adjourned.

13 (Court adjourns at 1433H)

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