



អគ្គនៅក្នុងព្រះទេសចរណ៍ក្រសួងពាណិជ្ជកម្មខំ

Extraordinary Chambers in the Courts of Cambodia

Chambres Extraordinaires au sein des Tribunaux Cambodgiens

អគ្គនៅក្នុងព្រះសាធារណជនប៊ូល

Trial Chamber

Chambre de première instance

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

Kingdom of Cambodia

Nation Religion King

Royaume du Cambodge

Nation Religion Roi

ឯកសារដឹង

ORIGINAL/ORIGINAL

ថ្ងៃទី (Date): 01-Feb-2012, 13:25

Sann Rada

CMS/CFO:

TRANSCRIPT OF TRIAL PROCEEDINGS
PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

25 January 2012
Trial Day 21

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

Lawyers for the Accused:

SON Arun
Michiel PESTMAN
Jasper PAUW
ANG Udom
Michael G. KARNAVAS
KONG Sam Onn
Jacques VERGÈS

Trial Chamber Greffiers/Legal Officers:

DUCH Phary
Natacha WEXELS-RISER

For the Office of the Co-Prosecutors:

CHAN Dararamsey
Tarik ABDULHAK
SENG Bunkheang
Dale LYSAK
PICH Sambath
Sarah ANDREWS

Lawyers for the Civil Parties:

PICH Ang
Élisabeth SIMONNEAU-FORT
LOR Chunthy
Chet Vanly
SIN Soworn
HONG Kimsuon
VEN Pov
Philippine SUTZ
SAM Sokong

For Court Management Section:

UCH Arun

INDEX

MR. VANTHAN DARA PEOU (TCW-766)

Questioning by Mr. Karnavas resumes	page 1
Questioning by Mr. Kong Sam Onn.....	page 36
Questioning by Mr. Vergès	page 59

MS. PRAK YUT (TCW-542)

Questioning by The President	page 70
Questioning by Mr. Seng Bunkheang.....	page 73

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MR. ABDULHAK	English
MR. ANG UDOM	Khmer
JUDGE CARTWRIGHT	English
MR. KARNAVAS	English
MR. KONG SAM ONN	Khmer
JUDGE LAVERGNE	English
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. PESTMAN	English
MR. PICH ANG	Khmer
MS. PRAK YUT (TCW-542)	Khmer
MR. SENG BUNKHEANG	Khmer
MS. SIMONNEAU-FORT	French
MR. VANTHAN DARA PEOU (TCW-766)	Khmer
MR. VERGÈS	French

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

1

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

2 (Court opens at 0901H)

3 MR. PRESIDENT:

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

5 [09.02.48]

6 Yesterday, we left off with the defence counsel for Ieng Sary
7 putting questions to the witness.

8 Since defence counsel still have one hour left to put more
9 questions to the witness, the Chamber would like to hand over to
10 the counsel to proceed with the remaining of their questions.

11 MR. KARNAVAS:

12 Good morning, Mr. President. Good morning, Your Honours. Good
13 morning to everyone in and around the courtroom. Good morning,
14 Witness.

15 QUESTIONING BY MR. KARNAVAS RESUMES:

16 Q. Before we pick up where we left off yesterday, let me take you
17 back to a series of questions that you were asked, both by the
18 Nuon Chea defence and by myself, concerning whether DC-Cam has
19 files on the Accused.

20 [09.03.51]

21 Yesterday, you indicated that DC-Cam does not have such files.

22 Do you stand by that answer?

23 MR. VANTHAN DARA PEOU:

24 A. Yes, I do. We do not have files on each Accused.

25 Q. Thank you. Now, if we could look up a particular document that

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

2

1 was provided by DC-Cam, that bears your name-- We'll pull it up
2 right now. You indicated yesterday that you had turned over some
3 documents to DSS. I believe you said that either yesterday or the
4 day before. And here I have three binders. This is just one of
5 the -- the front page. And it says "compiled by" you - "files
6 Ieng Sary".

7 So my question now is: Did you compile that for DSS, or was there
8 an Ieng Sary file that you just copied and provided to DSS? Which
9 of the two?

10 [09.05.30]

11 A. This document was created by me into a folder for the purpose
12 of research and study, and I did create this file and I also
13 turned it over to the DSS.

14 Q. And since you created this file, do you now have a file that's
15 particularly or especially dedicated to Mr. Ieng Sary?

16 A. I have named this document as folder because each staff member
17 of DC-Cam has his/her own folder when conducting research. So,
18 when reading documents -- or reading the request for documents,
19 we would include or compile the relevant documents in the request
20 into the single folder.

21 Q. Let me make sure I understand, because now you're talking
22 about folders. So are you suggesting that a folder is not a file,
23 but basically would contain everything that one would expect in a
24 file?

25 A. Sir, your question concerns the folder, as I heard from the

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

3

1 rendition.

2 [09.07.20]

3 Q. All right. So, again, I want to make sure that I understand
4 you correctly.

5 Are you suggesting that through translation, they said "folder"
6 rather than "file", which is why you're using the term "folder"?

7 Is that your answer?

8 A. Indeed, I listened to the Khmer language, and this is what I
9 got from the rendition, because "sonom roeung" (phonetic) in
10 Khmer should be rendered as a kind of folder created by each and
11 individual staff at the DC-Cam for the purpose of putting
12 documents from their research. And I have also created such a
13 folder for the purpose of this research.

14 Q. All right. So let me ask you one more time: Do you have
15 folders on the individual Accused? Other than the one that we've
16 just seen, created for Mr. Ieng Sary, is there one for Nuon Chea,
17 Khieu Samphan, Ieng Thirith? "Yes", "no", "maybe", "I don't
18 know"?

19 A. Yes, we have such folder.

20 Q. Now, were those folders created prior to the establishment of
21 this institution, the Extraordinary Chambers in the Courts of
22 Cambodia?

23 A. These folders had been created long ago, and when researchers
24 or learners who would like to request for documents, the relevant
25 documents would be included in such folders for the purpose of

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

4

1 study and research.

2 [09.09.34]

3 Q. All right. Let me make sure I understand you. So, had the Nuon
4 Chea team, yesterday, asked you whether there were "folders"
5 dedicated to Nuon Chea, the answer would have been yes, but
6 because they said "file," the answer was no; is that your answer
7 today?

8 A. This question concerns the compilation and collection of
9 documents and classification of documents into different
10 classifications, and I--

11 Q. Sir, I'm going to interrupt you here. I'm going to interrupt
12 you here. You're eating up my time; you're not answering the
13 question. Had they used the word "folder" as opposed to "file",
14 would the answer have been: Yes, we have folders? It's a yes or
15 no.

16 [09.10.53]

17 A. Such folders exist.

18 Q. All right. Let me-- Just one-- That begs another question: Is
19 there a reason why, yesterday, you didn't provide that
20 information when you were asked repeatedly?

21 And I put this question to you, sir, because I put to you that,
22 under oath, you were being less than candid, less than truthful.
23 Is there a reason? And if so, please explain it to the Chamber.

24 A. Actually, the creation of these folders, they are not really
25 part of the compilation of the documents or files, because,

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

5

1 normally, documents could be classified as "L," "D," "I," or "J".

2 And when I was asked whether such - such folders were created

3 when we collect these documents in the first place, and I said

4 no, and it -- I still stand by my position.

5 Q. Perhaps we could look at D312.2.15, and I have a hard copy for

6 you, sir, if you -- if the usher wishes to provide you with a

7 copy.

8 MR. PRESIDENT:

9 Court officer is now instructed to take the hard copy from
10 counsel and turn it over to the witness.

11 MR. KARNAVAS:

12 (Microphone not activated)

13 [09.13.00]

14 MR. PRESIDENT:

15 Counsel, your mic was not activated.

16 BY MR. KARNAVAS:

17 My apologies. My apologies, Your Honour.

18 Q. D312.2.15 is an email, subject matter: for Ieng Thirith's
19 file. And it's dated January 6 2003, and this is from Peter
20 Maguire to DC-Cam. Based on this email, sir, it would appear that
21 there was a file with respect to Ieng Thirith as far back as
22 2003.

23 Were you aware of that, sir?

24 [09.13.56]

25 MR. VANTHAN DARA PEOU:

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

1 A. As stated, at the DC-Cam each member of staff has his or her
2 own folders for research.

3 Q. Sir, you already told us that. This is to DC-Cam, and it's to
4 Youk. Who is "Youk" referred to in this particular email? Is he
5 some kind of staffer? Or is he the director?

6 A. You did not ask me whether this document was sent to Mr. Youk
7 Chhang or not, and since the document is being shown before me, I
8 was trying to explain to you why such folder was created.

9 Q. -thank you. Look at the document. Below, you will see: "Dear
10 Youk" -- it's in English, you have a master's from Notre-Dame,
11 you can read English -- and then, below, it's "Peter Maguire".

12 [09.15.11]

13 But let's look at another document. And this dates back to 1998.
14 This is another email. If we could pull it up. And I have a hard
15 copy for the gentleman.

16 I would most appreciate it if the usher could come and give this
17 hard copy to the gentleman, Mr. President, with your permission.

18 MR. PRESIDENT:

19 Court officer is now instructed to take the document and present
20 it to the witness.

21 BY MR. KARNAVAS:

22 Q. Let's walk through this document. It says, at the top:
23 "From: Documentation Center.
24 "To Benedict Kiernan.
25 "C.C.: Helen Jarvis.

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

7

1 "Subject: Update files on Nuon Chea.

2 "Date: Wednesday, April 22, 1998."

3 [09.16.20]

4 Do you see that, sir? It's a yes or no.

5 MR. VANTHAN DARA PEOU:

6 A. Yes, I do.

7 Q. Now, if you flip to the second page, you would see that it's
8 signed "Youki".

9 Would that be Youk Chhang? Is "Youki" Youk Chhang?

10 A. Yes, it is.

11 Q. Now, if we could look at the annotations-- Because, yesterday
12 and the day before, you talked about annotations, you talked
13 about having the capacity to read handwriting. I've circled it
14 for your benefit, it's way at the top.

15 Does it say-- What does it say there? Perhaps you could read it
16 for us, the very first annotation.

17 MR. ABDULHAK:

18 Mr. President, if I may be heard very briefly?

19 [09.17.30]

20 MR. KARNAVAS:

21 No, I would like the answer of my question. If there's an
22 objection, I'd like to--

23 BY MR. KARNAVAS:

24 Q. So, sir, does it not say: "Dara, for NC file"? Sir?

25 MR. VANTHAN DARA PEOU:

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

1 A. I can read. It read "Dara, for NC file."

2 Q. Now, from this email, it--

3 MR. PRESIDENT:

4 International Co-Prosecutor, you may now proceed.

5 [09.18.07]

6 MR. ABDULHAK:

7 Just very briefly, Mr. President. I think my learned friend
8 indicated a "D" number for the previous document he showed, but
9 not one for this email. It would just assist everyone if that
10 could be provided.

11 Also, the document is very fuzzy on the screen. I assume counsel
12 has a hard copy and the witness, I think, has been given a hard
13 copy. It might assist if those passages which counsel considers
14 to be an issue can be just read out so we can understand what is
15 being discussed.

16 MR. KARNAVAS:

17 Thank you. First, it does not have a "D" number, and second of
18 all, I have a hard copy for the Prosecution. But it's crystal
19 clear, at the very, very top, the first annotation.

20 [09.18.54]

21 BY MR. KARNAVAS:

22 Q. Could you please read the first annotation for our learned
23 friends here?

24 MR. VANTHAN DARA PEOU:

25 A. I think I already read it once clearly, and if it is not

1 clear, then you can ask me again.

2 Q. Sir, I'm asking you to read it. You don't get to dictate the
3 rules here.

4 So please read for the Prosecution's benefit. What does it say,
5 the annotation?

6 A. Could you please be more specific to any particular annotation
7 you would like me to read to the prosecutors?

8 Q. The first one, the very first one, the one you just read. Keep
9 in mind you're under oath.

10 A. I already read it once for you.

11 [09.20.11]

12 MR. KARNAVAS:

13 Mr. President, would you direct the witness to read, because
14 there is a series of questions -- I'm entitled to have him read,
15 especially in light of the Prosecution's objection -- unless the
16 Prosecution wishes to concede what it says. And this is the
17 gentleman that is referred to in that annotation. And I'll accept
18 that concession from the Prosecution.

19 MR. ABDULHAK:

20 If I may, Mr. President--

21 MR. PRESIDENT:

22 International Co-Prosecutor, you may now proceed.

23 MR. ABDULHAK:

24 Before we get to any concessions, I asked earlier if I -- if my
25 learned friend could indicate and ask the witness to read the

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

10

1 lines. There is a difficulty with deciphering the dates, the
2 senders, and the receivers on this email. If I'm reading it
3 correctly, it appears to be dated 1998. I think this sort of
4 information is relevant.

5 [09.21.10]

6 The witness should be asked to read who the email is from, who it
7 is sent to, when it is dated, And then we have no objection to
8 him being asked to read the annotation as well, but a document is
9 not on the case file, and we're being asked to read an annotation
10 on a document which, frankly, none of us have ever seen before.

11 And I think it's -- it would be proper to proceed in the way I'm
12 suggesting.

13 MR. KARNAVAS:

14 Your Honours, I do have a copy for my learned friend, if the
15 usher wishes to give him.

16 I did read, but perhaps the gentleman could be asked to read from
17 the very top, up until the point where it says "Dear Ben". Sir?

18 MR. PRESIDENT:

19 Counsel Karnavas, could you please be seated for a while?

20 (Judges deliberate)

21 [09.23.44]

22 The Chamber would like to hand over to Judge Silvia Cartwright to
23 proceed concerning this document.

24 JUDGE CARTWRIGHT:

25 Thank you, President. Mr. Karnavas, we may be coming up against a

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

11

1 clash of legal systems here, but it is clear, from the
2 deliberation we've just had, that a document of this nature would
3 not normally be able to be used in Court, because it's not on the
4 case file, in the civil law system.

5 This is not a ruling, but it would be very helpful if you would
6 explain how you obtained this document and just give us some of
7 its background before -- before we proceed with this matter.

8 And I think Judge Lavergne also wishes to add from his rather
9 deeper knowledge of the civil law system than I have.

10 [09.24.55]

11 JUDGE LAVERGNE:

12 Just one point, and not so much on the subject of civil law, but
13 on our own system of evidence as it emerges from the Internal
14 Rules, especially 87.4.

15 Is this a new piece of evidence that counsel Karnavas is putting
16 into the debate? I'm not, really, quite sure what stage we have
17 reached.

18 I would like to have some clarification about the source of the
19 document, which a priori seems to be private correspondence
20 between private individuals. And we would be interested to know
21 how you obtained the document. Thank you.

22 MR. KARNAVAS:

23 Thank you, Mr. President. Thank you, Your Honours. I can explain
24 very briefly.

25 This is a new piece of evidence that came -- came to our

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

12

1 attention yesterday, late afternoon. Therefore, there was no time
2 to put it on the case file.

3 [09.26.02]

4 Upon looking at it, obviously, we realized that there's vital
5 information that is -- even though it's old and it may be private
6 communications, it goes to impeach the gentleman's credibility.

7 It directly contradicts what he said yesterday, that there was no
8 file. Today, he used "folder". We can clearly see, here, that
9 there's -- we're talking about a file. There's handwriting, which
10 he recognizes, although he wishes not to talk about it.

11 But this is a document that came to us very late, and this is
12 something that, I suspect, is going to occur throughout the
13 course of the proceedings. As we hear testimony, we begin
14 searching outside the file as well, and we believe that we're
15 entitled to search for material that's outside the file,
16 especially if the purpose of this -- of this trial, based on the
17 civil law system, is to get as close to the truth as possible.

18 And so we should not be limited to just what is in the file.

19 [09.27.04]

20 But, yesterday, we received it, it was after the hours. And
21 that's the best explanation I can give.

22 Now, you probably-- The follow-up question is the source who gave
23 me the -- that information. I understand that.

24 And that, regrettably, I'm not in a position to -- because of --
25 part of the understanding -- of receiving this piece of

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

13

1 information was that I would not divulge the source, but I can
2 certainly say that I certainly did not do anything that was
3 improper. It came my way. And so, having received it, I'm trying
4 to use it.

5 MR. PRESIDENT:

6 International Co-Prosecutor, you may proceed.

7 MR. ABDULHAK:

8 And this might be one of those occasions where, in principle,
9 there's no disagreement between Prosecution and the Defence. I
10 think, in principle, where a document comes to the attention of a
11 party and is relevant to the testimony of a witness, we wouldn't
12 object.

13 [09.28.10]

14 I think the difficulty that arises here is that this document
15 goes back some time, and we're not sure -- it doesn't look like
16 it was authored by this witness. It doesn't look that -- like it
17 was addressed to him. There's an annotation that may suggest --
18 that may include his name.

19 And that's why we're suggesting that we first need to all have
20 hard copies of this document. It needs to be read onto the
21 record, and then perhaps the witness can be asked to comment.

22 Our objection was more, perhaps, to the style that my friend was
23 adopting. I think it had a tendency to just make it a bit more
24 difficult for us to understand the circumstances and the
25 relevance of the document.

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

14

1 MR. PRESIDENT:

2 (No interpretation)

3 (Judges deliberate)

4 [09.30.30]

5 MR. PRESIDENT:

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

7 MS. SIMONNEAU-FORT:

8 Yes. Mr. President, regarding the civil parties, we oppose the
9 production of this document, today, for the Chamber.

10 [09.30.48]

11 There are certain rules that must be followed here, at the ECCC,
12 and these rules must be applied to all parties.

13 Of course, I understand that it might be useful to put before the
14 Chamber a relevant document, but I contest the way that this is
15 done. We cannot do so in an impromptu way, even if we have become
16 aware of the document the day before. Otherwise, we have to
17 change the rules, and we will follow them. So we--

18 And the second reason for contesting this is that this is a
19 private email, and there are rules, also, that must be followed
20 in this regard.

21 So I'm a bit caught off-guard, now, to provide you with
22 jurisprudence, but, however, I believe that we cannot produce a
23 document without indicating where it comes from. And that regards
24 private individuals. Thank you.

25 MR. KARNAVAS:

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

15

1 If I may be heard on the matter, Your Honours, from the very top
2 -- and I do have extra copies -- it says "From Documentation
3 Center of Cambodia". The gentleman is here on behalf of the
4 Documentation Center of Cambodia. It's from Ben Kiernan -- it's
5 from -- it's to Ben Kiernan, and it's from "Youki", presumably
6 Youk Chhang.

7 [09.32.18]

8 The whole purpose of showing this document is because it directly
9 contradicts what the gentleman said yesterday under oath, that no
10 files were kept. Here, we have an annotation at the very top.

11 Now, I'm willing to walk the gentleman through to see whether he
12 was ever provided with this document. Perhaps he can tell us who
13 this "Dara" is and whether there is a Nuon Chea file that dates
14 back to 1998 or 2001, based on the annotation.

15 [09.32.54]

16 When information of this nature comes into my possession, I think
17 I'm duty-bound to at least make a good-faith effort to get it
18 into the evidence, and that is what I'm attempting to do.

19 And so, if there is a procedure that needs to be followed, I
20 certainly will follow it, but as far as I understand, we are
21 entitled to use new evidence. This came up at a very late date. I
22 cannot put it aside and then expect the Trial Chamber to recall
23 the witness at some other point, after we've gotten it on to the
24 case file.

25 So for expeditious reasons, I put it to the witness. And I think

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

16

1 it goes to the witness' credibility.

2 MR. PRESIDENT:

3 The objection by the Prosecution and the civil party Lead

4 Co-Lawyers are sustained.

5 So the Chamber would not grant the Defence to use the case -- to

6 use any piece of document that is not in the case file,

7 particularly one such document has not been established in terms

8 of its provenance.

9 [09.34.29]

10 And the proceeding before the Chamber must follow the established

11 rules, so all piece of evidence shall establish -- shall be

12 placed in the case files. And as for the new evidence, it should

13 follow the established rule before this Chamber.

14 MR. KARNAVAS:

15 Thank you very much, Mr. President. We will be moving to have

16 this admitted into the file, and perhaps the issue will come up

17 again with Mr. Youk Chhang when he does testify, as you have

18 indicated. And I fully understand and appreciate the Trial

19 Chamber's ruling.

20 BY MR. KARNAVAS:

21 Q. Let me move on to the next topic just very briefly, because

22 yesterday we had a discussion concerning analysis, and then I

23 believe you indicated that you don't analyse, but you assess. And

24 for that, I want to give you another opportunity to see, perhaps,

25 whether you wish to correct your -- your testimony from yesterday

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

17

1 and the day before.

2 [09.35.32]

3 If we could look at D2-15.7 -- and I have an extra copy for the
4 gentleman so he could follow along, in hard copy, if that's
5 necessary -- and in particular-- We only have this in English,
6 Your Honours. The ER number is 00719721 -- that's the particular
7 page that I wish to make reference to. This document is cited in
8 the Closing Order, under -- in paragraph 91, footnote 259. It's
9 also on the Office of the Prosecution list, as E109/4.19.

10 So, if the gentleman could look at this document-- And it might
11 be easier for the -- for the gentleman to have the hard copy,
12 Your Honours, if the usher could possibly provide a hard copy to
13 the witness.

14 MR. PRESIDENT:

15 Court officer is now instructed to take the document from the
16 Defence and hand it over to the witness.

17 BY MR. KARNAVAS:

18 Q. Sir, if you could look at the document very carefully, at the
19 - at the first page, it says "November 14, 2006".

20 [09.37.13]

21 Would you agree with me that this was generated by DC-Cam?

22 MR. VANTHAN DARA PEOU:

23 A. That's correct.

24 Q. Now, if we could look at -- if you could flip over to look at
25 page 2 -- and that's the page numbers -- the page that I was

1 referring to -- on English ER number 00719721, so if you could
2 look at that and look at the very top paragraph. If you can just
3 look at it, read it to yourself; you read English.

4 A. Since I am more confident with Khmer language, which is my
5 mother tongue, so I would like to earnestly request that there is
6 a translation in Khmer for me to view.

7 Q. All right. We don't have a Khmer translation, but let me put
8 it to you this way: Are you still maintaining that there was no
9 analysis done by DC-Cam?

10 [09.38.40]

11 A. I did say that, in the course of compiling a document, I have
12 never analyzed the documents.

13 Q. So you don't do any analysis?

14 A. Let me clarify it again. When we are--

15 Q. It's just a yes or no. It's just a yes or no. Do you analyse
16 documents? Yes or no?

17 A. Well, defence counsel, to make it clear, so I would like to
18 answer as what I perceive to be clear and answer to your
19 question.

20 Q. Sir, do you analyze documents to see whether they're
21 authentic? Yes or no?

22 A. As for the authentication of the document, we did not conduct
23 any analysis on such document.

24 Q. Now, when you say "we", does that include you, too, sir, that
25 you conducted no analysis on the authentication?

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

19

1 [09.40.04]

2 A. I use the word "we" as I told you earlier. In compiling
3 documents, I was not alone, I worked as a team.

4 Q. Let me go back. When you say "we", does that include you? The
5 "we" is, I take it, DC-Cam; correct?

6 A. Yes, including myself.

7 Q. All right. So DC-Cam does no analysis in determining whether
8 documents it receives and it stores are authentic.

9 A. Can you please clarify your question again?

10 Q. DC-Cam, including you, do no analysis and have done no
11 analysis in determining whether the documents it has stored are
12 authentic.

13 A. To check against the authenticity of the documents, the
14 Documentation Center of Cambodia has never conducted any analysis
15 on the document.

16 Q. And would it be fair to say that, having conducted no analysis
17 on the authenticity of the document, DC-Cam also did not conduct
18 an analysis on the reliability of the documents?

19 A. Please clarify your -- your very last question. I do not quite
20 catch it.

21 [09.42.02]

22 Q. All right. As a lawyer, having been trained as a lawyer and
23 with a master's degree, do you know the difference between
24 "authenticity" and "reliability"?

25 A. If I can ask for clarification, are you talking about the

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

20

1 issue concerning the Documentation Center -- documentation at the
2 DC-Cam or you are asking about my study?

3 Q. I'm asking a general question, sir. We've already confirmed
4 that DC-Cam does no analysis on authenticity. Does DC-Cam do an
5 analysis on reliability?

6 If you do not understand the concept of "reliability", I'll move
7 on.

8 A. Yes, I do.

9 Q. Okay. So does DC-Cam do an analysis on the reliability of all
10 the documents it has received?

11 A. Yes, we have conducted some analysis on the reliability.

12 [09.43.18]

13 Q. Now, you say "some analysis". Does that mean with all of the
14 documents?

15 A. I talk about the assessment, not the analysis -- I have to
16 clarify that -- the assessment on the authenticity of the
17 document.

18 Q. Okay. Well, you're talking about authenticity, now, but
19 perhaps you could explain to us: What is the difference between
20 "authenticity" and "reliability"? So at least we have a mutual
21 language to have this discussion.

22 MR. ABDULHAK:

23 Mr. President, Prosecution objects to this question.

24 The witness is not called to testify on his expertise, from a
25 legal perspective, as to the difference between "authenticity"

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

21

1 and "reliability". It is perfectly appropriate to ask him about
2 what processes DC-Cam may have undertaken, but let the gentleman
3 describe a process or give an outline of the process and then ask
4 the witness if that type of a process has taken place. I don't
5 think the question is appropriate.

6 MR. KARNAVAS:

7 Mr. President, if I may briefly respond, the reason I pose the
8 question in the manner in which I did was because we seem to be
9 -- either something is being lost in translation or there must be
10 some sort of miscommunication in terms.

11 Perhaps the gentleman thinks that "authenticity" and
12 "reliability" are one, in and of themselves. If that's the case,
13 he can tell us. But he's here, from DC-Cam, to discuss the
14 methodologies and modalities used by DC-Cam.

15 [09.45.12]

16 Now, if the gentleman doesn't know, I'll move on. It is not my
17 intention to embarrass the gentleman or to quiz him on his legal
18 knowledge on the difference of "reliability" versus
19 "authenticity".

20 MR. PRESIDENT:

21 The objection of the Prosecution is sustained.

22 And the Chamber wishes to advise the defence counsel that the
23 summoning of the witness, Mr. Dara Peou, to testify before the
24 Chamber is not to check his legal expertise.

25 So I would like you to divert from asking that question. And you

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

22

1 may move on to the next question.

2 BY MR. KARNAVAS:

3 Thank you, Mr. President.

4 [09.46.04]

5 Q. Let's go back to where we left off yesterday. We were talking
6 about the National Archives.

7 Can you please describe to us what DC-Cam learned from the
8 National Archives as to the criteria it used in determining the
9 authenticity of the documents that it collected or came into its
10 possession.

11 MR. VANTHAN DARA PEOU:

12 A. In my practical work, we go to collect documents from the
13 National Archives. Once we get there, we ask for permission from
14 the management of the National Archives to study the relevant
15 documents. And then we found certain documents relevant to the
16 Democratic Kampuchea and we asked for permission from the
17 management to have them copied and have them stored at the
18 DC-Cam.

19 Q. Thank you, sir. So, if I understand your question -- your
20 answer, DC-Cam, including you, do not ask and have not asked the
21 National Archives as to how they came into possession of these
22 documents, where they found them, who turned them over, where
23 they had been. Those sorts of questions were never ever asked by
24 DC-Cam; correct?

25 [09.47.50]

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

23

1 A. I did ask those questions to the person who was responsible at
2 the National Archives. And if the counsel wants to be sure, you
3 may wish to inquire that with the person who was responsible at
4 the National Archives.

5 Q. Well, right now, I'm discussing this with you. I take it you
6 asked those questions because you were curious to know, or DC-Cam
7 was curious to know where those documents came from; correct?

8 A. Since you ask me for clarification and since I am not a staff
9 member of the National Archives -- that's why, if you want to be
10 clear, I suggest you ask the person working at the National
11 Archives.

12 Q. In asking the questions that you did of the staff of the
13 National Archives and depending on the answers that you received,
14 did you memorialize them, did you put them down so that DC-Cam
15 could have some sort of a historical record as to where these
16 documents had originated, other than the National Archives, that
17 is? Did you write those answers down?

18 [09.49.30]

19 A. Well, it is easy because the National Archives is right in the
20 downtown centre of Phnom Penh and it is the place where various
21 collections of documents are stored. And we did not make -- sort
22 of inquiry. And then these National Archives is still in
23 existence to date.

24 Q. Sir, if I understand you correctly -- if I understand you
25 correctly -- DC-Cam never, never received any information or

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

24

1 never bothered to ask for any information as to how the National
2 Archives came about these documents that it has stored.

3 A. We did ask them, but we did not take notes or records of that,
4 for the reason that the National Archives is an established
5 institution and it is in existence.

6 And if you have one further question or inquiry then you can ask
7 them.

8 Q. All right. So, if we wanted, say, a chain of custody as to how
9 they came into -- into your possession, into DC-Cam's possession,
10 we -- especially to determine authenticity of the documents, we
11 probably would have to ask someone from the National Archives;
12 that's what you're telling us?

13 [09.51.10]

14 A. When we went to gather documents from the National Archives--

15 Q. Just answer my question, don't give speeches.

16 What you're telling us is we have to get -- go to the National
17 Archives to get the sort of answers that we need as to whether
18 the documents are authentic and reliable; that's what you're
19 telling us?

20 [09.51.42]

21 A. I did talk about the authenticity of documents received from
22 the National Archives. And once again, if you wish to do that, I
23 think you have your prerogative to do that, questioning those
24 from the National Archives.

25 Q. Now, you also received -- DC-Cam also received documents from

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

25

1 other individuals that just happened to come across documents
2 that were ultimately stored with DC-Cam; correct?

3 [09.52.26]

4 A. That's correct.

5 Q. Now, were those individuals or those organizations or
6 institutions such as, let's just say, the Cambodian Government or
7 a particular scholar, did DC-Cam have a protocol in place where
8 it asked the donor, the person having those documents, how they
9 came into possession of those documents, where they were found,
10 in what condition they were found? Did they ask those sorts of
11 questions? And if so, were they documented so we have a clear
12 history from DC-Cam as to how the document -- where the document
13 originated from?

14 A. Upon receiving documents, certain documents I did not receive
15 it myself because certain documents have been received by my
16 director. Certain documents received by the director, I would
17 suggest that you direct your question to the director. You may
18 request through the Chamber to summon the director to answer
19 those questions, because I have no knowledge of those document
20 which did not go through me.

21 [09.53.56]

22 Q. All right. So help me out here. What you're telling me is, if
23 I understand you correctly, there's no protocol set in place so
24 that whoever receives the document would go through a list, a
25 litany of questions that would establish the chain of custody of

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

26

1 the documents?

2 A. It depends. It depends on each document. We normally ask
3 questions about the receipt of such document.

4 Q. All right. So let's talk about you. Would you be asking, for
5 instance, where the document was found? yes or no?

6 A. I can only respond to the types of documents I have received.
7 I have received from either the National Archives or Tuol Sleng
8 Archives.

9 I did ask a question, and the answer to the question I ask, the
10 person who handed over the document did not even know the answer
11 themselves.

12 Q. Okay. So, if I understand you correctly, you only collected
13 documents from the National Archives and Tuol Sleng, but from no
14 scholars -- you personally, that is.

15 A. For documents received from scholars, the majority of them
16 were received by the director.

17 [09.55.50]

18 Q. Did you, yourself, receive any documents from any scholars?

19 It's a "yes", or "no", or "I can't remember".

20 A. This type of document I have always receive it -- received
21 them from the directors and then I would categorize them and have
22 them stored at the DC-Cam.

23 Q. Now, do you know, since you've very close to the director, do
24 you know whether the director has a protocol and asks these sorts
25 of questions that I'm asking you -- that is, dealing with chain

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

27

1 of custody, where the document was found, who had the document
2 before it was found, what condition it was in, when it was found,
3 how it was stored? Do you know whether Mr. Youk Chhang has some
4 sort of a protocol? And if so, do you know whether it's recorded
5 so that you, other staff members, and researchers can draw upon
6 that information in doing analysis or using the documents?

7 A. I do not know every bit of the work of the director, Youk
8 Chhang.

9 Q. So does that mean that you are unaware of whether he has a
10 particular protocol?

11 [09.57.30]

12 A. No, I don't.

13 Q. And I take it, since you've indicated that documents that you
14 would receive from scholars you would normally receive from the
15 director; when you received those documents, are there any
16 annotations or any notes affixed to the file or folder where the
17 director would indicate where the document came from and whether
18 he had asked any of the questions that I'm asking you -- that is,
19 dealing with the chain of custody? Is there anything in the --
20 that you've -- you've come across?

21 A. Generally, if a piece of document was received by the
22 director, then the director himself would organize them
23 accordingly. As for the minor details of the arrangement of the
24 director, you may direct the question to the director.

25 Q. All right, but I just want to make sure that we have a clear

1 answer. Assuming the director would ask the sort of questions
2 that I'm asking you, and I understand that I'm asking you to
3 speculate to some extent, but assuming he did ask the source
4 where the document came from, where it was found, when it was
5 found, and in what condition it was found, would the director be
6 obligated to put that sort of information -- to collect that
7 information and attach it to the document so that others, such as
8 yourself and researchers, would have that information?

9 [09.59.33]

10 A. If I understand your question correctly, you said "assuming
11 that". And when you use the assumption, it's a bit difficult for
12 me to answer that question. That's what I heard from the
13 translation.

14 MR. PRESIDENT:

15 The witness does not have to answer that question because this is
16 only an assumption.

17 This issue, the Chamber has advised party so far, particularly at
18 the beginning of the hearing. The Chamber directs parties to ask
19 repetitious questions or leading questions or assuming question.

20 [10.00.20]

21 MR. KARNAVAS:

22 Thank you, Mr. President.

23 BY MR. KARNAVAS:

24 I was going -- that was my general.

25 Now, I'm going to go to the specific question.

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

29

1 Q. Do you, yourself, ask those sorts of questions when documents
2 come your way from scholars? And if so, would you make that part
3 of the file so that whoever wishes to use those documents would
4 have a record and DC-Cam would have a record as to where the
5 documents were found, in what condition, when, and so on and so
6 forth?

7 MR. VANTHAN DARA PEOU:

8 A. If counsel show me the document you are referring to, I would
9 be able to quickly respond to it.

10 Normally, documents that we provide to researchers and visitors
11 at the DC-Cam are those documents that we have obtained from
12 other sources through my director.

13 [10.01.37]

14 Q. All right. So am I -- am I to understand that only the
15 director receives documents, and no one else, and that's why
16 you're unable to answer the question that I asked?

17 A. I am referring only to the documents provided to the DC-Cam by
18 scholars.

19 Q. All right. And my question is: If a scholar were to provide
20 you with a document-

21 Well, let me back up. Has a scholar ever provided you with a
22 document, or is it your testimony that only Mr. Youk Chhang
23 receives those documents from scholars?

24 A. I think your question is whether Youk Chhang has received
25 documents from scholars; is that what you are asking?

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

30

1 Q. I'm asking whether you have received documents from scholars.

2 Have you ever received documents from scholars?

3 A. No, I haven't.

4 Q. And to the best of your knowledge -- just to make sure we have
5 a clear answer -- to the best of your knowledge, there are --
6 there's no protocol set in place to ask the sort of chain of
7 custody questions that I asked, when documents are received from
8 various sources such as scholars?

9 [10.03.50]

10 A. I understand that people who received such documents could
11 have this protocol in place.

12 Q. All right. Just a few -- just one last question, and that
13 deals with some of the other archives.

14 With respect to the Government, you indicated that documents came
15 from the -- from the Government.

16 Did you come across those documents? Were they handed over to
17 you, or was it Mr. Youk Chhang?

18 A. I went there in person to receive the documents at the
19 Ministry of Interior.

20 Q. All right. When you went there in person to receive the
21 documents, did the Government actually allow you, much like the
22 National Archives, to look through its archive so you could
23 select any documents you may think necessary or important to
24 store, or did they simply hand documents to you?

25 [10.05.14]

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

31

1 MR. ABDULHAK:

2 Mr. President, if I may be heard, we would object to this
3 question.

4 I don't see the relevance of this question, whether or not
5 Government provided and how it provided the documents.

6 I think the witness has testified that they had access to both
7 the Ministry of Interior and the National Archives. The methods
8 of third parties are not relevant for the present purposes.

9 MR. KARNAVAS:

10 If I may be heard, Mr. President, having access to the National
11 Archives is one thing; he's indicated that he went over to
12 collect the documents or to be handed over the documents. My
13 question was whether the Government or members of the Government
14 provided him access with their archives, and that could be the
15 Prime Minister, it could be other ministries. As I believe there
16 was some testimony that came out that some documents came from
17 Mr. Hun Sen himself or the Prime Minister's office.

18 [10.06.16]

19 I may have it wrong, but we're entitled to explore this,
20 especially since they've indicated that they're impartial and
21 independent, and we wish to test this part of their credibility,
22 whether this is an independent and impartial organization.

23 MR. PRESIDENT:

24 The objection is not sustained.

25 Witness is now directed to respond to the last question the --

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

32

1 the current question the counsel just put to him.

2 MR. VANTHAN DARA PEOU:

3 Could counsel please repeat the question? Because I seem to have
4 forgotten it.

5 MR. PRESIDENT:

6 Counsel, could you repeat the question? And please be reminded
7 that you have eight minutes left.

8 [10.07.14]

9 MR. KARNAVAS:

10 Thank you, Mr. President. And I would gladly repeat the question.

11 BY MR. KARNAVAS:

12 Q. When you went to collect documents from the Government, other
13 than the National Archives, did they allow you access to the
14 actual archive that they have, or did you -- did they simply
15 provide you with documents? Which of the two?

16 MR. VANTHAN DARA PEOU:

17 A. In light of the permission by the Government, we could -- we
18 can go anywhere to retrieve these documents. We indicated our
19 purpose very clearly, that the mission is to collect information
20 or documents relevant to the Democratic Kampuchea regime.

21 Q. All right. Were efforts made to go into the archives of the
22 King to see what documents that he may have, relevant to the
23 period, that might be useful either for the Prosecution or for
24 the Defence?

25 [10.08.35]

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

33

1 MR. ABDULHAK:

2 I would object to this question, Mr. President.

3 DC-Cam wasn't tasked to investigate the alleged crimes on behalf
4 of the Court, Prosecution or the Co-Investigating Judges. There
5 was, of course, a long and wide-ranging investigation.

6 Perhaps, the witness can be asked which archives they've had
7 access to or which archives they've obtained documents from.

8 Certainly, the suggestion, the implicit suggestion that they were
9 looking for documents in support of the ECCC, I don't think,
10 stands.

11 MR. KARNAVAS:

12 Mr. President, if I may be heard, there was no insinuation that
13 they were actually there hunting for and investigating for one
14 side or the other. However, the Prosecution did indicate, in part
15 of their questioning -- or they did raise the issue of archives
16 from the King, at which point we were told that they were
17 online.

18 [10.09.28]

19 BY MR. KARNAVAS:

20 Q. Now, I'll refrain -- rephrase the question and ask him whether
21 they made an effort. And, if so, what effort did they make to get
22 actual access to the King's archive?

23 MR. PRESIDENT:

24 The objection is not sustained.

25 Witness is now asked to respond to the question.

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

34

1 MR. VANTHAN DARA PEOU:

2 A. I have never searched for information or documents from the
3 King's archive; I never know where such archive is.

4 BY MR. KARNAVAS:

5 Q. Was a request ever made? Because I believe you indicated that
6 it was online, but then not accessible. Was a request ever made,
7 to your knowledge, by DC-Cam, to get access to the King's
8 archive? If you don't know, just tell us.

9 [10.10.40]

10 MR. VANTHAN DARA PEOU:

11 A. No, I don't know.

12 Q. Do you know whether efforts were made to get into the archives
13 of foreign governments, such as the United States, Vietnam, China
14 or others?

15 A. I only know that the director of DC-Cam has written a letter
16 in the form of appeal to the foreign countries who are in the
17 possession of any relevant documents to the Democratic Kampuchea
18 regime or the Khmer Rouge and that they kindly hand them over to
19 the DC-Cam. And I think the letter was issued in -- in 2005.

20 Q. Do you know what the result of those letters were, from, say,
21 the United States, China, and Vietnam?

22 A. I don't know. And, actually, this was not in the form of a
23 specific letter; it's really an open appeal to foreign countries,
24 and I don't know which countries it reached.

25 [10.12.18]

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

35

1 Q. My final question -- my final question, and I appreciate the
2 Trial Chamber's indulgence: Do you know whether Mr. Youk Chhang,
3 on behalf of DC-Cam, appealed to the Government of Cambodia to
4 urge these other governments -- the United States, Vietnam, China
5 -- to cooperate and open up their archives for the benefit of
6 DC-Cam and others who wish to do research on this area?

7 A. Once again, I think this question would be well directed to
8 Mr. Youk Chhang instead.

9 MR. KARNAVAS:

10 Thank you very much, sir. Your Honours, thank you very, very
11 much. I believe I took a couple of minutes extra. I have no
12 further questions.

13 MR. PRESIDENT:

14 Thank you, Counsel.

15 Next, we proceed to counsels for Khieu Samphan to put questions
16 to this witness if they would wish to do so.

17 [10.13.50]

18 MR. KONG SAM ONN:

19 Mr. President, it is perhaps appropriate time to take
20 adjournment. Should we adjourn or we proceed with the
21 questionings?

22 MR. PRESIDENT:

23 You shall proceed with the questionings.

24 MR. KONG SAM ONN:

25 Thank you, Mr. President. Good morning, Your Honours. I would

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

36

1 like now to begin with the first question to the witness, but I
2 have to begin with greeting. Good morning, Mr. Vanthan Peou Dara.
3 [10.14.37]

4 Shall I call you Peou Dara Vanthan or Dara?

5 MR. VANTHAN DARA PEOU:

6 Either name would be fine.

7 MR. KONG SAM ONN:

8 I can call you Dara, then.

9 QUESTIONING BY MR. KONG SAM ONN:

10 I would like to ask some line of questions concerning your
11 biography.

12 You stated that you started working at DC-Cam in 1995; is that
13 true?

14 MR. VANTHAN DARA PEOU:

15 A. Yes, it is correct.

16 Q. You said you have worked there for 15 years now; is that
17 correct?

18 A. Yes, it is.

19 Q. Currently, you are the deputy director at the DC-Cam; is that
20 correct?

21 A. Yes, it is.

22 [10.15.27]

23 Q. Can you tell the Court how long have you been the deputy
24 director; since the beginning or only recently?

25 A. I became the deputy director in 2005.

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

37

1 Q. Through your testimonies, you said you graduated in a foreign
2 country where English is spoken; is that correct?

3 A. Yes.

4 Q. So it is fair to say that your English proficiencies is enough
5 to understand English language, although you prefer to speak
6 Khmer or listen to Khmer language; is that correct?

7 A. Since Khmer is my mother tongue, I have more confidence in
8 reading Khmer and listening to Khmer.

9 Q. If I ask you to read a few lines in English, would you mind
10 doing so?

11 A. I'm sorry, I have to resort to reading and listening into
12 Khmer because, as I indicated, I feel more confident in my mother
13 tongue.

14 [10.16.44]

15 Q. Thank you. And, indeed, we have some problems because the
16 original documents sometime, are in English; that's why we try to
17 ask you to read the English version. If not, then we will ask the
18 assistance from the interpreters to help us interpret for us.

19 I would like to ask about the historical background of the
20 DC-Cam. You indicated that your organization started from a Yale
21 University project when it ended; is it correct?

22 A. Yes, it is.

23 Q. Can you tell us which office it was?

24 A. It was the research office -- or Genocide Research Office.
25 This project was part of the research of the Yale University.

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

38

1 Q. Could you please put it in English -- better English?

2 A. I think in English I noted they used the term "Cambodia
3 Genocide Program".

4 Q. So, at the outset, your project -- your organization was named
5 Cambodia Genocide Program; is that correct?

6 [10.18.38]

7 A. The only thing I know: when I started working at the DC-Cam,
8 in 1995, it was already called Documentation Center of Cambodia.

9 Q. Are you saying 1975?

10 A. No, I didn't say that. I said: When I started working at the
11 Documentation Center of Cambodia, in 1995, the name has already
12 been used, as what I indicated.

13 Q. I have a few more questions concerning the collection of
14 documents by DC-Cam.

15 You stated earlier on that your organization collects documents;
16 is that correct?

17 A. I would like to reiterate this position; DC-Cam collects,
18 compiles documents.

19 Q. Do you -- can you tell us the purpose of such a task?

20 A. It is for the purpose of memory of the Khmer Rouge regime and
21 also to serve the public, to promote justice by providing
22 documents to people who are searching for justice.

23 Q. You said that it is for the purpose of justice. Is it for
24 prosecuting the perpetrators of the crimes?

25 A. It is not part of the prosecution or allegation. It is only

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

39

1 for the purpose of the user to use at their own -- according to
2 their own needs.

3 [10.20.56]

4 Q. I would like now to show you a document, a text of which I
5 have - I would quote.

6 Just now, you stated that there was an appeal from your director
7 to the public and other people to hand over documents relevant to
8 the Khmer Rouge to the DC-Cam; did you make that statement?

9 A. Indeed. You can even refer to the document on our website.

10 Q. I noted that this document was published in the "Search for
11 the Truth" magazine, on the special-issue edition in English. It
12 was published on the second semester of 2005.

13 MR. ABDULHAK:

14 Mr. President, could we be showing the document that the
15 gentleman is discussing?

16 [10.22.29]

17 MR. PRESIDENT:

18 Counsel, could you show the document or indicate the
19 identification of the document? The Chamber has just indicated
20 that document can be put before the case file, and there are
21 documents that are placed in the case file that we abided by the
22 Rule 87.4 of the Internal Rules on this relevant part.

23 If the document is a new one and that counsel would wish to
24 present this document or have it put before the Chamber, counsel
25 or party is advised to make a request in advance, before it can

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

40

1 be shown.

2 And, again, according to the Internal Rules, only when the
3 Chamber has made the decision or ruled on the admissibility of
4 the document, that it could be shown or put before the debate in
5 the courtroom.

6 And we are now in the section on Case File 002/1.

7 MR. KONG SAM ONN:

8 Thank you, Mr. President. The document I am referring to, here,
9 is a public document. It has not been placed in the case file
10 yet.

11 [10.24.10]

12 MR. PRESIDENT:

13 This document is deemed irrelevant; it cannot be put for debate
14 now.

15 MR. KONG SAM ONN:

16 (Microphone not activated)

17 MR. PRESIDENT:

18 Counsel, your mic was not activated. Please repeat your question.

19 BY MR. KONG SAM ONN:

20 Q. I would like to proceed to another question.

21 You stated, yesterday -- during the last two days, that DC-Cam
22 does not conduct any investigation.

23 My question is: Can you tell the Court how you value any piece of
24 document without investigating them?

25 MR. VANTHAN DARA PEOU:

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

41

1 A. Could you please verify your question to be more specific?

2 [10.25.47]

3 Q. My question is: The collection of the documents, does it have
4 anything to do with investigation?

5 A. DC-Cam collects documents for the purpose of public use,
6 without any discrimination.

7 Q. Do you acknowledge that DC-Cam has conducted investigation
8 concerning the crimes committed during the Khmer Rouge Regime or
9 the DK?

10 A. DC-Cam has never used the term "investigation" in its mission.

11 Q. Do you acknowledge that some of the works done by DC-Cam are
12 of investigative natures?

13 A. Are you asking me to evaluate the work of DC-Cam or the
14 documents?

15 Q. I am asking about the programs of DC-Cam.

16 A. Please be more specific to any particular program are you now
17 referring to.

18 [10.27.34]

19 Q. Indeed. I'm asking about the forensic program; what is it
20 like? Is it relevant to investigation?

21 A. Forensic task was -- is performed by a group of other people.
22 I'm not involved.

23 Q. May I draw your attention to the group of experts, as you
24 indicated on forensic task? Who are they? Where are they from?
25 What skills do they -- have they got?

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

42

1 A. I think, if you are referring to any piece of document
2 concerning them, you perhaps have found their names appearing on
3 those pages already.

4 Q. Are you referring to the group as your members of the advisory
5 board?

6 A. Once again, I would like counsel to show that document to be
7 more precise so that I know who you're referring to.

8 Q. I apologize; indeed, my question is not about showing this
9 document but about who are the experts you're referring to in the
10 project. Do you have such experts?

11 A. With regard to forensic teams, I believe that, without such
12 experts, there could never be any documents produced relevant to
13 forensic things. So that's why I ask you to present the document
14 relevant.

15 [10.29.40]

16 Q. Actually, I would like to ask you to clarify whether such a
17 forensic program exists in your organization. Is that correct to
18 say it exists?

19 A. Yes, it is.

20 Q. You also have the "Mapping of the Killing Fields Program" [in
21 English]. Do you understand what I am saying, although partially
22 in English?

23 A. These terms has been used for that respective program.

24 Q. Can you translate this into Khmer?

25 [10.30.25]

1 A. At the DC-Cam, we used the term as "Kamvithy Sravchhreav
2 Rondau Saksob Roum" (phonetic).

3 Q. Is it part of the investigation your organization is
4 conducting?

5 A. Are you asking whether I have analyzed this program into
6 investigative tasks? Is that what I understand your question
7 correctly?

8 A. Indeed, my question is whether this Mapping of the Killing
9 Fields Program is a part of the investigation by -- conducted by
10 DC-Cam?

11 A. We do not have any authority to conduct investigation, because
12 the Documentation Centre is not judicial body.

13 Q. Yes, I understand that your centre is not a judicial body, but
14 I would like to know, that very program, whether or not it is a
15 part of the investigation work; is that correct or not?

16 MR. ABDULHAK:

17 Mr. President, if I may be heard, we would object to this line of
18 questioning.

19 The witness has indicated several times that the DC-Cam does not
20 investigate, and my learned friend keeps inferring that there is
21 an investigation program, a part of which, apparently, he's
22 alleging these activities are.

23 [10.32.10]

24 I think he should be directed to refrain from misleading the
25 witness. The witness has made it clear, there is no investigation

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

44

1 program.

2 MR. KONG SAM ONN:

3 Mr. President, I would like to clarify my point.

4 The reason why I seek clarification from the witness now, because
5 the witness -- what the witness is testifying is contrary to the
6 documents we have before us. So I want to check whether -- the
7 veracity of what he said, because he keep mentioning that his
8 organization did not conduct investigation, but actually, the
9 actual work of this organization involved the very investigating
10 work.

11 MR. PRESIDENT:

12 Objection is sustained. You -- the counsel may ask a question
13 about the ongoing work of the DC-Cam, but please refrain from
14 asking questions for the witness to draw a conclusion or to
15 mislead the witness.

16 [10.33.35]

17 MR. KONG SAM ONN:

18 Thank you, Mr. President, for the direction.

19 BY MR. KONG SAM ONN:

20 Now I move to the next follow-up question.

21 Q. Has the DC-Cam provided any training to the Judicial Police?

22 MR. VANTHAN DARA PEOU:

23 A. To my recollection, there have been such training.

24 Q. Do you, yourself, know about this training program?

25 A. I was not involved in designing or conducting this program.

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

45

1 Q. Have you managed this program?

2 A. There was a person who directly in charge of this program, but
3 I was not involved.

4 Q. Can you inform the Chamber the content of the training?

5 A. Since I was not involved in the training myself, I could not
6 dwell on this subject.

7 Q. Can you let us know the main objective of the training
8 program?

9 [10.35.00]

10 A. I only know that there was training of the Judicial Police.

11 Q. So you are saying that you do not know the content of the
12 training program for the police?

13 A. Yes.

14 Q. But, in 2005, you were, back then, the Deputy Director of the
15 DC-Cam; was that correct?

16 A. That was correct.

17 Q. That brings me to the next question concerning the receipt of
18 documents.

19 You have informed the Chamber on several occasion during your
20 testimony, already, that you have authenticated those documents
21 you have received.

22 Now, can you confirm if you have authenticated all of those
23 documents you have received?

24 A. Yes, I did say that in the course of my testimony here.

25 [10.36.22]

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

46

1 Q. But, it seems to me, when Mr. Karnavas asked you question, you
2 said you, yourself, did not receive all the documents coming into
3 the DC-Cam.

4 A. You say you "seem" to hear; are you sure?

5 Q. Yes, I used the word "seem" because I do not know whether I
6 heard you correctly.

7 A. I would suggest that the counsel ask this question again.

8 Q. If I am not mistaken, when Mr. Karnavas was asking you a
9 question, you said you did not receive all the documents coming
10 into the Documentation Centre of Cambodia; is that correct?

11 A. That is not correct.

12 Q. So it means that you have received all the documents going to
13 the Documentation Centre of Cambodia; is that correct?

14 A. I did say that I receive certain documents through myself and
15 certain other documents go through the director of the DC-Cam.

16 [10.37.42]

17 Q. So it means that you do not receive every piece of document
18 handed to the DC-Cam; is that correct?

19 A. Correct.

20 Q. You said that you did ask a question with regard to the
21 provenance of the documents you receive; is that correct?

22 A. Yes, for the document I have received myself, I did ask that
23 question.

24 Q. So what was your question when you -- when you asked about the
25 provenance of the documents? What were the questions you asked?

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

47

1 Can you inform the Chamber?

2 A. Generally, when I receive documents, I always wonder as to how
3 the documents were obtained and who obtained those documents, and
4 these are some of the general questions I ask the person who
5 handed over the document to me.

6 Q. So, when you put those questions to the person who gave you
7 documents, you did not focus on documents one by one -- right? --
8 but you ask them on the overall document you have received?

9 [10.39.15]

10 A. Since we receive the collections of documents, we do not
11 inquire each and every piece of documents we receive.

12 Q. So it means that you, yourself, do not even know the chain of
13 custody or the repository of each and every document before it
14 was given to you? For example, the documents that were stored at
15 the National Archives, you do not have any knowledge as to where
16 those documents came from before they were stored at the National
17 Archives?

18 A. I did ask that question and National Archives has remained the
19 National Archives to date. And I ask those questions, and I
20 thought that those question sufficed.

21 Q. So, once again, can you ask -- can you tell us what questions
22 you asked, generally, when you receive documents?

23 A. Are you referring to the question I ask who people at the
24 National Archives?

25 Q. Yes, that's correct.

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

48

1 [10.40.28]

2 A. Now, I would like to respond to the documents I have received
3 from the National Archives. I ask them where they had got those
4 documents and where were those documents.

5 Q. Do you ask this question?

6 A. Yes, and that's correct.

7 MR. PRESIDENT:

8 Well, now it is time to take adjournment. So will adjourn for 20
9 minutes, and the Chamber will resume at 11.
10 The court officers are now instructed to bring the witness to the
11 waiting room and bring him back to the courtroom before the
12 Chamber resume.

13 The defence counsel is now on his feet. Do you have any issue to
14 raise, the defence counsel for Ieng Sary?

15 [10.41.34]

16 MR. ANG UDOM:

17 Thank you, Mr. President. Good morning, Your Honours. Since Mr.
18 Ieng Sary has problem with his back pain, so he cannot sit in
19 this courtroom, so he would like to expressly waive his right to
20 participate directly in this hearing the whole day, today, but he
21 would like to ask that he observe the proceeding in the holding
22 cell, downstairs. So this is the information for Your Honours.

23 MR. PRESIDENT:

24 Following the oral request from Mr. Ieng Sary, through his
25 defence counsel, that he waives his right to participate directly

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

49

1 in the hearing in this courtroom and he would like to retire to
2 follow the proceeding in the holding cell, through the
3 audiovisual link in the holding cell. And due to his ailing
4 health, the Chamber grants the request, and he is directed to
5 follow the proceeding by remote means, in the holding cell,
6 through audiovisual link equipment.

7 [10.42.57]

8 However, the defence for Ieng Sary should serve the Chamber
9 immediately with the notice of waiver of his right to participate
10 directly in this proceeding, and that written waiver shall have
11 the thumbprint and/or signature of the Accused himself.

12 So he should follow the proceeding from the holding cell.

13 The security guards are now instructed to bring Mr. Ieng Sary to
14 the holding cell, downstairs, where the audiovisual link is
15 connected for him to follow the proceedings.

16 The Court is now adjourned.

17 (Court recesses from 1043H to 1121H)

18 MR. PRESIDENT:

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

20 [11.22.32]

21 Next, we proceed to the defence counsel for Khieu Samphan to
22 continue putting his questions. You may proceed.

23 BY MR. KONG SAM ONG:

24 Thank you, Mr. President.

25 Q. Mr. Dara, before we broke, we were talking about the

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

50

1 authenticity of the documents before they stored at DC-Cam. I
2 have a last question for this particular topic.
3 The responses from the National Archives you obtained concerning
4 the authenticity of the documents, have you recorded such
5 responses?

6 MR. VANTHAN DARA PEOU:

7 A. No, I haven't.

8 Q. I would like to ask you another question concerning the
9 interviews: Have you, yourself, been involved or conducting
10 interviews on any particular survivor of the Khmer Rouge regime?

11 A. Yes, I have.

12 [11.24.07]

13 Q. How many people have you interviewed?

14 A. I'm afraid I don't remember the exact number of people I have
15 interviewed.

16 Q. Can you give us the estimate number?

17 A. I think it -- more than 100.

18 Q. Have you interviewed more than 100 people, or in total it is
19 the DC-Cam who has interviewed more than 100?

20 A. Are you asking for the information of the DC-Cam in general or
21 asking me directly? If so, I have indeed interviewed more than
22 100 people.

23 Q. In total, how many people have been interviewed by the whole
24 institution, or centre?

25 A. I think we have interviewed more than 1,000 people.

1 Q. Have these records of the interview been publicized?

2 A. Yes.

3 Q. Have you publicized all the interviews, or only selected parts
4 were subject to publication -- publicity?

5 [11.25.40]

6 A. Some of the interviews were -- are publicized on the website,
7 and some have been incorporated into articles, for publication as
8 well.

9 Q. Have you publicized all the interviews or only certain parts
10 of the interviews selected for such publication?

11 A. So far as I remember, not all the interviews have been
12 publicized.

13 Q. How -- or can you tell the Court how such documents be
14 selected for publicity -- or being publicized?

15 A. I can tell you with regard to the part that I did, in
16 particular how I selected the articles -- the text for my article
17 on the -- when I wrote.

18 Q. You said, yesterday, DC-Cam did not conduct any analysis on
19 any substance of any documents. Do you still stand by your
20 position?

21 A. Yes, I do.

22 Q. Thank you.

23 [11.27.09]

24 I would like to proceed with a few more questions concerning the
25 roles of the advisors at DC-Cam; what do they do?

1 A. As an advisor, each and every one is bound by a guideline.
2 This guideline tells advisors what to do and what not to do. And
3 advisors work at DC-Cam on a voluntarily -- on a voluntary basis
4 and based on the time convenient to them.

5 Q. Can you please more specific on what to do and what not to do
6 in the guideline?

7 A. For example, if we do not understand any certain -- on any
8 certain parts of the project, we may ask experts or advisors who
9 have expertise in particular section to explain or to help us.

10 Q. Has DC-Cam received any advice from the experts?

11 A. This question is rather broad, and I perhaps cannot respond.
12 And it would be best if it is referred to the director of DC-Cam
13 when he is summoned. Thank you.

14 [11.29.13]

15 Q. Regarding the advice given by advisors, how is this advice be
16 used at DC-Cam? And--

17 I would like to rephrase this question. I would like to ask: What
18 is the purpose of recruiting the advisors at DC-Cam?

19 A. Advisors are recruited to assist the work of DC-Cam.

20 Q. Could you please be more specific? What kind of help can they
21 provide?

22 A. When we do not understand in any particular parts of the
23 project, we need to seek assistance from the advisors. However,
24 DC-Cam is not bound by any of the advice given to us.

25 [11.30.52]

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

53

1 Q. Has DC-Cam asked or ordered advisors to write any documents
2 for DC-Cam?

3 A. I don't understand anything about this.

4 Q. Don't you understand question, or don't you understand the
5 substance?

6 A. Both.

7 Q. My question is: Has DC-Cam ordered, or asked, or instructed
8 the advisors at DC-Cam to write any articles concerning the
9 research?

10 A. I think advisors at DC-Cam have written articles based on
11 their respective knowledge and fields.

12 MR. KONG SAM ONN:

13 Mr. President, with the Chamber's leave, we would like to have
14 this document be put up on the screen -- document in English,
15 because this document is originally in English.

16 (Short pause)

17 [11.32.55]

18 This document is under D155.3, English ERN 00291504.

19 First, I would like the Chamber to have it put on the screen to
20 the witness.

21 MR. PRESIDENT:

22 Court officer is now instructed to bring the hard copy to the
23 witness.

24 MR. KONG SAM ONN:

25 (Microphone not activated)

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

54

1 MR. PRESIDENT:

2 Please activate your mic before speaking.

3 BY MR. KONG SAM ONN:

4 Q. Mr. Dara, do you know Mr. John -- J-O-H-N -- D. Ciorciari?

5 MR. VANTHAN DARA PEOU:

6 A. I have known this person very well.

7 Q. Can you tell the Court his relation with DC-Cam?

8 [11.35.00]

9 A. He is a legal advisor at the DC-Cam.

10 Q. Have you seen this document, "Documenting the Crimes of
11 Democratic Kampuchea", written by John D. Ciorciari, as I already
12 indicated along with Youk Chhang.

13 Have you seen it?

14 A. Yes, I have.

15 MR. KONG SAM ONN:

16 Thank you. Mr. President, since witness has already seen the
17 document, is it required by the Chamber to present this document
18 to the witness?

19 MR. PRESIDENT:

20 Are you putting further questions with regard to that document,
21 or is that all for that document?

22 MR. KONG SAM ONN:

23 With regard to this document, I will be very brief on portion of
24 the document so that it can be read out to the Chamber.

25 [11.36.28]

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

55

1 MR. PRESIDENT:

2 So you may now proceed.

3 BY MR. KONG SAM ONN:

4 Q. Mr. Dara, concerning the role of an advisor, can you tell the
5 Court whether this advisor can analyze on any legal aspects
6 concerning the crimes under the jurisdiction of this tribunal?

7 MR. ABDULHAK:

8 I would object to that question, Your Honours.

9 [11.37.33]

10 I don't see how this witness can answer that question, with
11 respect to the -- which relates to the qualifications of this
12 individual.

13 MR. KONG SAM ONN:

14 Mr. President, I was putting this question because witness has
15 already testified that DC-Cam has done no analysis of any
16 documents, and he was trying to say that DC-Cam is an
17 independent, neutral, non-political, and non-discriminatory
18 organization. And the purpose of putting this question to him is
19 to understand more about the position of the DC-Cam. Thank you.

20 MR. PRESIDENT:

21 The objection is not sustained.

22 Counsel can proceed with the question, and witness is instructed
23 to respond.

24 MR. VANTHAN DARA PEOU:

25 Mr. President, could you please ask counsel to repeat the

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

56

1 question?

2 MR. PRESIDENT:

3 Counsel, please clarify your question.

4 [11.39.23]

5 BY MR. KONG SAM ONN:

6 Q. I would like to know if the advisor for the Documentation

7 Center of Cambodia has conducted analysis on the documents

8 received by the DC-Cam. Particularly, they have document --

9 conducted analysis on documents concerning the crimes being

10 prosecuted by the tribunal.

11 MR. VANTHAN DARA PEOU:

12 A. Well, since you mention about Mr. John Ciorciari and Mr. Youk

13 Chhang, so I would like to ask whether or not you are referring

14 to Mr. John Ciorciari, in this context, as an advisor you are

15 talking about.

16 Q. I would like to talk about the general advisor.

17 A. Overall, the advisor with the DC-Cam work independently. They

18 have the right to provide expert advice to the DC-Cam. However,

19 the DC-Cam are not bound by any obligation to take their advice.

20 [11.40.49]

21 MR. KONG SAM ONN:

22 Mr. President, I would like to seek your leave to display the

23 website of the DC-Cam.

24 MR. PRESIDENT:

25 Yes, you may proceed.

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

57

1 BY MR. KONG SAM ONN:

2 Q. Mr. Dara, I would like you to look at the screen in front of
3 you.

4 Do you recognize that this is the website of the DC-Cam?

5 MR. VANTHAN DARA PEOU:

6 A. Yes, that is correct.

7 Q. Does the information on this website -- or has the information
8 on this website been screened before they are posted?

9 A. Well, the letters on the right-hand side -- the small letters
10 -- are my writing, myself.

11 [11.42.20]

12 Q. So it means that the writing or some -- the article posted on
13 this website has been screened correctly; is that correct?

14 A. Yes, all the articles must have been screened before they are
15 posted on the website of the DC-Cam.

16 Q. Can you please read the caption in bold? Can you read from the
17 beginning to the end, if--

18 A. Again, English is not my native language, so I would like not
19 to read in English, because I am not confident reading English
20 language.

21 Q. So you mean that you cannot read it?

22 A. I would like to reserve my right not to answer the question.

23 MR. PRESIDENT:

24 Counsel is instructed not to try to ask the witness, who is a
25 Cambodian and speak Khmer, to speak a foreign language.

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

58

1 [11.43.50]

2 The witness is testifying before this Court, and this proceeding
3 is televised and it is observed by the general public in Khmer,
4 so they should answer questions in the language he or she knows.
5 And he has already repeated on several occasions that he is not
6 confident using a foreign language in answering questions.

7 MR. KONG SAM ONN:

8 Thank you, Mr. President. I would like to make a small
9 observation, because the article in English, here, I think the
10 Defence is able to read it because he said that an article on the
11 right-hand side of the page was written by him.
12 But that's okay, I can request the translator or interpreter to
13 verify his answer.

14 MR. PRESIDENT:

15 Yes, you may proceed.

16 [11.45.10]

17 BY MR. KONG SAM ONN:

18 Due to a technical problem, there was difficult just now, but now
19 it comes back.

20 In this article, there is one term which I would like to read to
21 the witness, and you may verify it against the translation.

22 (Intervention in English):

23 "--DC-Cam carries out ongoing research to compile and analyze
24 primary documentary materials collected through various means--"
25 (End of intervention in English)

1 That is all for me, Mr. President. And I would like to now hand
2 over to my international colleague.

3 MR. PRESIDENT:

4 Yes. The international co-counsel for Khieu Samphan, you may now
5 proceed.

6 [11.46.27]

7 QUESTIONING BY MR. VERGÈS:

8 Q. Mr. President, ladies and gentlemen, the proceedings of this
9 morning were quite rich in content, so I'll be brief. I would
10 like to, however, put a few questions to the witness.

11 A few days ago, this witness told us that financial contributions
12 of certain private companies were without conditions, and
13 yesterday he told us that he was not aware that -- of where the
14 financial resources from DC-Cam come from.

15 So how was he be able to -- how was he able to say that these
16 donations were without conditions? So I would like to know on
17 what he bases this assumption.

18 [11.47.26]

19 MR. VANTHAN DARA PEOU:

20 A. May I ask the defence counsel to rephrase or simplify the
21 question? Because I do not quite catch the question.

22 Q. Fine, okay. I will repeat my question. You told us a few days
23 ago that financial contributions are without conditions. And
24 yesterday you told us that he was not aware of who contributes.
25 So, therefore, how can you say that these contributions are

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

60

1 without – without conditions if you do not know who actually
2 contributes?

3 A. I did not say that I do not know the donors, but I did say
4 that I did know -- I did not know the exact amount of
5 contribution made to the DC-Cam.

6 Q. Therefore, yesterday, you said to us that he does not know the
7 amount of these donations, no matter the amount.

8 [11.48.56]

9 So how does he know that these donations are paid without
10 conditions? For example, does he know if somebody had come to
11 say-- If somebody had come to say that -- and had said that all
12 of the crimes had been committed by the Americans, would you have
13 continued working with such an organization?

14 A. Each and every donors funding the DC-Cam, they want to know
15 whether or not the DC-Cam has performed their job efficiently and
16 diligently, whether or not there was transparent in the use of
17 the funds received. And so far our financial transaction and
18 operation has been audited, and there have been commission of
19 external auditing to conduct auditing of the operations of the
20 DC-Cam.

21 Q. This does not answer my question. If-- Of course, auditors
22 will verify the account, but saying that there were no
23 conditions, that is not understandable. Because, yesterday, he
24 said to us that he does not know the amount of these donations.

25 [11.50.30]

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

61

1 And the question that I'm asking him now is: How, therefore, how
2 the deputy director of DC-Cam, with such political importance,
3 how can he accept not knowing the donors nor the amounts of their
4 donations? Isn't there a secret, here, that is problematic?

5 A. I still stand by my position: I do not know the -- I did not
6 say that I did not know the donors. You can--

7 Q. So why, yesterday, why didn't you list them when that was
8 requested from you?

9 A. Counsel, you may observe my condition before the Chamber now.
10 I come here without any supporting documents with me. I come here
11 barehanded.

12 Q. So the deputy director of such an organization does not
13 remember, without documents, the people who donated to the
14 organization? How can we believe this? Or we could believe, we
15 could believe so, but we could ask to cure him from amnesia.
16 Because, when funds are not confessed, maybe they cannot be
17 confessed. There might be something hidden. It might be
18 interesting to know, for example, if there are 20 Chinese or
19 American companies contributing to the organization, and this was
20 not told to us. And--

21 [11.52.46]

22 MR. PRESIDENT:

23 The Prosecutor, you may proceed.

24 MR. ABDULHAK:

25 Mr. President, first, an objection as to form: I'm not sure if

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

62

1 that was a question; it sounded more like a submission to us.
2 But certainly the donors of DC-Cam are indicated in detail on
3 DC-Cam's website, and counsel can show your website to the
4 witness. There's a very long list there, and I'm not surprised
5 that the witness is not able to provide that list off the top of
6 his head.

7 But I'm not sure what the relevance, ultimately, of these
8 questions is. The donors are publicly known, they're available on
9 the website. There's not a controversy here to be explored.

10 MR. VERGÈS:

11 Yes. There's something I'd like to say, however. Okay, since this
12 list exists, why didn't you present it to us? Okay, you're
13 referring to the website--

14 And I'm asking a question directly to the witness, and not to the
15 prosecutor. But, however, it seems that the prosecutor and the
16 witness are concurring here.

17 [11.53.55]

18 BY MR. VERGÈS:

19 But, however, I have another question. The question was--

20 MR. PRESIDENT:

21 The defence counsel is advised to use the term appropriately
22 because we do not want to see the words that are used that may be
23 offensive or insulting to the witness.

24 Of course, you do not have any right to instruct that this
25 witness be examined for any problems of forgetfulness or so. We

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

63

1 do not know whether or not it is an issue of translation, but, of
2 course, the question you put to the witness might -- should be
3 rephrased to make it easy for the witness to understand.

4 And as for the issue of the figures for the contribution by
5 donors, since this organization has been established for almost
6 20 years already, and if you ask him spontaneously as to how many
7 donors there have been and the amount of contribution or so, it's
8 quite difficult to understand from the top of -- to answer the
9 question on the top of his head. Even the government institution
10 that have received funding from foreign assistance for years,
11 then they will have to actually go to the records in order to
12 tell as to the amount as well as the contributors or donors to
13 the organization.

14 So I would like to, once again, advise the defence counsel to be
15 precise in his question.

16 And of course, in Khmer, there are plenty of words that can be
17 used in question so that the witness find it easy to answer.

18 [11.56.08]

19 MR. VERGÈS:

20 Okay. I will take into account your remarks.

21 BY MR. VERGÈS:

22 Q. So does he at least remember the names of some of the
23 organizations that donated -- not all, but at least some of them?

24 MR. VANTHAN DARA PEOU:

25 A. Yes, I remember the donors for the Documentation Center of

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

64

1 Cambodia, particularly the financial donors.

2 Q. Well, I'm asking for the names; not all the names, of course,
3 but at least, please, have him give me some of the names.

4 A. Well, I would like to make it clear here because in your
5 earlier question you asked whether or not I remembered, and I
6 answered I do remember. But if you ask me to enumerate or
7 indicate the organization or donors, I can, of course, enumerate
8 it for you.

9 So far, we have received funding from -- from USAID, from CIDA of
10 Sweden; just a few examples.

11 [11.57.56]

12 Q. Okay, fine. And yesterday I asked him as well -- or the
13 question was asked to him about which universities cooperate with
14 the DC-Cam.

15 Can he give us the list of these universities -- not all of them,
16 because I'm sure he does not remember all of them, but at least
17 give us the names of some of the universities working with
18 DC-Cam?

19 A. Thank you, Counsel. As for the names of universities we have
20 worked with, include Yale University, New South Wales University,
21 Santa Clara University, Rutgers University.

22 Q. Thank you. Another question, the questionnaire -- about the
23 questionnaire which is the base of all interviews. And that
24 questionnaire is written in English, but you know that the
25 witness claims to - to speak Khmer essentially. So who authored

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

65

1 this questionnaire that is supposed to be addressed to Khmer?

2 [11.59.14]

3 A. To the best of my recollection, when I see that particular
4 document, the questionnaire, display before me, it was actually
5 designed by Mr. John Ciorciari, and this questionnaire was also
6 translated in Khmer, so there was a Khmer version at the DC-Cam.

7 Q. So, if I understood correctly, it seems normal -- of course,
8 it's normal that it was written in English, because it was not
9 drafted by a Khmer person.

10 And the witness also said that he accepted all documents that
11 were tendered by experts, and he also said to us that some of the
12 documents have been provided by the Vietnamese.

13 So how could he consider that Vietnamese are experts in this
14 field, in this Cambodian context?

15 [12.00.21]

16 MR. ABDULHAK:

17 We would object to this question. We don't see how the
18 nationality of an expert is relevant at all to their expertise.

19 MR. PRESIDENT:

20 The objection is sustained.

21 Witness does not need to respond to counsel concerning this
22 question regarding the Vietnamese experts.

23 MR. VERGÈS:

24 However, it is important to know, given the conflict with
25 Vietnam, to know if these sources can be considered reliable. How

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

66

1 can the witness consider the documents provided by the Vietnamese
2 reliable?

3 MR. ABDULHAK:

4 Again, Your Honours, I think this question is in breach of your
5 direction.

6 [12.01.29]

7 MR. PRESIDENT:

8 We have already ruled on this and asked the witness not to
9 respond to the question.

10 If you do not have any other new questions other than this one,
11 then we will adjourn.

12 MR. VERGÈS:

13 I'm sorry. I still have one question, yes.

14 BY MR. VERGÈS:

15 Q. The witness tells us that the documents are reliable because
16 they're paper documents and because of the language these
17 documents are drafted in.

18 So has the texture of the paper changed over the past 25 years in
19 Cambodia and in Vietnam? If this paper hasn't changed its
20 texture, I don't know – do not know how we could use this excuse
21 to say that these documents are documents from the period.

22 MR. VANTHAN DARA PEOU:

23 A. Normally, if the documents are the original documents, with
24 our naked eyes, we can see clearly the color of the page, the
25 texture of it, whether it changes.

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

67

1 [12.03.04]

2 MR. VERGÈS:

3 Mr. President, I am done, so I will accept this answer as an
4 answer.

5 Maybe I know this – my questions might be a bit disturbing, but I
6 -- as a lawyer, I must do so even if my attitude might seem a bit
7 difficult for political reasons.

8 MR. PRESIDENT:

9 Thank you, Counsel.

10 Thank you, Mr. Vanthan Dara Peou, for taking up so much of your
11 time and intelligence to provide your testimonies before the
12 Chamber during the last two and a half days.

13 The hearing on your testimonies as a witness before this Chamber
14 has now come to an end as scheduled. Therefore, you are now
15 excused and you may feel free to go home.

16 And since it is appropriate time for lunch adjournment, we will
17 take the adjournment, and this afternoon's session will be
18 resumed by 1.30.

19 [12.04.38]

20 Counsel for Nuon Chea, we note you're on your feet. You may now
21 proceed.

22 MR. PESTMAN:

23 My client would like to ask this -- the Chamber to follow the
24 proceedings, this afternoon, from the holding cell. I've already
25 filed the appropriate waiver.

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

68

1 MR. PRESIDENT:

2 The Chamber grants counsel for Nuon Chea team request and that
3 Nuon Chea can be excused from this courtroom. He can follow the
4 proceeding from his holding cell.

5 AV officers are instructed to connect the AV equipment so that he
6 can observe the proceeding from the holding cell.

7 And that counsel is now instructed to provide this waiver with
8 the clear -- the signature by the accused person. And please be
9 advised that, on that waiver, there should be a clear reasoning
10 other than just a line of reasoning as it is now.

11 [12.06.14]

12 Personnel security -- security personnels are now instructed to
13 take the accused persons to the holding cells. And in the
14 afternoon's session, only Khieu Samphan shall be returned to the
15 courtroom by 1.30.

16 The Court is now adjourned for lunch.

17 (Court recesses from 1206H to 1340H)

18 MR. PRESIDENT:

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

20 [13.41.35]

21 As indicated to the parties, this afternoon's session, the
22 Chamber is hearing TCW-542.

23 Before we proceed with this testimony of TCW-542, the Chamber
24 would like to inform the parties and the public that this
25 afternoon's session will last for one session. In other words,

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

69

1 the session will continue until 2.40 p.m. only because the Trial

2 Chamber needs to meet to discuss some other issues. However,

3 tomorrow's session will be scheduled as normal.

4 Can you – can court officer check to see what is in the

5 background of the audio recording? We heard some sounds.

6 Mr. Duch Phary, could you please report to the Court on the

7 status of TCW-542, whether this person is in the courtroom and

8 whether the person has any relationship with parties to the

9 proceeding or have already taken an oath.

10 [13.43.33]

11 THE GREFFIER:

12 Good afternoon, Mr. President and Your Honours. TCW-542, who has

13 been summoned by the Court, is present and awaiting call by the

14 Chamber to appear in this courtroom.

15 This witness has taken an oath already and the witness has

16 already indicated that, according to his best knowledge, he has

17 no relationship or connected to the accused persons or any of the

18 civil parties admitted by the Court. Thank you, Mr. President.

19 MR. PRESIDENT:

20 Thank you, the greffier.

21 Court officer is now instructed to bring the witness into the

22 courtroom.

23 Counsel for the civil party, you may now proceed.

24 [13.44.46]

25 MR. PICH ANG:

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

70

1 Mr. President, while the witness is being led to the courtroom, I
2 would like to inform the President and Your Honours that civil
3 party would like to give the floors to Mr. Sam Sokong and Ms.
4 Philippine to proceed with the questions.

5 MR. PRESIDENT:

6 Thank you, Counsel, for indicating these position concerning the
7 allocation of times given to counsel of your group to put
8 questions to this witness.

9 (The witness, Ms. Prak Yut, is taken to the dock)

10 [13.46.10]

11 QUESTIONING BY MR. PRESIDENT:

12 Q. Good afternoon, Mrs. Witness. What is your name?

13 MS. PRAK YUT:

14 (Microphone not activated)

15 MR. PRESIDENT:

16 Could you please hold on? Wait until you see the red light on the
17 mic before you respond.

18 BY MR. PRESIDENT:

19 Q. What is your name?

20 MS. PRAK YUT:

21 A. Prak Yut.

22 Q. How old are you?

23 A. (Microphone not activated)

24 [13.46.39]

25 MR. PRESIDENT:

1 Could you please hold on until you see the red light? Pause a
2 little bit before you respond because, if you respond before the
3 mic is activated, your message could not get through into the
4 record and the courtroom.

5 BY MR. PRESIDENT:

6 Q. How old are you?

7 MS. PRAK YUT:

8 A. I am 67 years old.

9 Q. Where were you born?

10 A. I was born in Tram Kak district, Kampot, Cheang Tong commune,
11 Kbal Ou – rather, Takeo province.

12 Q. Where do you live?

13 A. I live in Phnum Proek district, Battambang province.

14 [13.47.43]

15 Q. Are you married? What is your husband named?

16 A. (Microphone not activated)

17 MR. PRESIDENT:

18 Could you please hold on? And please be reminded that you only
19 speak when the mic is on.

20 BY MR. PRESIDENT:

21 Q. Are you married or are you a widow?

22 MS. PRAK YUT:

23 A. I am a widow.

24 Q. How many children do you have?

25 A. (Microphone not activated)

1 MR. PRESIDENT:

2 Could you please hold on before you respond?

3 [13.48.30]

4 MS. PRAK YUT:

5 A. I have a child.

6 Q. Mrs. Prak Yut, according to the report by the greffier and to
7 the best of your knowledge, you have no relationship or
8 connection to any of the parties or the -- the civil parties in
9 this case; is that correct?

10 A. Yes, it is correct.

11 Q. Have you taken an oath before you are here, in this courtroom?

12 A. Yes, I have.

13 MR. PRESIDENT:

14 Please listen to us. As the President of the Chamber, I would
15 like to inform you of your rights as a witness before this
16 Chamber.

17 As a witness in these proceedings, you can refuse to respond to
18 any questions or -- can refuse to respond to any questions that
19 are self-incriminating. You have the right of -- not to respond to
20 any response that are incriminating yourself.

21 [13.50.19]

22 You are to respond to questions that are put to you, and only
23 respond telling the Court about the truth what you have seen. Do
24 you understand?

25 A. Yes, I do.

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

73

1 MR. PRESIDENT:

2 Next, we would like to proceed to the Co-Prosecutors to put
3 questions to this witness.

4 Prosecutors will have the floor before the other parties to the
5 proceeding. You have four hours to put questions to this witness.

6 [13.51.09]

7 QUESTIONING BY MR. SENG BUNKHEANG:

8 Thank you, Mr. President. Good afternoon, Madame. I am Seng
9 Bunkheang. My colleague, here, is Mr. Dale Lysak. We will be
10 putting some questions to you. We want you to tell the Court
11 based on what you have seen during the Khmer Rouge regime.

12 Q. My question is whether you have joined the revolution; is that
13 correct?

14 MS. PRAK YUT:

15 A. Yes, it is.

16 Q. When did you join the revolution?

17 A. I joined the revolution in 1970.

18 Q. Do you know the purpose of joining the revolution?

19 A. I don't know because I just joined the revolution along with
20 other people.

21 Q. What were you asked to do back then?

22 A. I was entering the Child Office.

23 Q. Who introduced you into the Party?

24 [13.52.28]

25 A. I have no idea who introduced me, because I saw other people

1 joining the revolution and I also did so.

2 Q. Could you please tell how you were recruited?

3 A. (No interpretation)

4 MR. PRESIDENT:

5 National Co-Prosecutor, could you please pause a little bit to
6 give time for the interpreters to precisely render your complete
7 message?

8 BY MR. SEAN BUNKHEANG:

9 Thank you, Mr. President.

10 Q. Have you studied Party's policy?

11 MS. PRAK YUT:

12 A. I was very young and I did not remember learning these things.

13 Q. When you were mature enough or an adult, did you then study
14 this policy.

15 [13.53.35]

16 A. I did not attend school.

17 Q. When you were young -- at a young age, what were you asked to
18 do, indeed, when you joined the revolution?

19 A. I was asked to tend cows -- or cattle and pigs.

20 Q. When were you appointed as the chief -- or the chairperson of
21 the mobile unit?

22 A. I was an adult already when I was in Chhuk district, at the
23 time when I was appointed as the chairman.

24 Q. Did you know the purpose of this appointment?

25 A. No, I didn't. I just took the position.

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

75

1 Q. As the chairman of the mobile unit, what were you asked to do?

2 A. I was asked to dig canals, build dams.

3 Q. How many people were there in your mobile unit?

4 A. There were about 200 to 300 people who were tasked with
5 building dams.

6 Q. Can you tell the Court how people were recruited for this
7 mobile unit?

8 A. People were recruited from villages, not from commune.

9 [13.55.22]

10 Q. Did people join the mobile unit voluntarily?

11 A. People could -- would have been collected -- or recruited from
12 the villages, and I don't know much about this.

13 Q. Do you still recollect that-- In your district, how many
14 mobile units were there?

15 A. Are you referring to the mobile units in district of Chhuk?

16 There were about 500 -- more than 500.

17 Q. Could you please tell the Court how old were the people who
18 were recruited to join the mobile units?

19 A. In general, they were 16, 17 years old, even 15 years old, no
20 younger than that.

21 Q. Were there any tasks other than building dams that assigned to
22 people in the mobile unit?

23 A. Normally, we were tasked with building the dams; no other task
24 was -- were assigned.

25 Q. Do you remember the name of the dams you built back then?

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

76

1 [13.57.15]

2 A. No, I don't.

3 Q. Do you know Treang Dam?

4 A. I remember only the Stung Treng Dam.

5 Q. How big was that dam?

6 A. I don't remember how big or the length of that dam.

7 Q. How many people were deployed to build the dams? Were there
8 other people from other mobile units deployed to build this dam?

9 A. No, no other people were sent from other places to build this
10 dam.

11 Q. How was the food ration and living condition of people in the
12 mobile unit?

13 A. We were provided with rice, food that deliver -- are given to
14 people at work. For example, people lack food, then the commune
15 people would provide them with rice.

16 Q. Do you think that the food ration was sufficient?

17 A. I may say that the food was decent, because we kept receiving
18 enough food for the people there, in that particular location.

19 [13.59.02]

20 MR. PRESIDENT:

21 Counsel for Nuon Chea, we note you are on your feet. You may
22 proceed.

23 MR. PESTMAN:

24 Yes. Thank you, Mr. President. In order to establish whether
25 these questions and the answer given to those questions are

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

77

1 relevant to the first mini-trial and the mini-indictment, it will
2 be very helpful to know what period we are speaking about. Is it
3 the pre-1975 period or is it the period after April 1975?

4 MR. PRESIDENT:

5 Thank you, Counsel, for your observation.

6 Mr. Co-Prosecutor, could you please indicate the timeframe. And
7 as you know, that the issue at hand deals only with Case 002/1;
8 that is the first segment which has been already provided to
9 parties.

10 [14.00.34]

11 Now, the question from the counsel is: What is the relation of
12 your questions to the first segment -- that is, Case 002/1?

13 BY MR. SENG BUNKHEANG:

14 Thank you, Mr. President.

15 I would like to put more questions to this witness.

16 Q. Madame, can you recall the time that you worked?

17 MS. PRAK YUT:

18 A. I don't really remember the time. I do not recall what year it
19 is -- rather, it was. Frankly speaking, I don't really remember
20 that. I did not record it.

21 Q. Thank you. You said before the investigator, on the 18th of
22 November 2009, that you tried to -- at Question 22, that you
23 tried to solve the problems, and you said there were good and bad
24 places. What do you mean by that?

25 [14.02.19]

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

78

1 A. There were the place - "the bad places" refers to those who --
2 it refers to the place where there were people who stole rice.
3 And those who stole rice would be brought to be educated or
4 re-educated.

5 Q. You also answered during the investigation phase -- and I am
6 referring to document D234/16 -- you answered that for the
7 killings: "We do not kill them immediately. We send them to the
8 superior for re-education." Can you describe this?

9 MR. PRESIDENT:

10 I note defence counsel is on his feet. You may proceed.

11 MR. PESTMAN:

12 I would like to make the same objection. I do not know what
13 incidents the prosecutor is referring to and what time period.

14 [14.03.38]

15 I'm unable to look at Question 22 while he's asking the question.
16 Maybe he can introduce the question a little bit more so that we
17 can -- we actually know what he is referring to.

18 But, more generally, I would like to know what period the
19 Co-prosecutor is referring to. If it's after 1975, I maintain
20 that that is not relevant for the historical context and,
21 therefore, not relevant for the first trial, what we are supposed
22 to discuss.

23 MR. PRESIDENT:

24 Yes, the international defence counsel for Ieng Sary, you may
25 proceed.

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

1 MR. KARNAVAS:

2 Good afternoon, Mr. President. Good afternoon, Your Honours. And
3 good afternoon to everyone in and around the courtroom.

4 I object to the form of the question, the way that the gentleman
5 is using the statement as opposed to eliciting testimony from the
6 witness.

7 They're leading the witness with what's in the statement and then
8 trying to get them to explain what was said or what they meant in
9 the statement.

10 [14.04.52]

11 We would prefer -- and we think this is-- The appropriate way of
12 doing things is to ask questions of the witness in an open-ended
13 fashion. If the witness does not recall and it's necessary to
14 refresh the witness' memory with a statement, to then go to the
15 statement.

16 But to then-- But we object to the use of the statement and the
17 manner in which the gentleman is using it. There's no sense,
18 then, in having the witness here. They should just move to the -
19 the admission of the statements.

20 MR. PRESIDENT:

21 The objections made by the two counsels are sustained.

22 The National Co-Prosecutor is advised to rephrase the question
23 and, more importantly, to follow the procedures in place
24 concerning the first segment of the trial as the effect of the
25 Severance Order.

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

80

1 In any event, you are also advised to indicate the time reference
2 clearly.

3 BY MR. SENG BUNKHEANG:

4 Thank you, Mr. President.

5 [14.06.24]

6 Q. I now move on to the next question. Is there -- was there any
7 time that you were appointed as a member of Zone 35 -- rather,
8 Sector 35?

9 MS. PRAK YUT:

10 A. I was a member in Kampot in 1973. I'm not really sure, but I
11 was a member, a fourth member of Kampot, but I do not recall the
12 date that I began my job there. I'm not sure whether it was in
13 1973 or 1974. I just don't remember it.

14 Q. Thank you. In which zone was the Sector 35 in?

15 A. It was in the East Zone -- rather, in Southwest, Southwest
16 Zone.

17 Q. Do you recall the number of members in this zone?

18 A. No, I do not.

19 Q. Do you remember the name of the Secretary of that zone?

20 A. No, I do not remember that. I only remember the members of the
21 zone, but I don't even remember where the chief of that zone came
22 from. For example, Ta Phan, Ta Sean, Ta Ti, Ta Kat, they were all
23 dead.

24 [14.08.29]

25 Q. I was referring to the Secretary of Sector 35.

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

81

1 A. It was Ta Chap -- it was Kang Chap.

2 Q. Do you recall the members of Sector 35?

3 A. They were those I recalled earlier.

4 Q. Were there any other?

5 A. No.

6 Q. Can you describe the roles of each and every member of the
7 sector?

8 A. For me, I helped the secretary of that particular zone. For
9 example, I helped the Secretary of Kampot Zone. Ta Phan was in
10 Tuk Meas, and they were in different locations, but they were all
11 dead.

12 [14.09.52]

13 Q. So you are – you are saying that different people are
14 responsible -- were responsible for different places?

15 A. [Response was not heard by the interpreter]

16 Q. (No interpretation)

17 A. Kang Chap was to attend meeting in – either in Tuk Meas or in
18 other places, whenever the place was favourable.

19 Q. So there were no particular places for the meetings?

20 A. No, it was up to him.

21 MR. PRESIDENT:

22 Could Mr. Co-Prosecutor pause between questions and answers?

23 Otherwise, the answers are not fully interpreted. Because other
24 parties rely on other languages.

25 This is the second time that you are reminded.

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

82

1 [14.11.00]

2 BY MR. SENG BUNKHEANG:

3 Thank you.

4 Q. What were your other responsibility in Kampot? Were you also
5 responsible for educating the people?

6 MS. PRAK YUT:

7 A. I only helped or assisted whenever I asked to do, but the work
8 was up to them.

9 Q. Thank you. Do you know, in each district within Sector 35,
10 there was a re-education camp?

11 A. I am not aware of that because each district was separate.

12 Q. How about in your district? Was there a re-education camp?

13 A. There was, but it was the chief who was – who was responsible
14 for that place.

15 Q. Do you remember where it was located?

16 A. No, I don't.

17 [14.12.40]

18 Q. Do you know what is the purpose of that re-education camp?

19 A. As far as I know, it was where people were re-educated. For
20 example, for those bad people, they were re-educated so that they
21 were no longer bad people, and that's all. There is no big --
22 there was no big role.

23 Q. Thank you. Do you know whether there was a sector re-education
24 camp? Just now, I asked you about the re-education camp in
25 districts.

1 A. When Ta Kang Chap was responsible for that place, I did not
2 know whether in that sector there was a re-education camp or
3 where it was located; I never asked him. We never met, so I do
4 not know where it was.

5 Q. Do you know about the Communist Party policy?

6 A. At the time, I was not very knowledgeable about that. I only
7 attended the study sessions where they were available, but I were
8 not comprehending much.

9 [14.14.52]

10 Q. Did the superior ever provide any materials or Party's books
11 to you?

12 A. No, I never received any documents, as I was in that
13 particular district, and so I just received instructions from
14 other. I was illiterate at the time.

15 Q. Were you aware, at the time, that there were the Party
16 Statutes?

17 A. No, I was not.

18 Q. Concerning your work, did you ever report to the superior?

19 A. What report are you talking about?

20 Q. That is the report on your work.

21 A. Yes, I reported to the superiors concerning, for example, the
22 plans to be implemented, concerning the rice farming, but I did
23 not report that directly to the superior, I reported that to my
24 chief, and then the chief reported to the upper level.

25 Q. You talk about Ta Noy; and was the report done in writing?

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

84

1 A. I do not know about that. It was his job.

2 Q. You said there was a report to the superior; what superior are
3 you talking about?

4 [14.16.45]

5 A. It was Kang Chap.

6 Q. As your -- on your behalf as a secretary of the sector, did
7 you know whether each member of the sector received a report from
8 the lower levels?

9 A. Some received, and some did not.

10 MR. PRESIDENT:

11 Counsel for Nuon Chea, you may proceed.

12 [14.17.40]

13 MR. PESTMAN:

14 I'm sorry, I might have misunderstood, but as far as I know, the
15 witness was not "secretary" of the sector. But as I said, maybe I
16 misunderstood. She said she was a "member" of the sector.

17 MR. PRESIDENT:

18 You are right, the witness did not talk -- or did not say that
19 she was the secretary of a sector. She said that she was a member
20 of the Sector 35. There could be a translation mistake.

21 The Prosecutor may ask the question again so that she understands
22 and can respond to your question.

23 BY MR. SENG BUNKHEANG:

24 Thank you, Mr. President.

25 [14.18.43]

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

85

1 Q. Can you indicate whether you are a member of Sector 35?

2 MS. PRAK YUT:

3 A. Yes, I was a member of Sector 35.

4 Q. In Sector 35, where you were a member, were there any district
5 secretaries who went there, and joined the meetings, and reported
6 to the sector on their work?

7 A. Members within the sector also reported to the sector. Ta Noy
8 also reported. In other words, everyone reported about their
9 work, but I was not aware of what the reports were because we had
10 different roles.

11 Q. Usually-- Put it in another way. The sector is above the
12 district. When there were meetings, there were secretaries of the
13 district. So I would like to know whether there were any district
14 secretary who reported to the members of the sector?

15 A. Yes, all district secretaries reported to the sector.

16 [14.20.35]

17 Q. Was the report done frequently, the report to the sector?

18 A. It depends – it depended on practical situations. Sometimes,
19 the meetings were held every two or three months, but they were
20 not done regularly.

21 Q. Can you recall what were the meetings about?

22 A. I do not. I do not remember about that.

23 Q. Was immoral conduct taught during the -- or discussed during
24 the meetings?

25 A. Yes, there were occasions that immoral conduct were discussed,

1 and usually, during the meetings, we talked about bad behaviours
2 or the bad deeds and we tried to re-educate one another so that
3 we can prevent such things from happening again.

4 Q. Was there a case that we had people who continued to conduct
5 bad behaviours after they were re-educated?

6 A. We couldn't do anything about that. It was up to them, now.

7 Q. In case that the district could not re-educate those people,
8 did the district send those people to other places?

9 [14.22.41]

10 A. I am not aware of that. No, I don't -- I don't know about
11 that.

12 Q. Can you indicate once again about the meetings? Were immoral
13 conducts discussed during the meetings?

14 A. They were discussed. The immoral conducts were discussed
15 during the meetings.

16 Q. Could you tell the Court what we mean by "immoral conducts"?

17 A. Immoral conducts deals with womanizing.

18 Q. And once there were immoral conducts, what is the solution for
19 that at the district level?

20 A. They would be re-educated.

21 Q. Could you indicate the types of meetings at the district
22 level?

23 A. The meetings were also about building dams.

24 Q. I meant whether the meetings were ordinary or not ordinary.

25 A. Meetings were about building dams and canals, things like

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

87

1 that.

2 [14.24.48]

3 Q. Were the meetings held regularly or frequently?

4 A. They were not held frequently.

5 Q. I was talking about the meetings at the sector level.

6 A. They were not frequently. Sometimes, a meeting was conducted

7 after three months.

8 Q. Do you -- do you know whether there was any report sent to the

9 upper level?

10 A. No, I do not know about that because it was his job.

11 Q. Did you ever attend zone meetings?

12 A. I occasionally attended the meeting. Only the Standing
13 Committees were called to attend the meetings. For me, I attended
14 meeting with Ta Kang Chap because I was the sixth member (sic).

15 Q. Was there any instruction from the zone to the sector and to
16 the district in order to provide guidelines as to how -- what
17 should be done further?

18 [14.27.10]

19 A. There were instructions provided to Kang Chap, and then Kang
20 Chap hold -- held meetings at the district levels.

21 Q. Concerning the role of the women affairs, were you assigned to
22 take care of that? And when was that?

23 A. It was in 1970, but I'm not sure whether -- I'm not sure
24 whether it is in 1973 or other.

25 Q. But you were appointed to take that role?

1 A. Yes.

2 Q. What were your roles?

3 A. I was told to educate women, to educate children and
4 villagers, educate teachers, educate about – educate them about
5 cultures. I helped educate women how they could be teachers,
6 things like that.

7 [14.28.46]

8 Q. For how long did you work in Kampot?

9 A. It lasted for three years or-- Well, I do not remember this
10 for sure, I do -- because I do not remember the date when I
11 started working. Probably it lasted for three or four years,
12 until 1973, but I'm speaking on a condition that I'm not very
13 sure about.

14 Q. After you work in Kampot, where else did you work?

15 A. After I work in Kampot, I transferred to - rather, Ta Kang
16 Chap called upon me and re-educated me, and I was transferred to
17 Kampong Cham. Ta Kang Chap told me that I was to be transferred
18 to Kampong Cham.

19 [14.30.06]

20 Q. In which district in Kampong Cham?

21 A. Kampong Siem.

22 Q. Is Kampong Siem in any of the sector? And which sector or
23 zone?

24 A. I don't remember. I went there, but I don't remember in which
25 zone it was. Perhaps it was in Sector 41 or 42.

1 MR. PRESIDENT:

2 The counsel for Nuon Chea, you may now proceed.

3 [14.30.45]

4 MR. PESTMAN:

5 Again, in order to establish whether this question and the
6 answers to this question are relevant to the first mini-trial; I
7 would like to know what period we are -- the witness is referring
8 to? Is it pre or post-April 1975?

9 If it's post-1975, I would submit that it's not relevant to the
10 substance of the first mini-trial.

11 MR. PRESIDENT:

12 Thank you for the observation by the counsel, but with regard to
13 the annex of the Closing Order, there is no clear indication
14 setting the exact dates as counsel raised.

15 When putting questions to witness, parties are allowed to confine
16 themselves to the facts -- the facts that have been already
17 indicated in document E124/7.2, and parties are advised to
18 prepare their questions that are relevant to the alleged
19 paragraphs in accordance with their ordering, starting from small
20 number to bigger numbers.

21 [14.32.53]

22 And the questions must be relevant to the facts concerning the
23 knowledge of the witness, and that they must be relevant to the
24 facts that have been severed and classified in Case File 002/1.
25 The first segment of the trial must be in line with this

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

90

1 guideline: it is about the historical background of the
2 Democratic Kampuchea. Then, parties can process to another
3 subsequent -- or subsequent fact, as laid down in document
4 E124/7.2.

5 [14.33.55]

6 So objection by counsel for Nuon Chea is not appropriate.
7 However, Co-Prosecutor is also advised to review the facts that
8 the questions are being put, so that they are in the facts or the
9 group of facts as indicated by the Chamber. To be more
10 understandable, these questions -- lines of questions should
11 begin with the sequence of these facts.

12 BY MR. SENG BUNKHEANG:

13 Thank you, Mr. President. I would like to proceed with further
14 questions.

15 I wish to emphasize that this question is relevant to the
16 structure of the Democratic Kampuchea regime.

17 Q. The next question would be: when you worked at Kampong Siem
18 district, what was your role?

19 [14.35.18]

20 MS. PRAK YUT:

21 A. I was the district secretary.

22 Q. Do you know why you were transferred to Kampong Siem?

23 A. No, I don't. Kang Chap asked me to be transferred to Kampong
24 Cham, and I just followed his order.

25 Q. Did you commit any wrongdoings?

1 A. No, I didn't. As the secretary of the sector, Mr. Kang Chap
2 had the power to call me in, and I had to follow his instruction.

3 Q. How did you feel when you were being transferred?

4 A. Nothing, I was acting on -- upon order.

5 Q. When you were travelling from your first place to Kampong Siem
6 district, could you tell us whether you also cut across Phnom
7 Penh?

8 A. Yes, I did. I had to cross Phnom Penh and waited for him in
9 Kampong Cham.

10 [14.36.46]

11 Q. When you were in Phnom Penh, could you tell us how many people
12 you met or whom did you meet?

13 A. I did not meet anyone.

14 Q. Could you tell the Court what were you tasked with? What tasks
15 were you asked to perform in Kampong Siem?

16 A. It is a normal practice, and normally it is always difficult
17 when one has to be transferred from location to another. However,
18 the difficulty was not too bad, although I felt uneasy. I felt
19 that I could have done something wrong, that's why I was
20 transferred. As a new person in the new post, I had problem
21 because I was new to the people in the new location. However,
22 after time passed by, I seemed to have gotten used to the
23 environment and situation.

24 [14.38.14]

25 Q. I think I should put it in other way. I would like to know

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

92

1 what did you do in Kampong Siem with your new job.

2 A. As a secretary of the district, I was in charge of the affairs
3 at the district. There were four to five commune chiefs who had
4 to be called. An education session would be provided to them by
5 me, for example concerning how to build the water gate or the
6 sluice.

7 Q. Do you remember, when you were the secretary of the district,
8 how many people were in the committee of the district?

9 A. There were three to four people in the commune committee, many
10 of whom died, except one who still lives.

11 Q. How many people were members of the district when you were in
12 charge?

13 A. There were altogether five people.

14 [14.39.45]

15 Q. Do you know the recruitment process of the senior position in
16 the district, how was it held?

17 A. The five people were assigned to communes. Each commune -- A,
18 B, C, D, for example -- each would be assigned as commune chief,
19 respectively. For example, the person named "A" would be assigned
20 to manage commune A, "B" for B, so on and so forth.

21 Q. This means that you appointed them on your own, or were they
22 appointed by other?

23 A. The sector secretary would come to us, to me in particular,
24 asking us to assign or appoint those commune chiefs.

25 Q. In your district, were there any cadres or were there any

1 military or security forces?

2 A. Back then I -- It was not well organized. I was there for a
3 few months to learn more about this.

4 Q. At your new location, was there any re-education centre or
5 camp?

6 A. No.

7 [14.41.25]

8 Q. Do you recall there was a re-education camp at Phnom Pros and
9 Phnom Srei?

10 A. I don't know. And I had never had any contact with those
11 people there.

12 Q. When you were holding the position as the Secretary of the
13 District of Kampong Siem, had you ever attended meetings with the
14 zone committee or secretaries?

15 A. I attended meetings with them.

16 Q. Do you remember the head of the zone?

17 A. Ke Pauk. He already deceased.

18 Q. Do you know the organizational structure of the Central Zone?
19 Is it the same to that of the Southwest Zone structure?

20 A. I don't know. Are you talking about the zone committee? I
21 missed your question.

22 Q. I am talking about the organizational structure of each zone.
23 I wanted to know whether the structure was somehow identical or
24 common in all other zones.

25 A. I don't know.

1 [14.43.21]

2 Q. At Kampong Siem district, was the reporting system the same as
3 what it happened in the - in Kampot?

4 A. I- No, I have no idea.

5 Q. Did you know that the - the head of the zone meet with other
6 people at the senior level?

7 A. I was, back then, the fourth member of Sector 41, and when my
8 - the zone chief or chairperson attended meetings at the senior
9 level, I would never attend such meetings because, as a fourth
10 member, I was not involved in the meetings.

11 Q. Did you ever receive any instructions from the zones or
12 sectors, regarding your day-to-day work?

13 A. I did receive some instructions, for example on how the dams
14 would be expected to be built, and how canals could be dug, and
15 so on and so forth.

16 [14.44.58]

17 Q. When you worked as the Kampong Siem District Secretary, were
18 you asked to build dams?

19 A. No. There was a dam that was built in the sector, but I was
20 not involved, and in Kampong Siem, there was no place where you
21 could build such dam. And the sectorial level built a dam, but in
22 Prey Chhor district. I know that there was a dam being built back
23 then. And we also had a plan to build a dam, but there was no
24 available vacant land for building such dam.

25 Q. Do you know how much time -- or how a dam was built?

1 A. Back then, there was no machine to build the dam; we used
2 man-power, or people.

3 Q. Who ordered the recruitment of people to build the dams? Or
4 did you recruit them?

5 A. The dam was built by the sector level. They could just come to
6 us to look for a few people to help building the dam. We can – we
7 could send a few people, but I never involved in building that
8 dam, only engaged in sending some people to help them.

9 [14.46.50]

10 Q. Have you observed that the people died or became very sick
11 when building the dam?

12 A. I was nowhere near the site of the dam, so I had no knowledge
13 of it. I was more involved in farming rather than in building the
14 dam.

15 Q. When you were building dam in Kampot, at Sector 35, did you
16 know that -- or observe that the people also became – become --
17 very sick and die of starvation, for example, at Kaoh Sla?

18 A. Kaoh Sla dam belonged to the sector and I was not interested
19 in that dam. And people were recruited from the district. For
20 example, 50 people would be recruited from each district to build
21 the dam in Kaoh Sla, and I have no idea how the dam was built,
22 because everyone had their own specific task to perform, and we
23 minded our own business.

24 And, again, I don't know how people were recruited to build the
25 dam, because I was nowhere near the dam, although I know that the

Extraordinary Chambers in the Courts of Cambodia

Trial Chamber – Trial Day 21

Case No. 002/19-09-2007-ECCC/TC

25/01/2012

96

1 Kaoh Sla dam was the biggest in Kampot.

2 MR. PRESIDENT:

3 Thank you, National Co-Prosecutor. And thank you, Madame Witness.

4 [14.48.46]

5 It is now appropriate time for adjournment.

6 And as the Chamber has already indicated, we need to convene to
7 discuss some internal affairs of the Chamber. For that reason,
8 this afternoon session concludes now, at this time.

9 Tomorrow's session will commence at 9 o'clock.

10 And we also would like to inform Madame Witness that you are
11 required to give testimony again tomorrow, and please be here
12 before 9 a.m.

13 Court officer is instructed to coordinate with the travel and
14 accommodation of the witness.

15 Security personnels are not instructed to bring the accused
16 persons back to the detention facility and have them returned to
17 the courtroom tomorrow before 9 a.m.

18 The Court is adjourned.

19 (Court adjourns at 1449H)

20

21

22

23

24

25