



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

ព្រះរាជាណាចក្រកម្ពុជា  
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង  
Trial Chamber  
Chambre de première instance

**ឯកសារដើម**  
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TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

2 May 2012  
Trial Day 59

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

The Accused: NUON Chea  
IENG Sary  
KHIEU Samphan

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**List of Speakers:**

Language used unless specified otherwise in the transcript

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

1

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

2 (Court opens at 0907H)

3 MR. PRESIDENT:

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

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

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

10 THE GREFFIER:

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

20 MR. PRESIDENT:

21 Thank you.

22 [09.09.55]

23 Counsel for Nuon Chea, you may now proceed.

24 MR. IANUZZI:

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

2

1 A very brief point of order, if I may, Your Honours, completely  
2 unrelated to this witness or the next witness. It's actually  
3 related to something that occurred in the courtroom on Monday;  
4 something that we feel requires an extremely brief comment.

5 On Monday afternoon, as my colleague, Michiel Pestman, was  
6 discussing our teams consistent position with respect to the  
7 effective political interference at the Tribunal, Judge  
8 Cartwright visibly -- and I was looking directly at her -- shook  
9 her head from side to side and mouthed the words, "blah, blah,  
10 blah, blah", as if to indicate -- I don't quite know.

11 [09.10.36]

12 That -- that is the application that we have today, Your Honours.  
13 Given the obvious problems associated with such unrecorded  
14 gesticulations, we now seek some clarification from the Chamber  
15 or from Judge Cartwright, herself, if she's so inclined; was that  
16 episode that I just described -- was that simply her usual  
17 manifestation of disdain for defence counsel on the Nuon Chea  
18 team or was it, in fact -- was it, in fact, an expression of her  
19 position on a matter that, according to the Supreme Court  
20 Chamber, is still sub judice with this Chamber and that is, of  
21 course, the effects of RGC interference, if any -- if any, on  
22 these proceedings? What precisely was Judge Cartwright attempting  
23 to convey through her now open and, I would say, almost de  
24 rigueur expressions of exasperation in response to submissions  
25 from this corner of the stage? What is it exactly that Judge

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

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

11 [09.12.03]

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

20 MR. PRESIDENT:

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

4

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

4 [09.13.33]

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

10 MR. IANUZZI:

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

13 Your Honours, I just repeat what I said.

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

22 [09.14.44]

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

5

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

7 MR. PRESIDENT:

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

10 MR. DE WILDE D'ESTMAEL:

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

15 [09.15.46]

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



6

1 [09.16.37]

2 MR. PRESIDENT:

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

7 MR. IANUZZI:

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

10 MR. PRESIDENT:

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

13 MR IANUZZI:

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

15 MR. PRESIDENT:

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

17 [09.17.35]

18 MR. IANUZZI:

19 One minute.

20 MR. PRESIDENT:

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

24 MR. IANUZZI:

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

7

1 [09.17.56]

2 MR. PRESIDENT:

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

6 MR. IANUZZI:

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

11 [09.18.23]

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

24 (Judges deliberate)

25 [09.20.18]

1 MR. PRESIDENT:

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

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

10 QUESTIONING BY MR. KONG SAM ONN RESUMES:

11 Thank you, Mr. President, Your Honours.

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

16 [09.21.49]

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

25 MR. SALOTH BAN:

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

4 [09.23.22]

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

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

8 Q. Including the military, is that so?

9 A. Yes, it is.

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

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

20 [09.25.45]

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

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

1 river all the way to Neak Leung.

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

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

12 [09.27.53]

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

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

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

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

11

1 [09.30.06]

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

4 A. Yes, they were.

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

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

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

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

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

21 [09.33.00]

22 Q. I want you to confirm with you that there were only two or  
23 three armed guards; others who also guarded the place were cook  
24 or you; is this correct?

25 A. Yes, it is.

12

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

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

10 [09.34.47]

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

14 A. The farthest position was about 50 or 60 metres away from the  
15 hut.

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

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

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

23 Q. Thank you. I am now moving into another topic -- the  
24 International Co-Prosecutor reminded you concerning your  
25 interview with the Office of the Co-Investigating Judges. The

13

1 interview of the 7th November -- rather, April, 2010 -- document  
2 DE3/ -- rather, E369/36.

3 [09.37.21]

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

15 A. Yes, I recall that.

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

20 MR. PRESIDENT:

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

22 (A short pause)

23 [09.40.36]

24 BY MR. KONG SAM ONN:

25 Q. Mr. Saloth Ban, can you read the document that is put before



14

1 you? Otherwise, I can provide you the hard copy, if you have  
2 difficulty in reading the one on the screen.

3 MR. SALOTH BAN:

4 A. Yes, I can read that.

5 Q. Can you read--

6 A. Yes, I can.

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

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

10 Q. Thank you.

11 MR. PRESIDENT:

12 Please wait, Counsel. Yes, International Lead Co-Lawyer, you may  
13 proceed.

14 MS. SIMONNEAU-FORT:

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

17 [09.42.08]

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

21 (A short pause)

22 MR. PRESIDENT:

23 Defence counsel for Mr. Khieu Samphan, you may continue your  
24 questioning. We may examine the transcript afterward, because it  
25 seems that the problem applies only to you, Counsel. Maybe your

15

1 headset ran out of battery. Counsel may continue.

2 BY MR. KONG SAM ONN:

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

4 [09.43.34]

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

7 MR. SALOTH BAN:

8 A. Yes, I do.

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

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

19 [09.45.25]

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

23 A. This theory was studied during the study session on a daily  
24 basis.

25 MR. PRESIDENT:

16

1 International Co-Prosecutor, you may proceed.

2 MR. DE WILDE D'ESTMAEL:

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

8 [09.46.34]

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

14 MR. PRESIDENT:

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

21 BY MR. KONG SAM ONN:

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

24 [09.47.55]

25 Q. I will now continue my questions. Mr. Witness, can you tell us

17

1 about the principle of keeping secrecy? Was it stipulated in any  
2 rules, within the framework of Democratic Kampuchea?

3 MR. SALOTH BAN:

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

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

9 A. Yes, it was.

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

11 A. Yes, they were.

12 Q. Thank you.

13 [09.50.25]

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

18 A. Yes, it was.

19 MR. KONG SAM ONN:

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

22 MR. PRESIDENT:

23 Thank you, Counsel. Thank you, Witness.

24 Yes, International Prosecutor, you may proceed.

25 MR. DE WILDE D'ESTMAEL:

18

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

3 [09.52.19]

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

13 MR. PRESIDENT:

14 Thank you.

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

19 [09.54.16]

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

24 (Witness excused)

25 (A short pause)

19

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

5 MR. IANUZZI:

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

12 MR. PRESIDENT:

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

14 MR. ABDULHAK:

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

16 [09.56.25]

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

19 Just as a matter of order, the statement on the basis of which  
20 this belated application is made was first disclosed in 2007. We  
21 did recently disclose, about two weeks ago, an un-redacted  
22 version, which we became aware of. There was nothing new, as far  
23 as the issue that my friend is raising is concerned. Our position  
24 is that, if you look at the statements of this witness, on their  
25 face, there is simply no basis to make the application that my

1 friend is making.

2 [09.57.17]

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

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

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

22 [09.58.44]

23 I don't think we need to go into a closed session to deal with  
24 this any further. Thank you.

25 MR. IANUZZI:

21

1 Your Honour, if I may reply--

2 MR. PRESIDENT:

3 International Lead Co-Lawyer, you may proceed.

4 MS. SIMONNEAU-FORT:

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

12 MR. PRESIDENT:

13 Counsel for Nuon Chea, you may now proceed.

14 Mr. IANUZZI:

15 Thank you, Your Honour.

16 [09.59.50]

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



22

1 of self-incrimination. I don't know if it's appropriate to do  
2 that in front of the public, given the comments that were made  
3 the last time I raised this issue.

4 [10.00.31]

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

15 MR. PRESIDENT:

16 Thank you, Counsel.

17 (Judges deliberate)

18 [10.05.45]

19 MR. IANUZZI:

20 Your Honour, I should have mentioned this earlier, that the  
21 reason that I raised this is because -- the reason I raised this  
22 is because I may -- I'm not saying I will -- I may delve into  
23 these areas on cross-examination, and I didn't want to be  
24 accused, at that stage, of not having raised the issue at the  
25 appropriate time. So I may, as I said. I don't know yet whether I

23

1 will. But I may go into it in cross-examination. And, perhaps as  
2 a time-saving measure, I could simply send an email to all the  
3 parties outlining what I see to be the problem. Your Honours  
4 could review that during the break, and that would avoid going  
5 into the closed session, if you were so inclined to do that.

6 MR. PRESIDENT:

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

13 MR. IANUZZI:

14 Thank you, Your Honour.

15 [10.07.05]

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

20 MR. PRESIDENT:

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

23 MR. IANUZZI:

24 Yes, I'm sorry again, Your Honour. D125/143, D125/144 and  
25 D125/207. That last document is, more or less, a summary of the

24

1 two previous documents. So, really, you could simply rely on that  
2 one.

3 [10.08.20]

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

13 MR. PRESIDENT:

14 Thank you for the information.

15 [10.09.14]

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

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

23 MR. KARNAVAS:

24 Thank you, Mr. President, and good morning to everyone in and  
25 around the courtroom. My intervention is slightly different.

25

1 There is one document -- E187.1 -- which is an un-redacted  
2 version of an earlier document. It's an SOAS quote unquote  
3 "interview". We did raise -- we sent an email to the Senior Legal  
4 Officer making some inquiries regarding this document which  
5 mysteriously has been retyped over previous -- it was retyped  
6 from a previous document.

7 [10.10.48]

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

23 [10.12.04]

24 It's as if this person knew exactly what to say, and it's a  
25 simple summary. So we would object to this document being used.

1 Unless, of course, the Prosecution can provide us with more  
2 guidance as to how the document was generated, whether they are  
3 in possession of any tape recordings that we could review, or  
4 whether they can give us any other indicators that, perhaps, may  
5 alleviate some of our concerns. But at this point in time, we  
6 would object to this document being used for any purpose. Thank  
7 you.

8 MR. PRESIDENT:

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

10 MR. KONG SAM ONN:

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

19 [10.13.52]

20 Since witness is summoned, and will be appearing before the  
21 Chamber, we may question the witness directly, rather than  
22 referring to this document prepared by that person. And we can  
23 also refer to the written records of interviews by the  
24 Co-Investigating Judges if we need to question the witness for  
25 verification. And we would like to reject the introduction of

1 E181.1 -- rather, 187.1

2 MR. PRESIDENT:

3 Counsel for Nuon Chea, you may proceed.

4 MR. IANUZZI:

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

7 [10.14.49]

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

15 MR. PRESIDENT:

16 International Co-Prosecutor, you may now proceed.

17 MR. ABDULHAK:

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

20 [10.15.39]

21 And we oppose it on a number of grounds. First of all, there's no  
22 basis given for this application. No legal basis, that is, other  
23 than the argument that, because it is a summary, it shouldn't be  
24 brought into evidence, and that because we don't have a full  
25 transcript, that this document cannot be used.

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

6 [10.16.30]

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

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

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

20 [10.17.55]

21 The basis for that objection was that the witnesses must appear  
22 at trial, and so that's the position we're in. We have a document  
23 which we have the basic information as to the -- its provenance  
24 and circumstances of its creation and we have the witness. The  
25 witness, at least in part, testifies to the acts and conduct of

1 the accused and he is before Your Honours, and the Defence can  
2 make use of this document. It is only appropriate that all prior  
3 statements of a witness who is before the Court are also -- also  
4 put before the Chamber and, of course, it's so that the parties  
5 can make use of them.

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

10 MR. PRESIDENT:

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

12 [10.19.12]

13 MS. SIMONNEAU-FORT:

14 Mr. President, once again we have before us an example of  
15 confusion over admissibility and probative value. As Mr.  
16 Co-Prosecutor has said, there's been no information or elements  
17 brought forward to us that would show that these documents would  
18 be inadmissible because they were summaries or something else, or  
19 that they had lesser value than any documents that have been  
20 admitted by the Co-Investigating Judges.

21 Now, barring any further debate on the issue of admissibility, I  
22 would implore you to reject this application put forward by the  
23 Nuon Chea defence.

24 To say that we have to reject a document is absurd because that  
25 would mean that all documents concerning this witness would have



30

1 to be dismissed, and this includes written records of witness  
2 interview that have been conducted the Co-Investigating Judges.  
3 It's entirely routine and usual to rely upon these documents as  
4 we would any other document. Thank you very much.

5 MR. PRESIDENT:

6 Mr. Karnavas, you may now proceed.

7 [10.20.35]

8 MR. KARNAVAS:

9 Thank you, Mr. President.

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

19 [10.21.22]

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

24 That is why it is important -- that's why it is important to be  
25 able to see what was the question posed, how was it posed, and

1 what was the actual answer, and it's the question and answer that  
2 are relevant.

3 It's also important to know whether the -- the witness was shown  
4 any particular documents; if the memories were refreshed; if,  
5 indeed, there was a conversation with the witness in advance.

6 Many times if we have tape recordings we're able to glean a lot  
7 more and to be able to demonstrate that perhaps the summary is  
8 not quite as accurate; it is neither accurate nor complete.

9 [10.22.28]

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

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

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

25 [10.23.40]

1 Number two. At the ICTY, I'm entitled to cross-examine, to ask  
2 leading questions, and this is rather common in civil law  
3 provisions. It may not be common in France or Cambodia, but in  
4 other civil law traditions I can assure Your Honours I am fully  
5 aware that parties are entitled to ask leading questions.  
6 So I'm not able to do that, so it poses some constraints, and  
7 that's why we cannot just simply adopt what happens at the ICTY.  
8 But, lastly, should the Trial Chamber buy into the Prosecution's  
9 argument, then we need some leeway, some additional time, to go  
10 into those areas, which means that a time allotted for the  
11 Defence, which I believe is three-quarters of a day, may not be  
12 enough. And so we may need some latitude from the Trial Chamber  
13 in order to challenge -- or in order to elicit information from  
14 the witness to see exactly how was the statement generated,  
15 whether he was shown any documents, and to the best of his  
16 recollection what else he might have said at the time.

17 [10.24.56]

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

22 Co-Investigating Judges' statement, we have the tapes, we can  
23 verify. This one, we do not, and there lies the difference, and  
24 that's why I raise it.

25 MR. PRESIDENT:

1 Does any member of other parties wish to make any further  
2 comment?

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

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

7 Counsel for Ieng Sary, you may now proceed.

8 [10.26.20]

9 MR. ANG UDOM:

10 Thank you, Mr. President, Your Honours.

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

16 Thank you very much, Your Honours.

17 MR. PRESIDENT:

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

19 MR. ABDULHAK:

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

23 [10.27.06]

24 I just wanted to direct your attention to three documents which  
25 have, in fact, already been assigned E3 numbers and deemed put

34

1 before the Chamber and which are from within this collection.

2 They are E3/198; E3/392; and E3/393. All three documents are very  
3 similar in form to the document that we're discussing, and I  
4 believe they were admitted by the Chamber since they were  
5 referred to in a relevant part of the Closing Order.

6 And I just put that on the record for Your Honours to assist in  
7 your deliberations.

8 MR. PRESIDENT:

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

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

19 The AV Unit is now instructed to live the proceedings to the  
20 holding cell for this accused to follow remotely.

21 Detention -- detention personnel are now instructed to bring this  
22 accused person to a holding cell downstairs for him to follow  
23 from there.

24 The Court is now adjourned.

25 (Court adjourns into closed session at 1029H)

1 (Court resumes in open session at 1333H)

2 MR. PRESIDENT:

3 Please be seated. The Court is now in session. For this  
4 afternoon session, the Chamber will hear testimony of TCW-504.  
5 Before calling on the witness to be brought to this Court, the  
6 Chamber would like to inform the parties and the public that  
7 during the closed sessions this morning, the Chamber has heard  
8 arguments from defence counsel for Nuon Chea concerning Witness  
9 TCW-504 and other arguments concerning the admissibility of  
10 document E187.1.

11 [13.35.20]

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

15 (Witness enters the courtroom)

16 QUESTIONING BY MR. PRESIDENT:

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

18 MR. PEAN KHEAN:

19 A. Yes, I can.

20 Q. Please wait before you answer any questions that are asked to  
21 you -- please wait until your mic has been activated. That will  
22 mean that the mic is working, so that you can be heard by anyone  
23 in this courtroom -- especially by the interpreting team, from  
24 Khmer to either English or French. These are the three working  
25 languages at this Court.

1 [13.38.13]

2 Do you understand?

3 A. Yes, I do.

4 Q. What is your name, Witness?

5 A. My name is Pean Khean.

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

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

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

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

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

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

14 Q. What is your job?

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

16 Q. What is your father's name?

17 A. My father's name is Pean.

18 Q. And your name?

19 [13.40.19]

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

23 A. My mother's name is Khay.

24 Q. How many children do you have? Mr. Pean Khean, how many  
25 children do you have?

1 A. I have three children.

2 Q. What is your original nationality?

3 A. My nationality is Kravet.

4 Q. Do you know Khmer language clearly?

5 [13.41.35]

6 How much do you know about Khmer language?

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

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

15 [13.42.38]

16 Is this correct?

17 A. Yes, it is.

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

20 A. Yes, it is.

21 Q. Now the Chamber would like to remind you of your duty and your  
22 rights as a witness. Mr. Pean Khean, in your capacity as a  
23 witness to these proceeding before this Chamber, you are entitled  
24 to refrain from answering any questions that may lead to  
25 self-incrimination. This is your right against



1 self-incrimination, which means that, because of your answers,  
2 you may be prosecuted.

3 [13.44.02]

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

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

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

14 A. Yes, I do, Your Honours.

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

23 [13.46.42]

24 Court officer is now instructed, as required by the witness  
25 himself, to invite the duty counsel for this witness to this

1 courtroom and bring him to sit beside the witness.

2 (Counsel enters courtroom)

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

4 MR. MAM RITHEA:

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

7 MR. PRESIDENT:

8 Thank you, Counsel.

9 [13.48.14]

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

19 QUESTIONING BY MR. VENG HUOT:

20 Thank you, Mr. President.

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

23 Mr. Pean Khean, do you hear me?

24 MR. PEAN KHEAN:

25 A. Yes, I do.

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

2 [13.50.12]

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

6 A. I joined the Khmer revolution--

7 MR. PRESIDENT:

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

9 MR. IANUZZI:

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

14 [13.51.06]

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

16 (Judges deliberate)

17 MR. PRESIDENT:

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

22 (A short pause)

23 MR. PRESIDENT:

24 You may proceed, Mr. Co-Prosecutor. The Defence is not -- was not  
25 rejecting the question on the basis that the question was a

1 leading question. Please be reminded that the witness is not of  
2 the Khmer nationality. His nationality is Kravet.

3 BY MR. VENG HUOT:

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

5 [13.53.01]

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

10 MR. PEAN KHEAN:

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

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

19 A. I do not really understand the question.

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

22 [13.54.40]

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

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

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

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

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

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

8 Q. When you first joined the revolution were you told to write  
9 biography?

10 [13.56.34]

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

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

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

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

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

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

23 A. At the time, I was told that I was a messenger of the  
24 revolutionary Angkar.

25 Q. Did you know the most senior chairmen, the ones that you

1 thought was the Angkar?

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

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

4 [13.59.56]

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

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

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

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

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

18 [14.01.38]

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

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

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

25 Q. What did Koy Thuon do?

44

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

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

6 [14.03.33]

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

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

10 MR. PRESIDENT:

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

17 Counsel for Khieu Samphan, you may proceed.

18 MR. KONG SAM ONN:

19 Thank you, Mr. President.

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

23 [14.05.07]

24 MR. PRESIDENT:

25 Co-Prosecutor, you may now proceed.

1 MR. VENG HUOT:

2 Thank you, Counsel. I would like to seek clarification from the  
3 witness.

4 BY MR. VENG HUOT:

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

8 MR. PEAN KHEAN:

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

11 [14.06.00]

12 Thank you, Witness.

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

15 Then I would proceed to another question.

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

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

18 Q. What did you do back then?

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

23 Q. Thank you.

24 Do you know who were the secretary of Zone 304 between 1966 and  
25 1975?



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

3 [14.08.50]

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

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

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

13 Could you please wait until the mic is activated before you  
14 respond.

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

18 A. Yes.

19 [14.10.43]

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

22 A. As the messenger, I knew very little. As I indicated, I did  
23 not even have any access to any documents. Even the letters were  
24 placed in the bamboo tubes and I could never read them.

25 Q. According to your best recollection, at which offices were

1 these people working?

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

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

6 A. No, I haven't.

7 Q. Thank you.

8 Do you know Ken alias Lin?

9 [14.13.32]

10 A. I know this person very well.

11 Q. When did you get to know him?

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

14 Q. Before 1975, did you know Pang?

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

16 Q. What was your relationship with Pang?

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

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

22 [14.15.48]

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

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

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

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

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

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

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

8 [14.17.36]

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

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

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

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

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

17 A. No, I'm not.

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

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

22 [14.20.30]

23 A. I cannot tell you about this because I had never been living  
24 in the base with the people. I spent my entire time in the  
25 jungle.

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

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

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

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

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

14 [14.23.19]

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

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

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

23 Q. Are you talking about people being afraid or Angkar had some  
24 kind of intimidating influence?

25 A. I was saying that what happened in the jungle no-one could be

1 of any assistance. It would be part of our karma.

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

4 [14.25.40]

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

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

10 A. (Recording malfunction)

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

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

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

16 [14.27.29]

17 Q. What happened after 1975?

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

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

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

23 Q. I would like now to proceed to the policy of the CPK. My next  
24 question is: How did the Khmer Rouge treat an individual Lon Nol?  
25 Was he treated as an enemy to the revolution?

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

3 Q. Thank you. I would like to ask you a little bit concerning the  
4 authority -- the suppressing of the authority of the suppressor.  
5 Is this term referred to Lon Nol, himself, or to the officers or  
6 officials of the Lon Nol regime?

7 A. That refers to the monarchy regime -- rather, the government  
8 officials.

9 [14.30.39]

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

14 A. Yes, it is.

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

20 A. Because they were considered enemies, if they were arrested,  
21 they were to be smashed.

22 [14.32.17]

23 Q. Thank you. In your capacity as a messenger, what did Angkar  
24 trained you after you joined the Communist Party?

25 A. I do not understand the question.

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

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

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

8 A. I was explained in the evening meeting.

9 [14.35.02]

10 Q. Who taught you at that time?

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

12 Q. During the study session, were you given any documents or any  
13 books?

14 A. During such ordinary meeting, we were not provided with any  
15 materials.

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

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

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

23 A. My location, at that time, was not in one place; sometimes, I  
24 was in Samraong district but, at other times, I travelled from  
25 place to place. It was nearly in 1976 when I came to live in

1 somewhere called Damnak Sandaet or Smach and I was close to Koy  
2 Khuon.

3 [14.38.12]

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

6 A. It was Pang who appointed me to be with Koy Thuon. Pang  
7 introduced me.

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

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

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

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

15 [14.39.52]

16 MR. PRESIDENT:

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

20 (Short pause)

21 MR. PRESIDENT:

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

24 The Court officer is instructed to accommodate the witness and to  
25 return him to this courtroom along with his duty counsel by 3



1 o'clock.

2 (Court recesses from 1440H to 1501H)

3 MR. PRESIDENT:

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

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

12 MR. ABDULHAK:

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

20 [15.03.33]

21 All I can say, Mr. President, is that we had originally requested  
22 three quarters of a day for the Prosecution alone. I think this  
23 witness can testify to a number of matters. We would simply ask  
24 for a -- a degree of flexibility if that is at all possible. We  
25 will certainly endeavour not to exceed the time that you

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

9 MR. PRESIDENT:

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

11 MS. SIMONNEAU-FORT:

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

19 [15.05.22]

20 Once again, as far as we are concerned, at this stage of the  
21 proceedings, we would require approximately one hour; perhaps  
22 more, perhaps less and it's difficult to judge when we intervene  
23 following other parties in terms of providing you an exact  
24 timeframe. However, I would hope, at the very least, we are given  
25 one hour for our examination.

1 (Short pause)

2 MR. PRESIDENT:

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

6 MR. IANUZZI:

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

10 [15.07.03]

11 MR. PRESIDENT:

12 Thank you, Counsel.

13 Counsels for Mr. Ieng Sary.

14 MR. ANG UDOM:

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

17 MR. PRESIDENT:

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

19 MR. KONG SAM ONN:

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

21 MR. PRESIDENT:

22 National Co-Prosecutor, you may now proceed with your  
23 questioning.

24 [15.08.03]

25 BY MR. VENG HUOT:

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

4 Q. Mr. Pean Khean, I have a few more questions. Before April  
5 1975, as the messenger of Mr. Koy Thuon, were you aware of the  
6 CPK's policy to evacuate or transfer the population from Phnom  
7 Penh?

8 MR. PEAN KHEAN:

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

12 [15.09.27]

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

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

19 Q. Thank you. I would like now to proceed to the 17th of April  
20 1975 when Phnom Penh was already collapsed. How did you go to  
21 Phnom Penh? Who ordered you to go there and who were the leaders  
22 who were coming with you?

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

25 Q. Did you know other leaders who came before you to Phnom Penh

1 or came with you when you came to Phnom Penh at that time?

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

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

6 [15.12.22]

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

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

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

16 A. (No interpretation)

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

19 A. Pang and Lin were the persons who were in charge of K-1, but  
20 the person who was regularly in charge was Lin; Lin, who was  
21 overseeing both K-1 and K-3.

22 [15.14.27]

23 MR. VENG HUOT:

24 Thank you, Mr. Witness.

25 And, Mr. President, and Your Honours, I have no further

1 questions. I would like now to hand over to my colleague.

2 QUESTIONING BY MR. ABDULHAK:

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

5 MR. PRESIDENT:

6 Could anyone help the witness?

7 (Short pause)

8 MR. PRESIDENT:

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

10 [15.15.45]

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

12 BY MR. ABDULHAK:

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

19 MR. PEAN KHEAN:

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

22 Q. Thank you. And did you, at this stage or later on, become a  
23 member of the -- of an organization called the "Revolutionary  
24 Youth" -- or, rather "Revolutionary Youth League"?

25 A. Before 1975, I was introduced to the Youth League. I cannot

60

1 recall the exact date when I joined the league.

2 [15.17.51]

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

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

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

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

14 Q. Thank you very much.

15 [15.19.55]

16 I'm going to ask you about -- you've said to us that, I think, in  
17 1970, you relocated from Ratanakiri -- I think you said to  
18 Kampong Thom. Do you recall the place where you were in Kampong  
19 Thom?

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

25 Q. Do you know, at this time -- in 1970 or from 1970 onwards --

61

1 do you know where the office or headquarters of Thuch was?

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

8 Q. Thank you.

9 [15.22.28]

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

14 A. I may go back a little bit to tell you that, between 1966,  
15 '67, all the way to 1970, I still recollect that there were some  
16 senior leaders, including Pol Pot, Son Sen, and Om Ya. They're  
17 only three people.

18 Q. Thank you very much.

19 [15.23.48]

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

23 A. No. As a messenger, I would move from one place to another  
24 quite often, and I did not know for sure regarding this.

25 Q. Thank you. Did you, by any chance, in this period, see any



1 meetings of any leaders or senior cadre?

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

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

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

11 Q. Thank you.

12 [15.26.33]

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

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

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

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

23 Q. Yes, thank you. We understand, Mr. Pean Khean, you were not a  
24 soldier.

25 [15.28.31]

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

4 A. I had been in Kampong Thom with Thuch's wife from 1972 to  
5 1973, all the way to 1974.

6 Q. And where was Thuch in this period?

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

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

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

11 Q. You said to us that, in this period, if I understand correct  
12 -- 1973-1974 -- Thuch stayed in Chamkar Leu. And my question was:  
13 Do you know when he left this location?

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

16 Q. And do you know where he went?

17 [15.31.15]

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

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

23 Q. And were you with him at this time, or were you somewhere  
24 else?

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

1 Q. And in that period, near Udong, as far as you recall, did  
2 Thuch meet with any of the other senior leaders of the Party?

3 A. Before he came to Phnom Penh battlefield, there were meetings.  
4 And after the battlefield began -- the attack began, they did not  
5 meet each other again.

6 Q. Do you recall who he met with?

7 A. I did not remember the names of those people, but I knew that  
8 those Om -- or senior people -- were discussing the attack.

9 Q. And are you aware of any decisions that the leaders made at  
10 these meetings?

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

12 [15.34.36]

13 I only knew that, after the meetings, they decided to fight and  
14 liberate Phnom Penh.

15 Q. And in this period, were you aware -- you said earlier that  
16 Lon Nol's soldiers -- if they were captured, they would be  
17 smashed. Please correct me if I'm wrong. Were you aware of any  
18 places or any incidents where Lon Nol's soldiers were smashed, to  
19 use your word?

20 A. Because they were considered enemies, so we were against them.  
21 We were life and death enemies -- between the Khmer Rouge and the  
22 Lon Nol.

23 Q. And at this time -- and of course, you just -- you've said to  
24 us, you knew that an attack on Phnom Penh was planned. Did you  
25 know -- or did you discuss with any of your fellow colleagues

1 what might happen if a victory is achieved?

2 A. At that time, it was my feeling that – I was worried whether  
3 we would obtain victory or not.

4 [15.36.55]

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

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

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

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

13 A. It was on that day. I arrived at 5 p.m. I arrived at Wat  
14 Phnom.

15 Q. Thank you.

16 [15.38.40]

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

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

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

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

25 Q. Did any of his -- were any of his deputies in Phnom Penh when

1 he arrived or shortly after he arrived?

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

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

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

10 Q. Thank you.

11 [15.41.31]

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

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

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

23 A. I saw those people -- some of them were taking vehicles, but  
24 most of them were on their foot.

25 Q. And do you recall if this was a small number of people or a

1 large number of people that you saw?

2 A. It was a large group of people.

3 [15.43.44]

4 People were in a very long line.

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

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

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

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

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

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

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

23 [15.47.15]

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

25 Q. Did you hear about any enemies in your discussions with other

1 cadre -- did you hear about anyone being captured? Any of these  
2 enemies that were to be cleaned?

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

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

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

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

10 [15.49.00]

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

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

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

20 A. As far as I know, prior to that he was the chairman of Zone  
21 304, and later on he was in charge of the Ministry of Commerce,  
22 rather -- before he was arrested.

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

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

1 [15.52.04]

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

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

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

7 Q. And do you know what -- apologies, do you know who arrested  
8 Koy Khuon?

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

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

13 [15.53.58]

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

15 A. Back then, the word "Angkar" referred to the leaders of the  
16 revolutionary Kampuchea.

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

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

23 Q. Did you come to know any of the leaders subsequently, after  
24 the arrest of Koy Thuon, in the months and years following?

25 A. Later on, in 1976, I came to know those senior leaders. They



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1 included Pol Pot, Nuon Chea, Ieng Sary, Son Sen. I did not know  
2 Nuon Chea before that. I did not know Mr. Khieu Samphan before  
3 that. It was in 1976 that I know them.

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

6 A. I did not hear clearly.

7 (A short pause)

8 [15.57.40]

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

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

19 [15.59.06]

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

22 Q. And as you recalled the situation at the time, did you and  
23 other people living and working in Phnom Penh understand these  
24 people to be the leaders?

25 A. I don't understand the question.

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

2 Mr. Pean Khean, what happened after Koy Thuon was arrested? As  
3 far as you know, where was he taken?

4 A. It was on one occasion that I went to the south of Pol Pot's  
5 house--

6 MR. PRESIDENT:

7 We hear nothing.

8 [16.00.46]

9 We have problem hearing -- I think there could have been some  
10 technical problem. Can we hear now?

11 Witness, could you repeat your response, because we haven't heard  
12 anything from you.

13 MR. PEAN KHEAN:

14 A. I met Mr. Koy Khuon on one occasion, because Pang asked me to  
15 bring chicken to Koy Khuon, when he was at a location to the  
16 south of Om Pol's house. He was about 3 meters from Om Pol's  
17 location.

18 BY MR. ABDULHAK:

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

20 A. Rather, 300 meters.

21 MR. PRESIDENT:

22 Thank you very much, Witness, and thank you very much,  
23 Co-Prosecutor.

24 [16.02.08]

25 Since it is now time for the -- today's adjournment, the Court is

1 now adjourned. The next session will be resumed tomorrow by 9  
2 a.m.

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

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

13 The Court is adjourned.

14 (Court adjourns at 1603H)

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