



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

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

ឯកសារដើម
ORIGINAL/ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ (Date): 26-Apr-2012, 13:56
CMS/CFO: Kauv Keoratanak

TRANSCRIPT OF TRIAL PROCEEDINGS
PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

20 April 2012
Trial Day 53

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

The Accused: NUON Chea
IENG Sary
KHIEU Samphan

Lawyers for the Accused:

SON Arun
Andrew IANUZZI
Jasper PAUW
ANG Udom
Michael G. KARNAVAS
KONG Sam Onn
Anta GUISSÉ

Trial Chamber Greffiers/Legal Officers:

DUCH Phary
Natacha WEXELS-RISER
DAV Ansan

For the Office of the Co-Prosecutors:

SENG Bunkheang
Dale LYSAK
Tarik Abdulhak

Lawyers for the Civil Parties:

PICH Ang
Élisabeth SIMONNEAU-FORT
TY Srinna
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Elisabeth RABESANDRATANA
Barnabé NEKUIE

For Court Management Section:

UCH Arun

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MR. ANG UDOM	Khmer
MR. KONG SAM ONN	Khmer
MR. LYSAK	English
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. PICH ANG	Khmer
MR. SAUT TOEUNG (TCW-617)	Khmer
MS. SIMONNEAU-FORT	French
MR. SON ARUN	Khmer

1

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

2 (Court opens at 0903H)

3 MR. PRESIDENT:

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

5 During today's session, the defence counsels for Mr. Khieu

6 Samphan and Ieng Sary will be putting questions to witness Saut

7 Toeung.

8 Counsel for Nuon Chea, you may now proceed.

9 MR. SON ARUN:

10 Good morning, Mr. President, Your Honours. Yesterday, my

11 co-counsel put some questions for about an hour. This morning,

12 with the Court's leave, I would like to take 15 to 20 minutes for

13 putting the rest of the questions to this witness.

14 [09.05.33]

15 MR. PRESIDENT:

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

17 MS. SIMONNEAU-FORT:

18 Good morning, Mr. President. Good morning to everybody. I see

19 that the witness does not have a lawyer present to assist him. I

20 just wanted to make quite sure that he actually intended not to

21 have his lawyer with him and, if that is not in fact the case,

22 then I should -- I think we should take steps to make sure that

23 he does have his lawyer with him. Thank you.

24 MR. PRESIDENT:

25 First, the Chamber grants some time, 15 to 20 minutes, for

2

1 counsel for Nuon Chea to proceed with the questions.

2 [09.06.25]

3 Mr. Saut Toeung, the Chamber has noted that you are not
4 accompanied by your lawyer as you did yesterday. Are you fine to
5 respond to questions put to you without a lawyer present near
6 you? The Chamber has noted that, even though your -- the lawyer
7 was next to you, you appear to be confident in responding to all
8 the questions, and the Chamber would like to know whether you
9 feel fine by not having his presence next to you, today, to
10 respond to questions.

11 MR. SAUT TOEUNG:

12 I am fine, but I will only respond to questions that I can
13 respond to and won't respond to some that I cannot.

14 [09.07.29]

15 MR. PRESIDENT:

16 Is it correct to say that you do not need a lawyer as you wanted
17 yesterday?

18 MR. SAUT TOEUNG:

19 I can go without him today.

20 MR. PRESIDENT:

21 Thank you.

22 Court officer is now instructed to ensure that the mic on the
23 desk of the witness be visible to me. You can push aside the
24 monitors so that the console is visible enough to the Bench.

25 We would like now to hand over to national counsel for Nuon Chea

1 to put questions to the witness.

2 QUESTIONING BY MR. SON ARUN:

3 Mr. Saut Toeung, I am counsel for Nuon Chea and I have just a few
4 questions, four questions in total, and I will be putting the
5 questions in 15 minutes.

6 [09.08.44]

7 Q. How long had you been working closely with Nuon Chea?

8 MR. SAUT TOEUNG:

9 A. I had been working with him since 1975 through '77 and 1978,
10 but I don't remember the details.

11 Q. Through my observation and having reviewed your biography, you
12 appear to have known Mr. Nuon Chea very well.

13 Can you tell the Court whether Nuon Chea is a cruel person or he
14 is a person who wishes to educate people to be good?

15 A. When he was in power, he was a good person. He provided good
16 education to us. I don't know other things, other -- other than
17 that.

18 Q. You had been close to him almost every time. Had you ever
19 heard from any other people that Nuon Chea had sent people to
20 S-21, sending them to Duch, for example?

21 A. I have never heard any of this.

22 [09.10.44]

23 Q. Yesterday, both the prosecutors, the Lead Co-Lawyers for the
24 civil parties, and my co-counsel put some questions to you
25 already, but I wish to remind you -- refresh some memories so

4

1 that you can respond to another question concerning your oath you
2 took before the Co-Investigating Judges. Do you still remember
3 you had to take an oath before you gave interviews to the
4 Co-Investigating Judges?

5 A. Yes, I do.

6 Q. When taking an oath, did you take it voluntarily, willingly,
7 or you done by being prompted what you supposed to say?

8 A. I did not quite understand the oath notes, but I was asked to
9 take an oath anyway because, otherwise, things would never be
10 resolved.

11 [09.12.21]

12 Q. Could you please clarify for us that you had to really take an
13 oath and that you could not go without it? Why?

14 A. Back then, I did not quite understand the procedure.

15 Q. Were you compelled to take an oath or were you taking an --
16 the oath freely?

17 A. No, I was not forced to take an oath; I was just instructed or
18 told to take the oath.

19 Q. Do you recall that a piece of paper with notes written on it
20 given to you and you were asked to read from it? Is that so, or
21 was the note read out to you and you repeat it?

22 A. The note was -- was read out to me.

23 Q. So you did not understand what you were read to, don't you?

24 A. I don't understand the wordings of the oath. I said I don't
25 understand because I was asked to take an oath for the fact that

1 I stopped killing people.

2 [09.14.38]

3 Q. So I do not presume, but I can conclude that you took an oath
4 based on what you read out to, and you took the oath without
5 understanding the content of the oath, and you just repeated what
6 being read out to you; is that a fair conclusion?

7 A. Yes, it is, because I didn't understand it.

8 MR. PRESIDENT:

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

10 MS. SIMONNEAU-FORT:

11 Thank you, Mr. President. I was just waiting for the French
12 translation, which came at the same time as the witness' answer,
13 but I would like to lodge an objection with this question, which
14 is, as it seems to me, something that is highly suggestive and is
15 guiding the witness towards a certain objective, and I don't
16 think that kind of question should be asked.

17 I'm sorry that the interpretation didn't come through on time,
18 but I'm sure that's not the fault of the interpreters. Thank you.

19 [09.16.03]

20 MR. PRESIDENT:

21 Counsel, you should also be aware of the Court procedures
22 concerning the oath taking under the Court of Criminal Procedure.
23 The court clerks, or greffiers, are responsible for advising --
24 rather, for assisting the witness -- or a witness during the
25 oath-taking procedure. And the text of the oath would be picked

6

1 and read out to the witness who does not read or write. If
2 witness is able to read or write, then he or she is expected to
3 read the oath directly.

4 This is not different when it comes to the oath taken by people
5 who are the followers of other religions, because this oath would
6 be read out by a court greffier and that the procedures of the
7 oath taking would be read out or explained to witness before the
8 procedure takes place.

9 [09.17.24]

10 You may proceed to another question. And you should refrain from
11 digging into this topic again.

12 BY MR. SON ARUN:

13 Thank you, Mr. President.

14 Q. Mr. Toeung, I would like to proceed to the second question.

15 Yesterday, you said, when addressing the questions from the
16 Prosecution and the civil parties' counsels -- you indicated that
17 sometimes you got letters from Nuon Chea to Duch; it was on three
18 occasions. Sometimes you responded that four to five times;
19 sometimes you said you did not get any letters from Nuon Chea to
20 Duch.

21 So, to be clear, could you please tell the Court whether you got
22 any letters from Nuon Chea to Duch? Yes or no?

23 MR. PRESIDENT:

24 International Co-Prosecutor, you may now proceed.

25 [09.18.50]

1 MR. LYSAK:

2 Mr. President, I object to the leading nature of that question,
3 in particular, because it misstates the witness' testimony from
4 yesterday; that is a complete misrepresentation of what the
5 witness said yesterday.

6 The witness was consistent, said he delivered the mails. At no
7 time did he say that he did not deliver documents from Nuon Chea
8 to Duch, so that is a misrepresentation.

9 MR. SON ARUN:

10 I wish to respond to what observed by the Co-Prosecutor.
11 Yesterday, I took note of the times when witness responded to
12 this matter and I try to verify my note with the transcript. I
13 just wish to ensure whether it is true that witness really did
14 say so or not.

15 [09.20.01]

16 MR. PRESIDENT:

17 The objection by the Co-Prosecutor is sustained; this question is
18 leading.

19 And witness is instructed not to respond to it.

20 BY MR. SON ARUN:

21 Q. I wish to continue putting a few more questions.

22 When you said you got letters from Nuon Chea to Duch, did you get
23 the letters directly, in person, from Nuon Chea or you obtained
24 them through other persons?

25 MR. SAUT TOEUNG:

8

1 A. Sometimes I received the letters through other people;
2 sometimes I got them directly from him.

3 [09.21.06]

4 Q. When you delivered the letters to Duch, did you hand the
5 letters personally to Duch or only dropped at the gate?

6 MR. PRESIDENT:

7 Counsel for the civil parties, you may now proceed.

8 MR. PICH ANG:

9 Mr. President, Your Honours, the previous questions and the
10 current question were repetitious. The questions were asked
11 already, previously.

12 Could the President advise counsel -- or counsel be advised by
13 the Bench to refrain from these questions?

14 MR. SON ARUN:

15 (Microphone not activated)

16 MR. PRESIDENT:

17 Counsel Son Arun, please make sure your mic is activated before
18 you speak.

19 [09.21.53]

20 MR. SON ARUN:

21 Yesterday, counsel for the civil party repeated the questions,
22 the questions already put by Judges, and I think it is fair that
23 I should also be given the opportunity to do the same.

24 MR. PRESIDENT:

25 The objection is sustained; repeated -- repetitious questions are

1 not allowed.

2 Counsel should move on to other questions.

3 BY MR. SON ARUN:

4 Q. I would like to proceed to the third question.

5 Mr. Saut Toeung, today, as a witness, you are before us. And when
6 you worked for Nuon Chea as his bodyguard and messenger, did you
7 ever hear the person named Son Sen?

8 MR. SAUT TOEUNG:

9 A. Yes, I did.

10 [09.23.03]

11 Q. Do you know what he did back then?

12 A. I don't know.

13 MR. SON ARUN:

14 I think I have no further questions; that -- those are the three
15 questions I wished to put to the witness. Thank you, Mr.
16 President and Your Honours.

17 MR. PRESIDENT:

18 Thank you, Counsel.

19 We would like to hand over to counsel for Khieu Samphan to put
20 questions to the witness if they wish to do so.

21 MR. KONG SAM ONN:

22 Thank you, Mr. President. So far, we have observed no comments or
23 responses that incriminated our client, so we do not have
24 anything to ask this witness for the time being.

25 MR. PRESIDENT:

10

1 Thank you, counsels for Khieu Samphan.

2 [09.24.14]

3 We would like to proceed to counsels for Ieng Sary. You may now
4 proceed.

5 QUESTIONING BY MR. ANG UDOM:

6 Very good morning, Mr. President, Your Honours, and my learned
7 colleagues, everyone in and around the courtroom. Good morning,
8 Mr. Saut Toeung. My name is Ang Udom. I am the co-counsel for Mr.
9 Ieng Sary. I am here to put a few questions to you -- just very
10 few questions. The questions are short and precise, and we would
11 need your brief responses as well.

12 Q. First, I would like to discuss with you concerning the
13 security matters and the work dealing with the bodyguard unit and
14 the messenger duties.

15 [09.25.39]

16 My first question is -- and you already indicated time and again
17 that you know Y-10 Unit, the security guard unit; is that
18 correct?

19 MR. SAUT TOEUNG:

20 A. Yes, it is. The unit provided the security to the offices
21 surrounding the military branches. "Security", here, means that
22 we had to provide security and protection surrounding the
23 offices.

24 Q. So you were the security agent at Y-10; is that correct?

25 MR. PRESIDENT:

11

1 Witness, could you please hold on? Counsel for the civil parties,
2 you may now proceed.

3 MR. PICH ANG:

4 Mr. President, this is an objection; the question was leading.

5 MR. PRESIDENT:

6 The objection is sustained.

7 Counsel is advised to change his approach in putting questions
8 and try to avoid from any questions that not allowed by the rules
9 and law.

10 [09.27.18]

11 BY MR. ANG UDOM:

12 Q. At K-1 and K-3, you were the security personnel providing
13 protection to people; is that correct?

14 MR. SAUT TOEUNG:

15 A. Yes, it is.

16 Q. You provided protection at the exterior of offices of K-1 and
17 K-3; is that correct?

18 A. Yes, it is.

19 Q. Could you describe to us the K-1 building? How many storeys
20 does the building have, for example?

21 A. K-1 was in the four-storey building.

22 Q. Was it surrounded by a wall or fence?

23 A. Yes, it was.

24 [09.28.35]

25 Q. What about K-3 building? How tall is the building -- or was

1 it?

2 A. It was a one-storey building.

3 Q. Was K-3 building surrounded by a fence or wall?

4 A. Yes, it was.

5 Q. During each and every meeting, where were you stationed to
6 give protection to people?

7 A. I was stationed outside the fence or the wall.

8 Q. Could you see anything inside from the outside?

9 A. It was impossible to see anything inside as we were blocked by
10 the concrete wall.

11 Q. How tall were the walls of K-1 and K-3 buildings?

12 A. It -- the wall was about 3 metres tall.

13 [09.30.42]

14 Q. Could you see any aspect of the situation inside the two
15 premises from the outside?

16 A. I said I did not see anything because it was concealed by the
17 wall.

18 Q. Thank you.

19 Had you ever attended any meetings conducted at K-1 or K-3?

20 A. No, I hadn't.

21 Q. In the meeting room, did you know what was going on - for
22 instance, the meeting between certain leaders inside?

23 A. I did not know.

24 Q. Did you know what the meeting was all about?

25 A. I was never told; it was their business.

13

1 [09.33.23]

2 Q. I would like to clarify this question. You said you did not
3 know who attended the meeting; is that correct?

4 A. No, I did not know.

5 Q. And you did not know what the meeting was all about when it
6 took place in the two buildings; is that correct?

7 MR. PRESIDENT:

8 Witness, please hold on. The Lead Co-Lawyer for the civil
9 parties, you may proceed.

10 MR. PICH ANG:

11 Mr. President, this is a leading question.

12 MR. PRESIDENT:

13 Thank you.

14 The objection by the Lead Co-Lawyer for the civil party is
15 sustained.

16 Witness is directed not to answer to the last question posed by
17 the defence counsel for Ieng Sary.

18 [09.34.37]

19 BY MR. ANG UDOM:

20 Q. I now move on to my next question concerning the -- between --
21 your relationship between you, Mr. Saut Toeung, and Mr. Ieng
22 Sary. I would like you to describe the nature of your relation
23 with Mr. Ieng Sary. Were you connected to Mr. Ieng Sary by work
24 or any relation?

25 MR. SAUT TOEUNG:

14

1 A. I had never contacted him.

2 Q. When you were working as a messenger for Mr. Nuon Chea, did
3 you ever deliver message, or letters, or documents to Mr. Ieng
4 Sary, or Ms. Ieng Thirith, or Mr. Khieu Samphan?

5 A. No.

6 Q. Thank you. By the same token, did you ever deliver messages,
7 or letters, or documents from Mr. Ieng Sary to other cadres?

8 A. No, never.

9 [09.37.30]

10 MR. ANG UDOM:

11 Thank you. That is all for me. I have no further question on
12 behalf of Mr. Ieng Sary.

13 My esteemed colleague, Mr. Karnavas, and myself are very thankful
14 for your presence before this Court, and your testimony is very
15 important to ascertain the truth. And I wish you a safe return
16 back home. Thank you.

17 MR. PRESIDENT:

18 The proceedings on the hearing of testimony of the witness, which
19 was scheduled to take place the whole morning, is concluded
20 earlier than scheduled, so the Chamber decides to adjourn the
21 hearing. And the -- the Court will resume on Monday, the 23rd of
22 April 2012, starting from 9 a.m. in the morning.

23 And the Chamber wishes to take this opportunity to advise parties
24 that, from next week on, we will hear the witness TCW-586, and
25 the proceeding will begin by the questions put by the Prosecution

1 and then follow by other parties.

2 [09.39.26]

3 Before the adjournment, the Chamber wishes to thank Mr. Saut
4 Toeung for taking time to provide testimony in -- for the last
5 two days and a half, and we observe that you have try your level
6 best to respond to all the questions put by the party. And we do
7 not envisage the need to ask you to further testify, so you may
8 go back home.

9 Court officer is instructed to coordinate with the WESU to
10 facilitate his return back home.

11 The Court is now adjourned. And the Court will resume on Monday,
12 the 23rd of April 2012, starting from 9 a.m. in the morning.

13 Security guards are instructed to bring the three Accused to the
14 detention facility and bring them back to this courtroom on
15 Monday, the 23rd of April 2012, before 9 a.m.

16 The Court is adjourned.

17 (Court adjourns at 0942H)

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