



អគ្គនៅក្នុងព្រះទេសចរណ៍ជាតិកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia

Chambres Extraordinaires au sein des Tribunaux Cambodgiens

ឯកតាអធិជ្ជ

ORIGINAL/ORIGINAL

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CMS/CFO:..... Sann Rada

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ នាស់នា ព្រះមហាក្សត្រ

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

អគ្គនៅក្នុងព្រះនាយកដ្ឋាន

Trial Chamber

Chambre de première instance

TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC – REDACTED

Case File N° 002/19-09-2007-ECCC/TC

6 October 2015

Trial Day 335

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

Trial Chamber Greffiers/Legal Officers:
EM Hoy
Niccolo PONS

For the Office of the Co-Prosecutors:
Travis FARR
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UCH Arun

The Accused: NUON Chea
KHIEU Samphan

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Trial Chamber – Trial Day 335
Case No. 002/19-09-2007-ECCC/TC
6 October 2015*

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
Mr. BAN Seak (2-TCW-950)	Khmer
Mr. DUCH Phary	Khmer
The GREFFIER	Khmer
Ms. GUISSE	French
Mr. KONG Sam Onn	Khmer
Mr. KOPPE	English
Judge LAVERGNE	French
Mr. LYSAK	English
The President (NIL Nonn)	Khmer
M. SOS Romly (2-TCW-904)	Khmer

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1 PROCEEDINGS

2 (Court opens at 0903H)

3 MR. PRESIDENT:

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

5 Today, the Chamber continues to hear the testimony of witness Ban

6 Seak. And we also have a reserve witness -- that is, 2-TCW-904.

7 And today, we have Counsel Duch Phary as a duty counsel for the

8 witness.

9 Mr. Em Hoy, please report the attendance of the Parties and other
10 individuals at today's proceedings.

11 [09.04.39]

12 THE GREFFIER:

13 Mr. President, for today's proceedings, all Parties to this Case
14 are present.

15 Mr. Nuon Chea is present in the holding cell downstairs. He has
16 waived his right to be present in the courtroom. The waiver has
17 been delivered to the greffier.

18 The witness who is to conclude his testimony today -- that is Mr.
19 Ban Seak, is present in the courtroom with his duty counsel. We
20 also have a reserve witness -- that is, 2-TCW-904, who confirms
21 that to the best of his knowledge, he has no relationship by
22 blood or by law to any of the two Accused -- that is, Nuon Chea
23 and Khieu Samphan, or to any of the civil parties admitted in
24 this Case. The witness will take an oath before the Chamber.

25 [09.05.45]

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1 MR. PRESIDENT:

2 Thank you. The Chamber now decides on the request by Nuon Chea.

3 The Chamber has received a waiver from Nuon Chea dated 6 October

4 2015, which states that due to his health: headache, back pain,

5 he cannot sit or concentrate for long. And in order to

6 effectively participate in future hearings, he requests to waive

7 his right to participate in and be present at the 6 October 2015

8 hearing. Having seen the medical report of Nuon Chea by the duty

9 doctor for the Accused at the ECCC, dated 6 October 2015, which

10 notes that Nuon Chea has chronic back pain and dizziness when he

11 sits for long, and recommends that the Chamber grant him his

12 request so that he can follow the proceedings remotely from the

13 holding cell downstairs. Based on the above information and

14 pursuant to Rule 81.5 of the ECCC Internal Rules, the Chamber

15 grants Nuon Chea his request to follow today's proceedings

16 remotely from the holding cell downstairs via audio-visual means.

17 The Chamber instructs the AV Unit personnel to link the

18 proceedings to the room downstairs so that Nuon Chea can follow

19 the proceedings. This applies to the whole day.

20 Counsel Duch Phary, you have the floor.

21 [09.07.27]

22 MR. DUCH PHARY:

23 Good morning, Mr. President, Your Honours. During the

24 proceedings, may I take note of important questions on my

25 personal laptop?

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1 MR. PRESIDENT:

2 Yes, you may do that during the proceedings to hear this witness.

3 The Chamber now hands the floor to the defence teams to put
4 question to the witness. First, to the defence team for Khieu
5 Samphan. Rather, it's to the defence team for Nuon Chea.

6 [09.08.27]

7 QUESTIONING BY MR. KOPPE:

8 Thank you, Mr. President. Good morning, Your Honours. Good
9 morning, Counsel. And good morning, Mr. Ban Seak. I am the
10 International Co-Counsel for Nuon Chea and I would like to ask
11 you some questions this morning. I will be asking you many
12 questions about the rebellion in Krouch Chhmar after May 1978,
13 about which you were asked many questions yesterday.

14 Q. But do you know whether three years previously in the same
15 district, there had also been a rebellion -- a rebellion in Svay
16 Khleang, a rebellion in Kaoh Phal and possibly Trea village? Were
17 you aware of that?

18 MR. BAN SEAK:

19 A. No, I did not know about any rebellion before my arrival. And
20 as I testified yesterday, there was a rebellion by Khmer people
21 while I was there and it was not initiated by the Cham people.

22 [09.10.04]

23 Q. Very well. Let me now go to Sector 42, 1976, 1977. I would
24 like to read to you an excerpt from a telegram -- a telegram
25 signed by Ke Pauk. It's dated April 1976.

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1 Mr. President, that's document E3/952: ERN English, 00182658;

2 Khmer, 00000766; and French, 00350762 and up until 3.

3 Mr. Witness, the telegram is sent, as I said, from Ke Pauk and is
4 directed to Pol Pot. And I would like to read that excerpt to you
5 and I would like to ask your comments please.

6 "The enemy situation in the entire North Zone: Fundamentally, the
7 enemy has not yet conducted any strong activity which has
8 impacted the people or the production movement. In general, the
9 situation is stable, but at the same time, they have carried out
10 some activities. For example, they made propaganda that the
11 Revolution is strict; they made propaganda to resist the
12 cooperatives and the new rice field dike system. And they made
13 propaganda about hunger. Specifically, some activity has appeared
14 in Chamkar Leu district. The enemies are former soldiers in
15 combination with the Cham and former cooperative team chairman.
16 They used copies of photo of Lon Nol and Nol's announcement of 18
17 March 1970, to post on tree trunks near Trapeang village in
18 Chamkar Leu district, and conducted other activities like burning
19 forests and destroying crops like bananas, papaya."

20 Mr. Witness, have you -- or were you aware at the time or later
21 maybe in '77 about such activities that are being described in
22 this telegram?

23 [09.13.21]

24 MR. BAN SEAK:

25 A. No, I was not aware of that, because it was in the latter part

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1 of the year that I was reassigned from the fishing lots.

2 Q. But activities like burning down the forests apparently done
3 by Cham and soldiers, were you ever aware of that in '77 or
4 later?

5 A. No, I wasn't aware of that.

6 Q. You testified yesterday answering questions about the sweeping
7 clean of cadres in the former North Zone. And in one of your
8 WRIs, you say they swept clean the leadership, meaning those who
9 were affiliated with the CIA. Can you explain to me what exactly
10 do you mean when you said "affiliated with the CIA", what does
11 that mean?

12 A. I learned through other brothers like Oeun who said that in
13 our zone, Thuch was the head of the CIA. For that reason,
14 sweeping clean was started from the top down to the bottom,
15 including core persons or group chiefs at the bottom level.

16 [09.15.34]

17 Q. Now of course, Oeun, as I'm sure you understood at the time,
18 didn't literally mean that Koy Thuon was the head of the CIA
19 because we all know the CIA is an American organization. What did
20 Oeun mean when he said Koy Thuon was "the head of the CIA"?

21 A. He said in the confession, he was the head of CIA. And later
22 on, Chey, the in-law of Oeun was also arrested on the allegation
23 that he was linked to the CIA network.

24 Q. In one of your WRIs, you said Koy Thuon was the head of the
25 CIA and you understood So Phim to be the head of the KGB in the

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1 East. Now we all know that the KGB is an organization that
2 belonged to the Soviet Union and we also know that So Phim wasn't
3 Russian. What did you mean when you said that So Phim was the
4 head of the KGB in the East Zone?

5 MR. PRESIDENT:

6 Witness, please hold on and the Deputy Co-Prosecutor, you have
7 the floor.

8 [09.17.15]

9 MR. LYSAK:

10 Thank you, Mr. President. This is just a request -- Counsel is
11 going to cite or quote this witness that he give us the ERN and
12 document number so that we can ourselves review what the witness
13 said.

14 BY MR. KOPPE:

15 I was referring, Mr. President, to E3/375: English, ERN 00360757;
16 French, 00369919; and Khmer, 00348797 and 98; and it reads: "They
17 just informed us that Koy Thuon alias Thuch was the head of the
18 CIA and Sao Yan alias Phim was the head of the KGB in the East."

19 Q. Now Mr. Witness, as I said, So Phim wasn't Russian and he
20 wasn't literally the head of the KGB. What did you understand
21 that to mean at the time?

22 MR. BAN SEAK:

23 A. I didn't really understand about that. They mentioned about
24 the KGB and the CIA on the blackboard and that they were the dogs
25 serving the Americans and serving the "Yuong".

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1 [09.19.05]

2 Q. Are you saying in fact that being a KGB or being a CIA
3 respectively means that you are collaborating with the Vietnamese
4 in collaborating with the Americans; is that what you mean?

5 A. Yes, that is correct.

6 Q. Let me now go to Sector 42. Before your in-law Oeun became
7 chief of Sector 42, do you know who, before him, was the chief of
8 Sector 42, who was his predecessor?

9 A. No, I did not.

10 Q. Does the name Tol ring a bell?

11 A. I recall that Tol was from Bak Sna village, Bak Sna commune.

12 Q. And was he in fact the Sector 42 chief until his arrest in
13 '77?

14 A. No, I did not know about that.

15 [09.20.55]

16 Q. Yesterday, you spoke quite a bit about Oeun; Oeun being the
17 biological brother of Sou Soeurn who you said at one point died
18 of HIV; Oeun, the secretary of Sector 42. Do you recall another
19 Oeun; Oeun who was the chief of Division 310 belonging to the
20 former North Zone?

21 A. No, I did not.

22 Q. What do you remember about Koy Thuon? What can you tell us
23 about Koy Thuon? Who was he? What were his functions? And why was
24 he ultimately arrested?

25 A. I cannot recall that. He said that Koy Thuon was chief of the

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1 Central Zone and later on Minister of Commerce.

2 Q. And besides being "chief of the CIA", what was your
3 understanding that he had done wrong in order for him to be
4 arrested?

5 A. No, I did not know about any other related activities.

6 [09.23.19]

7 Q. Yesterday, you were confronted with an excerpt from WRI
8 statement from Ke Pauk's son, Ke Pich Vannak is his name.
9 Mr. President, that's document E3/35, in English page 00346148;
10 Khmer, 00340562; and French--

11 MR. PRESIDENT:

12 Counsel, please repeat the ERN number again and do it slower this
13 time.

14 BY MR. KOPPE:

15 Yes, I apologize, Mr. President. Khmer, 00340562; and French,
16 00367720. The son of Ke Pauk speaks about Koy Thuon, and he
17 speaks about the Division 310 chairman Oeun. And he says and I
18 quote: "Uncle Oeun was the chairman of Division 1 and also a
19 former confidant and messenger of Granduncle Thuch."

20 Q. Now I realize that you just said that you don't know any other
21 Oeun, but do you know someone who was the chairman of Division 1
22 being a former confidant and messenger of Koy Thuon?

23 MR. BAN SEAK:

24 A. No, I did not.

25 [09.25.22]

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1 Q. Sometime ago, Mr. Witness, in June 2015, more specifically,
2 22nd of June 2015, we heard in this courtroom the testimony of a
3 combatant belonging to Division 310. His name is Sem Hoeurn.

4 Mr. President, that's document E1/319. And at that day at around
5 15.34, Sem Hoeurn gives the following testimony, and I would like
6 to read that to you and ask your reaction please, Mr. Witness.

7 Question: "Let me start with your role in this rebellion. You
8 said that Oeun gave you a platoon to lead and 655 trucks to
9 transport weapons to hide in Kampong Cham. Did you in fact follow
10 his orders, his instructions to hide weapons in Kampong Cham?"

11 And then answer: "I did what was said in the document."

12 Question: "And where did you hide these weapons in Kampong Cham?"

13 Answer: "I transported weapons to Kampong Cham and I handed over
14 to Tol, the committee of the sector. I did not know where he kept
15 those weapons."

16 Now, Mr. Witness, this Sem Hoeurn is testifying about all kinds
17 of other things. It all boils down to assembling weapons for
18 rebellion, armed rebellion in the North Zone led by Koy Thuon and
19 division commander Oeun and Tol and others. When I read this to
20 you, does that somehow sound familiar when you were in Sector 42
21 at the time?

22 [09.27.47]

23 A. No, I did not know about that, because at that time, I was a
24 combatant at the fishing lots.

25 Q. I understand. But later you -- if I may call it like this --

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1 started to rise in the hierarchy; you were close to Ke Pauk,
2 close to Oeun. Did they ever tell you anything about what
3 happened in '77 in the former North Zone, why people were
4 arrested, in for instance, the very same district in which you
5 later became the deputy, Chamkar Leu? Did they tell you anything
6 about that?

7 A. Yes, I was told about that. I was told that in the old North
8 Zone or the Central Zone, it was full with CIA agents.

9 Q. And what was the purpose of the activities of these "CIA
10 agents"?

11 A. I did not know about their activities.

12 [09.29.27]

13 Q. Have you ever heard that they tried to stage a coup d'état,
14 attack Pochentong airport, close down the radio station, send
15 troops to Phnom Penh? Have you ever heard of that?

16 A. Yes, I heard about that. I heard about them hiding ammunition
17 under their shirt and they went to Phnom Penh. However, they were
18 all arrested.

19 Q. Can you be a little more specific; what else did they do other
20 than hiding weapons and ammunition?

21 A. All I heard was that rebels in Phnom Penh had hidden
22 ammunition under their clothing to go to Phnom Penh. And when
23 they arrived in Phnom Penh, the secret leaked and they were
24 arrested. And it was said that there was a rebellion hatched by
25 Koy Thuon to overthrow Pol Pot.

1 Q. And do you know how this rebellion hatched by Koy Thuon was
2 supposed to unfold? What were their plans? What did they want to
3 do exactly?

4 A. I know nothing at all about that rebellion.

5 [09.31.38]

6 Q. Very well. Mr. Witness, yesterday, you spoke about an entity
7 called the Labour Party. And in your written record of
8 investigation -- your WRI, you also spoke about the Worker's
9 Party. Let me get for you the exact quote. You said -- that's E3
10 -- Mr. President, E3/375: English, ERN 00360757; French,
11 00369919; and Khmer, 00348798; in your WRI, you said:
12 Question: "Why were they considered as the CIA and KGB?"
13 And then your answer is: "I thought that at the time, chaos was
14 stirred up due to the existence of three main parties: First, the
15 Communist Party of Kampuchea following Mao Zedong's guidelines;
16 second, Sereika Party (CIA); and third, the Workers Party (KGB)."
17 And yesterday, according to the draft transcript, you said at
18 around 15.20: "To my knowledge, at my location, there were Khmer
19 cadres who had been trained at Vietnam. They were part of Labour
20 Party. And when the Vietnamese entered Cambodia, they were part
21 of the force to build its own force on the ground. And later on,
22 they had been purged." So on two different occasions, you speak
23 about the Workers Party. What exactly was your understanding of
24 the Workers Party to be? Who were members, for instance?
25 [09.34.25]

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1 A. KGB agents were members of the Workers Party of Indo-China.
2 Their leader was So Yann alias Phim. I subsequently did not get
3 to know what happened, but I heard that he committed suicide in
4 the East Zone, and that contributed to the rallying of the people
5 from the East Zone with the Vietnamese. They joined the
6 Vietnamese.

7 Q. You said So Phim was the leader of the Workers Party, do you
8 remember other members, prominent members of the Workers Party of
9 Kampuchea?

10 A. No, none.

11 Q. Do you know when the Workers Party was founded?

12 A. Ke Pauk was a member of the Workers Party, and he subsequently
13 joined the Kampuchea Communist Party. But what I know is that the
14 Workers Party was set up in 1967/68. So Ke Pauk left the Workers
15 Party to join the Kampuchea Communist Party.

16 [09.36.38]

17 Q. And how do you know that the Workers Party was founded in '67?
18 What's the source of your knowledge?

19 A. Ke Pauk talked about the time when he lived in the jungle from
20 1963/64. He was a member of the Workers Party at the time when he
21 was fighting in the jungle. And then he joined the Kampuchea
22 Communist Party subsequently. I asked him why there was so much
23 turbulence in the country. And he answered by saying that it had
24 been risky for him to join the Kampuchea Communist Party in the
25 Central Zone. There were also problems and he said that he had

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1 been in Siem Reap and he had joined the Central Zone
2 subsequently.

3 [09.38.02]

4 Q. In your WRI -- the same that I just referred to, Mr.
5 President, E3/375 -- when you mentioned the Workers Party, KGB,
6 you said and I quote: "If you want to get more details about
7 this, you can ask Moeun, who now lives and sells gasoline in
8 Anlong Veaeng, who was the wife of Pech Cheang alias Ta Tho, who
9 was former Cambodian ambassador to China during the DK period."
10 Why is Moeun someone who can tell us something more or give more
11 details about the Workers Party?

12 A. Because he was someone important. Her husband was an
13 ambassador. That is how she came to know about many things.

14 Q. Did you yourself ever talk to Moeun about the Workers Party?
15 And did she give you details about its existence and its goals?

16 A. Never.

17 Q. Do you know if Moeun is still alive today?

18 A. I haven't seen him for several years now. In the past, I used
19 to see him in front of a petrol station, at a pagoda in front of
20 -- at a pagoda in Anlong Veaeng.

21 [09.40.14]

22 Q. Just to be sure, in my translation, I heard you referring to
23 Moeun as a "he", but is in fact a woman; is that correct?

24 A. Yes, that is a woman; the wife of Pech Cheang alias Tho, who
25 was ambassador in China.

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1 Q. Mr. Witness, yesterday, on a few occasions, you mentioned the
2 names of Heng Samrin and Chea Sim respectively. Can you tell us
3 who was Heng Samrin?

4 A. I heard that Heng Samrin was commander of the East Zone army
5 and Chea Sim was the head of Sector 22.

6 Q. I will get back to Chea Sim in a moment. Let me first ask you
7 something more about Heng Samrin. You said he was the commander
8 of the East Zone forces. From when -- or when, rather, did he
9 become the chief of the East Zone military forces?

10 A. I do not know.

11 [09.42.15]

12 Q. What else do you know about him?

13 A. I know nothing else about him.

14 Q. Do you know whether he had a sister who was married to Sector
15 21 secretary Tauch Chem alias Soth?

16 A. No, I do not know.

17 Q. The son of Ke Pauk also talked about Heng Samrin -- E3/35, Mr.
18 President, English, ERN 00346153; and Khmer, 00340567; and
19 French, 00367725. He, the son of Ke Pauk, concurs with you that
20 Heng Samrin was in fact chief of the military division in the
21 East Zone. But he also says that Heng Samrin was chairman of
22 Sector 20 in the East Zone. Can you confirm that or is that
23 something that you don't know?

24 A. No. I know absolutely nothing about that.

25 Q. Let me now read to you something that--

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1 [09.44.30]

2 MR. PRESIDENT:

3 Deputy Prosecutor, please proceed.

4 MR. LYSAK:

5 Thank you, Mr. President. I'd just like Counsel if he could to
6 identify where it was -- where it is that Ke Pauk's son says that
7 Heng Samrin was the head of the zone military. Just because I'm
8 not seeing that; I see a statement that Heng Samrin was the
9 chairman of Sector 20 and of the military division unit. So if he
10 could specify where it is that Ke Pauk's son says this, I'd
11 appreciate it.

12 MR. KOPPE:

13 That's the exact same sentence that I was referring to. That's
14 how I interpret Ke Pauk's son's statement. Heng Samrin himself
15 acknowledges it in his own statement that he was deputy chief of
16 all East Zone military forces. So either he was chief or
17 according to himself, deputy chief.

18 Returning now to Heng Samrin-

19 [09.45.50]

20 MR. PRESIDENT:

21 Counsel, please give the reference of the documents as well as
22 the ERN numbers. It would appear that you are trying to avoid
23 giving specific references. Yesterday, you made many objections
24 to questions put by the Co-Prosecutor, which did not fall within
25 the scope of this Trial regarding the treatment of the Cham. And

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1 now, you are falling in your own trap which consists in not
2 responding to the remarks made by the Co-Prosecutor. The
3 Co-Prosecutor is asking you to give references of documents as
4 well as the ERN numbers.

5 MR. KOPPE:

6 Well, Mr. President, I just actually gave the document number and
7 ERNs. But I will be very happy to do it again. So it's the same
8 numbers as I said. It's English, 00346153; Khmer, 00340567; and
9 French, 00367725, and I will read it to you so that there is no
10 confusion.

11 MR. PRESIDENT:

12 Judge Lavergne, please proceed.

13 [09.47.35]

14 JUDGE LAVERGNE:

15 Unless I misunderstood you, I thought you were referring to
16 statements of Heng Samrin himself. I didn't hear the references
17 of the documents they're referring to.

18 BY MR. KOPPE:

19 I was referring to Heng Samrin's own statement in response to the
20 objection or the observation of the Prosecution. You can find his
21 own statement in E3/1568 and E3/1539. But I myself was in fact
22 quoting the statement of Ke Pauk's son. And there he says and I
23 quote: "At the time, Uncle Heng Samrin was the chairman of Sector
24 20 and of the military division unit." So there we have it.

25 [09.48.48]

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1 Q. Now, Mr. Witness, I was about to read you something from that
2 very same statement, that very same paragraph about Heng Samrin
3 and I would like to ask your comment.

4 Ke Pauk's son is asked the following question. "When you worked
5 with your father, did you see any noticeable events taking
6 place?"

7 And then Ke Pauk's son answers as follows: "I recalled the
8 purging event of the East Zone cadres. The purging took place in
9 two phases. In the first phase, there was an order from the
10 Centre to arrest Heng Samrin. After receiving that information
11 order, my father went to meet with So Phim. My father told So
12 Phim, 'Brother, the upper echelon orders the arrest of Comrade
13 Heng.' So Phim replied, 'So, Pauk, you send A Heng to my house.'

14 After my father informed Uncle Heng about that, Uncle Heng
15 disappeared forever. At that time, Uncle Heng Samrin was the
16 chairman of Sector 20 and of the military division unit."

17 Let me ask you something about this particular excerpt, Mr.
18 Witness. Do you know anything about this event that I just
19 described from the WRI of Ke Pauk's son about the order of the
20 Centre to arrest Heng Samrin?

21 MR. BAN SEAK:

22 A. No. Because Vannak was Ke Pauk's messenger and that is how he
23 came to know about that event.

24 [09.51.04]

25 Q. My last question about Heng Samrin and then I will move on to

1 Chea Sim, whom you mentioned also yesterday. You said that So
2 Phim was the leader of the Workers Party. Do you know whether
3 Heng Samrin himself was also a member of the Workers Party?

4 A. No, I have absolutely no idea about that.

5 Q. Now let me move on to, as I said, Chea Sim. You mentioned him
6 a few times yesterday, and you also mentioned him quite a bit in
7 your statements. But you said that Chea Sim was the chief of
8 Sector 22 in the East Zone. How do you know that?

9 A. When I was transferred to Krouch Chhmar, I was told that Chea
10 Sim had betrayed the Party and that he was commander of Section
11 22, and that he had fled. So I had to go there to reorganize the
12 base there. To sum up therefore, it was said that the East Zone
13 had betrayed Angkar.

14 [09.52.54]

15 Q. Is it possible that you are making an error when you said that
16 he was a member of Sector 22? Because it seems that he was in
17 fact a sector chief in Sector 20. Is that possible?

18 MR. PRESIDENT:

19 You are asking leading questions or changing the witness's
20 answers. You are making suggestions and distorting what the
21 witness has said. Witness, do not answer such questions.

22 International Co-Prosecutor, please proceed.

23 MR. LYSAK:

24 Yes, thank you, Mr. President. Yes, I agree that if he wants to
25 confront the witness, he should be using some evidence. What he

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1 just put to the witness is a misstatement. There are plenty of
2 records that establish what the role of this individual was, and
3 it was not chief of a sector.

4 MR. KOPPE:

5 I'm not sure, Mr. President, that the Prosecution knows the
6 evidence well, because in his own statement, Chea Sim, in
7 E3/1568, ERN 00651--

8 [09.54.37]

9 MR. PRESIDENT:

10 Everyone is unaware of that. If everyone had been aware of it,
11 you would not need to question the witness on this subject. So
12 please give us any evidence in your possession that establishes
13 the contrary. Examining the witness doesn't mean that you should
14 ask leading questions and suggest things to the witness. I see
15 you laughing. Are you making a mockery of me?

16 MR. KOPPE:

17 No, not at all, Mr. President. Because I was actually on the
18 verge of saying that according to his own statement, E3/1568, he
19 says: "I was secretary of Ponhea (phonetic) district and a member
20 of the Region 20 committee," not a member of its standing
21 committee. It's actually confirmed by the Prosecution's own
22 (expert), Craig Etcheson, who says in E3/494, that Chea Sim was
23 secretary of Sector 20. So, I'm not making it up and I'm asking
24 the witness whether possibly he made a mistake. If not, then it's
25 fine.

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1 [09.56.05]

2 MR. LYSAK:

3 Thank you. This is why he needs to identify the evidence. The
4 quote he just read says he was a district secretary and a small
5 "m" member of the sector committee, not even a member of the
6 three-person standing committee. So to say this, to represent to
7 this Court, this means he was a sector secretary when he is
8 saying he was a district secretary. It's simply wrong, and that's
9 why he needs to use the actual evidence and not characterize
10 himself.

11 BY MR. KOPPE:

12 I know it's not something that people like, Mr. President, to
13 talk about Chea Sim or Heng Samrin. But he says himself, "I'm a
14 member of the region committee" not a member of its standing
15 committee. So he is himself saying that he was in Sector 20.

16 Q. So my question again, Mr. Witness, you said Chea Sim was in
17 Sector 22. Is it, maybe, possible he was in fact in Sector 20?

18 MR. BAN SEAK:

19 A. I know nothing about that. Son Sen had said that Chea Sim had
20 been set free of Sector number 22. I cannot tell you whether or
21 not he was secretary of Sector number 20 or not.

22 [09.57.55]

23 Q. No problem. Now another question about the sectors in the East
24 Zone. You said that Krouch Chhmar was in Sector 22; are you sure
25 about that?

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1 A. That is what I was told. It was said that the district of
2 Krouch Chhmar was attached to Sector number 22. That is what I
3 heard during that period.

4 Q. Again, there's substantial evidence to suggest that Krouch
5 Chhmar was in fact in Sector 21 and that you might have been
6 wrong. Do you know who was in charge of Sector 21?

7 A. No, I don't.

8 Q. Have you ever heard of someone with the name Ouk Bunchhoeun?

9 A. No, I have never heard of him.

10 [09.59.27]

11 Q. Now let me get back to Chea Sim. You said in your WRI and just
12 now as well that Chea Sim fled to Vietnam and had broken away
13 from the East Zone to go to Vietnam. Can you tell us how you knew
14 this or how you know that?

15 A. Well, when I was assigned to Krouch Chhmar, they told me the
16 whole story. They said that So Phim was a traitor and that he had
17 gone into the jungle with Chea Sim. That's how I learnt about
18 this. And Chea Sim was the head of Sector 22.

19 Q. Do you know whether Chea Sim was also a member of the Workers
20 Party like So Phim?

21 MR. PRESIDENT:

22 Witness, please hold on. And the Deputy Co-Prosecutor, you have
23 the floor.

24 MR. LYSAK:

25 Yes, just an observation and something that I think Counsel needs

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1 to clarify in his questions. There was of course -- the Workers
2 Party of Kampuchea was of course the name of the Communist Party
3 of Kampuchea from 1960 until 1972. So there was -- this was the
4 prior name of the Communist Party of Kampuchea. And then there
5 was a Workers Party that was, if you will, the fictional product
6 of S-21 confessions. So I think Counsel needs to be clear when
7 he's using the term Workers Party, which entity he's referring
8 to, and what the basis of the witness knowledge is also.

9 [10.01.50]

10 BY MR. KOPPE:

11 Well, I'm not sure if it's the fictional product of S-21, Mr.
12 President. But I'm very happy to phrase my question as such that
13 the witness understand that I'm talking about '78.

14 Q. Mr. Witness, So Phim you said was the leader of the Workers
15 Party when he fled. Was that in '78?

16 MR. BAN SEAK:

17 A. What I know is that when I went there, I was told that Chea
18 Sim was part of CIA and betrayed the Party. And they spoke about
19 the Workers Party in relation to the Indo-China federation.

20 [10.02.53]

21 Q. Let me now turn to what you found or what you saw when you
22 arrived in the East Zone in the summer -- or, rather, May or June
23 '78 or later. You said that when you arrived in the East Zone,
24 the situation was in chaos because there were many different
25 groups in that sector. I'll be happy to give the exact quote for

1 this, Mr. President. That's E319/28.3.1. It's question A3 and
2 answer. It says: "The East Zone was in chaos then because there
3 were many different groups in that sector."

4 Mr. Witness, what exactly did you mean when you said the East --
5 when you came there, the East Zone was in chaos, and there were
6 many different groups in that sector?

7 A. Upon my arrival, the situation was tense since Chea Sim and
8 Heng Samrin actually had formed the Salvation Front. And I learnt
9 from brothers that they had done that and that we had to be
10 vigilant with the militia force. That's how I was told.

11 [10.04.50]

12 Q. So that was one of the groups you said that you saw when you
13 arrived in the East Zone. You speak about many different groups
14 though. What do you mean when you speak about many different
15 groups?

16 A. What I meant is that when I arrived, there was a rebellion by
17 the mobile unit group. That is about 10 days after my arrival.
18 And then the purge was carried out.

19 Q. I will speak to you at length after the break about that
20 particular rebellion. Are you saying that the people involved in
21 that rebellion were different from the group that you described
22 as the National Salvation Front under the leadership of Heng
23 Samrin and Chea Sim?

24 A. Yes, that is correct.

25 Q. Were there any other groups active in the East Zone other than

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1 those two groups when you arrived?

2 A. No, there wasn't.

3 [10.06.40]

4 Q. Have you ever learned whether there was any connection between
5 this one group that orchestrated the rebellion and on the other
6 hand, the National Salvation Front? Were they interconnected?

7 A. Yes. They said that the rebellious people were the KGB. And
8 Chea Sim and Heng Samrin were accused of KGB as well.

9 Q. But do you know whether they were actively working together,
10 these two groups?

11 A. It is my understanding that it was active. It seems that the
12 situation was ripe for people to rebel, and that they were not
13 satisfied with the leadership of the Communist Party of
14 Kampuchea.

15 Q. Before I turn to the rebellion that you described at length,
16 do you know whether there was at the same time also fighting
17 going on between forces and Vietnamese troops at the border
18 between Kampuchea and Vietnam?

19 A. I knew it for sure that there were border clashes since there
20 were many dead soldiers who were transported back.

21 [10.08.58]

22 Q. And what can you tell us about details of the fighting? What
23 was going on exactly other than you seeing dead soldiers coming
24 back?

25 A. I do not know how to describe the event in detail.

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1 Q. In his WRI, Ke Pauk's son speaks about 30,000 dead Khmer Rouge
2 soldiers because of the fighting at the border with the
3 Vietnamese. Can you react on that number?

4 A. I saw many soldiers who were either dead or wounded, and they
5 were transported by hundreds of trucks every day. And we learned
6 from the wounded soldiers about the casualties. And it happened
7 so quick that not for long, they reached our location.

8 Q. But he's using a specific number 30,000. What is your
9 recollection of casualties at the "Khmer Rouge site"? What have
10 you heard at the time you were stationed in the East Zone about
11 this?

12 A. No, I did not know any specific figure.

13 [10.11.19]

14 MR. PRESIDENT:

15 It is time appropriate for our short break. We take a break now
16 and resume at 10.30.

17 Court officer, please assist the witness during the break and
18 invite him as well as his duty counsel back into the courtroom at
19 10.30.

20 The Court is now in recess.

21 (Court recesses from 1011H to 1032H)

22 MR. PRESIDENT:

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

24 The Chamber once more gives the floor to counsel for Nuon Chea to
25 continue putting questions to the witness.

1 BY MR. KOPPE:

2 Thank you, Mr. President.

3 Q. Mr. Witness, let me go back to something we were discussing
4 before the break when I asked you about Ke Pauk's son saying
5 30,000 Khmer Rouge soldiers were killed in combat. Let me read to
6 you what he said exactly because he's giving some more details,
7 and I would like to ask you reaction. Mr. President, E3/35:

8 Khmer, ERN 00340571; English, 00346156; and French, 00367728.

9 Mr. Witness, Ke Pauk's son is asked the question: "Was it true
10 that there was an evacuation of people from the East Zone?"

11 Answer: "There was an evacuation of people from the East Zone to
12 other sectors. At the same time, fighting along the borders were
13 also intensifying. In mid-1978, there were more than 30,000 Khmer
14 Rouge soldiers killed in combat. The bodies of the dead soldiers
15 were taken to be cremated in Boeng Snay kiln in Kampong Cham
16 province. Ta Pauk was in charge of that kiln. I knew about this
17 story because I went there to search in a list for the names of
18 my two cousins who, as it was heard, had died and were sent
19 there."

20 Does that somehow -- is that somehow something familiar to you?

21 The bodies of thousands of dead Khmer Rouge soldiers killed in
22 combat at the border, cremated at Boeng Snay?

23 MR. BAN SEAK:

24 A. No.

25 [10.35.12]

1 Q. One other follow-up question in relation to a subject that I
2 discussed with you before the break. I asked you questions about
3 the Workers Party/KGB, but you also mentioned in your WRI -- that
4 is, E3/375, in that same excerpt, Khmer, ERN 00348798; English,
5 00360757; and French, 00369919; you spoke about the Sereika
6 Party. What exactly did you mean when you said the Sereika Party
7 or the CIA?

8 A. Oeun told me that members of the Sereika and CI (sic) Parties
9 were one and the same thing, and they could even be referred to
10 as "White Khmer" or "Khmer Sar".

11 [10.36.36]

12 Q. That was exactly my next question, but you have answered that
13 question now. Thank you, Mr. Witness. Let me now turn to
14 something you said in your very recent statement -- that is,
15 E319/28.3.1, and that is in Answer 8. You were asked, Mr.
16 Witness, questions about the rebellion and when you arrived in
17 Krouch Chhmar district and people who were detained on that
18 island. I will return to that shortly. But you also said, later
19 on, that there was another rebellion -- another rebellion in
20 Krouch Chhmar. And in that same answer, you said that a week
21 later, the Vietnamese troops arrived. I just want to make sure,
22 have you been describing two rebellions in Krouch Chhmar in '78
23 or one?

24 A. When I arrived one week later, there was a rebellion of the
25 mobile unit, and then I was transferred to Sector 32, where there

1 was an armed rebellion. The inhabitants of that area had to be
2 evacuated to Sector number 42.

3 [10.38.49]

4 Q. I'm only having the English text of your WRI, but it seems to
5 suggest that after the rebellion that you discussed, just now and
6 yesterday at length, there was a second rebellion, or another
7 rebellion in Krouch Chhmar. Is that not correct?

8 A. There was only one rebellion. On another occasion, when the
9 army arrived, there were armed conflicts which gave rise to an
10 evacuation of the local inhabitants.

11 Q. Thank you, Mr. Witness. Before moving to questions in relation
12 to that rebellion, one question about Ta An and Sector 43 chief
13 Sim. You said that you never met An or Sim before '79. My
14 understanding is correct?

15 A. Yes, that is correct. I only met him after the arrival of the
16 Vietnamese army.

17 Q. Now it seems that Ta An was also Ke Pauk's deputy, deputy of
18 the zone. Is there a reason, particular reason, why you never
19 were in the position to either meet Ta An or Ta Sim?

20 A. I never attended any secret or public meetings in Takeo (sic).

21 [10.41.23]

22 Q. But talking in terms of hierarchical structure, is my
23 understanding that it potentially could be unusual for you never
24 to have met Ta An or Ta Sim, or was that in the -- in the
25 framework of the hierarchy, something which was completely

1 understandable?

2 A. As I said earlier, I assumed my duties for approximately one
3 year, but I never attended any meetings with them in Sector
4 number 22. I spent only two or three months in the Krouch Chhmar
5 district before leaving again and that is why I was not able to
6 meet them. I never met them.

7 Q. Very well, Mr. Witness. Did you ever personally meet Son Sen?
8 Did you ever have a meeting with him face to face?

9 A. While I was in the district, I had meetings with him. One of
10 them was an opportunity for him to give objectives and
11 instructions regarding the recruitment of soldiers and the
12 establishment of administrative structures. There was another
13 meeting at which he had to establish biographies, and he told me
14 that one of my brothers had been discovered. And I was very
15 afraid. He told me I shouldn't be afraid, and that I should go
16 back and work with Ke Pauk, and that I wouldn't be taken away and
17 executed.

18 [10.43.36]

19 Q. You also said yesterday that Son Sen became the East Zone
20 secretary after So Phim had died. Do you know how long it took
21 after So Phim's death on the 3rd of June 1978 for Son Sen to
22 assume that particular function of chief of the East Zone?

23 A. I do not know. Son Sen was commander-in-chief. It is possible
24 that that was five or six months before. When I'd gone there,
25 Roeun told me that Son Sen was commander-in-chief and the zone

1 chief as well.

2 Q. In one of your statements, you said that your in-law, Ke Pauk,
3 and Son Sen didn't like each other. Do you know why - why that
4 was? Why -- why was it that they didn't like each other?

5 A. From what I was able to find out, when they were in the zone,
6 there were no problems between them, but when they went to the
7 battlefield, they did not see eye to eye with one other because
8 the one would say that you can't carry the earth alone, and that
9 everyone had to carry the earth.

10 [10.45.45]

11 Q. Do you recall when the last time was when you saw Son Sen
12 physically present in the East Zone?

13 A. I was invited to attend an education session, and that is
14 where I saw him. I hadn't known him before then.

15 Q. Do you recall what Oeun told you about Son Sen. Did Oeun ever
16 speak to you about what kind of person Son Sen was?

17 A. No, he didn't tell me anything. He spoke about him after the
18 battles. He said that we were marked and withdrawn from our
19 duties and they asked us to do nothing more.

20 Q. Let me now turn to the rebellion that you described. You said
21 that they were young combatants from mobile units, both Khmer and
22 Cham. You also gave some numbers as to those rebel forces. What
23 is your recollection now? How big was this group that was
24 subsequently detained at that island?

25 A. It was said that there had been a rebellion hatched from the

1 top, and it was said that it was hatched by members of the KGB,
2 but I did not know any particular figures. I didn't have any
3 particular figures.

4 [10.48.25]

5 Q. In one of your statements, you spoke about 80 people, 8-0. Is
6 it -- was it your understanding that there were less than hundred
7 or more than hundred involved in that rebellion? I know it's
8 difficult. It's a long time ago, but could you give us an
9 approximate number?

10 A. I do not have any accurate recollections about that, but I saw
11 between 10 and 20 people. I saw them from a distance and I left
12 shortly thereafter.

13 Q. What is your recollection as to the nature of the rebellion?
14 Was it an armed uprising? Did they use guns? Did they use
15 artillery? What kind of rebellion was it?

16 A. I do not very well remember. However, during that period,
17 forces from the Centre went to that location and we saw that
18 there had been a rebellion. The situation was very tense. The
19 forces from the Centre surrounded the insurgents and a report was
20 sent to the top from the Centre -- or rather were sent to the top
21 and to the Centre on that subject.

22 Q. A witness testified earlier in this courtroom, a woman named
23 Nos Sates, that she heard gunfire. Do you recall hearing gunfire
24 or artillery fire as well?

25 A. No. However, during that period, my assistant was wounded by

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1 gunshots. He was seriously wounded. And since I wasn't stationed
2 at a fixed location, I was not able to know any more than that.
3 [10.51.15]

4 Q. Were you aware at the time what kind of forces -- what kind of
5 military equipment rather -- was used by the Centre to crush the
6 rebellion? Did they come with tanks for instance, or did they
7 come with heavy artillery? Do you know anything about this?

8 A. All I saw were rockets and automatic weapons, including guns.
9 I saw the zone security forces and intervention forces from the
10 Centre.

11 Q. Do you know how many soldiers were used by the Centre to fight
12 these rebels? Were they coming with hundreds of soldiers or
13 thousands of soldiers? Are you able to give us an estimate?

14 A. There were 300 soldiers.

15 [10.52.45]

16 Q. Three hundred soldiers from the Centre that were used to crush
17 the rebellion? Is that how I should understand you?

18 A. That is correct. They came to uphold security in that sector.
19 Not only in Krouch Chhmar, but also in Peam Chileang.

20 Q. You just spoke about someone that you knew who got injured in
21 this fighting. Are you able -- are you in a position to tell us
22 in general how many Centre forces -- how many centre soldiers
23 were injured or killed in these fights?

24 A. There was no wounded soldier. Some people were wounded by
25 militiamen who opened fire on them from their hideouts -- that

1 is, snipers.

2 Q. Now, you also testified before the investigators of the OCIJ
3 that you made up a report about the people who were arrested and
4 detained at the island, a report to Oeun. Do you remember what
5 you wrote in that report to Oeun?

6 A. I sent the report to Oeun and Roeun from the zone before they
7 were able to obtain information on that rebellion.

8 [10.55.03]

9 Q. I understand. But do you recall today what you wrote in that
10 report which details, which specifics did you give to Oeun?

11 A. I do not remember much. Generally speaking, I wrote that the
12 situation was not good, that insurgents had orchestrated a
13 rebellion and those were the key ideas conveyed in that report.

14 Q. Now, you said that the insurgents were both Khmer and Cham.

15 Are you able to tell us whether there was some division in those
16 numbers? How many insurgents were Khmer and how many insurgents
17 were Cham?

18 A. It is impossible for me to make that distinction because I do
19 not go to that place in order to count the people involved and to
20 make that distinction.

21 [10.56.35]

22 Q. But then how did you know that the insurgents consisted of
23 both Khmer and Cham? What was the source of your knowledge in
24 respect of that?

25 A. I heard about that from soldiers who were saying that there

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1 were Cham and Khmer insurgents.

2 Q. In your WRI E319/19.3.86, in question and answer 53, Mr.
3 President, you were asked the following question: "Did you ever
4 get orders from the upper echelon to screen out and kill all the
5 Cham in Krouch Chhmar district?" And you answered, "No, I never
6 got such an order." Do you still stand by that answer?

7 A. The upper echelons did not give any instructions that the Cham
8 and the Khmer be purged. The instructions were that CIA and KGB
9 agents should be eliminated.

10 Q. In that same WRI, but then in question 57, you were asked a
11 similar question, and you were confronted with earlier evidence
12 that you had given. And the question from the investigators is as
13 follows. You said, the orders -- sorry, you said, "The orders to
14 purge the people in Krouch Chhmar district came from Son Sen and
15 all the rebels were killed. The arrests and killings did not
16 target the Cham. They targeted all the people who joined the
17 rebel movement. Is your account correct?" And your answer is,
18 "Yes, it is correct." Do you still stand by that answer that you
19 gave answering the questions of the investigators?

20 [10.59.38]

21 A. Yes, that is correct. As I said earlier, even to my younger
22 relative, when they did not have a clean biography, they were
23 smashed.

24 Q. In your earlier statement to the investigators, E3/375, more
25 particularly on page English, 00360759; Khmer, 00348800; and

1 French, 00369922; you were asked a general question about the
2 Muslim Chams. Question: Were Muslim Chams considered as the enemy
3 to the Communist Party of Kampuchea." And you answer: "I did not
4 think they were the enemy to the Communist Party. However, the
5 Muslim Chams were not allowed to pray. Even the Buddhist monks
6 were not allowed to chant. At that time, all religions were
7 abolished." Do you still stand by that answer today?

8 A. Yes, I stand by my previous statement.

9 [11.01.45]

10 Q. Let me now turn to what I think is my very last subject, Mr.
11 Witness. But before I get there, one small question: you talked
12 about a person called Chim, who was chief of the rubber
13 plantation in Sector 42. Chim, is that possibly someone we also
14 know as Pech Chim?

15 A. No, I do not know the surname, but I know Brother Chim. He was
16 chief of Chamkar Andoung rubber plantation. And later on, he was
17 assigned to take charge of Chhuk rubber plantation.

18 Q. Very well. Now my last subject, Mr. Witness, and that is our
19 client, Nuon Chea. Is it correct that you never met him face to
20 face like you met -- like you have met, for instance, Son Sen?
21 You never saw Nuon Chea in person; is that correct?

22 A. Yes, that is correct. I was never even close to him, nor did I
23 see him in person. I also did not see his photo picture in the
24 past. I only saw him now.

25 Q. Did you know what his position was between '75 and '79? What

1 did he do?

2 A. I know that Nuon Chea was president of the National Assembly
3 and senior cadres told me that he was in charge of education for
4 the senior cadres.

5 [11.04.18]

6 Q. Is there anything else that you know about his position?

7 A. No, I don't.

8 Q. His position as chief or head of the National Assembly, what
9 was that function about? Which tasks did he have because of that
10 function? Do you know?

11 A. I knew through the cadres at the sector level that he was the
12 chief of the Assembly and in charge of politics and policy, and
13 he is the second person after Pol Pot.

14 Q. I understand. My question was: what were the tasks connected
15 to his position as chairman of the National Assembly or giving
16 political training? What was he concretely doing? What was it
17 that the people told you that he was doing?

18 A. I do not know the details.

19 [11.05.50]

20 Q. I understand that you do not know the details, but did your --
21 did the people who talked to you about him, did they explain or
22 did they tell you about specific instructions they ever heard him
23 issue?

24 A. No, I did not see one. At that time, they used a pseudonym,
25 87, and we only saw messengers, then we recognized that this

1 messenger belonged to this uncle or that uncle with a number
2 designation.

3 Q. Let me ask it differently. Is there anything that you recall
4 hearing from the people who spoke about Nuon Chea? Is there
5 anything concrete? For instance, this happened, this person was
6 arrested because Nuon Chea ordered it? Have you ever heard a
7 concrete example of such an event?

8 A. No, I did not because people were taken away and disappeared,
9 and I did not know under whose orders it was.

10 [11.07.35]

11 Q. I understand, Mr. Witness, but just to be sure, let me now
12 read to you back what you have said earlier in your WRI,
13 E319/19.3.86, Mr. President, question and answer 64. I will read
14 the question and then also your answer.

15 "Do you think that Ke Pauk, the zone secretary, permitted the
16 secretaries of other sectors to decide to kill or purge without
17 his orders or without informing him?

18 Mr. Witness, and you answered as follows: "To my knowledge,
19 decisions or orders to purge or killing were made by Office 870.
20 That was not for Ke Pauk or the sectors to decide. I had heard
21 that Nuon Chea was chairman of the National Assembly and was the
22 one who gave political training to all the cadres. Therefore,
23 decisions to purge or kill came from him."

24 Now, is my understanding correctly, you are speculating as to
25 what Nuon Chea's role between '75 and '79 was?

1 A. I made that statement based on what I heard from the cadres
2 and not what I witnessed. I was told he was in charge of
3 providing education to senior cadres in term of politics,
4 education, and a whole range of subjects. And those cadres could
5 involve in the purges of the enemy during the study session with
6 him.

7 [11.09.55]

8 Q. Now, I understand that you have never seen Nuon Chea in
9 person, but you did testify that you have been going to study
10 sessions. Study sessions that were led by Nuon Chea were often
11 attended by many cadres, hundreds, sometimes thousands of cadres.
12 In your experience, is it very likely that Nuon Chea, in front of
13 hundreds or thousands of cadres, would speak about purges of
14 particular people?

15 MR. PRESIDENT:

16 Witness, please hold on, and Deputy Co-Prosecutor, you have the
17 floor.

18 MR. LYSAK:

19 Yes, my objection to this question, witness has testified as to
20 what he was told by the cadres who attended. Now counsel is
21 asking him to speculate. So the question is calling for
22 speculation, not for factual information from this witness.

23 [11.11.20]

24 BY MR. KOPPE:

25 Q. Let me rephrase my question.

1 Mr. Witness, you've attended study sessions yourself, you said.
2 While at those study sessions, did you ever hear about -- anybody
3 speak about instructions to purge or to arrest particular cadres,
4 people with names? Did you ever hear such a thing?

5 MR. BAN SEAK:

6 A. I never attend -- attended any study session organized by Nuon
7 Chea. I attended study session chaired by Son Sen, and the theme
8 of the session was about the infiltrator -- infiltrated enemy;
9 namely, the KGB and the CIA. And the KGB force was much stronger
10 than the CIA one. And for that reason, and as it was compounded
11 by the fact that some traitors joined these KGB force, we had to
12 prepare ourselves to counter-attack this force. And they were the
13 puppet of the "Youn".

14 [11.12.50]

15 Q. I understand very well that Son Sen or others spoke in general
16 about CIA or KGB agents 'burrowing inside', but that was in
17 general terms, the same things that you can read in the
18 "Revolutionary Flag". Did you ever hear anybody -- Son Sen or
19 others -- speak about cadres with names who were to be arrested?

20 A. No, they didn't tell us. The person was promoted to be a
21 chief, for instance, and after a few months, he was -- he
22 disappeared. And that happened successively. And from my
23 observation, those cadres holding a position in the Central Zone
24 disappeared. Almost all of them disappeared.

25 MR. KOPPE:

1 Thank you very much, Mr. Witness. Thank you, Mr. President.

2 MR. PRESIDENT:

3 Thank you. And the Chamber now hands the floor to the defence
4 team for Khieu Samphan to put the questions to this witness, the
5 witness Ban Seak. You may proceed, Counsel.

6 [11.14.25]

7 QUESTIONING BY MS. GUISSÉ:

8 Thank you, Mr. President. Good morning to all of you. Good
9 morning, Mr. Ban Seak. I am Anta Guissé. I am the
10 Co-International Counsel for Khieu Samphan. And in this capacity,
11 I'm going to put a few questions to you.

12 Q. My first question is: can you please specify -- you said, in
13 fact, that you originally came from the Central Zone, so can you
14 tell us how many sectors there were in the Central Zone under the
15 DK regime and the names of these sectors if you remember them?

16 MR. BAN SEAK:

17 A. There were three sectors in the Central Zone: Sector 41, 42
18 and 43 respectively.

19 Q. And if I understood your testimony, you, during the DK regime,
20 you were only -- were performing your duties in Sector 42, if I
21 understood correctly?

22 A. Yes, that is correct.

23 [11.15.45]

24 Q. And when you were in the fishing unit, that was in Sector 42,
25 so can you remind me in which commune, in which district, you

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1 were?

2 A. I was in Preæk Prasab district in Sector 42.

3 Q. Then, when you were appointed deputy of the Chamkar Leu

4 district, this was in Sector 42, and if I understood your

5 testimony properly, your direct superior was Sou Soeurn; am I

6 correct?

7 A. Yes, it was Sou Soeurn, who is the sister-in-law, my

⁸ sister-in-law.

9 Q. In French, I heard that it was your sister-in-law, so if I
10 understood your testimony properly yesterday, she was your wife's
11 cousin; am I correct?

12 A. Yes, she was my wife's cousin. That's why I referred to her as
13 my sister-in-law.

14 Q. You spoke about the use of different names before, during, and
15 after the DK regime, different revolutionary nicknames, so my
16 question is: when you are Chamkar Leu, under which name did the
17 people know you, and in particular Sou Soeurn? Which name did she
18 know about you?

19 A. Her native name was Khi (phonetic), and later on she changed
20 her name to Soeurn. It is similar to the condition where Ke Pauk
21 changed his name from Ke Vin.

22 [11.18.25]

23 Q. My question, in fact, was different. Maybe it wasn't very
24 clear. My question was focused on you. I wanted to know that when
25 you were in Chamkar Leu, which name would you use? And under

1 which name did Sou Soeurn know you?

2 A. In Chamkar Leu district, I used the name Ho.

3 Q. And you're sure you didn't use the name Ta Phos in Chamkar
4 Leu?

5 A. No, I did not use name Phos.

6 Q. When you arrived later on in Krouch Chhmar, did you use the
7 name Ho or the name Phos?

8 A. I did not use the word Ho. I actually used another name. I
9 used Ho at Chamkar Leu, and in Krouch Chhmar, the word -- the
10 name used was Hang. So I hope everybody is clear. At that time, I
11 did not use the word Ho. Ho was used only when I was at Thnuos
12 and Chamkar Leu.

13 Q. Can you tell us why you changed nicknames when you went to
14 Krouch Chhmar?

15 A. Of course, I did not do it by myself. It was the instruction
16 from the upper level.

17 [11.20.42]

18 Q. Who asked you to change your revolutionary nickname, and were
19 you told why?

20 A. I was told that I should not use any number to represent
21 myself and that I should have a different alias.

22 Q. And when you say you were told, who told you that?

23 A. It was Oeun, the sector secretary.

24 Q. I'm putting questions to you on your alias because later on, I
25 will get back to this, because a certain number of witness --

1 witnesses spoke about the presence of a district chief by the
2 name of Hor in Krouch Chhmar, so I'll get back to that later, but
3 I also would like to get back to this point because at the
4 hearing of 4 June 2015, a little bit before 09.52, Sou Soeurn
5 remembered you apparently under the alias Ta Phos, P-H-O-S. So my
6 question is, again, are you sure that Sou Soeurn did not know you
7 under the name of Ta Phos when you worked with her?

8 A. When I worked at the district, I did not use the name Phos. In
9 fact, the word Phos -- the name Phos was used when I fled into
10 the jungle in 1979.

11 [11.22.40]

12 Q. So is it possible therefore -- because you saw Sou Soeurn
13 after 1979, so is it under this alias that she knew you or that
14 she used to call you after 1979?

15 A. No, she did not call me by the name of Ho. She called me Phos.
16 That's what her husband called me too.

17 Q. That was in fact precisely my question. I think maybe my
18 pronunciation led to this confusion. So you said that when you
19 were in the Central Zone, that you always worked in Sector 42.

20 [REDACTED]

21 [REDACTED] and he asked you to
22 comment this statement. And my question is the following: At one
23 point in time, did you ever cooperate with people from Sector 41,
24 whether in the fishing unit or when you were working as a deputy
25 in Chamkar Leu, or when you were a -- the district leader in

1 Krouch Chhmar?

2 A. No, I did not have any cooperation with them.

3 [11.24.35]

4 Q. Is it true, therefore, that under these conditions, that you,
5 as a person who worked in the Central Zone and Sector 42, and
6 then in the East Zone in Krouch Chhmar, you had no way of knowing
7 what was happening in Sector 41, and generally speaking, you
8 attended no meetings related to Sector 41?

9 A. Yes, that is correct. I never attended any meeting with them.

10 Q. You, at one point in time, spoke about the zone standing
11 committee. Can you tell us who was a member of this zone standing
12 committee? I'm speaking about the Central Zone here. And can you
13 tell us who attended the meetings of this zone standing
14 committee, if you know?

15 A. For the Central Zone members, there were those members from
16 the sector level and other senior cadres as well. I did not
17 attend such a meeting, but I knew members, including An. So An
18 was a member of the zone standing committee, and he was in charge
19 of Sector 41.

20 [11.26.35]

21 Q. Do you know who was a member of the zone standing committee in
22 Sector 42?

23 A. What I knew is that the sector secretary is Poch, and he was
24 also in charge of Baray district. I do not know who was in charge
25 for Preaek Prasab or -- and other districts. And I learned about

1 that when I was in the forest. And he was appointed to be in
2 charge of the deputy commander in the battlefield.

3 Q. So did I understand properly that you're speaking about Tep
4 Poch. Yesterday at the hearing, a little bit past 10.12, you said
5 that Poch came from the Southwest. That is to say he came after
6 the Central Zone cadres and the North Zone cadres had left. So he
7 must have been aware of the arrest of these cadres, or at least
8 he should have known where the security centres were located. And
9 the prosecutor asked you if this was the Poch who was the
10 district -- the Baray district secretary, and you answered a
11 little bit later that you did not know when he held that
12 position, but a priori, can you confirm that Poch was indeed the
13 Baray district secretary?

14 [11.28.40]

15 A. Poch was secretary of Baray district. According to what I
16 knew, the cadres actually knew him well, that he was the chief of
17 the Baray district. And for me personally, I learnt of his
18 position while I was in the jungle with him.

19 Q. So if I understood well, you never met him during the DK
20 period; am I correct?

21 A. I met him, as I said, when we fled to the forest, so it was
22 towards the end of the regime. And I met him constantly while we
23 were in the forest.

24 Q. Did he talk about cadres who know -- who knew him and who
25 talked about him, and do you know whether those cadres attended

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1 meetings with him?

2 A. Please repeat your question. I am unclear.

3 [11.30.13]

4 Q. You stated that cadres talked to you about Ke Pauk. My

5 question to you is whether those cadres ever attended any

6 meetings with him.

7 MR. PRESIDENT:

8 Witness, please hold on. And Deputy Co-Prosecutor, you have the

9 floor.

10 MR. LYSAK:

11 Yes, Your -- thank you, Mr. President. I just want to make sure
12 something is clear. The question that was -- as it was translated
13 to me -- was asking about Ke Pauk, and I think the questions you
14 have been asking were about a different person, Po Poch
15 (phonetic). But in English, it was translated Ke Pauk.

16 BY MS. GUISSÉ:

17 Q. Yes, indeed. There must be a problem with the accent. Let me
18 spell that out for the interpreters. I was speaking of Poch,
19 P-O-C-H, who was district secretary for Baray. Since you
20 mentioned, Witness, that cadres had talked about that person, I
21 wanted to know whether those cadres attended any meetings with
22 him.

23 [11.31.38]

24 MR. BAN SEAK:

25 A. Yes. Those who attended those meetings talked about Poch and

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1 about his work as well. And those persons fled into the jungle
2 later.

3 MS. GUISSE:

4 I see the time is right for the break.

5 MR. PRESIDENT:

6 It is time for us to break for lunch, and we will resume at 1.30.

7 May the court officer take the necessary measures to ensure that
8 the witness is able to rest during the break and bring him back
9 at 1.30 p.m. with the expert -- that is, the assist -- the
10 counsel assisting him, and perhaps -- and the Accused should be
11 taken to the cell downstairs and then bring him back to the
12 courtroom at 1.30.

13 The Court is adjourned.

14 (Court recesses from 1132H to 1333H)

15 MR. PRESIDENT:

16 Please be seated. The Court is back in session.

17 Before giving the floor to the Khieu Samphan defence, the Chamber
18 wishes to inform both the Prosecution and the Defence that due to
19 lack of interpretation resources the Parties will have to speak
20 slowly to make sure that the proceedings are properly conducted.

21 And now the Chamber gives the floor to the Khieu Samphan defence.

22 BY MS. GUISSE:

23 Q. Thank you, Mr. President. Good morning, Mr. Ban Seak. Let us
24 resume where we stopped before we went on break. You confirmed
25 that Tep Poch head of the Baray district was spoken about to you

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1 by cadres you knew. Do you know whether Oeun, the brother of Sou
2 Soeurn, the chief of Region 42 held meetings attended by Tep Poch
3 head of the Baray district, to your knowledge?

4 MR. BAN SEAK:

5 A. At each meeting at the level of the sector, the head of the
6 district was present.

7 Q. When you yourself were deputy secretary of the district of
8 Chamkar Leu, did you attend meetings chaired by Oeun, the chief
9 of Region 42?

10 [13.36.30]

11 A. Yes, but I never attended those meetings with Poch. I attended
12 meetings at which instructions were issued and work plans were
13 distributed. During meetings of the standing committee of the
14 district, meetings of the standing committee of the district were
15 only attended by district chiefs.

16 Q. With the authorisation of the President, may I give the first
17 page of the statement of witness 2-TCW-850 and it is E3/5293.

18 This would enable me to refer to the contents of that statement
19 without giving names in public. May I request the court officer
20 to show the first page of this statement to the witness, clearly
21 indicating to him that I would like to put questions to him after
22 he reads the contents of that statement and I would ask him not
23 to give the name of the witness in question?

24 MR. PRESIDENT:

25 Please proceed.

1 BY MS. GUISSE:

2 Q. Witness, I am showing you the first page of the statement I
3 would like you to comment on and I will put questions on that
4 page. Regarding the fact that this witness has already appeared
5 before the Chamber may I request you not to give the name of that
6 witness as you answer my questions.

7 Have you taken cognizance of the name of that person, it is
8 highlighted. Have you seen the name of the person, it is
9 highlighted and I would like to thank you in advance for not
10 giving that name in public.

11 [13.39.12]

12 MR. BAN SEAK:

13 A. Yes, that person was indeed district secretary.

14 Q. The ERN of that document in French is 00367748 or rather 749;
15 Khmer ERN, 00348842 and it continues on the next page; the ERN in
16 English, 00351703; and this is what that witness stated.

17 "I was invited to a meeting once. That meeting was held at
18 Chamkar Leu, Kampong Cham province. It was Oeun who came from the
19 region who chaired that meeting. During that meeting, the
20 superior presented a plan regarding the growing of rice but no
21 plan regarding purges was presented. Upon my arrival in the
22 district, that is Baray district, there was document containing
23 exclusively instructions regarding the protection of the border
24 and the revolution. There was another document in which the order
25 was issued that the 17th April People be treated on an equal

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1 footing and that no distinction should be made between the Old

2 People and the New People." End of quote. [Free translation]

3 [13.41.22]

4 My first question is as follows, when you were in Chamkar Leu,

5 even though you may have not attended a meeting, did you hear of

6 a meeting chaired by Oeun during which a plan regarding the

7 growing of rice was presented and during which mention was made

8 of a document to the effect that no discretion should be made

9 between the 17th April People and the Old People. Does this jog

10 memory, did you hear of such a meeting or did you attend any

11 meeting that dealt with such a subject?

12 A. Yes after I returned from Krouch Chhmar that document had

13 already been drafted. That document essentially requested us to

14 carry out executions to increase rice production and to increase

15 food rations. So it was after I returned from Krouch Chhmar that,

16 that document was issued.

17 Q. In the French interpretation I heard that, that document

18 invited you to carry out executions. Is that a translation

19 problem or that is indeed what you have stated?

20 [13.43.20]

21 A. No, that document did not require that we carry out

22 executions.

23 Q. Do I therefore understand that, that document indeed invited

24 you not to carry out executions, is that correct?

25 A. Yes, the document asked us to refrain from any further

1 executions.

2 Q. Did you see that document with your own eyes?

3 A. But during a meeting Oeun referred to it and that meeting was
4 attended by teachers and it was said that no further executions
5 should be carried out, I did not read the document but that
6 subject was broached during that meeting.

7 [13.44.50]

8 Q. The question that is put to the witness in that statement
9 E3/5293, same page.

10 The question was asked, "Did you see this questionnaire?" The
11 answer was: "I saw that questionnaire; I even learnt about it, I
12 don't know where it was from. It was drafted in a form of book."
13 End of quote. [Free translation]

14 Did Oeun tell you what was the provenance of that circular that
15 is the first question, when Oeun talked to you about the
16 circular, did he tell you what was the provenance of that
17 document?

18 A. According to what he told me that document was from the upper
19 echelon perhaps from Office 870.

20 Q. When you say perhaps, does that mean that you do not know,
21 what did he tell you exactly to the best of your recollection, if
22 you do not remember I'm not asking you to invent anything but if
23 you can recall what terms he used, please tell us exactly what he
24 said?

25 [13.46.28]

1 A. I do not recall who issued the document.

2 Q. You talked about your duties and responsibilities as the
3 deputy secretary of Chamkar Leu district as part of your duties
4 and responsibilities, were you also in charge of marriages?

5 A. No.

6 Q. As part of your duties and responsibilities or outside of
7 those duties and responsibilities did you attend any marriage
8 celebrations?

9 A. Yes.

10 Q. And do you know who was in charge of organising such
11 ceremonies?

12 A. As a matter of fact as regards marriage proposals, marriages
13 involved several couples and it was the respective units involved
14 that made the proposals.

15 [13.48.12]

16 Q. The same witness and we are still talking of document E3/5293;
17 00367751, in French; in Khmer, 00348844; and in English,
18 00351705; and this is the question that was put to the witness:
19 "Who could authorise marriages?" And the witness's answer was as
20 follows: "Marriages were decided during the meetings between the
21 district and the commune. Marriages were decided according to
22 several criteria. First of all the age, 18 years minimum for the
23 women. Secondly, love, did they really love themselves. And
24 thirdly, the authorisation of the parents, did they really
25 authorise the marriages." End of quote. [Free translation]

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1 As part of the organisation of marriages in the districts or in
2 the commune which you attended, do you recall attending any
3 meetings at which such discussions were held regarding marriages?
4 Again I'm asking you to tell us what you remember and if you
5 don't remember anything don't invent anything.

6 A. I do not recall what was said at those meetings.

7 [13.50.13]

8 Q. I would like us to talk about several terms you used and in
9 the French version I have before me, I am not sure if they are
10 correctly translated. In document E319/19.3.73, the French ERN is
11 00841972; ERN in Khmer, 00800956; and the ERN in English,
12 00841967; you talk about arrests that were carried out at Krouch
13 Chhmar and this what you stated:

14 "It was therefore communal officials who arrested certain persons
15 and sent them to the district and then the people at the level of
16 the district would send the files to the officials at the level
17 of the region and the region officials would send them to the
18 officials at the level of the zone and the regional officials
19 sent the files to the Central Committee."

20 And in Khmer it is the term "mocchim" to refer to the centre, can
21 you confirm that mocchim indeed means centre? And to be more
22 specific according to you what does the Centre stand for?

23 A. The Centre was the supreme echelon, that is, the highest
24 echelon.

25 Q. During the Democratic Kampuchea regime, do you know what the

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1 Centre responded to and who were the members of the Centre or was
2 it just a generic term used at the time?

3 [13.53.03]

4 A. Pol Pot, Nuon Chea, Ieng Seary were members of the Centre.

5 Q. During the Democratic Kampuchea regime, did you meet any of
6 the three persons you have mentioned at any point in time?

7 A. No, never.

8 Q. Do you know how decisions were taken at the summit, at the
9 Centre as you referred to it, do you know how decisions were
10 taken at the Centre?

11 A. I have forgotten everything. It is difficult for me to tell
12 you anything specific. It is impossible for me to express an
13 opinion on that.

14 Q. I am not asking you to express an opinion, I'm asking you to
15 tell me what you know, a while ago I asked you whether you
16 attended meetings of the standing committee at the level of the
17 Zone and you said no. And you told my colleague Koppe a number of
18 things and you said that there was information you did not have
19 in your possession. So in the same way, I'm asking you to answer
20 my questions to the best of your knowledge. If you know -- you do
21 not know and if you know something do tell us. My question is
22 whether you knew what the figure 870 or Office 870 referred to,
23 since you referred to it in your statement?

24 [13.55.08]

25 A. Office 870 was part of the Centre or it was the Centre itself.

1 Q. Do you know how many people were members of that office and
2 who exactly represented Office 870 whenever that name came up?

3 A. I do not know who were the members of Office 870.

4 Q. Is it correct to say that your immediate superior when you
5 were at level of the district of Chamkar Leu, was the district
6 secretary, do you know whether that was the person, the district
7 secretary?

8 A. My immediate superior was Soeurn, district secretary.

9 Q. Is it correct to say that apart from the conversation you
10 referred to, that is, the conversation with Son Sen, regarding
11 your assignment to work with Ke Pauk, did you not have any other
12 discussion with Son Sen or did I not properly understand your
13 testimony?

14 [13.57.16]

15 A. I did not have any discussions with Son Sen. It was the North
16 Zone that had sent to me Krouch Chhmar, I was sent there by Ron
17 and Son Sen.

18 Q. I understood from your statement that you had a direct
19 conversation with Son Sen and you said that during that
20 conversation he referred to the situation of your brother, saying
21 that you didn't tell the whole truth in your biography and that
22 you didn't have anything to fear and that you had to go back and
23 work with Ke Pauk. Did I not properly understand your testimony?

24 A. Yes, that is correct. Because at the time I had to write a
25 comprehensive biography and that was the second time I had to so

1 and that was after my brother was killed. So my brother in his
2 biography had made clear that he had been killed. It was well
3 known that he had been killed but I did not make mention of his
4 execution so they told me that my brother had been killed and
5 they told me not to be worried and that I could go and work with
6 Ke Pauk without any problem.

7 [13.59.12]

8 Q. My question therefore is whether that conversation with Son
9 Sen was the only conversation you had with him?

10 A. I spoke with him twice, once at a meeting and a second time
11 when I had to produce my biography and after that meeting he told
12 me, pointing at me, that I had lied. He said that my little
13 brother had been eliminated and I just broke down in fear and
14 then he said that I shouldn't be afraid and that I would be able
15 to go back to work with Ke Pauk.

16 Q. So if I understood properly during the entire period of DK
17 those were the two times -- the two single times when you met Son
18 Sen; is that correct?

19 A. Yes, that is correct.

20 Q. Now I would like to turn to the moment when you were assigned
21 to Krouch Chhmar. If I understood your testimony properly you
22 said that this assignment was conducted by Oeun, is that true?

23 [14.01.01]

24 A. Yes, that is correct.

25 Q. And that it is Oeun who asked you to change your revolutionary

1 nickname when you arrived in the East Zone; am I correct?

2 A. Yes. At that time, Oeun advised me to have a different alias.

3 Q. Earlier you said, or told me which alias you used and I don't
4 remember it so can you tell me which alias you used when you
5 arrived in the East Zone?

6 A. Initially I was known as Ho and in the East Zone it changed to
7 Heng (phonetic), Hang Heng (phonetic).

8 Q. Is it under that name that you presented yourself to the
9 people who were under your orders back then?

10 A. Yes, then he told me that, "Comrade Heng (phonetic) you are
11 assigned to be in charge of Krouch Chhmar district." There were a
12 few of us at the time, so I went.

13 Q. When you said that there were several of us, which other
14 people were also assigned the same time as you?

15 [14.03.01]

16 A. There were Ao and Aun and we were assigned from the Central
17 Zone, that is, from Sector 42, the three of us, we went there and
18 each of us had a messenger.

19 Q. We heard a certain number of witnesses before this Chamber who
20 spoke about an arrest wave and also who spoke about the detention
21 of Cham people in Trea, so did you ever hear of an arrest wave of
22 Cham in Trea and above all did you order to detain Cham people in
23 Trea?

24 A. I already testified that. After the rebellion I went for the
25 study session and after that I returned. I worked in the

1 worksite, to gather the people to work in the worksite and then
2 to draft soldiers to go to the front battlefield because by that
3 time the situation was in a severe condition and I did not know
4 about the event that you talked about.

5 [14.04.58]

6 Q. In a statement that he made at the hearing of 8th September
7 2015, It Sen -- this is document E1/343.1, a little bit past
8 11.19 in the morning -- confirmed a previous statement in which
9 he said that there was a certain Seng who was the commune chief
10 and the military chief of the commune. Do you remember a person
11 by the name of Seng who was in the commune in the district in
12 Krouch Chhmar district?

13 A. No, I do not recall that name and that name does not ring a
14 bell to me anyway.

15 Q. Before speaking about the other Cham witnesses who testified
16 before this Chamber, I would like seek clarification from you
17 regarding the period when you arrived in Krouch Chhmar. You said
18 on several occasions that the situation was chaotic. First you
19 said that to the International Co-Prosecutor and then you said it
20 to my colleague. You said that there had been an incident during
21 which a militiaman had shot your assistant. So my first question
22 can you tell us what the name was of your deputy who was injured
23 and then in which exact circumstances was he injured?

24 A. It was Ao he was the deputy chief of the district. He was shot
25 at the river bank in the afternoon but I cannot tell you the date

1 that he was shot.

2 [14.07.44]

3 Q. As a district chief when you arrived, did -- were you in
4 charge of militia men or soldiers in the district?

5 A. No, I wasn't because at that time, there were soldiers working
6 there and also there were the Centre army to work in
7 collaboration with us and after the rebellion I was sent for
8 study session and after I return I had to implement the work
9 plan, that is, agriculture work plan at the worksite. And the
10 situation at that time was chaotic and we were thinking what will
11 -- where we go if we were to be defeated, whether we were to flee
12 to Thailand or not.

13 Q. So, if I understood well, when you speak about chaotic
14 situation you are not only referring to the flight of So Phim or
15 Chea Sim towards Vietnam, you are also referring to combat, to
16 fighting. Am I correct?

17 [14.09.32]

18 A. At that time, a cousin of my wife told me that the situation
19 was rather chaotic and he asked whether I listened to the radio
20 or not because the National Salvation Front was formed and that I
21 should be vigilant and that I should not sleep at one place at
22 night time.

23 Q. I believe I understood that among your duties at Krouch Chhmar
24 you had to recruit soldiers to go fight at the Vietnamese border,
25 am I correct?

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1 A. Yes, that is correct.

2 Q. Did you indeed recruit soldiers and can you tell us, as far as
3 you remember, when in 1977 you did this, in which period of that
4 year?

5 A. I cannot recall the date. What I remember is that after I
6 returned from the study session then I made the recruitment for
7 soldiers. I was instructed by the Centre to recruit only 100 but
8 I recruited 200 soldiers. Somehow then the Centre army knew about
9 my recruitment and then they alerted the Centre and I was called
10 by the Centre to answer those questions.

11 [14.11.41]

12 Q. I am going to read you again a passage from your statement,
13 E3/375 and you're going to tell me if this is what you're
14 referring to indeed. So this is E3/375, French ERN, 00369916;
15 English ERN, 00360754; and Khmer ERN, 003607 -- 00348793 to 94.
16 This is what you said.

17 "We established a plan for each commune to recruit soldiers based
18 on the needs of the higher echelon. For example, five or 10
19 people per commune then each commune sent me the soldiers that I
20 trained and that I armed. I remember then I had recruited 200
21 soldiers but the higher echelon only asked for 100." End of
22 quote. [Free translation]

23 So, is this the event that you are referring indeed. Did you
24 indeed recruit 200 soldiers in the different communes of Krouch
25 Chhmar district?

1 [14.13.21]

2 A. Yes, I had recruited more than a soldiers at that time and
3 they were being trained and my plan was to recruit up to 200. And
4 the information was heard by the Centre army and they were
5 concerned that maybe I was about to involve in any rebellion for
6 that reason I was called by the Centre to answer those questions
7 and that's where I was asked about the biography, the bad
8 biography of my relative.

9 Q. And you continue in the same section of your statement and you
10 say:

11 "These soldiers were to be given to comrade Ron alias San Kung
12 who was the head of the special unit."

13 And here again in French it was translated as Central Committee
14 whereas the Khmer word is "Machun" (phonetic), the Centre. And
15 you specify that San Kung is right now an advisor to the royal
16 government for Anlong Veaeng and you say then, "He had 400
17 special soldiers for protection." End of quote. So this
18 recruitment of soldiers and the organisation of protection that
19 you're speaking with, was it linked to the fighting with Vietnam
20 or was it linked with something else?

21 [14.15.05]

22 A. To my understanding, there were two issues, one was to help
23 them prepare to counter attack the Vietnamese at the border or
24 the rebellious activity and second was to suppress those
25 infiltrated force who had already reached the district level.

1 Q. You continued in your statement again with:

2 "Son Sen asked me, 'What was your purpose of recruiting soldiers
3 or do you want to betray?' I said, 'No, I don't. I selected a
4 hundred soldiers for the Party and kept a hundred soldiers to
5 protect the district.' Later on I sent other 100 soldiers to San
6 Kung." End of quote.

7 So my question is following. If I understood you properly, what
8 you then explained to Son Sen and what you told us here, is that
9 you on your own took the initiative of recruiting more soldiers
10 than what was requested of you by the upper echelon and that the
11 100 extra soldiers you first assigned them to first protect the
12 district, is that correct?

13 [14.16.50]

14 A. Yes, that is correct.

15 Q. Do you know if in other districts in the East Zone, there were
16 also district leaders who took the initiative of keeping district
17 soldiers aside without that even being requested by the upper
18 echelon, do you know that?

19 A. No, I don't.

20 Q. Earlier you spoke about the fighting at the Vietnamese border,
21 you also spoke about this to my colleague when he quoted a
22 segment from the statement of Ke Pich Vannak, that is, the son of
23 Ke Pauk. So do you remember when the fighting began at the
24 Vietnamese border?

25 A. To my limited knowledge, although I was not that clear, it

1 started with the arrest of cadres and after they all had been
2 arrested and some cadres actually fled to Vietnam. So one went to
3 -- one was defected to the Vietnamese side while the other group
4 actually separated themselves and fled to the jungle.

5 Q. And how did you obtain that information?

6 A. Because I was there and I was providing training to the
7 soldiers and these so-called secret force actually herded people
8 to go into the forest in order to go to the Vietnamese territory.
9 And the situation was rather disturbing so we were so concerned
10 of our own safety, concerned that the villagers there would rebel
11 and concerning about these forces.

12 [14.20.00]

13 Q. Did you personally attend or witness the desertion of some
14 soldiers to go -- who were escaping to Vietnam, who were escaping
15 to join forces in Vietnam?

16 A. No, I did not witness that.

17 Q. I have -- I will find the reference shortly but there is a
18 segment in one of your statements during which you say that among
19 the 200 soldiers that you had trained, a 100 fled and fought
20 against the Democratic Kampuchea forces, do you remember saying
21 that?

22 A. What I meant was that soldiers had to be recruited and trained
23 in Krouch Chhmar district, however, when I returned Son Sen told
24 me that I would not be killed and I should relay that information
25 to other cadres there and I was let go with my messenger and for

1 those who didn't have a boat to cross the river actually they
2 swam across the river and then the people in Krouch Chhmar
3 district were evacuated to Chamkar Leu.

4 [14.22.08]

5 Q. I will get back to that when I find the reference but for the
6 moment to turn to segment in this statement of Ke Pich Vannak,
7 this is document E3/35, which was read to you by the
8 International Co-Prosecutor and I don't know if you remember but
9 this was a segment in which Ke Pich is referring to an
10 investigation that was ordered by Pol Pot, Pol Pot ordered his
11 father, Ke Pauk, following floating bodies in the Mekong. So it
12 was an investigation, a priori, to know what had happened. So my
13 first question is did you hear about such an enquiry?

14 A. No, I wasn't.

15 Q. Can you remind us what Ke Pauk's position was when you say
16 that you yourself had seen bodies float in the Mekong, so what
17 was his exact position then?

18 A. He was chief of the Central Zone as well as the military
19 commander at the front battlefield with Son Sen.

20 [14.24.12]

21 Q. And when you were assigned to Krouch Chhmar are you sure that
22 you never heard of that kind of investigation?

23 A. No, I did not.

24 Q. You said that you had seen bodies on the Mekong and I believe
25 I understood from your testimony that these bodies were the

1 bodies of soldiers. Do you know of which side they were fighting?

2 A. I did not.

3 Q. And at one point in time did you ever speak about this
4 incident to Oeun or to another leader?

5 A. Please repeat your question.

6 [14.25.29]

7 Q. Yes, I am asking you if you spoke about this incident, about
8 having seen bodies floating in the Mekong, if you spoke about
9 this to a leader, whether it be a sector leader or whether it be
10 a zone leader?

11 A. After I saw it then in the meeting I said that I saw about
12 three or four corpses floating in the river. And allow me to
13 clarify I didn't hear about the floating corpses from the upper
14 level but I saw the corpses and I spoke about it in the meeting
15 and I was told that it was not a big deal because now the main
16 concern is about the national situation.

17 Q. And when you say you were told, whom are you speaking about?

18 A. It was in the sector including those heads of the sector
19 including Rin and other sector chiefs. I didn't -- I cannot
20 recall the name of the person but I remember that I was told that
21 I should not bother about it and the main concern at the time was
22 about the national situation.

23 Q. I have found, thanks to my team, the segment that I wanted to
24 talk about with you. Earlier, when I was speaking about the 100
25 soldiers who apparently defected, this is document E3/375, again

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1 French ERN, 00369920; Khmer, 00348798; and English ERN, 00360758.

2 So, this is what is indicated.

3 [14.28.20]

4 "One day after I arrived home in Region 42, in Krouch Chhmar
5 district, a problem occurred. The 100 soldiers trained by me to
6 stand by in this district, fled to the jungle to rebel against
7 us. Later on people in the district were evacuated to Sector 42
8 in the Central Zone." End of quote.

9 So my question is the following, did you, yes or no, become aware
10 of the fact that a 100 soldiers that you had trained in order to
11 stay in the district had fled and rebelled?

12 A. Yes I know it for sure. The soldiers that I prepared, I was
13 told that the soldiers that I prepared actually fled to the
14 forest together with the weapons and for that reason the people
15 had to be evacuated to Stueng Trang, then to Chamkar Leu. Son Sen
16 issued an order to Ke Pauk and Oeun to -- for me to go and meet
17 with those people and to make them sure that they should not be
18 worried because I myself was still alive so that I should go
19 otherwise they would not believe it.

20 [14.30.22]

21 MS. GUISSÉ:

22 Mr. President I would like to go to another line of questioning,
23 I don't know whether you would like us to go and break now.

24 MR. PRESIDENT:

25 Yes, it is now time for us to take our afternoon break. We will

1 resume the hearing at 2.45 p.m.

2 Court officer, take necessary measures to enable the witness to
3 rest properly and bring him back to the courtroom at 2.50 (sic)
4 with his duty counsel.

5 (Court recesses from 1431H to 1453H)

6 MR. PRESIDENT:

7 Please be seated. The Court is back in session.

8 The Chamber now gives the floor to the Khieu Samphan defence to
9 continue examining the witness.

10 BY MS. GUISSE:

11 Q. Mr. Ban Siek, we are resuming the examination. Were you the
12 military chief of Sector 42?

13 MR. BAN SEAK:

14 A. No.

15 [14.54.13]

16 Q. I ask this question because in Ke Pich Vannak's statement,
17 document E3/35, ERN in French, 00367724; Khmer ERN, 00340566; ERN
18 in English, 00346152; this is what he says as concerns you:
19 "As for Ta Phos, he was the military chief of the 42nd Region. He
20 was subsequently sent to Krouch Chhmar to assist in the
21 organization of Krouch Chhmar district. His name of origin was
22 Ho." End of quote. [Free translation]

23 Do you know why Ke Pich Vannak apparently told the OCIJ
24 investigators that you were the military chief of the 42nd
25 region?

1 [14.55.33]

2 A. No, that is not true. After being chief of the fisheries zone,
3 I resumed my functions as chief of the garage and public works.
4 And after some months, I went to the commerce department, and
5 subsequently I became deputy chief of the district. When I got
6 there, the sector chief was called Poeun (phonetic), and that was
7 to the west of the garage of the public works department.

8 Q. Did you at any point in time in your career, before or during
9 the Democratic Kampuchea regime, occupy any military functions?

10 Since you explained that during your functions at Krouch Chhmar,
11 you had to enlist soldiers, was that related to any military
12 training you had received at any point in time?

13 A. No, I was not a trainer. The recruitment was done in
14 collaboration with the commune chief. The troops recruited were
15 sent to the army for the purpose of undergoing further training.

16 Q. I understood from your testimony a while ago that you yourself
17 trained 200 soldiers, before sending them to another level?

18 [14.57.38]

19 A. That is not correct because I was not a trainer. I was not an
20 instructor. All I did was issue instructions in order that the
21 soldiers should fight against dissidents and Vietnamese, in order
22 to defend Khmer territory, and to defend themselves. At the time,
23 Chea Sim had become a stooge of the Vietnamese, and we had to be
24 prudent, and we had to train ourselves. At the time, we needed
25 sufficient troops. We needed enough officials in order for people

1 to be trained, and I was there to provide information so that
2 everyone should know exactly what the situation was.

3 Q. As I told you earlier, I would like us to talk about the
4 statement or statements of certain Cham persons, who talked about
5 the events on the ground, and who referred to the presence of the
6 district chief Hor. I have properly understood your testimony
7 that it was not your revolutionary alias that you used when you
8 were in Krouch Chhmar. But in all fairness to you, I would like
9 you to react to a number of statements made by Cham persons. A
10 number of these statements have already been made by the
11 Co-Prosecutor, and I would like you to say exactly what certain
12 witnesses said.

13 [14.59.24]

14 I will start first of all with Ms. No Sates, who testified at the
15 hearing of the 28th of September, 2015, and shortly after
16 15.04.49. And this is what she stated.

17 She starts by referring to her arrest and detention in a house on
18 stilts in Trea, and this is the question that was put to her:
19 "Your answer (sic) put questions to you, and you said the
20 district head, Hor, came to put questions to you. How did you
21 know that person?"

22 Her answer was as follows:

23 "I knew that he was a new district chief, who came from the other
24 bank of the river. Hor was the district chief. I do not know the
25 names of his assistants. Peng (phonetic) and a member was called

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1 Chhim (phonetic). There were soldiers whose names I do not
2 recall. Furthermore, their office was not far from the river at
3 the time."

4 [15.00.52]

5 "Madame Civil Party," -- this was a question put to her, "Madame
6 Civil Party, I would like to know how you knew that he was
7 district chief when he came to see your group?"

8 And her answer was as follows: "I knew he was district chief,
9 because it was the soldiers who told me so. I therefore knew that
10 Hor was the district chief, and that is how I was able to know
11 the identity of the district chief, his assistant and members of
12 the district. Furthermore, he said that he was in charge of the
13 district, and Hor was the chief." End of quote. [Free
14 translation]

15 Do you remember having been in a house on the bank of the river,
16 a house on stilts, in which women were detained? And the said
17 women said the district chief was you, Hor?

18 A. No, I did not know about this matter. As I said, during that
19 period of time I spent most of my time at the work site, and
20 there was no fixed district office. It was constantly mobile.
21 Sometimes it was in a pagoda, sometimes it was in the commerce
22 office. And when I was at the work site, it was close to a
23 military barracks, and I worked and stayed with the people there.

24 [15.02.42]

25 Q. This same person, Ms. No Sates, a little bit before 3.09 in

1 the afternoon on the same day, the 28th of September, said -- or
2 describes an interaction with Hor, and she says: "Hor, the
3 district chief, said that I was Vietnamese, and I protested. I
4 said no. I said that I was Khmer. And it was the third time that
5 I told him that I am a Khmer girl, and then he finally accepted
6 my answer. And then they allowed me to step aside. And after,
7 other women from my village said that they are Khmer when they
8 were asked if they are Khmer or Cham. So there were only 30 of us
9 remaining: those who had said that they are Khmer." End of quote.

10 [Free translation]

11 So, Ms. No Sates speaks about a discussion with Hor, Hor who was
12 asking what her ethnic origin is. And for everything to be
13 complete here, she said that the people who said that they are
14 Cham had been taken away to be executed.

15 So, do you, or did you, participate in that kind of selection
16 between Cham and Khmer people? And did you order the execution of
17 people of Cham origin?

18 A. No, I did not involve in any of such selections. When I was in
19 Krouch Chhmar, there were other cadres and other district
20 soldiers who worked there, and I myself do not know this Madam
21 Sates in Krouch Chhmar at all.

22 [15.04.59]

23 Q. On the same day, September 28, 2015, a little bit after 3.23,
24 Ms. No Sates says that apparently soup had been prepared,
25 pork-based soup, that was used as a test to see if the women were

1 really Cham or not, given of course that Cham people cannot eat
2 pork. And this is what she said: "Only our group, the group of 30
3 women, was ordered to eat that soup. Hor did not eat that soup
4 with us. There were soldiers looking at us, and who wanted to
5 check. They were checking if we were actually eating the soup.
6 And that was the first time that I ate pork." So the following
7 question is put to her: "Even if Hor did not eat the soup, was he
8 there when you were forced to eat that soup?" Answer: "Yes, Hor
9 was there. He was in -- he had the overall responsibility. There
10 was Hor, the district chief, and soldiers." End of quote. [Free
11 translation]

12 So my question is therefore the following: in this selection
13 process, to see if people were really Khmer or not, did you order
14 people to prepare pork soup? And did you watch to see if the
15 people were going to eat that soup, to see if they were Cham or
16 Khmer?

17 [15.06.43]

18 A. No, I did not. I did not issue such an instruction.

19 Q. Another witness spoke about a certain Ho in Krouch Chhmar.
20 This is witness 2-TCW-904. In his statement, E3/5196, French ERN,
21 00274740; English ERN, 00223088; Khmer ERN, 00204457; this is
22 what he says:

23 "The security office had been built in that village under the
24 supervision of a person by the name of Ho, a Cambodian coming
25 from the other side of the river, from the Central Zone. This

1 person was in charge of the arrest of several Cham. This person
2 had arrested Sim and Han, and had summoned all villagers to
3 gather in the pagoda to explain their tasks to them. After the
4 meeting, the villagers were ordered to bring their clothes to go
5 get trained, but I refused, and I stayed at home. And I never saw
6 them again." End of quote. [Free translation]

7 So my question is the following: were you responsible for the
8 arrest of several Cham? And did you summon villagers into a
9 pagoda to explain their tasks to them?

10 [15.09.11]

11 A. No, I did not. Allow me to specify. One even said that I was a
12 sector soldier, but in fact I was not. And regarding this
13 activity, I did not involve in such an activity at all. By that
14 time, during this chaotic situation, I spent most of my time at
15 the work site.

16 Q. Now, I would like to read to you the statement of another
17 witness. This is 2-TCW-928. This is a Cham woman who says in her
18 statement, E3/5194, French ERN, 00268839; English ERN, 00274708;
19 Khmer, 00204407; and the question is the following, that is put
20 to her, and she is speaking about executions of Cham. And this is
21 the question that is put to her: "Who was the Khmer Rouge person
22 in charge of these executions?" Answer: "It was the so-named Ho,
23 the head of Krouch Chhmar district. He stayed seven months on
24 site to conduct the executions. I don't know if he's still
25 alive." End of quote. [Free translation]

1 So, in this same written record of interview, she speaks -- she
2 says at French ERN, the same one I mentioned, 00268839 to the
3 next page, 40; in the English ERN, the same -- that is to say,
4 00274708 on to the following page; and finally in Khmer, same
5 page, 00204407; she explains how she escaped. She says: "After
6 that, my husband and I ran into the forest because Ho said that
7 he would kill 70 married couples he had made marry. I do not know
8 why he wanted to do that." End of quote.

9 So, earlier, I asked you if you had partaken in, or organized,
10 marriage ceremonies in Chamkar Leu. My first question therefore
11 is now: did you participate in the marriage of Chams and other
12 people in Krouch Chhmar? That's my first question. And my second
13 question is: did you say that you were going to execute all of
14 these couples?

15 [15.12.48]

16 A. No. I did not participate in the wedding ceremony, nor to
17 conduct any plan to kill the Cham people.

18 Q. My -- the last quote I'm going to bring up, the quote of a
19 witness I would like you to react to: this is 2-TCW-893, and the
20 document is E3/2653; English ERN, 00219179; Khmer, 00904397. And
21 there is only one page that's translated into French, and this is
22 document E3/9323. And this is what this witness indicates. He
23 says that at the end of 1978, he rode a motorcycle for the
24 district leader, who did not know how to ride a motorcycle, in
25 order to bring him to Sandan district in Kampong Thom, at a

1 meeting there. This witness specifies that he did not partake in
2 the meeting, but he heard what was being said. And this is what
3 he says regarding that:

4 [15.14.32]

5 "At one point in time during a meeting, Ke Pauk, who was the
6 Central Zone secretary, whose representatives had just captured
7 the Eastern Zone after a violent capture of power, asked the
8 Krouch Chhmar district secretary which percentage of the plan
9 defined by the Party have we achieved?"

10 And this witness says that Ke Pauk then specified: "You first
11 must destroy the Cham, the mobile forces, because they are all
12 traitors." End of quote. [Free translation]

13 So my first question is: did you attend a meeting in Sandan
14 district in Kampong Thom province, during which Ke Pauk
15 apparently asked you to destroy all the Cham because they are
16 traitors?

17 A. No, I did not attend such a meeting in Sandan. I actually did
18 not go there, and when usually I rode a motorbike, my messenger
19 did not ride me. He would actually sit behind me, and I was the
20 one who rode the motorbike.

21 Q. Was there another person by the name of Ho who was in Krouch
22 Chhmar district then? And can you explain why several Cham said
23 that Ho, the district head of Krouch Chhmar district, had carried
24 out massive executions of Cham people?

25 [15.16.55]

1 A. I do not know. When I attended the study sessions at the upper
2 level, I did not receive any instruction to purge the Cham
3 people. Not at all, despite the fact that the situation at that
4 time was chaotic. And Ke Pauk never set a plan to purge the Cham
5 people. If there was such a plan, then the Cham people who lived
6 near the area of Trapeang Chhuk would all have been purged. To my
7 knowledge, it was those people involved in the rebellion were
8 purged, not the Cham people. And what you just described about
9 forcing the Cham people to eat pork soup, or forcing them out of
10 their houses, no, it did not happen. And when I was at the work
11 site, we actually killed a cow for people to eat, and there was
12 nothing to do with the pork.

13 MS. GUISSÉ:

14 I am done with my questions, Mr. President. My colleague, Kong
15 Som Onn, has a few extra questions to put to the witness.

16 MR. PRESIDENT:

17 Thank you. And Counsel Kong Som Onn, you have the floor.

18 QUESTIONING BY MR. KONG SAM ONN:

19 Q. Thank you, Mr. President, and good afternoon, Mr. Witness. In
20 your last response, you talk about Cham at Trapeang Chhuk. Where
21 is Trapeang Chhuk?

22 MR. BAN SEAK:

23 A. Trapeang Chhuk is in Khum Bang (phonetic) in Kampong Thom. And
24 Trapeang Thom -- Trapeang Chhuk is located along the national
25 main road. And if there was actually a purge planned from the

1 Centre to kill the Cham people, then they would all have been
2 killed.

3 Q. Did you have any contact, or did you have any jurisdiction, in
4 the area of Trapeang Chhuk (phonetic)?

5 A. No, I did not. But I know Cham people in Trapeang Chhuk
6 (phonetic) remained living there. And as I said, there was no
7 plan to purge the Cham people. I believe -- it is my
8 understanding that the enemy against the Khmer people was not the
9 Cham people, but was the Vietnamese one.

10 [15.19.41]

11 Q. Thank you. In relation to your testimony yesterday at
12 10.46.11, a little bit after that, you testified about going to
13 be a district secretary, and you spoke about the two communes --
14 that is, Lvea and Chamkar Andoung. And for the rest of the
15 communes in the districts, they were autonomous. My question to
16 you is the following: what do you mean when you said the rest of
17 the communes were autonomous?

18 A. No, it was not Krouch Chhmar. It was the Chamkar Leu district.
19 I was assigned to take charge of the two communes. And another
20 member actually was in charge of the three or four other
21 communes, and they were kind of autonomous. I myself spent a lot
22 of time at the work site and at the dam construction site.

23 [15.21.12]

24 Q. Thank you for that, but I'd like you to explain to the Chamber
25 what you mean when you said that those communes acted

1 autonomously.

2 A. There was no purge in the Chamkar Leu district anymore,
3 because those who were accused of being CIA agents had all been
4 purged, and the New People from the Southwest came to control the
5 area in their own communes. So they prepared their own work, or
6 organized their own respective communes, while we administered
7 and managed our respective communes. And that's how it worked.

8 Q. You spoke about the organization of the communes. Do I imply
9 that you mean that about the organization of cadres to be
10 appointed to take charge of those communes; is my understanding
11 correct?

12 A. Yes, new commune chiefs were appointed. And after their
13 appointment, then the deputy would be appointed, then the
14 cooperatives were to be established.

15 Q. What about other areas, for example, for rice production or
16 food regime, how was it organized in those so-called autonomous
17 communes?

18 [15.23.15]

19 A. Before the event of the CIA purge, they ate rice mixed with
20 corn. Even later on, they continued to eat rice with corn, and
21 sometimes they had to eat gruel. But we planted a lot of corn in
22 order to use it to supplement our rice. As for the rice
23 production, I did not know where the yield had been sent to, and
24 that people did not have rice to eat. And then we -- we actually
25 heard a phrase or joke that we worked in the rice field, but we

1 did not eat rice, but we ate gruel instead.

2 Q. In relation to the rebellion, you have testified that people
3 were shot, and that one of your deputies was shot, can you recall
4 when that was?

5 A. No, I cannot recall it. And as it happened only shortly after
6 my arrival -- maybe about one and a half months after my arrival,
7 at that time I was at a work site, and I was told that he was
8 shot through the left side of his chest. And actually later, Ao
9 passed over in around 1990.

10 [15.25.00]

11 Q. Can you try to remember -- that is, after that shooting
12 incident, how far was it from the time that the regime fell?

13 A. To my understanding, it was about three months prior to the
14 fall of the regime. Because by the time the Centre ordered me to
15 be assigned to Chamkar Leu, it happened about one month after my
16 arrival. As I said, Oeun told me that Son Sen instructed me to go
17 and meet with the people, in order to calm them down, and not to
18 rebel, and that the rebellion activity was taking place. So that
19 I had to present myself there to make -- to assure them that I
20 was not killed, and that they should not engage in any rebellious
21 activity, because at that time they did not trust the cadres
22 there.

23 Q. You talk about the rebellion by the militia group. Did it
24 happen throughout the communes under your supervision? Or it only
25 happened in a specific location?

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1 A. Those so-called separatists fled to the forest, but I did not
2 know where they were hiding themselves. So -- and the soldiers
3 who were trained also fled to the forest, and about three or four
4 days later, they emerged in Chamkar Leu. And actually I saw Ron,
5 but later on Ron disappeared. And people were evacuated. And
6 later on I saw Son Sen at Bos Khnaor.

7 [15.27.42]

8 Q. You spoke about relocating your work office during the later
9 part of the regime, that it was not at a fixed location. My
10 question to you is the following: who was actually in charge of
11 managing the people at that time? Was the -- Were the people
12 under your supervision -- that is, under the Democratic Kampuchea
13 supervision? Or under the supervision of the so-called separatist
14 group?

15 A. At that time, the people did not feel comfortable of staying
16 in one place, and it seems that they did -- they were not
17 satisfied with the DK leadership. As I said, I recruited them,
18 and then training was provided to them, but somehow they were
19 herded to the forest by the separatist group. And of course, by
20 that time we did not have any artillery to bomb them or to shell
21 them in the forest.

22 [15.29.11]

23 Q. So, from what you've just said, during the last three months
24 the management in your area is rather confusing, because
25 geographically, it was under the hand, or the control, of the

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1 separatists who were against the leadership of the Democratic
2 Kampuchea; am I correct?

3 A. No, that is not correct, because we still had our forces, and
4 our forces were more superior than the separatists. We had the
5 forces on the ground, and also at the battlefield, while the
6 separatist forces was at the district demarcation line. There was
7 no large-scale attack, but they were in a so-called militia group
8 to fire at our force whenever they could. And for that reason,
9 people had to be evacuated.

10 MR. KONG SAM ONN:

11 Thank you, Mr. Witness. And Mr. President, I don't have any
12 further questions for this witness.

13 [15.30.32]

14 MR. PRESIDENT:

15 Thank you. The hearing of testimony of witness Ban Siek is now
16 concluded. And the Chamber is grateful of your time and
17 testimony, Mr. Ban Siek, for the last two days. Your testimony
18 may contribute to ascertaining the truth in this case. You are no
19 longer required to be present in the courtroom, and you may
20 return to your residence, or wherever you wish to go to, and we
21 wish you all the very best. And the Chamber also would like to
22 thank duty counsel Duch Phary, and you may also rest.

23 Court officer, please collaborate with WESU, to make necessary
24 transportation arrangements for Mr. Ban Siek to return to his
25 residence, or wherever he wishes to return to.

1 Next the Chamber will hear testimony of a witness -- that is,
2 2-TCW-904.

3 And court officer, please usher the next witness into the
4 courtroom.

5 Mr. Duch Phary, please proceed.

6 [15.31.48]

7 MR. DUCH PHARY:

8 Mr. President, in view of the fact that I am also the duty
9 counsel for the next witness, can I just stay seated here?

10 MR. PRESIDENT:

11 Yes.

12 (Witness enters the courtroom)

13 [15.34.08]

14 QUESTIONING BY THE PRESIDENT:

15 Q. Mr. Witness, what is your name?

16 MR. SOS ROMLY:

17 A. Good afternoon, Mr. President. My name is Sos Romly.

18 Q. Thank you, Mr. Sos Romly. And when were you born?

19 A. I was born in 1955.

20 Q. Thank you. And where were you born?

21 A. I was born in Trea Ti Pir, Trea sub-district, Krouch Chhmar
22 district, Kampong Cham province.

23 Q. And where is your current address? And what is your
24 occupation?

25 A. My present address is at Trea Ti Pir village, Trea district --

1 commune, Krouch Chhmar district, Kampong Cham province. I am a
2 rice farmer.

3 [15.35.25]

4 Q. What are the names of your parents?

5 A. My father is Ak Mat Yusuf, and my mother is Touny Aisah.

6 Q. Thank you. And what is your wife's name? And how many children
7 do you have?

8 A. My wife is Smael Aisah, and I am a father of six children.

9 Q. Mr. Sos Romly, as reported by the greffier, that to your best
10 knowledge and ability, you are not related by blood or by law to
11 any of the two Accused -- that is, Nuon Chea and Khieu Samphan,
12 or to any of the civil parties admitted in this case; is this
13 information correct?

14 A. Yes, that is correct.

15 [15.36.44]

16 Q. And Mr. Sos Romly, what religion do you practice?

17 A. I practice Islamic religion.

18 MR. PRESIDENT:

19 Thank you. Mr. Em Hoy, please proceed with the swearing in of
20 this witness according to his religion.

21 THE GREFFIER:

22 Good afternoon, Mr. Witness. Allow me to lead you in the
23 proceeding of swearing in. Please place your hand on the holy
24 text of our Koran before you, and please repeat after me. Mr.
25 Witness, please repeat: I would like to answer only the truth

1 from what I witnessed, heard, know and remember, in the name of
2 an Islamic believer who have only Allah as God, Mohammed as
3 Allah's messenger, and the holy Koran as the guideline for me to
4 follow. I would like to swear in front of the holy Koran, Wa
5 allahi, Bi allahi, which verifies that all what I am going to say
6 is true. Please repeat the words.

7 MR. SOS ROMLY:

8 I would like to answer only the truth from what I witnessed,
9 heard, know and remember, in the name of an Islamic believer who
10 have only Allah as God, Mohammed as Allah's messenger, and the
11 holy Koran as the guideline for me to follow. I would like to
12 swear in front of the holy Koran, Wa allahi, Bi allahi, which
13 verifies that all what I am going to say is true. Thank you.

14 [15.39.16]

15 BY THE PRESIDENT:

16 Thank you. And the Chamber would like to inform you of your
17 rights and obligations as a witness. Now, about your rights, Mr.
18 Sos Romly, as a witness in the proceedings before the Chamber,
19 you may refuse to respond to any question, or to make any comment
20 which may incriminate you. That is your right against
21 self-incrimination. This means that you may refuse to provide
22 your response, or make any comment that could lead you to being
23 prosecuted. Now, on your obligations: as a witness in the
24 proceedings before the Chamber, you must respond to any questions
25 by the Bench or relevant Parties, except where your response or

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1 comment to those questions may incriminate you, as the Chamber
2 has just informed you of your right as a witness. And you must
3 tell the truth that you have known, heard, seen, remembered,
4 experienced or observed directly about an event or occurrence
5 relevant to the questions that the Bench or the Parties pose to
6 you.

7 Q. And Mr, Sos Romly, have you been interviewed by investigators
8 of the Office of the Co-Investigating Judges? If so, how many
9 times, when and where?

10 [15.40.51]

11 MR. SOS ROMLY:

12 A. I have been interviewed for three times. The first two times
13 was at my residence, and the third time was at the Kampong Cham
14 provincial town.

15 Q. Thank you. Before your appearance before the Chamber, have you
16 reviewed or read the written records of your statements that you
17 provided to the OCIJ investigators at your home and at the
18 Kampong Cham provincial town, in order to refresh your memory?

19 A. Yes, I have.

20 Q. Thank you. And to your best knowledge and recollection, can
21 you tell the Chamber whether the WRIs are accurate records of
22 what you said during the interviews with the OCIJ investigators?

23 A. Most of the statements are consistent. However, some are not.

24 [15.42.12]

25 MR. PRESIDENT:

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1 Thank you. And pursuant to Rule 91bis of the ECCC Internal Rules,
2 the Chamber hands the floor first to the Co-Prosecutors to put
3 questions to this witness. You may proceed.

4 I notice that Counsel Koppe is on his feet. You may proceed,
5 Counsel.

6 MR. KOPPE:

7 Thank you, Mr. President. Although I'm not entirely sure as to
8 why the witness has sought counsel, of course that is completely
9 up to him. But what I do find problematic is that he is being
10 assisted by the same counsel as the previous witness, and you
11 might recall that only an hour ago, my colleague from the Khieu
12 Samphan defence team confronted the previous witness with a
13 statement of this witness who is now before you. So there does
14 seem to be a conflict of interest with Mr. Duch Phary. So, I'm
15 not quite sure whether it would be appropriate for this
16 particular witness to be assisted by the same counsel as the
17 previous witness.

18 (Judges deliberate)

19 [15.47.10]

20 MR. PRESIDENT:

21 The Chamber thanks you, Counsel, for your opinion. The Chamber is
22 not sure it can rule on this matter. We are facing this problem
23 at this very point in time. We were not informed earlier. The
24 duty counsel -- the duty counsel's situation should be considered
25 in light of the comments made by Counsel Koppe, and as time is

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1 pressing on, and it will soon be 4 p.m., this hearing is
2 adjourned and we will resume tomorrow at 9 a.m., the 7th October
3 2015.

4 The Chamber will hear the testimony of this witness. There will
5 be a reserve witness, TCW regarding the Trapeang Thma Dam work
6 site. The Chamber wishes to inform the Parties of its solution to
7 the issue raised by Mr. Koppe tomorrow morning.

8 Mr. Sos Romly, your testimony hasn't concluded. We will resume
9 tomorrow at 9 a.m. Thank you, Mr. Duch Phary. This issue is a new
10 one for the Bench. This is the very first time we are having to
11 grapple with this issue. We will rule on the matter tomorrow
12 morning before we resume the hearings.

13 In consultation with the Witness Support Section, the court
14 officer should lead the witness wherever he wishes to go.
15 And security officers, please take Mr. Nuon Chea to the holding
16 cell, and bring him back to the courtroom tomorrow morning at 9
17 a.m.

18 The hearing is adjourned.

19 (Court adjourns at 1550H)

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