



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

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

ឯកសារដើម
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TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

6 September 2012
Trial Day 108

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

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MR. ABDULHAK	English
JUDGE CARTWRIGHT	English
MR. IANUZZI	English
MR. KARNAVAS	English
JUDGE LAVERGNE	French
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. NORNG SOPHANG (TCW-480)	Khmer

1

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

2 (Court opens at 0901H)

3 MR. PRESIDENT:

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

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

7 THE GREFFIER:

8 Good morning, Mr. President. All parties are present, except the
9 accused Ieng Sary, who is present in the holding cell downstairs.
10 He requests to waive his direct presence, through his counsel, to
11 participate in today's proceeding, and the request is for the
12 whole day proceeding. And the letter of waiver has been submitted
13 to the greffier.

14 [09.03.29]

15 As for the next witness, TCW-307, he's present and waiting to be
16 called by the Chamber.

17 Thank you.

18 MR. PRESIDENT:

19 Thank you.

20 The Chamber will now decide on the request by the accused Ieng
21 Sary.

22 The Chamber has received a request by Ieng Sary dated 6 September
23 2012 through his counsel to waive his direct presence in today's
24 proceeding and instead request to follow it through a remote
25 means for the whole day.

2

1 Kouy Samnang, the treating doctor, has examined the Accused this
2 morning at the ECCC detention facility and observes that Ieng
3 Sary is fatigued, feels dizzy, and has back ache and recommends
4 that the Chamber shall authorize him to follow the proceeding
5 through a remote means from the holding cell downstairs.

6 [09.04.45]

7 And as Mr. Ieng Sary himself requests to waive his direct
8 presence due to his health, and as observed by the treating
9 doctor, but that he is fit physically and mentally to follow the
10 proceedings through remote means from the holding cell
11 downstairs, and that he's able to directly communicate with his
12 defence team, the Chamber grants the request by the accused Ieng
13 Sary to waive his direct presence in the courtroom and authorizes
14 him to follow the proceeding through an audiovisual means from
15 the holding cell downstairs, and that applies for the whole day
16 proceeding.

17 AV Unit, you're instructed to link the proceeding to the holding
18 cell downstairs so that the accused Ieng Sary can follow it.

19 The Chamber would like to give the floor to Nuon Chea's defence
20 to continue putting question to this witness. You may proceed.

21 [09.05.55]

22 MR. IANUZZI:

23 Thank you, Mr. President. Good morning, everyone, and good
24 morning to you, Mr. Witness. I hope you had a restful evening and
25 a - and a good night sleep.

3

1 Before we continue with the questioning, I have one point I'd
2 like to raise.

3 For the record, Mr. President, I did take you up on your
4 suggestion yesterday and I reviewed -- I had a look at Rule 76.7,
5 as you suggested. And that rule states:

6 "Subject to any appeal, the Closing Order shall cure any
7 procedural defects" - procedural defects - "in the judicial
8 investigation. No issues concerning such procedural defects may
9 be raised before the Trial Chamber or the Supreme Court Chamber."

10 [09.06.43]

11 Now, first of all, I'd like to say that the kinds of things we've
12 been talking about -- that is, the Nuon Chea defence team -- the
13 kinds of things we've been complaining about, quite frankly, are
14 not the kinds of things that anyone could reasonably describe as
15 "procedural defects". What we are talking about are fundamental
16 fair trial issues, what, if my memory serves me correctly, in the
17 United States we refer to as "substantive due process rights",
18 not to mention -- not to mention that these issues go to the
19 credibility of any witness before this Chamber.

20 So, if you permit me to give you a hypothetical example -- and
21 I'm not suggesting that this has been taking place, but let's
22 just say that in the midst of a hypothetical civil law trial it
23 was discovered that a particular investigator had paid certain
24 witnesses to give testimony, if that fact came out during the
25 trial, now, I don't think any judge -- civil law or otherwise --

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1 would consider that to be a "procedural defect". That's clearly
2 something that goes to the substance of the evidence, something
3 that should be discussed at the trial stage. Now, again, I'm not
4 suggesting that that kind of thing has been--

5 [09.08.05]

6 MR. PRESIDENT:

7 If I am not mistaken, this morning I hand the floor to Nuon
8 Chea's defence to put questions to this witness. That is my
9 instruction this morning. The floor is not given to you just to
10 make your free speech as you wish.

11 You raised the issue of the seriousness regarding the
12 question-answer session yesterday, and we already ruled on that
13 issue. The Chamber also informed you of this matter.

14 And if you consider the matter is of a serious nature, you shall
15 submit it in writing to the Chamber, with sufficient grounds.

16 And the Chamber also reminded you to consider the relevant
17 internal rule -- that is, Rule 76.7, which clearly states that
18 except that it is the subject of the appeal, "no [...] procedural
19 defects can be raised before the Trial Chamber or the Supreme
20 Court Chamber". That is just an indication to the internal rule
21 for your consideration for the submission.

22 [09.09.59]

23 We already ruled yesterday regarding the objection by the
24 Prosecution of this witness, and the sole purpose was not to
25 delay the testimony of this witness for weeks. And for that

5

1 reason, you shall submit your request in writing.

2 And if you do not have any questions to be put to this witness,
3 we will hand the floor to another defence team in order to
4 expedite the proceeding.

5 MR. IANUZZI:

6 Thank you, Mr. President. I'm well aware of the limitations on
7 freedom of speech in this courtroom. I was simply replying to
8 your suggestion to consider Rule 76.7. I do--

9 MR. PRESIDENT:

10 We give the floor to you to put questions to this witness.

11 And if you intend to submit your request in writing regarding the
12 matter you raised yesterday, you should do so, and you should
13 consider all the relevant documents before you make such a
14 submission.

15 [09.11.30]

16 You're also reminded of the relevant Internal Rule as you raised
17 yesterday. Once again, as I repeat, if you consider the nature of
18 the matter is of a serious concern, then you should consider the
19 relevant rule and make a submission. And we also indicated the
20 relevant rule to you, and that matter that's not applied to the
21 question-answer session with this witness. And you just cannot
22 use the opportunity to make your speech or raise your concern.
23 It's not relevant to the instruction by the Chamber to you --
24 that is, to put questions to this witness.

25 QUESTIONING BY MR. IANUZZI RESUMES:

6

1 Thank you, Mr. President. Again, good morning to you, Mr.
2 Witness. I do have a few more questions for you today. Hopefully,
3 it won't take too long. I suspect that I will finish in about an
4 hour, certainly before the morning's coffee break. And I will
5 endeavour to speak very slowly for my friends in the translation
6 booth.

7 [09.12.48]

8 Q. Let me first start with an issue that was raised yesterday by
9 my colleague Major Son Arun. And again, Mr. Witness, I don't mean
10 to bombard you in any way myself with repeated questions. I'm
11 just trying to get a bit of clarity for the record and for our
12 own - our own position on this side of the stage. So if I could
13 just return to something that Major Son Arun discussed with you
14 yesterday -- and this is regarding Nuon Chea's position with the
15 People's Representative Assembly. And before I get to my
16 follow-up question, let me just clarify for your sake, for the
17 record's sake, and for everyone's sake that Nuon Chea has never
18 denied his position as Chairman of that Assembly. He did hold
19 that position, he has said so on many occasions, and he stands by
20 that position today. And then we just add that he is in no way
21 ashamed of having held that position.

22 Now, turning back to my colleague's question from yesterday,
23 which I believe, if memory serves, was along the lines of how
24 could you, Mr. Witness, how could you be so sure that Nuon Chea
25 was as you suggested several times, responsible for the people?

7

1 That was the question that I believe was asked.

2 Now, I'd like to first -- before I put my question, I'd like to
3 turn to what you told one of the civil party lawyers on Tuesday
4 of this week. And, again, it's probably best if I quote from the
5 draft transcript so you can correct me if I'm misstating your
6 evidence. And I'm quoting now from Tuesday's transcript at page
7 56 -- pages 56 and 57: "When you--"

8 Quote: "When you were questioned on those documents by the
9 Co-Investigating Judges, and you were asked why Nuon Chea was
10 copied, and you said that 'Nuon Chea was in charge of the service
11 relating to people', could you please explain to the Chamber
12 exactly what you meant when you said he 'was in charge of the
13 sector relating to people'?"

14 And this is - I'm still quoting the civil party; this were their
15 precise question - the civil party lawyer: "What were, precisely,
16 his responsibilities?" Nuon Chea's responsibilities.

17 [09.15.05]

18 And your answer was:

19 "It was a public announcement that Mr. Nuon Chea was attached to
20 the People's Representative Assembly and he was also the
21 chairperson of that institution. So, as the people's
22 representative, he shall know whatever matters that [are]
23 relevant to the people, and he was at the supreme body to be in
24 charge of all matters relevant to the people, as he was
25 representing them."

8

1 Do you remember making that -- giving that answer, having that
2 exchange with the civil party lawyer on Tuesday?

3 MR. NORNG SOPHANG:

4 A. Yes, I recall my statement. I knew -- or learned of that
5 through an open announcement. However, when it came to the
6 internal affairs or internal arrangements concerning Nuon Chea, I
7 did not have that knowledge. I spoke -- or I stated based on what
8 I understood.

9 [09.16.32]

10 As he was with the People's Representative Assembly, it means he
11 represented the people. Therefore, whatever was done at the base
12 which might have an impact on the people, he would be the
13 representative -- the supreme representative who had to know all
14 those matters and to defend the people. And this is based on my
15 understanding.

16 I did not know that the Standing Committee assigned him to
17 represent the people; I did not have that knowledge. I only made
18 my statement based on my understanding. And he's not the people
19 representative; he the one who was in charge of the people
20 throughout the country. So, whatever matters that concerned the
21 people or their wellbeing, he shall have such knowledge. And that
22 is my personal opinion.

23 Q. Thank you, Mr. Witness.

24 And let me go back to the -- one of the first points you made
25 about this public announcement. That public announcement -- what

9

1 did that public announcement say, precisely? Did it simply
2 announce that Nuon Chea was in charge of the People's
3 Representative Assembly?

4 [09.18.51]

5 A. What I knew publicly was that I listened to the Democratic
6 Kampuchea radio broadcast while I was working so that I could
7 learn about the situation regarding the development in the
8 country. I cannot recall the exact year. However, I believe it
9 was in 1976. There was a meeting by the Assembly, which was their
10 first legislature and first session, and they announced who were
11 appointed in a specific position, who was the President of the
12 State Presidium, who was the prime minister or the first or
13 second deputy prime minister, so on and so forth. That's how I
14 learned of that. And the same thing applied to the People's
15 Representative Assembly.

16 They announced that, for the People's Representative Assembly,
17 Nuon Chea was in charge. And, as for the court, it was Kang Chap
18 who was in charge. And for the State Presidium, it was Mr. Khieu
19 Samphan who was the president.

20 I did not see this announcement in writing. However, that's what
21 I can remember. And it has been more than 30 years, so I cannot
22 remember all the details.

23 [09.21.08]

24 Q. Thank you, Mr. Witness, that's fine. Just one last question on
25 this point: When they mentioned Nuon Chea was the Chairman of the

10

1 People's Representative Assembly, as far as your remember, did
2 they say anything else or simply that he held that position -- if
3 you remember?

4 A. I cannot recall further than that, and I did not know, as
5 well.

6 Q. Thank you. Thank you very much.

7 Moving on to another topic, a particular telegram -- this is
8 Telegram 54 -- has been discussed quite a bit since you've taken
9 the stand. I don't want to ask you any substantive questions
10 about that telegram, but just for everyone's benefit, I'll just
11 note the document number for the record. It's E3/513. And that's
12 Telegram 54. We've been discussing it; I think everyone's
13 familiar with it.

14 [09.22.14]

15 If you recall, Mr. Witness, that is a telegram that dealt with,
16 among other things, an alleged "immoral act" with a woman by
17 someone called Sot. And so I just have a few questions about what
18 you told the OCP here in Court with respect to that document.

19 Do you remember discussing that telegram, the one about Sot?

20 A. Yes, I can recall that.

21 Q. Thank you. And again, just for the sake of clarity, I think
22 it's a good idea if I quote from the transcript. This is the
23 draft transcript -- Monday's draft transcript. That's the 3rd of
24 September, and I'm at pages 27 to 28.

25 And I'm quoting now the question:

11

1 "When you were asked about why this type of telegram would have
2 been sent to Nuon Chea [...], you said anything involved with the
3 internal situation and the violation of moral codes, they had to
4 contact Nuon Chea because Nuon Chea was related -- correction,
5 because Nuon Chea was in charge of the people. Is that an
6 accurate summary of your statement, Mr. Sophang, that telegrams
7 which dealt with violations and the internal situation would be
8 sent to Mr. Nuon Chea?"

9 [09.23.48]

10 And your answer was:

11 "At that time, I was not able to know this because Pon was the
12 one who oversaw all of this. But you asked me to help analyze on
13 this, and based on my knowledge, the reason the message had to be
14 sent to Om Nuon Chea -- because he was in charge of social
15 affairs and culture. So, when it comes to the violation of moral
16 code, it should be Uncle Nuon Chea who would be the person who --
17 whose the message was sent. That's my analysis." End quote.

18 And now, with respect to this passage, I'm particularly
19 interested in what you've referred to as your "analysis".

20 [09.24.34]

21 So, my first question is: Would you agree that that analysis that
22 you did for the OCP was done after the fact -- that is, much,
23 much later, at a time after you were engaged as a DK telegram
24 encoder? Is that correct?

25 A. What you just described is correct.

12

1 And in regard to my response to the Co-Investigating Judges, I,
2 myself, was not sure whether the message had to be sent to Nuon
3 Chea, but because I saw the annotation which reads "Uncle Nuon",
4 then I offered my opinion to the OCIJ investigators that, based
5 on my analysis, the message was sent to Uncle Nuon because the
6 content of the message was related to the morality issues. And
7 that matter was also related to the People's Representative
8 Assembly, who had known about all these matters -- about the
9 violations -- because just one individual person was also part of
10 the people under the care of the People's Representative
11 Assembly. And that was my analysis.

12 [09.26.53]

13 And if the Chamber is of the view that my person analysis cannot
14 be considered as evidence, then I agree that that analysis shall
15 be dismissed. And I would like to make this statement before the
16 Chamber because -- if you believe that it is my assumption or
17 speculation, but it's not the truth, then please disregard it.

18 Q. Thank you for that answer, Mr. Witness.

19 And just to be very clear, this particular assumption is based on
20 two things: Nuon Chea's title and the fact that "Uncle Nuon" is
21 written on that document. That's the basis for this assumption
22 that you - that you've made; is that correct?

23 A. Yes, that is correct, because I clearly saw the annotation
24 mentioning "Uncle Nuon", and nobody else but him.

25 Q. Thank you very much for that clarification, Mr. Witness.

13

1 [09.28.15]

2 I will turn to another topic. Yesterday morning, Mr. Witness, if
3 you recall, Judge Lavergne took you through a number of telegrams
4 covering a sort of -- a potpourri of topics. Do you - do you
5 recall that? It was yesterday morning. I think it took the first
6 part of the morning before the coffee break.

7 A. I am not that well, so I cannot recall at what time questions
8 were asked of me. So, please, ask me direct questions.

9 Q. I apologize, Mr. Witness, and I apologize for not asking
10 earlier this morning if you're - if you were well. Are you
11 feeling all right? Are you able to continue?

12 A. I am able to, but please state your question clearly. And
13 please ask me a direct question so that I can respond
14 appropriately.

15 Q. I will do that.

16 Judge Lavergne is the gentleman sitting two spaces to the right
17 of the President, and yesterday morning he discussed a number of
18 documents with you. Do you remember that exercise? That's my
19 first question.

20 [09.30.17]

21 A. Which Judge are you referring to -- a foreign judge or a
22 Cambodian judge?

23 Q. Indeed, a foreign judge -- a French judge -- Judge Lavergne.
24 He's wearing glasses and sitting two spaces to the right -- to
25 your right -- of the President. He's a very tall gentleman.

14

1 A. Yes, I recall the exercise, but I could not recall every
2 detail of that exercise.

3 And I -- if I may suggest to the Court, it would be very helpful
4 for me if the court officer can prepare documents for me,
5 because, if you see the documents -- a pile of documents before
6 me, I can hardly distinguish which was given by whom here. So I
7 can hardly distinguish, so--

8 MR. PRESIDENT:

9 Well, Mr. Witness, if you cannot recall or remember, then you can
10 say so. You do not have to delve on it. First, you may simply
11 respond to the question, whether or not you answer to the
12 question put by the Judge.

13 [09.31.46]

14 Of course, if you ask about the documents that were presented to
15 you, I don't think that anyone in this courtroom will recall
16 every single document we have given to you. So you simply say so
17 if you cannot remember.

18 MR. NORNG SOPHANG:

19 A. Thank you, Mr. President. I do not recall everything.

20 BY MR. IANUZZI:

21 Neither do I, Mr. Witness, neither do I.

22 Q. You did -- you did answer some questions on these documents,
23 and I'm not really interested in the substance of them. It was a
24 series of, I think, about 10 -- maybe a dozen documents, as I've
25 said, and each one was a telegram. And as Judge Lavergne was

15

1 discussing those documents with respect to each telegram, he
2 mentioned that Nuon Chea, among others, were copied on those
3 documents. Do you remember that? It's fine if you don't.

4 [09.33.01]

5 MR. NORNG SOPHANG:

6 A. Concerning the carbon copy for others, normally, in almost
7 every document, there was a copy for "Uncle", and "Uncle Nuon
8 Chea" would come first, after "Uncle Number One", Pol Pot. And
9 then "Uncle Nuon", followed by "Uncle Van". So, it had to be in
10 order. So, the order Uncle Van could not come before "Uncle
11 Nuon", and Uncle Nuon's order was not above Uncle Pol Pot.
12 And as I told the Court yesterday concerning the carbon copies of
13 the document, they had to copy to "Uncle", who was referred to
14 Uncle Pol Pot, and followed by Nuon Chea, the second in the
15 order, and followed by Uncle Van and Vorn, Khieu -- were in the
16 orders. These were the orders of people whom the telegrams were
17 copied to. And then last on the list was the "Documentation" and
18 "Archive".

19 [09.34.31]

20 And that's what I have explained in this Court so far. I don't
21 know why you were not clear with this procedure.

22 Q. Thank you, Mr. Witness. I sometimes have a hard time getting
23 my head around things. Thank you for clarifying that.

24 The question I wanted to ask you was based on what you told us
25 yesterday about the limits of your knowledge. And do you recall

16

1 that conversation that you and I had about the limits of your
2 knowledge? That would be my first question.

3 A. Yes, I do admit it. You may be well aware that, at my level, I
4 was supposed to know the general information like other people in
5 the world would know about that information. I did not understand
6 the internal working arrangement of the Standing Committee.

7 Q. Very well, very well. Thank you, Mr. Witness. I'll just leave
8 off from that for now, possibly come back to it.

9 [09.35.49]

10 I'll move on very quickly to another topic. And now I'd like to
11 discuss particular transmissions -- excuse me -- particular
12 transmissions to and from Nuon Chea - or, at least, your
13 testimony about some particular transmission to and from Nuon
14 Chea.

15 The first - the first transmission I'd like to discuss regards
16 something you said to the civil party lawyers on Tuesday. Based
17 on what you told them and what you told my colleague, Major Son
18 Arun, yesterday, during your tenure as a telegram coder, you only
19 dealt with a single message from Nuon Chea, and that was a 1977
20 invitation to a meeting at the People's Representative Assembly;
21 is that correct?

22 A. Yes, that was the case once. And there was another instance --
23 I do not recall the exact date, but at that time Cambodian people
24 were suffering from either drought, or flood, or so at that time,
25 and then the upper authority issued a directive for us to prepare

17

1 telegrams to give instruction to address the food shortage issue.

2 And at that time the local authority were facing natural
3 disaster. And in that directive, there was a signature by Uncle
4 Nuon. That was the only case I saw.

5 [09.38.11]

6 Q. Thank you, Mr. Witness. If we could stay with that for a
7 moment, just so I understand it. There was a problem with
8 flooding, I think you said, at the local level, and the
9 leadership wanted to address this problem -- to solve this
10 problem, somehow -- and Nuon Chea's signature was on the
11 document; is that correct? Is that what you've said?

12 A. It was not meant to address the issue of flood, but the flood
13 had devastated the crops of the people in one of the locations,
14 so he provided recommendation for the people in order to address
15 the aftermath of the flood. For example, he encouraged people to
16 plant crops and he also urged the cadres to go to see the people
17 and encourage people to replant crops and things like that. So
18 these were the recommendations from him, and there was a
19 signature on that document, and it belongs to Nuon.

20 Q. Thank you, Mr. Witness.

21 I'll just move on to my next point. Based on -- and now I would
22 like to discuss a communication - a particular communication to
23 Nuon Chea.

24 [09.39.48]

25 And again, based on what you told the civil party lawyers on

18

1 Tuesday, during your time as a telegram coder, I believe you said
2 that you only saw one telegram relating to so-called "moral
3 offences". And, again, I'm referring to that Telegram 54, the one
4 that dealt with Sot. You said that was the only instance of a
5 moral offence that you dealt with; is that correct?

6 A. At the sector level, under Sarun, he reported only that
7 instance. And as for other telegrams, there was no report in --
8 to that effect.

9 Q. Thank you very much.

10 And now, if we could turn, perhaps, to one of your statements to
11 the investigators -- and I have two or three questions about
12 that, and I'm referring to document E3/67, and that's the written
13 record of the interview you gave to the OCIJ on the 28th of March
14 2009. And we've been discussing this document over the course of
15 the last several days.

16 [09.41.41]

17 Do you remember this document? Do you remember this interview we
18 discussed? This was your second interview.

19 A. No, I do not.

20 Q. Let me then refresh your recollection and just simply read
21 from a portion of this interview.

22 And I'm referring now -- again that's document E3/67. That's the
23 OCIJ interview of 28 March 2009. And I'm on English page 8 --
24 that's English ERN 00483970, Khmer ERN 00294542, and French ERN
25 00374937 through 38.

19

1 And allow me to just read this out, Mr. Witness. This is your
2 answer, in response to a question put by one of the
3 investigators:

4 "I did not know whether or not each location had made reasonable
5 reports in accordance with the actual situations because some
6 telegrams reported that 'the living standards of the people have
7 become better'; but actually they did not know that the people
8 ate porridge; I did not know. I heard from my friends, after they
9 had gone home and returned, that they were very sorry to see that
10 the base was poor and deficient, that their parents did not have
11 enough food to eat. But when one listened to the radio, it was
12 broadcast that our country had plenty, and was joyful in the
13 great leap forward. In the Democratic Kampuchea time, I also
14 listened to the broadcast while working. I was so [very] happy to
15 hear that the people had better living; there were canals linking
16 each other; but the fact was different from what the radio was
17 broadcast. Sometimes, someone wanted to have good face for
18 himself, he just reported 'very good, very good'; but some places
19 had made true reports as well."

20 [09.44.14]

21 Do you remember giving that answer to the OCIJ investigators?

22 A. Yes, I do, and I stand by this statement.

23 Q. Thank you. Now, if I could just ask you one or two questions
24 about this.

25 It seems to me -- it seems to me, from reading this passage, that

20

1 you, yourself, in the Telegram Office, during the DK period,
2 didn't know -- didn't have a true or a clear understanding of
3 what was actually happening at the bases and that that was in
4 part because reports coming from the bases were not correct; is
5 that true? Is that an accurate summary of your position?

6 A. I have already told the Court that I did not have any idea
7 whether or not the situation that evolved at the bases were true
8 or not, but I asked my colleagues who came to visit their homes.
9 They told me that in certain bases there were good leaders, and
10 they had sufficient food to eat. But in other places, people --
11 the leaders were not that good, and people had to eat porridge.
12 That was the reality that reflected the situation at the time.

13 Q. Thank you, Mr. Witness. And just one more question on this
14 point.

15 [09.46.23]

16 Let me repeat what you said to the investigators: "Sometimes,
17 someone wanted to have good face for himself, he just reported
18 'very good, very good'."

19 Could you just explain a bit what you meant by that particular
20 sentence, someone wanting "to have good face"?

21 A. It means that people want to claim their credit, they wanted
22 to be promoted. For example, if they were at the sector
23 committee, they wanted to be promoted to the zone committee or to
24 the Central Committee or Standing Committee then. That is the
25 greed of certain individuals, so they simply wanted to claim

21

1 credit for themselves.

2 It was not the – a clear or totally accurate reflection because I
3 -- it was based on my analysis, because I look at certain
4 reports; they said that the rice production yield was up to 3
5 tons per hectare; at other places, there were 5 tons per hectare.
6 In other reports, they also mentioned that 10 tons -- 10 metric
7 tons of rice production yield per hectare. And if that was the
8 case, why people were starving at the time? That was my personal
9 judgement of the situation.

10 [09.48.21]

11 And upon hearing your question, in my own analysis, I think that
12 there could have been certain people who wanted to claim their
13 credits. That's why they had to – and the report of the
14 situation, and they make mention in their telegrams that people
15 were enjoying their lives, there were progress made at their
16 location, but in reality that was not the case. Even the food --
17 enough food to eat -- was difficult for the people, and they did
18 not even have proper clothes to wear.

19 I also noticed that sometimes Angkar distributed clothes and
20 materials to them. Mr. Khieu Samphan was the one who ordered the
21 distribution of materials and equipment. But, unfortunately,
22 people on the ground did not have access to materials and clothes
23 to wear. For example, if the Centre sent the sewing machine
24 there, sometimes they were broken and it was under maintenance,
25 so it was not put into good use. And that's why it reflected the

22

1 miserable life condition of the people, and it also reflected the
2 incompetence of the local authority in leading their own
3 location.

4 Q. Thank you very much, Mr. Witness. That was a very interesting
5 answer.

6 [09.50.03]

7 If I may move on to another question, staying with this - staying
8 with this document, E3/67, moving to English page 12 -- and that
9 is English ERN 00483974, Khmer ERN 00294546, and French ERN
10 00374941.

11 And, again, I'll just quote to you an answer you gave to one of
12 the questions of the OCIJ investigators -- quote:

13 "On imposing sanction and investigation, the Angkar had
14 instructed not to do harm to the people; but as you already know,
15 when an artillery was fired, sometimes it hit the target and
16 sometimes it did not hit the target we had set; sometimes it
17 scattered around; it was inevitable to cause death and injury."

18 [09.51.10]

19 So, my question to you, Mr. Witness, is: Do I understand that
20 answer to mean that oftentimes people were harmed by what we
21 would call -- in what we would call collateral damage -- what we
22 would call collateral damage -- that is, accidental consequences
23 of what you might consider legitimate military activity?

24 MR. ABDULHAK:

25 Mr. President, we would object to this question. Unless my

23

1 learned friend can lay a foundation, we would object.

2 We were instructed and took great care to elicit evidence from
3 the witness's personal knowledge and experiences. And the
4 witness, if I recall correctly, has indicated that he did not go
5 into the bases, and nor did he ever observe any military
6 operations. Again, I stand to be corrected if I -- if otherwise
7 was the case.

8 But I would invite my friend to first lay a proper foundation,
9 ensure that the witness has direct knowledge of these events, and
10 then continue from there.

11 [09.52.24]

12 BY MR. IANUZZI:

13 I certainly agree with that. I apologize for not doing that
14 first.

15 Q. Mr. Witness, let me ask you again -- or let me just repeat a
16 bit from your statement: "...when an artillery was fired, sometimes
17 it hit the target and sometimes it did not hit the target we had
18 set; sometimes it scattered around; it was inevitable to cause
19 death and injury."

20 So, my first question, which I should have asked you previously:

21 What is the basis of your knowledge for that statement?

22 MR. NORNG SOPHANG:

23 A. I did explain the Court about this issue already.

24 [09.53.22]

25 I did not know the truth at the bases, and I did not know whether

1 or not there was artillery fire -- and killed the civilians. So
2 whatever I said that I did not know, it was my assumption, so I
3 would suggest that the Court remove this statement. I think that
4 should be it. That should be invalidated because it was not the
5 accurate reflection of the truth.

6 Q. Very well. Thank you, Mr. Witness.

7 And moving on, I think I've got about -- just to give my
8 colleagues some notice, I've got about three more questions, and
9 then I'll be finished.

10 Mr. Witness, the other day, you mentioned in passing, at some
11 point during your testimony, that you would be delighted -- I
12 think that's the word you used, "delighted" -- to come back here
13 into Court and to testify about certain foreign perpetrators of
14 crimes in Cambodia. Who did you have in mind when you made that
15 statement?

16 MR. ABDULHAK:

17 Again, Mr. President, we would object; we see no relevance--

18 [09.54.52]

19 MR. PRESIDENT:

20 Witness, please hold on.

21 Mr. Prosecutor, you may proceed.

22 MR. ABDULHAK:

23 Your Honours, we would object; we see no relevance to the
24 witness's outlook on what other perpetrators may be responsible,
25 what other trials may hypothetically take place, and what

25

1 evidence he may hypothetically give. It's not an issue that's
2 within the scope of this trial.

3 MR. IANUZZI:

4 My very brief answer would be, if it is within this witness's
5 personal knowledge that certain crimes were being committed
6 during the DK period or shortly before the DK period by foreign
7 perpetrators, then that is indeed relevant to many of the issues
8 that we would like to have debated and discussed in this case.

9 [09.55.39]

10 So let me perhaps rephrase the question and see if I can
11 establish the basis of the witness's knowledge and go on from
12 there.

13 BY MR. IANUZZI:

14 Q. Mr. Witness, you mentioned this in passing. Perhaps it's best
15 if you just explained to us what you were talking about so that
16 we know how to deal with that - with that piece of information
17 that you offered. Do you have some actual knowledge about foreign
18 crimes being committed in Cambodia -- in this country, either
19 during the DK period or shortly before the DK period?

20 MR. PRESIDENT:

21 Witness, please hold on.

22 (Judges deliberate)

23 [09.56.42]

24 The witness needs not answer this question; this question is not
25 relevant to the relevant facts before us.

1 BY MR. IANUZZI:

2 Thank you, Mr. President. I'll move on my next question.

3 Q. Mr. Witness, over the course of these past few days, there's
4 been quite a bit of talk about offices beginning with the letter
5 K -- K-1, K-18 -- all those K's on that chart that you prepared
6 for the OCIJ investigators. So, while we're on that theme -- on
7 the theme of K's -- I would like to know if you, as a Cambodian
8 citizen, are familiar with Operation K5, or the K5 Plan, which
9 was implemented in this country not very long after the demise of
10 Democratic Kampuchea. Are you familiar with K5?

11 MR. ABDULHAK:

12 Again, Your Honours, with--

13 [09.57.46]

14 MR. PRESIDENT:

15 Witness, please hold on.

16 Mr. Prosecutor, you may proceed.

17 MR. ABDULHAK:

18 Again, Mr. President, we would object for the same reasons.

19 With respect to my learned friend, events occurring after the end
20 of the Democratic Kampuchea, unless there is a direct link with
21 evidence that Your Honours are now hearing, are simply irrelevant
22 and should not be explored.

23 MR. IANUZZI:

24 Thank you. And I've said several times before in this courtroom,
25 the issue of whether or not deaths which occurred on a massive

1 scale -- on a rather massive scale -- during the 1980s have been
2 wrongfully attributed to the Khmer Rouge. That's an issue that
3 we've briefed the Chamber on. That's an issue that we've raised
4 time and again.

5 [09.58.38]

6 As far as we're concerned, it's obviously relevant, so I think
7 the question is a legitimate one. I have a feeling I know what
8 you're going to say, though.

9 MR. PRESIDENT:

10 The objection and the grounds for objection by the prosecutors
11 are valid. This question is not relevant to the fact concerning
12 the evidence we are hearing.

13 Witness needs not answer to this question.

14 BY MR. IANUZZI:

15 Thank you, Mr. President.

16 Q. And I do have one more question. And, Mr. Witness, thank you
17 for bearing with me. This will be my last question.

18 [09.59.25]

19 As someone who was specialized in secrecy, and ambiguities, and
20 enigmas for a number of years, perhaps you can assist me and
21 assist the Chamber as to the particular significance of a phrase
22 that I've been - I've been struggling with for some time now. And
23 I've been told that -- I've been instructed that this phrase is a
24 kind of secret code that is a deliberately ambiguous use of
25 language, one that's utilized by certain individuals in positions

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1 of power in this country to exert their influence in subtle ways.

2 And the phrase I'm referring to is as follows: "The dogs bark;
3 the caravan passes."

4 Now, I fully understand the literal meaning of those individual
5 words and I think I can partially grasp the general sense of that
6 phrase. However, I thought, given your background and experience,
7 you may be able to shed light on any deeper, hidden meaning that
8 attaches to that expression, especially when it is used by
9 someone, for example, like Mr. Khieu Kanharith. Would you have
10 any -- would you be able to shed any light on the deeper meaning
11 of that phrase?

12 Now, please don't answer, my friend is on his feet.

13 [10.00.41]

14 MR. ABDULHAK:

15 Again, Mr. President, we would object. Clearly--

16 MR. PRESIDENT:

17 Witness, please wait.

18 The Prosecution, you may proceed.

19 MR. ABDULHAK:

20 Again, Your Honours, we would object. I note it was my friend's
21 last question, so I won't accuse him of continuing to waste time.
22 But, clearly, the witness's comments about what people may say
23 and what the meaning of those words may be, completely divorced
24 from the Democratic Kampuchea context, are irrelevant and should
25 not be allowed.

1 [10.01.20]

2 MR. IANUZZI:

3 For the record, Your Honour, our position, as it has always been,
4 is that the public statements -- explicit, implicit, or otherwise
5 -- by government officials, which may or may not be attempts to
6 influence these proceedings, are indeed relevant, and they're
7 relevant for the reasons that are already on the record, so I
8 won't take up any more time with the Chamber.

9 That was indeed my last question, Mr. Witness. Thank you very
10 much for bearing with me yesterday and today. And I do wish you
11 all the best. Thank you.

12 MR. PRESIDENT:

13 The objection and its ground by the Prosecution is sustained.

14 Mr. Witness, you do not need to respond to the last question put
15 to you by the international counsel for Nuon Chea.

16 The floor is now given to Ieng Sary's defence to put questions to
17 this witness. You may proceed.

18 [10.02.24]

19 QUESTIONING BY MR. KARNAVAS:

20 Good morning, Mr. President. Good morning, Your Honours, and good
21 morning to everyone in and around the courtroom, and good
22 morning, sir. My name is Michael Karnavas and with Mr. Ang Udom,
23 we represent Mr. Ieng Sary.

24 Q. Now, I want to go back to the time when you gave your first -
25 I want to go back to the time when you gave your first interview,

30

1 and I'm referring to the document that you looked at yesterday.
2 It's, for the record, E3/64. And we can see from the very first
3 page of this document that the statement began on 18 February
4 2009 and that there was a Cambodian investigator and a foreign
5 investigator. Do you recall that?

6 MR. NORNG SOPHANG:

7 A. Yes, I recall that.

8 [10.03.41]

9 Q. And if we go to the second page -- in Khmer, the ERN number is
10 00328022, going on to 23; French, 00411693; and then English,
11 it's 00334043. Here we see some boxes, and it says that you were
12 advised "that an audio or video recording was being made of the
13 interview". Do you recall being advised of that?

14 A. The box ticks that: "We advised the witness that an audio or
15 video recording was being made of this interview."

16 They did inform me so, but the audio or video recording did not
17 start first. Only later, when the interview commenced and -- the
18 audio recording was started. But they informed me first, before
19 it was recorded.

20 Q. Right. And we can see that the interview began at 9 o'clock in
21 the morning. But shortly we will also play a tape to discuss
22 exactly when the interview began, and I'll be asking you some
23 questions on that.

24 [10.05.57]

25 Now, under these boxes, we'll also see that you were advised of

1 your rights and you were also advised that – well, or there's one
2 box, that you "took an oath" before providing the statement. Do
3 you recall taking an oath?

4 A. Yes, I recall that I took an oath.

5 Q. And when they advised you of your rights, do you recall
6 whether they advised you of your rights before they went on tape
7 or, in other words, before you spoke on tape, or was it after you
8 began speaking on tape?

9 A. They informed me of my right -- of my right against
10 self-incrimination.

11 Q. Thank you. And just one technical matter. One of the boxes
12 also asks if you know any foreign languages, and you say that you
13 declared that you cannot read or write any languages. Do you
14 recall ticking that box off?

15 [10.07.49]

16 A. Just to understand a language, a little bit could not be used
17 officially. For that reason, I declared that I cannot read or
18 write any other languages.

19 Q. All right, thank you. So that would explain why, later on in
20 your interview, you indicated that, when you began teaching the
21 children, you were teaching French and English, that you had
22 limited knowledge and you were -- but with that limited knowledge
23 you were teaching the children, but for the purposes of this
24 interview your knowledge was not sufficient.

25 A. It was not about teaching how to speak French or English. The

1 teaching was for them to have a basic knowledge of the Latin
2 characters -- for example, which one was letter A and which one
3 was letter B; and English, the word "a", in French, would be
4 pronounced [a], etc. It was not a proper language class.

5 [10.09.15]

6 Q. Thank you very much. And then, if we look at the very last
7 page of this document, we see that a copy of this was provided to
8 you in writing and that this document was read to you and you had
9 no objections before signing it.

10 A. Yes, I remember that the statement was read back to me. And
11 after having heard the statement read to me, it was consistent
12 with what I spoke. And after that I signed the statement.

13 Q. Very well. And we can see the date, that the date is the 27th
14 of March 2009, which is about five weeks after the statement and
15 one day before you gave your second statement; is that right?

16 A. I cannot see when the interview started.

17 [10.11.22]

18 MR. PRESIDENT:

19 Michael Karnavas, the questions that you have been posing to the
20 witness, do they related -- or are they related to any charges
21 against your client?

22 MR. KARNAVAS:

23 Well, the witness has testified and he has given evidence which
24 you are going to be relying on. And in the past, when I've raised
25 issues concerning statements, we have been told by the

1 Prosecution that this is the time where we should explore those
2 issues.

3 And, yes, it is related to the case. And if you give me another
4 five minutes, we will see how.

5 But first I want to make sure that the gentleman acknowledges
6 that he signed it five weeks after he gave the interview. And if
7 we look at his second interview we--

8 MR. PRESIDENT:

9 The question from the Chamber to you: Did you ever read these
10 statements during the investigative phase?

11 [10.12.40]

12 MR. KARNAVAS:

13 You're asking me, Mr. President? Did I read them? Yes, I read
14 them. There were thousands of them.

15 And -- but the question is: Did I have time to go over all of the
16 transcripts or all of the tapes? And the answer to that is
17 absolutely not.

18 And the better question is: Did the entire Bench have the
19 opportunity to read everything? And the answer to that would be
20 no. It's physically and humanly impossible.

21 But part of our due diligence is to explore this area because the
22 question is: Is his testimony today based on his memory back then
23 or was it based on events that occurred during the taking of his
24 testimony where he was shown documents? And we will also show
25 that some things he said on tape--

1 MR. PRESIDENT:

2 We have two observations regarding the Internal Rule 76,
3 regarding the nullification in subrule number 12 (sic).
4 [10.13.51]

5 During the investigation stage, if any of the parties request to
6 nullify, then it shall be done so through the Co-Investigating
7 Judges by lodging an appeal for nullification to the Pre-Trial
8 Chamber. The Co-Investigating Judges may accept or reject the
9 request. And in any cases that shall be done prior to the
10 issuance of the Closing Order. This is subject to appeal based on
11 the Internal Rules.

12 And I already read to the counsel regarding -- Rule 76.7
13 regarding the cure of the procedural defects. And if there is any
14 such procedural defect, those issues may not be raised before the
15 Trial Chamber or the Supreme Court Chamber.

16 And these are the observations made by the Chamber.

17 And your question, so far, seems to lean itself to this part. And
18 the questions shall be put to this witness in relation to the
19 charges against the accused. This is just a reminder to you,
20 Counsel.

21 MR. KARNAVAS:

22 Well, thank you, Mr. President, but I must take exception because
23 what you are suggesting is that we do not have the opportunity to
24 challenge the witness's testimony -- that's what I'm hearing. You
25 are taking that right away from us.

35

1 I'm not seeking nullification of the process. Now, one of the
2 other Judges may think that that's what I'm doing, but that is
3 not what I am doing. What I am doing, however, is showing that
4 some things were said to the gentleman on the tape that never
5 made it.

6 [10.15.49]

7 Also, we will hear – we will hear part of the tape where it is
8 acknowledged that he spoke with the -- these investigators the
9 day before. These two investigators are the same investigators
10 involved in a – in another matter. And, in fact, one of the
11 national investigators, we now learn, is related to one of the
12 national prosecutors.

13 And so these are the sort of issues that we want to explore. I
14 certainly want to explore what happened the day before: Was he
15 shown documents? How long was the conversation? Why wasn't that
16 initial interview tape-recorded? What's the purpose of having a
17 dress rehearsal? If you're going to try to have some
18 transparency, which is the purpose of having--

19 MR. PRESIDENT:

20 I think that's it, Counsel.

21 (Judges deliberate)

22 [10.18.55]

23 Judge Lavergne is tasked to take the floor in response to this
24 matter. You may proceed.

25 JUDGE LAVERGNE:

1 Counsel Karnavas, the Trial Chamber will recall some very obvious
2 facts.

3 The judicial investigation that preceded this trial lasted many
4 years. During the course of the investigation, there were
5 investigative acts that were put on the case file. They were made
6 accessible by the defence teams and by the Accused. All of the
7 questions that you've put forward or that have been put forward
8 to date are based on the written records of witness statements.
9 All of those indications were entirely accessible by you as well
10 as by any other defence team representing any one of the Accused.
11 The President has recalled at many occasions the rule that govern
12 appeals to procedural acts. We are not discussing the
13 investigation at this point in time.

14 I would also add that as far as the audio recordings are
15 concerned, those audio recordings are obviously in Khmer, and
16 there are no written transcripts and there is, subsequently, no
17 French or English translation. Nevertheless, each defence team is
18 comprised of Cambodian lawyers; each Cambodian lawyer has the
19 ability and power to listen to those audio recordings if he or
20 she wishes.

21 [10.21.09]

22 What have the defence lawyers been doing over the course of the
23 many years of the judicial investigation? That is my question.
24 We are here to study and examine issues of substance. Issues
25 relating to the judicial investigation must not be subject to

1 redundant and repetitive questions.

2 We have received many written submissions on this matter. The
3 Trial Chamber will respond in due course, but I believe that we
4 have explored the matter extensively and we are now ready to move
5 on to the next topic.

6 MR. KARNAVAS:

7 I would like to play tape 1, play 4, with the Court's permission.
8 [10.22.15]

9 MR. PRESIDENT:

10 Counsel, could you please repeat, as there is no Khmer
11 translation?

12 MR. KARNAVAS:

13 Thank you.

14 At this point, I would like to play tape 1, play 4. And what we
15 are about to hear, keeping in mind Judge Lavergne's remarks,
16 which, in my humble submission, go to the investigative phase --
17 and I'm not talking about the investigative phase; I'm talking
18 about this gentleman's testimony. And perhaps there's a cultural
19 divide or a - or a legal divide from our legal different
20 traditions, but I assume that we're here to try to get to the
21 truth -- I assume that.

22 [10.22.59]

23 But if -- when we play this, we will hear on the tape words to
24 the effect, "I would like you to narrate your life story a little
25 bit, as you briefed me yesterday". So, the day before they

1 weren't on tape, the day before he was advised of his rights, the
2 day before he was questioned on tape, there was an interview.

3 What documents were shown to him in that interview? How long that
4 interview took place? Where did that interview take place? All
5 those sorts of questions I'm entitled to ask.

6 And if I'm not entitled to ask, I will be making submissions and
7 I will be submitting also the questions that I would have asked
8 to help you get to the truth, which would appear there's a
9 disinterest on the part of the Trial Chamber to actually get to
10 the truth.

11 Because those sorts of questions are essential in determining
12 what weight, if any, to give this witnesses testimony here in
13 Court, because, in part, his testimony is on his statements which
14 occasionally he has to refer to. He's told us on a number of
15 occasions that he disavows what he said.

16 [10.24.10]

17 Earlier he said that he signed it having agreed with the content.
18 Now, if he signed it under oath, agreeing with the content,
19 either he misunderstood, either somebody else put it in there,
20 either it was suggested to him. But these are the sort of things
21 that I'm entitled to explore, and why, because before you are
22 submissions by the Prosecution to hear hundreds of statements in
23 lieu of testimony.

24 And when you pose the question to me, what have I been doing and
25 my team for the last three or four years, well, let me remind the

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1 Trial Chamber that this was the very first case of this kind in
2 Cambodia, and all these -- there were all sorts of legal issues
3 that had to be addressed. Otherwise, we would have waived them.
4 So -- and the team that you suggest is -- pales in comparison to
5 the armada, the Roman legion of a team that the Prosecution has.
6 So, I'm entitled to explore this because it assists you to give
7 weight to this - to this gentleman's testimony.

8 [10.25.20]

9 I am not attacking the Office of the Co-Investigative Judges,
10 albeit it may seem that way.

11 And, yes, my third investigative request, I submitted asking the
12 modalities. How do they interview, precisely? What are the -- you
13 know, how do they keep track of exculpatory evidence? What is the
14 template? We never received an answer. Had we received an answer,
15 perhaps we wouldn't be here.

16 But I believe this is a sort of tape that will assist the
17 gentleman to tell us how long the interview took the day before,
18 because I wasn't there. Nobody was there. Only this gentleman was
19 there, and the two investigators who are also involved under
20 similar conditions, in conducting such an interview.

21 [10.26.13]

22 MR. PRESIDENT:

23 The Prosecution, you may proceed.

24 MR. ABDULHAK:

25 Thank you, Mr. President. I'll try and be brief, but I think the

40

1 record needs to be corrected in a number of respects.

2 First of all, my learned friend referred to thousands of
3 statements. Of course, as Your Honours know, that is not true.

4 The initial reference was to – not to thousands of statements. In
5 fact, there were 943 written records filed over a period of three
6 years, certainly not an insurmountable workload for a team of
7 lawyers and support.

8 And let also -- let the record also reflect that the resources of
9 the OCP are roughly equal to that of the defence teams.

10 [10.27.13]

11 Returning to the issue of propriety of an inquiry that my learned
12 friend is proposing -- and if I may just -- I note Your Honours'
13 directives and I just want to add to the record also, this
14 statement was filed on the 15th of September 2009, several months
15 before the investigation was closed. It was available to my
16 learned friend. Out of those 900 plus written records, a smaller
17 number relate to the acts and conduct of the Accused. One would
18 have assumed those were the interviews to which the Defence was
19 paying attention, and certainly interviews that would have been
20 of interest to them as they were, particularly, to us.

21 Having not raised any of these issues or inconsistencies with the
22 Co-Investigating Judges, having failed to request follow-up
23 investigative action that would have been appropriate in light --
24 had the Defence considered there to be any inconsistency, they
25 now come before you, some three years after the interview, to

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1 raise these issues. They do not come before you in good faith --
2 that is our respectful submission.

3 [10.28.37]

4 And let me also say the following. We would agree with counsel
5 that where significant inconsistencies arise, where there is a
6 legitimate question as to the credibility of a witness -- we
7 would agree with our learned friends that a -- that some latitude
8 should be given to them to explore prior statements and prior
9 transcripts. But what we have heard over the last several days is
10 consistent and compelling testimony from this witness who has
11 been at pains to stress the accuracy of his responses and to
12 qualify those responses which he thought verged on speculation.
13 It is a question of degree. We would submit that this attempt to
14 falsely create a sense of controversy, which simply is not there,
15 should not be entertained in this particular case. We are -- we
16 will always support our learned friend's right to test the
17 evidence, but it is a question of degree, and in this case they
18 have certainly gone beyond that which is legitimate. And we
19 propose that our learned friend should now be directed to turn to
20 alleged inconsistencies in the statements and test the witness's
21 evidence in that manner. Thank you.

22 (Judges deliberate)

23 [10.30.21]

24 MR. PRESIDENT:

25 The time is now appropriate for the morning adjournment. We will

1 adjourn from now until 10 to 11.00.

2 Court officer is instructed to facilitate the place for the
3 witness to rest and have him back in this courtroom by 10 to
4 11.00.

5 The Court is now adjourned.

6 THE GREFFIER:

7 (No interpretation)

8 (Court recesses from 1030H to 1104H)

9 MR. PRESIDENT:

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

11 In order to respond to the clinical aspects regarding the way of
12 putting questions to the witness by Counsel Michael Karnavas --
13 that is, the international counsel for Ieng Sary -- the Chamber
14 will give the floor to Judge Cartwright to clarify and respond to
15 these issues.

16 Judge Cartwright, you may proceed.

17 JUDGE CARTWRIGHT:

18 Thank you, President.

19 [11.06.11]

20 The Trial Chamber has deliberated briefly on the issue that you
21 raised, Mr. Karnavas, and on behalf of the Chamber I wish to
22 acknowledge first that it is understandable that those coming
23 from different legal systems have some discomfort with a
24 different legal process. However, it is the procedure upon which
25 this Court functions and it is the procedure that was agreed as

1 long ago as in the Agreement Between the Royal Government and the
2 United Nations.

3 Therefore, the general rule is that there is a legal presumption
4 of the integrity of the investigation, that any concerns about
5 the methods or the subject matter traversed during the
6 investigation must be raised during the investigation. And now,
7 at trial, as Judge Lavergne has expressed, the investigation is
8 treated as the starting point and can be rebutted only in
9 exceptional instances.

10 Any such rebuttal must relate not to technical issues but to
11 substance. And in raising an exception, you must satisfy the
12 Trial Chamber that you have well-grounded concerns about the
13 reliability of any part of the investigation. To use a well-known
14 common law term, you cannot embark on a fishing expeditious --
15 expedition.

16 [11.08.23]

17 It seems to the Trial Chamber that most concerns about what a
18 witness might have said during an investigation and what he or
19 she is saying now in evidence can be dealt with quite simply by
20 asking the witness. And for that reason - for these reasons, the
21 Trial Chamber is yet to be convinced that the playing of a tape
22 or a portion of a tape will assist in any way. You need to
23 satisfy the Trial Chamber that there is a well-grounded reason
24 for going back inside the investigation and investigating it.
25 Therefore, we would prefer and so rule that you simply ask the

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1 questions that you have of the witness.

2 Now, I'll just pause here to make sure that there is nothing the
3 President wishes to add to what I have said.

4 [11.09.32]

5 MR. PRESIDENT:

6 Thank you, Judge Cartwright. I have nothing further to add.

7 MR. KARNAVAS:

8 Thank you. And I understand the ruling and I appreciate the
9 ruling.

10 And in the future, where we do endeavour to do this, we will see
11 whether we have exceptional circumstances and raise them because
12 now we understand the Court's position.

13 And I should note -- I'm told by the - by my colleague that when
14 I did mention that one of the national investigators was related
15 to a prosecutor, that was improperly translated. You know, he's
16 actually a younger brother of one of the national prosecutors,
17 and this is the same investigator involved in the matter in which
18 we filed an application, E2224 (sic), dealing with another
19 witness. Now--

20 MR. PRESIDENT:

21 Judge Cartwright, you may proceed.

22 [11.10.39]

23 JUDGE CARTWRIGHT:

24 I'm sorry, Mr. Karnavas, I just need to clarify that point as
25 well.

45

1 Any suggestions of impropriety are themselves improper. And a
2 suggestion that someone is related and – draws – is asking the
3 Trial Chamber to draw an inference of impropriety. Therefore, it
4 is not acceptable in Court.

5 So, I do apologize for interrupting, because I know what it's
6 like to be on a – on a train of thought. So please proceed now.

7 MR. KARNAVAS:

8 Thank you. And I apologize; I'm learning as I'm going along. I'm
9 trying my level best -- we do try to be professional, and
10 sometimes we don't get it right, but we do endeavour, and we
11 appreciate the Court's understanding and indulgence.

12 [11.11.31]

13 BY MR. KARNAVAS:

14 Q. Sir, let me ask you a simple question: The day before you were
15 interviewed on tape, did you have a meeting with the
16 investigators? And if so, can you please tell us where it was
17 located?

18 MR. NORNG SOPHANG:

19 A. One day prior to my interview, the team meet me. They met me
20 while I was teaching at Ou Chamlang Primary School.

21 Q. Thank you.

22 Now, yesterday, my colleague showed you a portion of your – of
23 your interview where, for the very first time, you mention a
24 Pang. And of course it's not anywhere in the summary before,
25 which would suggest that Pang was discussed the day before.

1 [11.12.38]

2 Do you recall whether, indeed, you discussed Pang the day before
3 you went on tape?

4 A. I cannot recall that. Before the tape – the audio tape
5 started, I cannot recall whether the issue regarding Pang was
6 asked.

7 Q. Okay. So, you can't recall – well, did you have an interview –
8 on the day that you were tape recorded, were you also asked
9 questions prior to being interviewed?

10 A. Before the interview took place, we chatted a little bit, but
11 I cannot recall that conversation at the time because we do not
12 have anything in writing and it was not -- not taped, and it's
13 been three or four years now.

14 Q. What about your conversation from the day before? Can you
15 please tell us, at least, how long that lasted -- how much
16 chatting was done the day before?

17 [11.14.29]

18 A. If I can recall it, the conversation was not long; it lasted
19 about one hour. And at that time I was busy teaching my students,
20 and they waited till the break time, then they came up to me, and
21 we had a conversation. The break was at 10 a.m., and I think the
22 conversation lasted about one hour.

23 Q. All right. Thank you.

24 Let's move on a little bit to when you actually was read your
25 statement -- the summary of it -- and then you signed it. And the

1 reason I'm asking is because, in testifying here over the last
2 three or four days, you've indicated that, at times, you were
3 speculating when you were providing answers. Is that right?

4 A. There were several words in my statement back then, including
5 "perhaps", "maybe" or "it is possible that or this", because at
6 that time the OCIJ investigators did not inform me that those
7 words cannot be used in the Court of Law; they only tried to put
8 request to me to explain. But they did not tell me that I cannot
9 use those terms.

10 [11.16.51]

11 Q. All right. And one of the other phrases that you have used
12 both - in both of your statements is, "as I understand it", "as
13 far as I understand" -- words to this effect. When you say "as
14 far as I understand", are we to interpret that in those instances
15 you are also speculating?

16 A. At that time, the team requested me to explain to them, and my
17 explanation of course based on my understanding; it is not the
18 fact, it is equivalent to my analysis -- or you can say "my
19 speculation" -- because it is based on my understanding.

20 Q. And that was my next question because there are some instances
21 where you also say, even here in Court, "according to my
22 analysis". So, when you say "according to my analysis",
23 especially when the investigators were showing you documents,
24 were you speculating at that time as to how to interpret the
25 document or the events described in the document?

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1 A. My response was based on the questions put to me. Regarding
2 the matters or the events and, of course, based on the level on
3 my knowledge, my response would be accordingly.

4 [11.19.14]

5 Q. Thank you.

6 Now, yesterday -- and I just want to also make sure that we
7 understand that that's - that principle that you are speculating
8 when posed those sorts of questions also applies when questions
9 are posed from the Bench.

10 Let me refer to a question that was posed to you yesterday; and
11 this can be found on page six -- it's right below 09.16.53.

12 You were asked by one of the Judges: "Therefore, is it possible
13 that it was So Phim or is this not certain? Could it be a
14 possibility? I'm not asking you whether or not you know this, but
15 you think it's possible that it could have been So Phim?"

16 And your answer is: "Yes, that is possible."

17 Now, using this as an example, when you are answering these sorts
18 of questions, are you speculating, as well?

19 [11.20.38]

20 MR. PRESIDENT:

21 Witness, please wait.

22 The Prosecution you may proceed.

23 MR. ABDULHAK:

24 Your Honours, I would object to the characterization that my
25 learned friend just put on the witness's -- description of his

1 responses. There's a subtle but important difference.
2 If we return to the witness's last response, where he used the
3 word "analysis", he said "analysis which is based on my
4 understanding", or "an explanation based on my understanding".
5 Now, there is a significant difference between one speculating
6 without any knowledge of the fact and one who had more than
7 eight-year experience, based on this witnesses testimony, in the
8 procedures of communicating and in - and in the systems that were
9 employed.

10 We would submit respectfully that when the witness gives, to use
11 his words, and "analysis" based on his extensive experience and
12 knowledge, that is not speculation.

13 [11.21.43]

14 And that is why I object because my learned friend is
15 characterizing that analysis as speculation. And I would invite
16 Your Honours to give a direction to counsel and to the witness as
17 to this very important difference which - which, I think, may
18 have been lost possibly in translation and possibly the way that
19 counsel are characterizing the evidence.

20 MR. KARNAVAS:

21 If I may briefly respond, it's rather rich for this prosecutor to
22 stand up and then - go ahead and give a closing argument while
23 also telegraphing to the witness what he should be saying, when
24 he was accusing the Defence of doing the very same thing.
25 You have his answers. Obviously, we are getting started. I asked

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1 him a question; he gave us an answer. I then went to a concrete
2 example where it wasn't based on analysis but where he was asked
3 to speculate.

4 So, we leave it to you, Your Honours, to decide.

5 [11.22.50]

6 And of course the Prosecution will have ample time to clarify, in
7 their closing brief, what the gentleman meant when he says he has
8 based on his "analysis". But my question went to what was being
9 asked of him by Judge Lavergne, which had nothing to do with
10 analysis.

11 So, in addition -- and perhaps my learned friend was being polite
12 or I beat him to the gun and beat him to the opportunity to stand
13 up -- that objection was belated.

14 (Judges deliberate)

15 [11.26.17]

16 MR. PRESIDENT:

17 The Bench would like to give the floor to Judge Cartwright to
18 rule on the objection to the last question and the reply by the
19 international counsel for Ieng Sary. You may proceed, Judge
20 Cartwright.

21 JUDGE CARTWRIGHT:

22 Thank you, President.

23 The Trial Chamber allows the objection from the prosecutor and
24 notes that the question put to the witness was based on a
25 presumption that Judge Lavergne had asked questions which invited

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1 a speculative answer. That is not correct.

2 [11.27.10]

3 And it's necessary to specify that the word "speculation", in
4 English, means "guess" -- in other words, no factual basis for
5 making a statement. The witness's testimony has been translated
6 as "analysis", which is an - a statement made by the witness
7 which is based on facts that he knows. Consequently, use of the
8 word "speculation" is not acceptable in relation to what this
9 witness has called "analysis".

10 So, Mr. Karnavas, if you could possibly avoid the use of the word
11 "speculate" and use the more neutral terms when you are
12 challenging this witness? Thank you.

13 BY MR. KARNAVAS:

14 Thank you, Judge Cartwright. Well, we'll - we'll get back to this
15 issue momentarily. But let me move on, and we'll get back to the
16 issue of your analysis at times.

17 [11.28.39]

18 Q. Now, you told us that, after listening to the summary, you
19 went ahead and signed it, knowing that you were signing it as a
20 statement under oath. And then you were asked a question here, in
21 Court, concerning a reference you made to my client, Mr. Ieng
22 Sary, and the Ministry of Foreign Affairs.

23 And I'm referring specifically to page 13 of document E3/64; the
24 Khmer ERN number is 00328035 to 37; French, 00411703 to 04; in
25 English, it's 00334054.

1 And if you look at it, you will see that you are asked a
2 question: "You said that [Mr.] Ieng Sary had his own working
3 place; were there any telegram translators at his place?"

4 Answer: "Ieng Sary had his Foreign Affairs Ministry, so he had
5 his personal telegram translators."

6 Let's stop there for a second. When you say "so he had his
7 personal telegram translators", was that you saying that or was
8 that something that was put there by the investigators based on
9 their understanding as to what you had told them.

10 MR. NORNG SOPHANG:

11 A. The statement was mine; it was not an addition by the
12 investigator.

13 Q. All right. So, when you say "so he had his personal telegram
14 translators" -- when you said that, you were not speculating;
15 that was a fact that you knew back then?

16 A. The thing happened long time ago; I am not certain as to who
17 the translators of the telegrams were.

18 [11.32.08]

19 But later on I found out that whatever telegrams I - that were
20 not sent to my unit -- and he had other telegrams to be sent to
21 his foreign counterparts overseas -- he must have had his own
22 means to send the telegrams overseas. He might have had other
23 means based on the actual circumstance at the time.

24 At the initial stage, for foreign communication, they sent the
25 telegrams to my unit, and those telegrams contained the signature

1 of Yem and others. But later on I cannot recall. But I myself did
2 provide telegram training to the staff members of Foreign Affairs
3 in terms of decoding messages, but later on I did not have any
4 contact with the Ministry of Foreign Affairs.

5 Q. All right. Well, we're going to get to this. So, are you
6 telling us -- for the first time, because it's not in your
7 statement and it wasn't mentioned before in your testimony --
8 that you actually went to the Ministry of Foreign Affairs and
9 gave training?

10 [11.33.51]

11 A. I was the trainer for the telegrams translators of Ministry of
12 Foreign Affairs. And that location was the former prime
13 minister's office.

14 Q. Let's go on and see what else you say.

15 "When he" -- meaning Ieng Sary -- "wanted to transmit a message,
16 did he send a messenger to take it directly to the radio
17 communication unit at the old American Embassy?"

18 Here you say: "I did not know clearly because it was not in my
19 framework."

20 Obviously you stand by that statement.

21 A. Yes, I stand by this statement. And I was not sure; I did not
22 know whether or not that was sent to the U.S. Embassy or he had
23 other means to communicate this message through other diplomatic
24 technicians in Cambodia. I did not know the means of that
25 communication.

1 Q. Right. And then you go on to say – and then the next question
2 is: "When they needed to send a telegram overseas. did they use
3 the radio communication site at the old American Embassy[...]"

4 And there you say: "Maybe they did."

5 Do you see that?

6 [11.35.33]

7 A. Yes, I do -- I see it. That's why I would like to say that I
8 do not know; that should be the answer.

9 Q. Well, that's my whole point; this is the purpose of exercise.
10 So, when you say "maybe", you are suspecting; you don't know for
11 a fact?

12 A. Yes, that is correct.

13 Q. Now, let's look at your testimony concerning this, when you
14 were asked questions by the Prosecution. And I'm referring to
15 testimony from the 3rd of September 2012. It's page 14 in English
16 – the transcript; Khmer, it's 00844181; French, it's also page
17 14.

18 You're asked a question -- in fact, they read you this section,
19 and it was verbatim. It was read to you. And then you were asked:

20 "What else can you tell us about this telegram translation unit?

21 Do you know where it was based and how many people worked there?"

22 [11.37.07]

23 Now, let's look at your answer that you gave us only a couple of
24 days ago: "With regard to the telegrams communication and Mr.

25 Ieng Sary, I am afraid I do not recall -- or whether there was

1 any such telegram decoding unit at that office."

2 Question: "So, we [could] correct your prior statement, then,
3 that you didn't know whether there was a telegram translating
4 unit at the Ministry of Foreign Affairs; would that be correct?"

5 Answer: "I'm not sure on this. That's why I am not testifying on
6 something that I'm not clear."

7 Do you see the questions that were posed to you and do you see
8 the answers you gave us a couple days ago?

9 A. Yes, I do.

10 Q. And when you gave those -- those answers, were you being
11 honest and truthful?

12 A. Yes, I was, and it was the truth.

13 Q. Thank you.

14 [11.38.38]

15 Now, later on, you are asked a question -- and this is on the
16 September 4th, the next day, the following day. This would be on
17 page 37 in English; Khmer, it's 00844480; French, it's 41 - 40 to
18 41.

19 You are then asked a question by the civil party lawyer, and it
20 starts with:

21 "My next question is related to your testimony -- from your
22 testimony from the 29th August up to this morning, your response
23 mainly dealt with the communication via telegram domestically.
24 What about telegram correspondence between Cambodia and other
25 countries? How was it done? Did (sic) any of the telegrams from

1 overseas sent to 870 Committee?"

2 Answer: "In relation to overseas telegram, I could not grasp them
3 fully, so I am in no position to enlighten you."

4 [11.40.04]

5 "Thank you. What about the Ministry of Foreign Affairs? Did it
6 ever send any telegrams to 870 Committee through your unit or did
7 they send it directly to 870 Committee?"

8 And then you state: "Ministry of Foreign Affairs was located in
9 Phnom Penh; there was no telegram communication with my team."

10 "If not, how did they communicate - that is, the communication
11 between the Ministry of Foreign Affairs and 870 Committee?"

12 And then you say: "I don't know."

13 Now, do you stand by those answers that you gave, that you are
14 not in a position "to grasp" the subject matter fully, as far as
15 overseas telegrams?

16 A. Yes, I still maintain my statement.

17 Q. Now, did you ever go to the Ministry of Foreign Affairs?

18 A. As I said just now, I once went to the ministry to explain
19 decoding of telegrams. At that time, it was located at the former
20 prime minister's office. It was known by the code name of B-1.

21 [11.41.55]

22 Q. And can you please tell us, what year might that have been?

23 And with whom did you speak?

24 A. At the time, I taught a gentleman by the name of Boun
25 (phonetic), and later he was sent to the Cambodian Embassy in

1 Bangkok. Actually, that training did not last long; it actually
2 took only half day.

3 Q. And normally, how long did training take place in order to
4 someone learn to decode? Because you told us it was a very
5 complicated process.

6 A. Yes it is - it was a complicated process, but the gentleman I
7 said had a very firm foundation, so he was fast to learn it; it
8 took us rather short to train.

9 Q. Okay. Now answer my question: How long did it normally take to
10 train someone?

11 A. As I said just now, it took only half a day. Starting from
12 7.00 and ended at 11.00, they could grasp the basics.

13 [11.44.08]

14 Q. Maybe something is being lost in translation. You said this
15 person has a foundation, you gave us a name which will - we'll
16 try to check. But I'm asking you: How long would it normally take
17 to train someone to become proficient like you were?

18 A. Four hours.

19 Q. So, normally, it would take somebody only four hours to learn
20 this very complicated process -- the average person?

21 A. Yes, that is correct, for those who have the educational bar.

22 Q. All right. And when you say "educational bar" -- those who can
23 read and write?

24 A. No, they were not confined to the ability to read and write,
25 but they were students at the university.

1 Q. All right. Thank you.

2 Now, in your interview, there is something that never made it
3 onto the summary. It's on the tape, where you indicate that you
4 only knew "technical matters".

5 [11.46.08]

6 Would that be correct, that the extent of your knowledge was only
7 to "technical matters" about the deep and important information
8 that you did not know?

9 And this would have been during your first interview, right
10 around the time that it was about to end, approximately 11.15, 18
11 February 2009. We have the tape we can play.

12 Do you recall telling this to the investigators, that your
13 knowledge was limited to "technical matters"?

14 A. Yes, I confirm that that was within my knowledge in terms of
15 technical aspects. But as for political aspects, I did not have
16 knowledge of.

17 Q. All right. Well, let me just get a little ahead of myself. So,
18 if you didn't have knowledge about political matters, when you
19 are analysing documents and you are giving your opinion as to
20 what -- the document that is shown to you, how it should be
21 interpreted, how are you doing that, unless you are, I would say
22 - well, I can't use the word "speculate". But how would you do it
23 if you don't have any actual knowledge, or training, or
24 background?

25 [11.48.14]

1 MR. PRESIDENT:

2 Witness, please hold on.

3 Mr. Prosecutor, you may proceed.

4 MR ABDULHAK:

5 I think the question is too vague and, frankly, unfair to the
6 witness.

7 He was asked to analyze and describe numerous aspects of various
8 telegrams. If there is a specific telegram and a specific
9 analysis which my friend wishes to impeach, that specific
10 instance should be put to the witness.

11 That's all I would say. There was - there was extensive
12 description given on telegrams. We would say--

13 Well, I'll stop there in order not to be accused of broadcasting
14 to the witness.

15 I think my friend should refer to specific examples.

16 [11.49.00]

17 BY MR. KARNAVAS:

18 As I noted, we will be getting to that. I'll move on. And now
19 that we both agree that concrete examples should be shown, I'll
20 do that after the lunch break.

21 Q. Now, in your testimony it would appear that -- I don't want to
22 do into all the mechanics, but at some point, after you translate
23 a telegram, you decode it, you give it to a messenger; is that
24 correct?

25 MR. NORNG SOPHANG:

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1 A. Yes, that is correct.

2 Q. Now, once you give it to that messenger, do you - do you or
3 did you ever follow the messenger and follow the message itself
4 to see where it actually went?

5 [11.50.03]

6 A. I did not follow up.

7 As for the messengers who came to fetch the telegrams from -- or
8 letters from our unit, they would send it to the post guards in
9 front of K-1.

10 Q. Right. And I'm going to go step by step.

11 So, the messenger would take the message, go the post, and drop
12 off the message or give it to someone. That's your understanding,
13 back then, of what happened?

14 A. Well, the messenger would drop it at the post, and then the
15 guards would immediately relay this message to--

16 Q. Well, we're going to go step by step.

17 Now, did the messenger ever go into the K-1 compound, to your
18 understanding or to your - your knowledge?

19 A. Our messengers were not authorized to enter the premise.

20 Q. Were you authorized to enter the premise? And if so, how often
21 did you enter the K-1 premises?

22 [11.52.07]

23 A. I was authorized to enter, but only when Pon summoned me to a
24 meeting.

25 Q. All right. Did you ever enter the K-1 premises with a message

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1 that you had decoded, in order for you to personally deliver it
2 to the targeted person or persons?

3 A. Yes, there were some instances as such. Following the decoding
4 of messages and, coincidentally, they asked me to attend the
5 meeting, then, in that situation, I did not have to send the
6 messages through messengers; I would bring the message by myself
7 and hand it in to Pon.

8 Q. Okay. So, you would hand it to Pon, but you would not hand it
9 to the targeted people that, supposedly, the messages were headed
10 for. The extent would be, you would hand it to Pon?

11 A. Yes, because Pon was my direct supervisor. I could not submit
12 it to any other -- other person.

13 Q. All right.

14 Now, can you please describe the premises of K-1? How many
15 buildings were there?

16 A. Within the compound of K-1 Office, at that time there were
17 only two multi-story buildings.

18 Q. And what about where Pon worked? Was there not also another
19 small building or a small place where he worked, or did he work
20 in one of those two buildings?

21 [11.54.38]

22 A. Well, Pon's -- Pon's office was on the second floor. It was at
23 the far end of the building. It was on the second floor.

24 Q. Of which building? There were two buildings you told us. Which
25 of the two buildings?

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1 A. It was in one of the buildings. If we entered from the
2 entrance, then it was the building opposite the - some--

3 Q. Is that your answer? Okay.

4 Now, you tend to indicate, when the messages were provided to the
5 messengers, they would simply drop them off or, if they were
6 coming from K-1, they would pick them up at the gate and then
7 deliver them to you; is that right?

8 A. No, that is not correct. Actually, whenever they wanted any
9 message decoded by my unit, for short messages they would assign
10 us through telephone or they would relay through telephone, but
11 for longer messages they would send it through messengers. So
12 there was no any one particular procedure for that. For short
13 messages, they would make a telephone call to my unit, and there
14 were instances when Pon himself brought the messages or telegrams
15 to my unit in person.

16 [11.57.18]

17 Q. And if I -- as I understand it, what you were dealing with on
18 the outside were messages that were not highly confidential -- at
19 least, that was my understanding of your testimony; is that
20 right?

21 A. For less urgent messages, they would courier through
22 messengers from K-1 to my unit. But when the messages were of
23 urgent nature, then they would bring it to my unit myself --
24 themselves. And they told us to put the code letter "D" on the
25 urgent documents. And the author of the document also came to my

1 unit to provide additional instruction.

2 Q. Now, Pon was your supervisor. Did Pon disclose to you his
3 activities within K-1 -- what he was doing, to whom he was
4 speaking, what he was learning from the inside? Did he disclose
5 those matters to you at any point?

6 A. No, he did not disclose his responsibilities -- duties.

7 Q. And did he ever disclose to you who he was meeting inside K-1,
8 what sort of instructions he may have been receiving, how K-1
9 actually operated, keeping in mind that you told us how important
10 secrecy was?

11 [11.59.43]

12 A. There was a principle of utmost secrecy for those who had to
13 work with confidential messages or documents. We had to adhere to
14 three principles of secrecy. Whatever we were not supposed to
15 speak out, we must not speak out. Whatever we must not ask
16 questions, we had to keep silent. So we did not know, we did not
17 hear, we did not see, and we did not speak for the matters that
18 were considered of utmost secrecy.

19 Q. And from your experience in working with Pon and Thé, did they
20 abide by those principles, at least with respect to you?

21 A. He led me by example in that situation because he did not say
22 anything at all concerning whom he reported to or whom he talked
23 to about the internal secrecy of the work of K-1. He never
24 disclosed any information to me.

25 [12.01.23]

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1 Q. And one final question before we perhaps break for lunch: This
2 is the same individual that you had worked with prior to 1975,
3 when you were at B-20; is that right?

4 A. No, that - that is not the case. I worked with him from 1973,
5 but it was not in B-20. I separated from Pon in late 1974, and
6 then we moved our office from the maquis jungle to B-20. So I
7 worked with Pon from late 1973 until late 1974. Then we parted;
8 we worked in different places. He went to a location west of
9 Phnom Penh, and I moved to B-20, which was located in a banana
10 mangrove.

11 Q. Right. And thank you; I stand corrected. And it was at B-20, I
12 believe, when you were working -- that's when there were three --
13 the task was divided into three different sections - one,
14 actually, that would decode. There were different locations,
15 different individuals working on decoding, broadcasting; is that
16 correct?

17 [12.03.28]

18 A. Yes, that is correct. The units were separate, and we did not
19 have any contact with each other; we did not see each other's
20 faces from one unit to the other. At my telegram unit, it was
21 stationed in one separate place, and once I received information
22 from the battlefields or the front, then I would arrange it for
23 broadcast, but it was in a different place.

24 And I think I made myself clear in my earlier testimony, that we
25 never saw each other's face, people who worked in those different

1 duty stations.

2 Q. And was that because of the important principle of secrecy?

3 A. Yes, that was the arrangement. It was to preserve the
4 principle of secrecy.

5 MR. KARNAVAS:

6 Mr. President, I see that we are five minutes after 12.00; this
7 may be a good time to break for lunch.

8 MR. PRESIDENT:

9 Thank you. Thank you, Witness.

10 [12.04.52]

11 The time is now appropriate for lunch adjournment. The Chamber
12 will adjourn from now until 1.30 this afternoon.

13 Court Officer is instructed to facilitate the place for the
14 witness to rest during lunch break and have him back to this
15 courtroom before 1.30 p.m.

16 I note the defence counsel for Mr. Nuon Chea is on his feet. You
17 may proceed.

18 MR. IANUZZI:

19 Thank you, Mr. President. I have three very -- very brief points
20 to make before we break for lunch. The first refers to a decision
21 of the Pre-Trial Chamber, and I'd like to just make a note of
22 that for the record. And I will try and speak slowly.

23 I'm referring to document D375/1/8, and this is a decision on an
24 appeal against a number of requests for investigative action made
25 by the Defence -- made by the Nuon Chea defence in this case --

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1 and those requests concerned the re-calling of witnesses to cover
2 -- to canvas the kinds of issues we've been debating this
3 morning.

4 [12.06.10]

5 Those requests were all rejected for various reasons, and we
6 appealed them all.

7 And in dismissing our appeal, I'd just like to tell the Chamber
8 what the Pre-Trial Chamber said:

9 "...this statement by the Co-Investigating Judges" -- and that's
10 referring to the Ruling made by the Co-Investigating Judges --
11 "means that if they properly exercise their discretion to refuse
12 a request for investigative action, such as to interview or
13 re-interview a witness, the trial stage - the trial stage affords
14 the Defence 'every opportunity to contest the evidence'" -- and
15 let me repeat that, "every opportunity to contest the evidence"
16 -- "including the possibility to 'request the Trial Chamber to
17 summon any of the witnesses the Co-Investigating Judges have
18 decided not to interview" - crucially here, "(or re-interview)"
19 -- the basis of those requests that we made.

20 And finally, "The point made by the Co-Investigating Judges, with
21 which the Pre-Trial Chamber agrees, is that the trial stage" -
22 the trial stage is an additional and alternative - alternate --
23 excuse me - form - forum, rather, "for the Defence to contest the
24 reliability of evidence".

25 [12.07.32]

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1 Now, this is a decision of the Pre-Trial Chamber based on a
2 decision of the OCIJ, both organs operating in that system that
3 Judge Cartwright described as the civil law system, the system
4 that's applicable here. So, that is the basis on which we
5 proceeded at trial to believe -- reasonably, I think - that we
6 are able to explore these issues with the witnesses on the stand.
7 And perhaps one final point in this; perhaps this will answer --
8 partially, at least -- Judge Lavergne's question about what the
9 Defence was doing during the investigation. In our case, we were
10 filing 25 requests for investigative action, and that took quite
11 a lot of time, and that's not to mention all of the additional
12 requests filed by the other defence teams.

13 So, I know this issue is a bit of a bête noire with the Chamber,
14 but I just think I need to make it clear, it's a very important
15 one for us, and I wanted to get that Pre-Trial Chamber quote on
16 the record.

17 My next point, very quickly, goes to the definition of the word
18 "speculate".

19 [12.08.28]

20 As I understand the English definition of that word, it
21 encompasses a situation where a conclusion is based on little or
22 insufficient evidence, not, as Judge Cartwright suggested, that
23 it only encompasses a situation based on no evidence. That's my
24 understanding of that word in the English language. And of course
25 it can be qualified with all sorts of adjectives -- bald

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1 speculation, reasonable speculation, what have you -- but the
2 word itself does not mean what Judge Cartwright said it means
3 exclusively. And that's our position, for the record.

4 And finally, before I forget, I've just been informed that our
5 client is suffering from a backache, a headache, and a general
6 lack of concentration, and for those three reasons, he would like
7 to spend the afternoon in the holding cell. And that is our
8 application for the morning. Thank you.

9 [12.09.27]

10 MR. PRESIDENT:

11 The Chamber notes the request by Mr. Nuon Chea, through his
12 defence counsel, to follow the proceedings remotely, through
13 audio-visual link, for the remainder of today's proceeding, due
14 to his health reasons.

15 And the Chamber grants this request. And Mr. Nuon Chea may follow
16 the proceeding from the holding cell downstairs, where
17 audio-visual means is connected for him to follow the proceeding
18 for the remainder of the day's hearing.

19 However, the Chamber requires the defence team for Mr. Nuon Chea
20 to submit to the Chamber the waiver with the thumbprint or
21 signature by Mr. Nuon Chea.

22 [12.10.15]

23 And AV assistants are instructed to connect the audiovisual link
24 for Mr. Nuon Chea so that he can follow the proceeding remotely
25 from his holding cell.

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1 Security guards are instructed to bring the co-accused, Mr. Nuon
2 Chea and Mr. Khieu Samphan, to the holding cell downstairs. Mr.
3 Nuon Chea is to remain in that holding cell for the rest of the
4 day, where he will be connected to the audio-visual link to
5 follow the proceeding, and Mr. Khieu Samphan is to be brought to
6 this courtroom by 1.30.

7 The Court is now adjourned.

8 (Court recesses from 1210H to 1331H)

9 MR. PRESIDENT:

10 Please be seated. The Court is not back in session.

11 The floor is given to Ieng Sary's defence to put questions to
12 this witness. You may proceed.

13 MR. KARNAVAS:

14 Thank you, Mr. President. And good afternoon, Your Honours. Good
15 afternoon to everyone in and around the courtroom, and good
16 afternoon, sir.

17 Q. Let's pick up where we left off. I believe we were speaking
18 about Pon right before the lunch break. And as I understand your
19 testimony, Pon and Thé -- or primarily Pon had the exclusive
20 authority to add who would be copied to certain documents that
21 were being decoded and were headed towards K-1; is that correct?

22 [13.33.16]

23 A. Yes, that is correct.

24 Q. And in fact, if I understand your testimony correctly and if
25 we look at your first statement, it would appear that Pang did

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1 not have that authority -- Pang, that is, the individual who was
2 the Chairman of 870 -- or he has been referred to as being in
3 charge of 870 and various other places.

4 A. Yes, that was the case for Pang. First, you said about Pon,
5 not Pang. Pang did not have the authority to oversee the "copy
6 to" line.

7 Q. Now, may I ask, where is it -- how do you know that? What is
8 the basis for your information?

9 A. The basis was based on the practise since I was still in the
10 jungle. So it started from there - from there. Pang never came to
11 oversee my work and never interfered with the work either from
12 the technical point of view or from the point of view of the
13 verification of any telegram. He did not have that authority.

14 [13.35.46]

15 Q. All right. Now, let me see if I understand this correctly.
16 You're making the assumption that because, in the jungle, Pang
17 did not interfere with your work, Pang, who is in charge -- or
18 the Chairman of 870, had no authority to override Pon, who is his
19 subordinate -- or at least in a subordinated position.

20 A. Yes, that is correct. Although Pang was above Pon, his
21 supervisory role about Pon was only in charge of political
22 training. But for the confidentiality in relation to telegram or
23 the technical aspect of the telegram, he did not have that
24 authority.

25 Q. All right. And as far as your understanding is concerned, when

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1 you say "technical aspect", that would include, in addition to
2 encoding or decoding, who would actually be the target of the
3 telegram.

4 [13.37.24]

5 A. Could you please repeat your question?

6 Q. All right. Let's speak primarily about telegrams that are
7 going to K-1. Okay? So, that's what I'm referring to.

8 And if I understand you correctly, you're saying that the
9 technical aspect or Pon's work entailed also who would be copied;
10 he had that discretion.

11 A. Yes, that is correct. He had the authority in the "copy to"
12 line.

13 Q. Now, let's talk about that a little bit. Beyond - beyond
14 writing "copied to", do you have any knowledge that he had the
15 authority to ensure that whatever - that the document was
16 actually physically delivered to the person he assumed should be
17 copied?

18 A. Regarding the management by Pon, as to who would be the
19 recipients in the "copy to" line and whether the messages would
20 reach those intended recipients were beyond my knowledge because
21 that would be part of the arrangement by the internal team.

22 [13.39.40]

23 Q. Thank you. And that's what I want to make sure, that we are
24 clear in our understanding. What you're telling us is, part of
25 his technical function was to designate who he thought should be

1 copied. Can we agree on that?

2 A. Yes, I agree on that point. He also had the authority to
3 exclude any recipients in any circumstances -- that was his
4 discretion -- as he knew some uncles would be absent, so there
5 was no need to include those names in the "copy to" line.

6 Q. All right. So, he had that authority, over and above Pol Pot,
7 to exclude people who he thought either are not around or should
8 not receive messages; is that what you're telling us?

9 A. For the internal team, as he worked also inside, he would know
10 who would be present or who would be absent or was overseas. For
11 that reason, he had the authority to include the targeted
12 recipients. But of course he did not have the override authority
13 above Pol Pot.

14 Q. Now, before we broke for lunch, you told us that Pon
15 subscribed to and adhered to the principle of secrecy. You told
16 us that he didn't say anything about his internal activities in
17 K-1. Am I clear on that?

18 A. Yes, that is correct. He adhered to the four principles
19 strictly.

20 Q. And so, as you sit here today, you cannot say with any degree
21 of certainty what, exactly, Pon did or did not do within the
22 confines of K-1.

23 [13.42.57]

24 A. The question whether he did or did not do anything within the
25 confines of K-1, the thing is, he would not do anything to reveal

1 internal secrecy towards outside, and this does not mean that he
2 should do or should not do anything within the confines of K-1.

3 Q. Exactly. And so, as you sit here today, are you not presuming
4 or making presumptions when you are trying -- when you are
5 telling us what would happen to a document once it was received
6 by Pon?

7 A. It was not a presumption; that was the fact -- that was what
8 happened through my experience, through my many years
9 communication and contact with Pon.

10 Q. Okay, but -- because we need to move on. I thought you just
11 told us that you had no communication or experience with Pon with
12 respect to his work in K-1. You just told us that.

13 A. The experience, when I said that, it refers to his stance, his
14 maintenance -- his maintaining of secrecy and not to leak it
15 outside. That was the experience -- his work experience that I
16 referred to. I think there is a misunderstanding here.

17 [13.45.04]

18 Q. Okay; my apologies. Let's move on and see where we go with
19 this.

20 Now, on September 3, 2012, on page 38 of the English transcript
21 -- it's Khmer page 30, French page 38 -- we may need some
22 clarification here. You indicate:

23 "Pon and Thé worked directly with Pol Pot, and they also had the
24 role of the secretaries. All the instructions [that they gave to
25 them] -- that they gave to me were not their own instructions.

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1 They were instructed from the above or that they took notes in
2 the meeting with the Standing Committee before those instructions
3 were relayed [...] them to me."

4 Do you see that? Do you recall telling us that?

5 A. Yes, that's what I stated on that day.

6 Q. All right. Now, let's look at this--

7 And, first, let me ask you, did you ever attend any Standing
8 Committee meetings?

9 [13.46.56]

10 A. No, I never.

11 Q. And you told us about secrecy and you told us that Pon adhered
12 to secrecy. Did Pon ever tell you that he attended Standing
13 Committee meetings and, while there, he was acting as -- in a
14 secretarial capacity, taking notes?

15 A. No, he did not. However, what I knew was that there was the
16 handwriting of Pon on the -- by the telegrams, including the
17 instructions from Pol Pot for me to decode -- all the text that
18 Pon received from the upper echelon -- and most of those texts or
19 messages were in Pon's handwriting.

20 Q. Thank you. Now, we have a limited amount of time, but my time
21 would run into next week, and I want to make sure I finish today.
22 So, if you would just answer my questions. Then, if there's time
23 left over, you can talk about anything else you wish, provided
24 the President allows you to.

25 [13.48.34]

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1 My question to you again -- and let me repeat it: Did Pon ever
2 tell you that he attended Standing Committee meetings and, in
3 that -- and then he was acting in a secretarial capacity, taking
4 notes? It's a yes or it's a no.

5 MR. PRESIDENT:

6 The question has been asked and has been answered.

7 BY MR. KARNAVAS:

8 Very well.

9 Q. Now, let's look at this again, the same passage, from the
10 beginning: "Pon and Thé worked directly with Pol Pot, [...] they
11 also had the role of the secretaries."

12 Can you please tell us what is the actual basis of your
13 knowledge, if in fact we are to believe you that Pon never told
14 you anything about his activities inside K-1?

15 [13.49.39]

16 MR. NORNG SOPHANG:

17 A. Based on what he said, he did not say anything regarding the
18 meetings at K-1, he did not say anything about the secrecy from
19 this brother or that brother; he only spoke about the technical
20 aspects of the encryption. He only talked about the work, and he
21 did not say anything else without -- or not related to the work.
22 He only spoke to me regarding the nature of the work.

23 Q. Thank you. Now, sir, did he ever tell you that he was -- that
24 he had the role of the secretary for Pol Pot, or the Standing
25 Committee, or any other committee within K-1?

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1 A. Pon did not tell me that he was a secretary, but when Pon went
2 to receive instructions or took notes of Pol Pot's words, it
3 meant that he acted as his personal secretary in taking those
4 notes -- and that is my understanding -- because the person who
5 took notes would act in the capacity as a secretary.

6 Q. All right. Thank you. Thank you for that clarification.

7 [13.51.40]

8 Now, is it based on that that you then say that Pon would have
9 been present in Standing Committee meetings, taking notes? In
10 other words, you've made one assumption. Now, is -- are you
11 making the second assumption based on the first?

12 A. That is correct. I made assumption based on the notes that he
13 took when Pol Pot gave instructions and that -- also the practice
14 while we were still in the jungle. When Pol Pot had a message to
15 deliver, he would call Pon to go and see him.

16 Q. Very well.

17 Now, did you know a gentleman by the name of Oeun Tan?

18 A. I replied on a number of occasions that I did not know this
19 person.

20 Q. All right. Well, Mr. Oeun Tan appeared before this tribunal
21 and gave evidence, and I would like to go over some of his
22 testimony in relations to telegrams and get your opinion, in
23 light of what you've told us thus far for the last three days.

24 [13.53.30]

25 And I'm referring to E1/86.1, the transcript -- I want to go

1 through several pages of the transcript -- or partial pages. 13
2 June 2012. Khmer, 00815998; French, 00818066; English, 008179 --
3 and it looks like a "57"; it's on page 32.
4 And let me begin. We'll go slow and see how it goes.
5 Here, the gentleman indicates that he became a guard in 1970
6 through 1975 and all the way to '76 and '77, and that is was Pang
7 -- Pang -- who assigned him to those tasks.
8 On the following page, he goes on to say that he was -- "I was
9 tasked with guarding the vicinity in the meeting places" and that
10 he was there all the way into the time when the Vietnamese came.
11 Going on to page 62 -- which would be Khmer page 00816023;
12 French, 00818098 to 99; and English, 00817987, or page 62 --
13 there's a question posed by the same gentleman that questioned
14 you on behalf of the Prosecution, and it goes:
15 [13.55.56]
16 "I just want to ask you, were there any telegrams? Were [there]
17 telegrams used by K-1?"
18 Answer: "Telegrams were used at K-1. However, I do not know where
19 the telegrams would be sent to, although I know that such
20 telegrams did exist at K-1.
21 Question: "And could you tell the Court where the telegraph
22 office or place from which telegraphs were sent and received,
23 where that office was?"
24 Answer: "At that time, there were letters from Pol Pot sent
25 through telegrams, and Phang" - it's spelled "Phang", but I

1 believe it's "Pon" - "was the one who was in charge of this --
2 was in charge of these letters to ensure that they could be sent
3 outside."

4 Going on to the next page, he goes on to answer: "Indeed, [they]
5 are two different individuals. Pang [...] in charge - overallly
6 (phonetic) in charge, [and] Phang was in charge of the telegram
7 section."

8 [13.57.21]

9 "[...] Did [any - did] you have any responsibilities in relation to
10 the telegrams and [to] the office where [Pon] worked, the
11 telegram site?"

12 Answer: "There were -- there was some young people, who were
13 subordinates to [Pon], who carried the letters to me, who
14 presented them to Pol Pot."

15 Question: "So I'll try and summarize if I can -- and please [...]
16 correct me if -- if I'm wrong.

17 [Pon], at the telegram -- telegraph site, would receive
18 telegrams, and then his messengers would bring them to you, and
19 you would hand them to Pol Pot; is that a correct description of
20 how the telegrams travelled?"

21 Answer: "Yes, it is correct."

22 Now, let me stop right here before we go on to what else we can
23 learn from this gentleman.

24 Were you aware of any of this?

25 MR. PRESIDENT:

1 Witness, please wait.

2 The Prosecution, you may proceed.

3 MR. ABDULHAK:

4 Thank you, Mr. President. Since I'm the gentleman in question who
5 asked those questions, let me see if I can pronounce the words as
6 I pronounced them then.

7 [13.59.14]

8 The individual at the telegram office, I did not refer to that
9 person as "Pon", as my learned friend has been representing. Both
10 I and the witness pronounced that name as "Phang", and the
11 witness corrected me when there was confusion as to the way that
12 one pronounces the names, and he said there were two people: one
13 is Pang, being the man whom this witness has described as the
14 head of Office S-71, and then there was a Phang -- ending with g
15 - outside, who was in charge of telegrams. That's -- I want to
16 make sure we understand those names clearly, and then my friend
17 can take it further from here. But it was a different name that
18 we were discussing, not Pon.

19 BY MR. KARNAVAS:

20 Let me -- we're working with an English transcript, and
21 unfortunately both of us are foreigners to this language, and our
22 pronunciations may be off, but perhaps the gentleman can assist
23 us here.

24 [14.00.29]

25 Q. Do you know who -- if there was another telegram section

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1 within K-1, other than the one that you've been talking to us
2 over the last three or four days, which you said, on the inside,
3 it was Pon who was in charge of?

4 MR. NORNG SOPHANG:

5 A. No, there was no any other office dedicated to that task,
6 other than the one supervised by Pon. It provided that for the
7 telegram section, it was under the responsibility by Pon and
8 Pang. And I did not have any responsibility there, I was only in
9 charge of the unit at the primary school, as I said, and I was in
10 charge of the technical aspect.

11 As Pang, he was responsible for overseeing the various offices
12 subordinate to Office S-71. Pang was above me and he was also
13 above Pon, as well, and he was also above the person who
14 responded or -- in the messages. The correspondent was
15 foreigners, and he did not understand the telegram as much as I
16 did.

17 [14.02.25]

18 Q. All right. Well, let me make sure that we all are on the same
19 level of understanding.

20 In reading - in reading this part of Mr. Oeun Tan's testimony,
21 when he's referring to this - to "Pon" or "Phang" as it's
22 pronounced -- as it's spelled out, can you please tell us if you
23 were aware of anybody else in the K-1 by the name of Phang who
24 would have been in charge of the only telegram unit within K-1,
25 as you understood it at the time?

1 MR. PRESIDENT:

2 Witness, please hold on.

3 Prosecutor, you may proceed.

4 MR. ABDULHAK:

5 Again, I think my friend is at risk of misrepresenting the

6 evidence. I'm reluctant to do this in front of the witness; it

7 may well be appropriate to excuse the witness for 10 minutes, and

8 we can discuss this.

9 [14.03.50]

10 The other witness, Mr. Oeun Tan, was not discussing an internal

11 K-1 unit; he was discussing a different unit.

12 I don't want to say any more than that because I don't want to be

13 accused of leading this witness, but there is scope here for

14 confusion, and we're dealing with three different languages.

15 We're at your disposal, Your Honours, but it may well be

16 appropriate to deal with this in the witness's absence and then

17 for - perhaps, for the Judges to ask questions and clarify the

18 names in Khmer.

19 MR. KARNAVAS:

20 Mr. President, we just heard from the witness that, to his

21 knowledge, there was only one telegram operating unit within K-1.

22 Now, if the Prosecution is suggesting that there is more than one

23 -- more than one telegram section that was headed by someone

24 that's similar to a gentleman by the name of Pon, then perhaps

25 they can present that evidence at some other point in time.

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1 But I'm entitled to pursue this. If he doesn't know, then it
2 shows the limit of his knowledge within what is happening in K-1.
3 Either way, I'm entitled to explore this.

4 (Judges deliberate)

5 [14.07.55]

6 MR. PRESIDENT:

7 Mr. Norng Sophang, can you clarify the telegram office you was
8 (sic) attached to and the internal telegram office? Because it
9 appears confusing. Can you clarify it?

10 For - there was a name by Pang, who was in charge of both the
11 internal and external telegram office, and there was another man
12 by the name of Pon -- he was supposed to be in charge of your
13 unit -- and there was another man by the name of Phang, as well.
14 So, at K-1, you said that Pon was the head of telegram office at
15 K-1, but you also mention the name Phang. Did this name exist at
16 the time?

17 [14.09.30]

18 MR. NORNG SOPHANG:

19 A. With respect, Mr. President, the three names -- Phang, Pang,
20 Pon -- actually, in the previous statements, I did not see Pon;
21 but Phang and Pang were the supervisors. But for -- as far as
22 telegram unit was concerned only Phang and Pon were in charge.
23 But the witness, earlier, who mentioned the name Pang may have
24 been confused because Phang and Pon were the people in charge. I
25 think that, probably, the person might have confused it with the

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1 name of Pang because he was of ethnic minority in Cambodia, so he
2 might have confused Pang with Pon.

3 And Phang, who was in charge of telegram decoding, was myself,
4 and there was no any other Phang. It was my name, actually,
5 Phang, who was in charge of decoding messages. But I -- my office
6 were actually located at Sothearos Primary School with other
7 young staff members over there.

8 [14.11.15]

9 MR. PRESIDENT:

10 Counsel, you may now proceed.

11 BY MR. KARNAVAS:

12 Thank you, Mr. President.

13 Q. Well, it would appear from Mr. Oeun Tan's testimony that he
14 was the one that, actually, physically delivered all telegrams to
15 Pol Pot -- nothing about Pon taking them to Pol Pot but him. Do
16 you know whether that was the procedure?

17 MR. ABDULHAK:

18 Your Honours--

19 MR. PRESIDENT:

20 Witness, please hold on.

21 Mr. Prosecutor, you may proceed.

22 [14.12.07]

23 MR. ABDULHAK:

24 I'm sorry that I have to keep interrupting, but there is nothing
25 in that evidence that would suggest -- that could be reasonably

1 read as meaning that the witness, Oeun Tan, said he was the only
2 person who ever carried the letters. That's a misrepresentation
3 of that evidence.

4 BY MR. KARNAVAS:

5 Q. Let's go back. Were you aware that -- that these telegrams were
6 given to Oeun Tan to hand-deliver to Pol Pot? Were you aware of
7 that?

8 MR. NORNG SOPHANG:

9 A. No, I was not, because it was as what I explained: there were
10 times when the situation was stable, and there was another
11 situation following the arrest of Pon. And when you asked me to
12 describe the situation of delivering the message to Pol Pot --
13 and it is, once again, my personal understanding -- you fail to
14 mention a specific time period.

15 [14.13.36]

16 If it was sometime until mid-1978, when Pon was still there,
17 nobody was in charge of a telegram office other than Pon. But if
18 there was instance of direct delivery to Pol Pot, it could have
19 been sometime close to the liberation -- the fall of the regime,
20 because at that time the situation was chaotic. So, you may
21 conduct a further research as to which specific year you are
22 referring to.

23 Q. Well, that's why I started, if you may recall, sir, by
24 recalling his testimony that he was there, '75, '76, '77, when
25 Pon was still there.

1 But can you tell us, did you actually -- did you ever see Pon
2 physically deliver directly a message that you had prepared to
3 Pol Pot inside K-1?

4 A. I never saw it when Pon was working at K-1. I only had the
5 authority to deliver the message to Pon's office -- that was it.

6 Q. That's my point. Once you make that delivery to Pon's office,
7 you don't know what Pon actually does because you're not in K-1
8 and you have no access to K-1.

9 A. Yes, you are right, I did not know what Pon did with the
10 message.

11 [14.16.05]

12 Q. And you're not in a position today, as you sit here, to agree
13 or disagree with Witness Oeun Tan, because he was on the inside
14 of K-1, and you were on the outside of K-1.

15 A. Yes, you are right. I did not know whether or not Tan had the
16 authority to deliver the message directly to Pol Pot, because, as
17 you may see, the testimony of Mr. Oeun Tan, my messenger only
18 sent the messages to the security guards of K-1, and then we
19 handed in to Tan. Probably, at that time, Pon was removed or
20 disappeared.

21 Q. All right. But, then again, here you are making a presumption;
22 you're drawing a conclusion. You're assuming this, right, that
23 last part of your answer?

24 A. It was my assumption that, once Pon disappeared, Tan took his
25 place and he could deliver this message directly.

1 [14.17.40]

2 Q. Okay, thank you.

3 Now, in your testimony on the 29th of August 2012, page 49 in
4 English -- Khmer is 00842661; French, 51 to 52 -- there's a
5 question concerning Pol Pot, and part of your answer is: "As for
6 Pol Pot, he was the person who oversaw every sector and every
7 field. He had the right to say anything concerning anyone."

8 And I take it you stand by that answer that you gave.

9 A. Could you please repeat the portion of my earlier statement? I
10 could not really catch what you have just read out. I could have
11 only talked about the messages delivery.

12 Q. Well, now we're speaking about Pol Pot -- Pot Pot the
13 individual, Pol Pot the - and his authority at the time, as you
14 understood his authority to be.

15 You said at one point that "he had the right to say anything
16 concerning anyone". Was that your understanding at the time
17 concerning Pol Pot's power and authority?

18 [14.19.52]

19 A. Yes, as for the authority as well as the instruction for
20 message correspondence, he had the authority and power to say
21 anything about it. He had the say in all aspects of management,
22 irregardless (sic) of the field; it would encompass politics,
23 economy and other aspects.

24 Q. Precisely. And to make sure, if we look at your statement --
25 and this is the partial transcription of the audio that was done,

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1 pursuant to -- I believe it was the Khieu Samphan team -- and I'm
2 referring to D200/9.13. And it's, Khmer, 00837642; French,
3 00843075; and English, 00838744.

4 This is something that is not in the summary, but it is in -- you
5 did say this on tape. You said: "Yes, just Uncle Pol Pot -- all
6 affairs rested with Uncle Pol Pot, Uncle Number One."

7 And so that -- you would agree and you would stand by this
8 statement that you gave to the investigators, that "all affairs
9 rested with Uncle Pol Pot, Uncle Number One"?

10 MR. PRESIDENT:

11 Witness, please hold on.

12 The Prosecutor, you may proceed.

13 [14.22.13]

14 MR. ABDULHAK:

15 Well, Your Honours, we've now heard the Defence complain for
16 several days about speculative evidence. This is a perfect
17 example. My learned friend is seeking now to ask the witness
18 about the affairs of senior leadership and the relative powers of
19 the various members of the leadership.

20 I refrained from asking questions along these lines because I
21 realized, once the witness had told me that he didn't know much
22 about the internal workings of the leadership, that that was a
23 futile exercise, and I think my friend should be directed to
24 follow the same approach.

25 MR. KARNAVAS:

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1 Mr. President, that's precisely the point. If the gentleman did
2 not - did not know the internal workings of the "leadership", but
3 at the same time he's saying that all affairs rested with Uncle
4 Pol Pot, it is our rightful submission that all these telegrams
5 are going directly to Pol Pot before he decides who else would
6 get them, irrespective of who is noted as -- to be copied. That's
7 our submission.

8 [14.23.20]

9 And if this gentleman at the time believed, understood, knew,
10 that everything rested with Pol Pot, that's fine. If he was
11 speculating at the time when he made this statement, then so be
12 it. Either way, we'll have an answer.

13 MR. PRESIDENT:

14 The objection is not sustained.

15 Witness is directed to respond to the question.

16 MR. NORNG SOPHANG:

17 I am basing my statement on the content of the telegram to be
18 sent out. What I am trying to say is that each and every telegram
19 to be sent out, even if it -- or they were supposed to be sent to
20 870 Committee or to senior brothers or so, Uncle Number One was
21 always there in the telegram. So, every message or telegrams was
22 addressed to Brother Number One; he was the first and foremost
23 person to receive the telegrams. So everything must have been
24 kept within his knowledge.

25 [14.25.00]

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1 But as for his authority and power, I did not know. I did not
2 know the scope of his authority and power.

3 But as far as the authority to receive telegrams, I can say with
4 certainty that every telegrams, there was the name of Uncle
5 Number One. That's what I have come across. So, each and every
6 message, there was his name.

7 MR. KARNAVAS:

8 Thank you.

9 Mr. President, I'm about to go into the next topic, which may
10 take a little bit past the break, and also it might be good to --
11 if we could have - if we could have the break now so I could
12 streamline and reduce, perhaps, my questioning.

13 So, with your leave, I will -- you know, I'm respectfully
14 requesting that we break at this time. But I'm prepared to go
15 forward for the next 15 minutes, but I just--

16 [14.26.09]

17 MR. PRESIDENT:

18 The time is now appropriate for adjournment. We are going to
19 adjourn for 15 minutes. We will resume at 20 to 3.00.

20 Court officer is instructed to facilitate a place for the witness
21 to rest and we should be back by 10 to - by 20 to 3.00.

22 The Court is now adjourned.

23 (Court recesses from 1426H to 1445H)

24 MR. PRESIDENT:

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

1 And I'd like to give the floor to the defence team for Ieng Sary
2 to continue putting questions to this witness. You may proceed.

3 BY MR. KARNAVAS:

4 Thank you, Mr. President. And good afternoon again to everyone.

5 [14.45.34]

6 Q. Sir, I now want to focus to a topic that has been discussed
7 quite a bit, but I'll keep it brief -- and this is your
8 understanding of Committee 870.

9 And so I'm going to begin by referring you to your statement of
10 E3/64. This would have been your first statement. I'm looking at
11 -- in English, it would be page 7; Khmer, it's 00328028029;
12 French, 00411697 to 98; and then English, it's 00334048.

13 And here, part of your answer, you say -- towards the end of the
14 -- of your answer, you say:

15 "Next step, they were sent to the typist group, and then sent to
16 the Standing Committee" -- and in parentheses we see "Committee
17 870". "After that, Pon and Thé annotated on the telegrams whom
18 these telegrams would be sent to."

19 [14.47.15]

20 So, here, you state that "Committee 870" is the Standing
21 Committee.

22 Now, if you go to page 13 in the same statement, a few pages
23 further down -- in Khmer, it's 00328035 to 37; French, it's
24 00411703 to 04; and English, 00334054 - here, you're asked the
25 question: "Was it always sent to all the Standing Committee

1 members or was it just sent to this or that person but not all?"

2 "Mostly, it was sent to Committee 870, but in some cases it was
3 not sent to all of the Standing Committee [members]. It was only
4 sent to the relevant persons who were responsible for making a
5 response."

6 Question: "What did 'to Committee 870' mean, and whom did that
7 refer to?"

8 Answer: "It referred to the entire Central Committee."

9 Let's stop here.

10 [14.49.02]

11 In one statement, you say that the Standing Committee is
12 "Committee 870", and then, later on, you say it's the Central
13 Committee. Were you guessing or were you presuming when you made
14 these statements, or was this based on actual knowledge?

15 MR. NORNG SOPHANG:

16 A. The statement that I made was based on my experience in seeing
17 a number of telegrams. Some telegrams were addressed to 870
18 Committee or Angkar 870.

19 And as to my presumption of that committee, it's of an uncertain
20 nature as I am, myself, not a hundred per cent sure. Most of the
21 telegrams addressed to 870 Committee. For instance, you can refer
22 to Telegram Number 236 which addressed to 870 Committee.

23 Q. Let me stop you because I want to -- I want you to answer my
24 questions, and perhaps something is being missed in translation.

25 On one page of your statement, you say that "Committee 870" is

1 the Standing Committee. A few pages later, in the same statement
2 which you signed as being true, accurate, and complete, you say
3 that "870" - "Committee 870" is the Central Committee. Which of
4 the two is it? We have two different versions. Did you actually
5 know when you made that statement?

6 [14.51.50]

7 A. I am more certain on the word "Centre"--

8 Q. Let me stop you there. I want you to answer my question,
9 please, sir. We have Central Committee and Standing Committee--

10 MR. PRESIDENT:

11 The Prosecution, you may proceed.

12 Counsel, please hold on, and, Witness, please wait.

13 MR. ABDULHAK:

14 Your Honours, repeatedly, my learned friend asks a question, the
15 witness attempts to provide a response; when the response is not
16 satisfactory to my friend, he interrupts - and, I might say,
17 quite abruptly.

18 I would invite the Chamber to direct my learned friend to lower
19 his tone, to treat the witness with the respect that he deserves,
20 and to -- and to stop interrupting him, and allow him to answer
21 the questions he's being asked.

22 MR. KARNAVAS:

23 Mr. President--

24 [14.52.53]

25 MR. PRESIDENT:

1 Counsel, please do not interrupt the witness. Let -- or allow the
2 witness to response (sic) to your question, as he may have
3 explanations to make in his response on various aspects.

4 And we have observed that repeatedly. We are of the concern that
5 if you keep interrupting him, the witness might not be willing to
6 respond anymore.

7 BY MR. KARNAVAS:

8 Well, Mr. President, I was trying to be mindful of the time so he
9 would not have to come back next week.

10 Q. Let me go back and ask the question again.

11 On page 7 -- in English, at least -- on one page, you say that
12 "Committee 870" is the Standing Committee -- the Standing
13 Committee; nothing about "Party", there. A few pages later, you
14 say that "Committee 870" is the Central Committee.

15 [14.54.07]

16 Let me ask you this: Do you know whether there is a difference
17 between a Standing Committee and a Central Committee? Let's start
18 with that.

19 MR. NORNG SOPHANG:

20 A. Yes, there is a difference.

21 Q. Do you see the difference in your answer?

22 A. Yes, there is a difference. In one, in the bracket, it states
23 "the Standing Committee", and the other one is -- refers to the
24 Central Committee.

25 Q. Now, when this statement was read to you and you signed it as

1 being truthful and accurate, can you please tell us whether at
2 the time, when you did so, this was a mere oversight?

3 [14.55.58]

4 MR. PRESIDENT:

5 Counsel, could you repeat again, as the Khmer interpretation is
6 difficult to understand?

7 BY MR. KARNAVAS:

8 Very well.

9 Q. Now, we know at the -- when you -- when you finished with your
10 interview and they came back five weeks later, they read the
11 interview back to you, and then you signed it without making
12 these corrections at least. You've told us that there's a
13 difference between the Standing Committee and the Central
14 Committee.

15 And so my question now is: Was this a mere oversight on your part
16 when you indicated that Committee 870 is both the Standing
17 Committee and the Central Committee, or did you not know at the
18 time?

19 [14.57.05]

20 MR. NORNG SOPHANG:

21 A. It was an oversight, as I did not pay attention to it when it
22 comes to the Standing Committee and the Central Committee.

23 However, the messages did not distinguish the difference between
24 the Standing Committee or the Central Committee as it addressed
25 to 870 Committee and copied to Uncle -- Uncle Nuon, Uncle Van,

1 and Brother Khieu. So I concluded that it did not refer to all
2 members of the Central Committee; it would mean it referred to
3 the Standing Committee.

4 Q. All right. So, your understanding right now, today, is that
5 Committee 870 is the Standing Committee and that -- and it is not
6 -- it is not the Central Committee; that's your testimony today?

7 A. Yes, that is correct. Let me confirm that the 870 Committee
8 referred to the Standing Committee.

9 Q. All right.

10 [14.58.43]

11 Now, you also indicated in your testimony that some of these
12 terms were used interchangeably as far as Committee 870, Office
13 870, 870. And this can be found on the transcript of 4 September
14 2012.

15 And let's see what you said on that day -- Khmer, 00844493;
16 French, page 60 to 61; English, page 55. You say:

17 "I am not really sure concerning the term "committee". That's why
18 I stated as what -- I'm not sure. Sometimes I read "Committee
19 870", or sometimes "Office 870"; sometimes they only noted "870"
20 alone, without "committee" or "office", and this makes it
21 difficult for me to be more precise because the terms are
22 interchangeably used and it's difficult to recognize it as which
23 is which."

24 I take it you stand by that answer of yours.

25 A. Yes, I stand by that statement.

1 Q. And then, on September 3, 2009 (sic), there was a question
2 posed to you -- and I'm going to refer you to page, Khmer,
3 00844223; French, page 69; English, page 69 -- where you begin
4 with:

5 "'M', as you already read, it refers to office. It is correct.
6 [87, 870] is similar to Office 870. It refers to the Central
7 Committee. Even the term 'Angkar 870' is always interchangeably
8 used to refer to M-870, or to Office 870, or to just 870, which
9 was then the Centre."

10 [15.01.24]

11 Question by the prosecutor: "So, do I understand correctly that
12 all of those various designations, 'Angkar', '870', 'M-870', are
13 [all references] to the Central Committee, as you understood it?"

14 Answer: "That's my understanding, yes."

15 Do you recall being posed that question and giving that answer?

16 A. Yes, it referred to the Centre. So long as it bears the code
17 number 870, it refers to the Centre.

18 Q. Okay. Well, let me make sure that nothing is being lost in
19 translation. You told us that Committee 870, for sure, based on
20 your understanding then, was the Standing Committee. Now, I'm
21 showing you part of your testimony where you're mentioning 870 in
22 various different contexts, which you acknowledged that it was
23 used interchangeably, and here you're saying that this referred
24 to the Central Committee. Are you making a distinction between
25 870 and Committee 870, given that you've already indicated that

1 you could not really understand which was which at the time?

2 A. I am not sure the distinction between the Committee and the

3 Angkar. I did not -- but what I know for sure was Office 870.

4 Whenever they talk about 870, they refer to it as the Centre. And

5 870, that's what I was quite sure of.

6 [15.03.56]

7 Q. Right. But I'm trying to make sure that you answer my question

8 because I'm trying to establish whether you are guessing, whether

9 you are assuming or presuming that Committee 870 is the Standing

10 Committee or the Central Committee. And it appears that you,

11 today, don't really know. Would that be a fair assessment of what

12 we're hearing from you?

13 A. I am not sure because I was not certain and I did not know.

14 But what I knew for sure was that 870 was referred to as the

15 Centre.

16 Q. Thank you. All right.

17 Now, if we move along to what one witness told us -- his name is

18 Professor David Chandler and of course his name came up in one of

19 the objections by the Prosecution, who reminded us that he had --

20 he was well-studied in Cambodian history, and particularly this

21 period. If we look at what Mr. Chandler told us -- and I'm

22 referring to his testimony of 24 July 2012; Khmer page 00826644

23 to 45; French, 00828607 to 08; English, 00828755.

24 And here a question is being posed to him, and I'll read the

25 relevant part: "And you gave us an explanation, and at one point

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1 in your testimony, you said that Pol Pot was also referred to as
2 '870'."

3 [15.06.29]

4 The answer: "Yes, again, I don't like to quibble, but I [don't
5 think - I] don't think he was considered as Angkar. I think his
6 code name was 870."

7 Then, later on, on page 70 in English -- or in Khmer it would be
8 00826664 to 65; French, 00828637 to 38; and then English,
9 00828785. He then, again, states in part:

10 "...[I certainly] -- but I had certainly known and I have testified
11 on this point several times with no reference to the Closing
12 Order that 870 was a code name for Pol Pot. This [is a well-known
13 throughout my research - this] is well-known throughout my
14 research, and I've written about it."

15 Now, here's my question: Would you like to provide us with an
16 opinion whether Mr. Chandler -- concerning Mr. Chandler's
17 analysis as a historian that 870 referred to Pol Pot, at least at
18 times?

19 [15.08.10]

20 MR. PRESIDENT:

21 Witness, please hold on.

22 The Prosecutor, you may proceed.

23 MR. ABDULHAK:

24 Your Honours, we would object to this question.

25 The witness was asked about his understanding of the facts. He's

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1 given his answers. He's been asked the question over and over
2 again. It is not appropriate for him to be asked to opine on the
3 opinions of experts. It adds nothing to the inquiry. He's already
4 told us what his understanding was, and that's where the inquiry
5 should end.

6 [15.08.39]

7 BY MR. KARNAVAS:

8 Q. I'll rephrase, Mr. President, I'll rephrase: Was Pol Pot ever
9 referred to or known as 870, to your knowledge at the time?

10 MR. NORNG SOPHANG:

11 A. To my knowledge, for Pol Pot, he was never addressed as
12 Brother 870. So, 870 was never, ever referred to any particular
13 individual. They addressed him by the code name Brother Pol or
14 Brother Number One, and that referred to Pol Pot.

15 Q. To your knowledge, 870 never meant Pol Pot -- to your
16 knowledge?

17 A. Office 870 was not referred to as Pol Pot either.

18 Q. So, I never said anything about Office 870; I'm referring to
19 870. To your understanding, Pol Pot was never referred to or
20 understood to be 870?

21 A. No, he was never referred to as 870. 870 was the code name
22 used for the entity; it was not meant for individual -- it was
23 not referred to individual person.

24 Q. Thank you.

25 [15.11.00]

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1 Now, I'm on my last topic. So, I want to go to your statement,
2 and it'll be page 6, the -- E3/64; Khmer, 00328039 to 40; French,
3 00411707; English, 00334057. And I'm going to ask you a question
4 which concerns a telegram that was sent -- that was shown to you
5 -- Telegram Number 15, which is also E3/1679. But we need not
6 look at the telegram itself, but I just want to look at the
7 question and the answer.

8 And the question is this: "In this telegram there is a request
9 for an opinion; did the receiver of this telegram have to respond
10 to this request?" This was asked -- the investigators asked this
11 of you.

12 And this is your answer: "With certain problems, if Pol Pot was
13 able to solve them, he would respond right away. But with some
14 ungraspable problems which require the whole committee to solve
15 them, Pol Pot would call a meeting with the Standing Committee to
16 make a decision."

17 Now, let's go through your answer. "With certain problems, [...]
18 Pol Pot was able to solve them", and he would do so immediately.
19 How do you know? Based on what actual knowledge, experience can
20 you say that?

21 [15.13.32]

22 A. In relation to the telegrams, I encountered the circumstance
23 when he responded to it immediately. For example, when there was
24 an emergent request from the battlefield for commands or
25 decisions from the upper authority, he, Pol Pot, upon receiving

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1 the message – then, soon afterwards, there was a responding
2 message sent back. That's what I had come across.

3 But as for complicated matters, he would not respond immediately.
4 He -- as I said, he may have called the meeting to reach a
5 decision.

6 That's why I have suggested to the Court that wherever I used any
7 words that suggested the presumption of my answer, then it was
8 based on my personal presumption of the -- the fact. So I have
9 already asked the Chamber to remove those parts.

10 Q. All right. And are you suggesting to the Trial Chamber that
11 they should remove and disregard this part of your statement
12 where you say that he would convene a Standing Committee meeting
13 to make a decision, particularly in light of the fact that you
14 never participated in any Standing Committee meetings?

15 A. Yes, that's correct. I never attended the meeting of the
16 Standing Committee myself.

17 [15.15.48]

18 Q. But are you asking the Trial Chamber to disregard this part of
19 your statement because it's a presumption on your part?

20 A. Yes, I am.

21 Q. Thank you. I'm most grateful.

22 If we could look at your next statement, which is E3/67 -- and
23 this is just another example -- Khmer page 00294543 to 44;
24 French; 00374939 to 40; and English, 00483972 or page 10, I
25 believe -- yes, 10. If we look at this document, you're asked a

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1 question on paragraph number 19 and it refers to "Direction of
2 870" – "Direction of 870" dated 3 January 1978.

3 And then you begin by saying that you recognize the handwriting:
4 "It was Pol Pot's because he had the right to make corrections."

5 Now, let me ask you this: Did you actually recognize the
6 handwriting to be Pol Pot's or did you assume it was Pol Pot
7 because you assumed that he had the right to make corrections?

8 [15.17.49]

9 A. I have seen Pol Pot's handwriting before, and the correction
10 over there was that of Pol Pot's handwriting.

11 Q. Okay, thank you. Now, you go on to say, in part of your
12 answer:

13 "This document may have belonged to Committee 870, coming from a
14 discussion meeting. It was made into minutes; but it is neither
15 known who else had participated nor had the meeting location been
16 disclosed. But sometimes it was Pol Pot's idea too. He first
17 wrote it and put it to the meeting of Committee 870 for approval.
18 He drew red lines underneath any important points." And then it
19 goes on.

20 Now, I notice that you use the word "may". Is this another -- one
21 of those situations where you're -- where you are given a
22 document to analyze and you are providing assumptions?

23 [15.19.15]

24 A. That is -- that is correct because they did not advise me to
25 be caution -- to be cautious of the use of the words

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1 "presumption" or "speculation", and at that time, during the
2 interview, I used the word "maybe" a lot of times because I was
3 not sure.

4 Q. Thank you.

5 Now, if we go on to -- back to the statement of E3/67 -- and I'm
6 referring Khmer page 00294546 to 47; 00374941, that was the
7 French; English, 0043 - 00483974, my apologies, or page 12 --
8 that's the starting point -- you're shown a document titled
9 "Standing Committee Meeting on 9 October 1975". Now, you've
10 already told us that you've never been to any Standing Committee
11 meetings, but let's look at what you say two pages later, on page
12 14 of English -- and Khmer, it's -- it would end with 48 to 49;
13 French, 42 to 43; English, 76:

14 "According to my own analysis, some did not take and execute the
15 Standing Committee's instructions completely because they use
16 their power as senior. I just saw one last document saying that
17 they had not asked for the comments of the Standing Committee,
18 but already shot 40 people to death, then reported afterwards.
19 And in some cases, no report was made."

20 [15.21.32]

21 Based on this answer, is this "analysis" based on your personal
22 experience in the field, of which you told us you never went to
23 the base, or is it based on you reading the document, looking at
24 other documents, and trying to provide answers to the
25 investigators?

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1 A. I made it clear from the beginning that it was according to my
2 analysis. It was my personal analysis. It was not my personal
3 experience of my visit to the bases. I merely saw the documents
4 presented by the OCIJ to me and I assisted in analysis.

5 Q. And when you "assisted in analysis", such as in this case --
6 because there was an objection raised earlier this morning by the
7 Prosecution -- in these sorts of cases where you were providing
8 an analysis, were you not also making presumptions, since you did
9 not have, at least in many of the instances, first-hand knowledge
10 of the events?

11 A. Yes, that is correct, because I read the content of the
12 telegrams through the documents they handed over to me for my
13 explanation.

14 [15.23.46]

15 Q. If I understand your answers in the last three days, and in
16 particular today, it would appear that you're telling the Trial
17 Chamber to be very careful in accepting what is in your
18 statements wherever you are making assumptions or presumptions,
19 conclusion or analyses; is that what you're telling the Trial
20 Chamber?

21 MR. PRESIDENT:

22 Witness, please hold on.

23 Mr. Prosecutor, you may proceed.

24 MR. ABDULHAK:

25 Your Honours, we object. The question is both a compound question

1 and it is a misleading question.

2 [15.24.34]

3 Your Honours instructed earlier and gave a very clear distinction
4 between speculative answers and answers based on experience. In
5 light of those instructions, it is improper to be asking the
6 witness to now advise you how you should assess his evidence. In
7 any event, it is improper to ask a witness such a question. Your
8 Honours are perfectly capable of assessing the evidence that is
9 before you. And we've heard the limits of that evidence and we've
10 heard, clearly, the witness specify when he spoke from personal
11 experience and when he was analysing based on -- on that
12 experience or, perhaps, making assumptions.

13 MR. KARNAVAS:

14 If I may briefly respond, Mr. President, Your Honours, the
15 gentleman, over the last three or four days, has been questioned
16 concerning the manner in which the statements were taken, how he
17 read them and signed them at the time, and when presented with
18 certain segments of his statements, had indicated over and over
19 and over again that he made some assumptions, that he made --
20 that he speculated -- I can use that word in this context -- and
21 that he provided some analyses, at times, of which he did not
22 have any personal knowledge, but was merely reading the text and
23 trying to provide some sort of an answer.

24 [15.26.01]

25 He's also indicated over the past three or four days that the

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1 Trial Chamber should disregard those -- those portions in his
2 testimony where he says "maybe", "perhaps", "in my opinion",
3 "it's my understanding". I'm merely asking the gentleman: Is that
4 -- based on his answers today, does he wish the Trial Chamber to
5 be cautious and -- and circumspect in accepting anything that is
6 in his statements?

7 (Judges deliberate)

8 [15.27.25]

9 MR. PRESIDENT:

10 I now hand over to Judge Cartwright. You may proceed, Your
11 Honour.

12 JUDGE CARTWRIGHT:

13 Thank you, President. The Trial Chamber upholds the objection by
14 the prosecutor.

15 The Judges will take into account the various matters that have
16 been raised during examination of this witness, both in its - in
17 relation to the evidence and its totality and to specific
18 portions of his evidence, and the Judges are quite capable of
19 coming to this conclusion.

20 Thank you, Mr. Karnavas.

21 MR. KARNAVAS:

22 I'm most grateful, Judge Cartwright. It was merely a summary - a
23 wrap-up question.

24 [15.28.13]

25 And with that, sir, on behalf of Mr. Ieng Sary, Mr. Ang Udom and

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1 I and the rest of the Ieng Sary defence team wish to thank you
2 for coming here to give your evidence. We wish you safe travels
3 and good luck. Thank you very much.

4 And thank you very much, Your Honours.

5 (Short pause)

6 MR. PRESIDENT:

7 There is only a little time left for this afternoon proceeding.
8 We therefore decide to adjourn the proceeding today and we shall
9 resume it on Wednesday next week, starting from 9 a.m., and we
10 will commence the -- hearing the testimony of TCW-307, who will
11 first be questioned by the Prosecution after the initial
12 questions by the Bench.

13 We would like to inform that on Monday and Tuesday -- that is,
14 the 10th and the 11th of September 2012 -- the Chamber will not
15 hold the hearing, as we need to deliberate and decide on a number
16 of issues and some of the Judges will attend the Rules and the
17 Procedural Committee session.

18 [15.30.15]

19 Mr. Norng Sophang, the hearing of your testimony has come to a
20 conclusion today and you are excused, so you can return to your
21 residence. The Chamber is grateful of your testimony. For this
22 number of days, we thank you for your patience and best effort
23 you have given as a -- as a part of contribution to ascertaining
24 the truth. We wish you all the best and safe journey.

25 Court Officer, in combination with WESU unit, please arrange for

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1 the witness to return to his residence. And as for the reserve
2 witness, TCW-307, arrange for his return to his residence and
3 have him returned on the morning of Wednesday, 12 September 2012.
4 Security guards, you are instructed to take the three Accused
5 back to the detention facility and have them return to this
6 courtroom on the morning of Wednesday, 12 September 2012, prior
7 to 9 a.m.

8 The Court is now adjourned.

9 THE GREFFIER:

10 (No interpretation)

11 (Court adjourns at 1531H)

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