



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

25 July 2012

Trial Day 84

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
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KHIEU Samphan

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INDEX

MR. DAVID CHANDLER (TCE-11)

Questioning by Mr. Vercken..... page 3

MR. ROCHOEM TON (TCW-564)

Questioning by the President..... page 65

Questioning by Mr. Seng Bunkheang..... page 72

List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MR. ABDULHAK	English
MR. CHANDLER (TCE-11)	English
MR. KARNAVAS	English
MR. KONG SAM ONN	Khmer
MR. LYSAK	English
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. PAUW	English
MR. ROCHOEM TON (TCW-564)	Khmer
MR. SENG BUNKHEANG	Khmer
MR. VERCKEN	French

1

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

2 (Court opens at 0902H)

3 MR. PRESIDENT:

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

5 Today, we will continue to hear the testimony of Professor David
6 Chandler, who will be questioned by the defence counsel of Khieu
7 Samphan. Before I hand the floor to Khieu Samphan's defence team,
8 the Greffier -- could you report the attendance of the parties
9 and individuals to the proceeding?

10 [09.04.04]

11 THE GREFFIER:

12 Good morning, Mr. President. All parties are present, except the
13 accused Ieng Sary, who is present in the holding cell downstairs.
14 He requires to waive his direct presence through his counsel in
15 today proceeding -- for the entire day proceeding today. The
16 letter of waiver has been submitted to the Greffier.

17 Regarding the witness summons next for his testimony after the
18 conclusion of Professor David Chandler -- that is, TCW 564 --
19 will be present in the waiting room at 11 a.m. He also stated
20 that, to his best knowledge, he has no legal relationship or by
21 marriage to any of the parties to the proceeding. The witness has
22 already taken an oath on the 24th of July 2012. The duty counsel
23 for the witness is Lim Bunheng.

24 MR. PRESIDENT:

25 Thank you.

2

1 [09.05.25]

2 The Defence Counsel, please wait.

3 The Chamber has received a request by the accused Ieng Sary,
4 dated 25th July 2012, through his defence counsel, to waive his
5 direct presence in the proceeding today, and instead to follow it
6 through a remote means in the holding cell downstairs for the
7 entire day.

8 The treating doctor of the accused Ieng Sary, upon his
9 examination, states that he is fatigued, and recommends that he
10 shall be authorized to follow the proceedings through
11 audio-visual means in the holding cell downstairs.

12 As the Accused expressly waives his direct presence in the
13 proceeding today, and that he instead follow it through the
14 holding cell downstairs through audio-visual means, and that he
15 has access to his counsel at all times, the Chamber agrees to the
16 request to waive his direct presence in today's proceeding, and
17 that he is authorized to follow it through audio-visual means in
18 the holding cell downstairs -- that is, for the entire day's
19 proceeding.

20 The AV Unit -- you're instructed to link the proceeding to the
21 holding cell downstairs so that the accused Ieng Sary can follow
22 it.

23 [09.07.12]

24 The floor is now given to the defence team for Khieu Samphan to
25 continue putting questions to the expert, David Chandler. You may

1 proceed.

2 QUESTIONING BY MR. VERCKEN:

3 Thank you, Mr. President. I will continue putting questions to
4 Mr. Chandler. Good morning, Mr. Chandler. I am Arthur Vercken,
5 French lawyer and one of the international counsels for Mr. Khieu
6 Samphan.

7 Q. My first question will be to ask for your opinion on Khieu
8 Samphan as a political personality. You explained to the Chamber
9 that the persons who feature on the list of 34 used by Sihanouk
10 in 1963 were not known to the King, they were not known to belong
11 to a Communist Party in Kampuchea, but they were known for their
12 left-wing leanings.

13 [09.08.28]

14 My question to you is as follows: Beyond that information that
15 the King had regarding Khieu Samphan -- that did not reflect
16 reality. To be more precise, did you see Khieu Samphan at the
17 time as a true practicing Communist, if you would allow me to use
18 that expression, or rather as a "progressist", someone who was
19 nice -- a nice person (sic)?

20 MR. CHANDLER:

21 A. Thank you, and good morning. That's a complicated but good
22 question.

23 I'm not sure if you want me to say how I saw Khieu Samphan at the
24 time myself, in actually 1963, which would reflect back to the
25 times when I was here in '60-'62. Certainly, in those days I had

4

1 no evidence that he was anything more than a -- I wouldn't just
2 say a progressive. I'd say very progressive member of the
3 Cambodian intellectual elite. His newspaper was pretty probing,
4 and was shut down by the Sihanouk government as being -- he
5 thought -- subversive.

6 So it's fairly -- open, left, progressive, but I had no evidence
7 of CP membership, nor of course, as you said, did the King even
8 know about the CPK when he was given this list of 34 leftist
9 intellectuals. He didn't even know that the CPK existed as such.

10 Q. You have indeed answered my question. Thank you.

11 Mr. Chandler, I would also like to know how you would assess the
12 first experience in the era of collectivization, before 1975.

13 [09.10.35]

14 Please tell me whether you are aware that, within the context of
15 that period -- whether it was something that ought to have been
16 condemned or a choice that was meaningful.

17 A. If you're talking of the elements of collectivization in the
18 South-western Zone in 1973, I'm not sure who you would like to
19 say was condemning that. Certainly, the American diplomat who was
20 the source of a lot of that information to the Western world --
21 to the outside world -- was in a position to condemn it, because
22 it seemed very cruel.

23 I don't know what other voices you're asking for who might have
24 condemned this collectivization, which was -- as far as we can
25 say, indeed -- quite sudden and quite grim.

5

1 Q. What I wanted to find out was as follows: Given the economic
2 situation of Kampuchea, it could have appeared -- even to you --
3 that the attempt to proceed to economic collectivization was
4 justifiable. Do you think it was justifiable?

5 [09.12.21]

6 A. Well, it was certainly justifiable to the people who
7 perpetrated it. I'm not sure I'm equipped to answer that question
8 otherwise.

9 Q. Thank you. I will not proceed any further with this line of
10 questioning.

11 Is it historically correct or fair to say that, from 1970 to
12 1975, the Vietnamese were not only present in Cambodia because
13 they were seeking refuge in Cambodia, but because they were
14 trying to establish in the communes and villages some kind of
15 administrative authority, with a view to enlisting people to join
16 the army that was under their control?

17 A. I don't have evidence of that Vietnamese political activity,
18 and I certainly don't think that -- certainly after '72, when
19 almost all their troops were withdrawn, that this political
20 activity would have been permitted by the Khmer Rouge. I'm not
21 sure what sources you're using here, because I haven't read about
22 this political indoctrination.

23 [09.13.51]

24 Certainly, the Khmer Rouge themselves were recruiting in this
25 period, and certainly until 1972, as they were building their

6

1 forces, they were operating -- they were trained and armed and --
2 not led, but trained and armed, to a large extent, by their
3 allies, the Vietnamese.

4 Q. Very well. If I understood you correctly, you never heard
5 about that theory? You never heard anyone talk about such a
6 theory?

7 A. That I can't say. What I was saying is I don't remember a
8 source that I've used in my own work for that kind of theory and
9 I've never written it down. Someone may well have had said it to
10 me at some point in the last 35 years, and I can't say I haven't
11 heard it, but if so, I don't remember such a conversation.

12 Q. Your microphone is still on.

13 A. I'm finished.

14 [09.15.16]

15 Q. Is it historically correct to say that Cambodians and
16 Vietnamese were racing to improve their respective cities of
17 Phnom Penh and Saigon? To improve life in their -- those cities,
18 I mean.

19 A. I'm not clear at all about that question. Which Vietnamese and
20 which cities? Which dates? I'd need to have some clarification on
21 the question.

22 Q. In 1975, is it correct to say that the Vietnamese, on the one
23 hand, and the Cambodians on the other were engaged in some kind
24 of a race -- a competition -- to improve the towns in their
25 respective countries -- that's Saigon and Phnom Penh -- that is,

7

1 a race for the liberation of their territories?

2 A. This is certainly the way the Khmer Rouge interpreted it, once
3 they'd won. And they may well have spoken about such a race in
4 meetings with which we don't have records, but I can't recall
5 having seen any records that indicate the Vietnamese were racing
6 the Cambodians. And -- nor that they felt that they had lost the
7 race by occupying Saigon two weeks later than the Khmer Rouge
8 occupied Phnom Penh.

9 [09.17.15]

10 The Vietnamese Communists, up to the end, were facing a
11 well-organized army, and up to nearly the end, were facing large
12 numbers of foreign troops. Neither of these was the case in
13 Cambodia, with the exception, of course, that we've mentioned --
14 if we can call the bombardments of '73 a -- the same as foreign
15 troops.

16 But, no, I don't think there was such a race. I think there was a
17 -- it was considered by the Khmer Rouge afterward, that a race
18 had existed and that they had won.

19 Q. If we consider the idea that Khmer Rouge had from a
20 geopolitical and historical standpoint, it would appear that
21 their understanding of the situation at the time was justified,
22 because it was geopolitically important for them to have won the
23 race, even if they were the only people who had such a
24 perception.

25 A. Oh, yes. I think that's a clear definition, thank you.

8

1 [09.18.52]

2 Q. To be more specific, in that geopolitical context, it was
3 absurd to think that -- or, rather, it was absurd for the
4 Cambodians to think that the Vietnamese were trying to dislodge
5 them from Phnom Penh, something that happened later on.

6 A. Oh, certainly, in 1975. And I don't think the Vietnamese had
7 any interest at all in dislodging the Khmer Rouge from Phnom Penh
8 in April '75. They had many, many more important things to do.
9 It's a important leitmotif of Khmer Rouge far ideas about the
10 world, and perhaps this is extended later on in history and
11 before that also that -- they think that people's -- the priority
12 of foreign powers has to do with -- have to do with Cambodia.
13 Cambodia is low on the list of most foreign powers. This is
14 something that the Khmer Rouge were not willing to accept. The --
15 let me just think, yes, I mean, the idea that the Vietnamese had
16 a lot more to do than occupy Phnom Penh in April '75, such as
17 taking control of a country of 40 million people that had been
18 hostile to them for 30 years.

19 [09.20.34]

20 It didn't occur to the Cambodians, if they're saying what they
21 had in mind at this point was seizing Phnom Penh. This is part of
22 the -- I hesitate to say paranoia -- but a constant, kind of,
23 distrust of Vietnamese intentions. And, I think, in many ways a
24 misreading of them. Not always -- it was not always a misreading,
25 but occasionally a misreading when -- the idea that the high

1 priority in Vietnam's foreign policy was always to destroy,
2 occupy, whatever word you want to use -- Cambodia in one form or
3 another -- under one form of government or another -- I'm sorry.
4 [09.21.08]

5 Q. Thank you.

6 I have a question that you may find naïve, somewhat. It has to do
7 with the death toll during the decade from 1970 to 1980, because
8 we are talking of figures here. We have talked about it. You've
9 talked about it in various publications, and these figures are
10 known to the tribunal. I would like you to talk about the
11 uncertainty regarding the figures. I know that even if we have
12 just one death that is too much.

13 [09.22.03]

14 But I want you to explain how and when, in a country like
15 Cambodia, after the Democratic Kampuchea regime -- following
16 events as serious as the American bombings, the war against Lon
17 Nol, famine, the Democratic Kampuchea regime, the conflict
18 against the Vietnamese -- it was possible to make a clear
19 distinction and to attribute to each of those events the -- their
20 share in the death toll. Can you tell us a bit more on this
21 subject?

22 A. Thank you. I can't tell you much. I can only tell you what
23 I've relied on in my work, which was not, as I've said before,
24 direct demographic research on my part. Two censuses in Cambodia,
25 where they were nationally conducted, were in 1962, and the

10

1 population was estimated at 5.8 million -- 1998, 13.5 million.

2 [09.23.06]

3 Demographers have estimated that, had the birth rate continued at
4 its "normal" rate, the population of 13.5 million would have been
5 reached not in 1998, but in 1991. So, therefore, the deficit --
6 there's a population deficit in the period between those two
7 periods.

8 On the other hand, in 1968 already, you have a larger figure --
9 in 1970, already a larger figure. So it's between '70 and '98
10 that you have this deficit, and estimates in the early eighties.
11 How many people died? I can only say that in this case I do refer
12 to a consensus of opinion as developed from the study of the
13 demographic data that's available. This figure all comes to a
14 total -- I'm not sure, but let's say -- I hate to be crass with
15 these figures, because I know these are all individual people,
16 but the figures are very uncertain; half a million, perhaps, in
17 the civil war bombardment period. 1.8 -- or, somewhere between --
18 Heuveline, the demographer, titled his article "Between One and
19 Three Million". It's just there that the consensus has developed
20 between 1 and 3 million of deaths occurring under the Khmer
21 Rouge.

22 [09.24.34]

23 Of those, the consensus has drifted back from 3 million to
24 somewhere between 1.5 and 1.7, which is, I think, the figures
25 I've used most of the time in my recent research. The figure of 3

11

1 million was bounced around by the Vietnamese immediately in 1979,
2 and was picked up by one of the defendants in the Court by
3 saying: "If 3 million people were killed, they were killed by the
4 Vietnamese."

5 So this figure was then abandoned, although it still appears on
6 tableaus at Choeung Ek, which I think is really quite -- I don't
7 know. You can use reprehensible, it's too strong a word. But I
8 wish these figures were not still around in circulation, because
9 3 million is much higher than anyone has ever estimated. Some
10 scholars are saying that maybe the 1.5 is too low, as more and
11 more grave sites are discovered from this period, but I don't
12 know.

13 How you divide up these -- this population deficit by cause, and
14 how much you divide up whatever figure you give to deaths under
15 the Khmer Rouge, of either starvation, overwork, mistreated
16 diseases, trauma or execution -- it's impossible to decide which
17 figure is accurate, because there's no way of describing this.

18 [09.25.55]

19 People extrapolate the figures of executions, for instance, from
20 the data that is -- might be available from some of the execution
21 sites around Cambodia. They extrapolate the balance from the use
22 of -- extensive use of refugee reports quite early. In the 1980s,
23 some of these by a Finnish group, one by a Japanese group that
24 tried to extrapolate figures.

25 But, yes, I mean -- I think the beginning of your question

12

1 suggested that no precise figures are available -- is something
2 you should always preface any question and any response -- with
3 that sentence, because precise figures aren't available; these
4 are all estimates. But the number of testimonies, both at this
5 Court and way far away from the Court -- of the number of people
6 whose -- the number of family members that people have said they
7 lost under the Khmer Rouge -- and here I cannot see what pressure
8 or bribery could make people give a false answer.

9 [09.27.01]

10 I mean to say, they lost their parents when they didn't -- has
11 led people to think this death tolls was, again, somewhere
12 between 1 and 3 million, and raising that, of course, as I said
13 -- higher if you include the -- do include the '70-'75 period. So
14 you'll get it up to -- add another half million. But that's not
15 under discussion at the tribunal, but it is making a total
16 between those two dates that you discussed.

17 Q. Thank you for these clarifications.

18 I would like to go back to a question I have already broached. I
19 want to ask you whether, in your opinion -- was the
20 collectivization prior to 1975 same as what we find during the
21 Democratic Kampuchea regime?

22 I would also like you to say whether the simple fact that we have
23 a prior situation that was a little less serious, and another one
24 which came after it, which was more serious -- was that something
25 that could have been predicted during that period? Was it

13

1 foreseeable during that period?

2 [09.28.46]

3 A. I've lost a bit of your question. Was something foreseeable in
4 1973? From the information gathered by Kenneth Quinn -- or was
5 something -- I mean, the answer is, it seems to me that -- the
6 information that Mr. Quinn received from refugees fleeing into
7 Vietnam in 1973 seemed to suggest -- or (inaudible) won't say
8 "seemed to suggest" - suggested that many of the programs later
9 introduced in DK were already in effect -- not all of them, but
10 certainly the uniformity of costumes, the very hard work, the
11 communal eating, the breaking down of personal property. These
12 policies put in effect by Ta Mok, a member of the Central
13 Committee and a member of the Standing Committee, suggest that --
14 to me -- that he could not have been acting independent of DK
15 policies, so -- not DK, it wasn't yet DK -- of CPK policy. I
16 think the policy seems to -- the history seems to suggest that
17 this was a -- an area, in '73, that seemed an appropriate place
18 to begin this - this work. There wasn't fighting going on there,
19 for reasons -- I'm not clear why Takeo, and so on, were not heavy
20 combat zones, but they apparently weren't. (Inaudible) under firm
21 CPK control, been liberated quite early in the civil war under --
22 Ta Mok, over the years, had developed a very loyal and capable
23 set of subordinates who were the people who operated the
24 Southwest later on.

25 [09.30.32]

Extraordinary Chambers in the Courts of Cambodia
Trial Chamber – Trial Day 84
Case No. 002/19-09-2007-ECCC/TC
25/07/2012

14

1 So, yes, I mean, this was a successful beginning of the sorts of
2 policies -- not all of them -- that began -- there was the
3 intimidation of monks also happened in this period -- almost --
4 not quite the list to date, but several--

5 Q. Mr. Chandler, what I want you to tell us is whether you think
6 that there was a hardening of the--

7 MR. PRESIDENT:

8 Perhaps the questions and responses were made simultaneously, and
9 that not enough pause were observed at -- there was -- not
10 properly rendered.

11 [09.31.25]

12 Dr. David Chandler, had you already finished your responses, or
13 was there any problem in your statement?

14 MR. CHANDLER:

15 It was finished, but I don't see there was time to -- for it to
16 be translated before he began his next question, which I welcome.
17 But I'm not ready to immediately answer the next question without
18 my first one being translated. I had finished talking. Thank you.
19 And I know the temptation; I've leapt around myself, so--

20 BY MR. VERCKEN:

21 Q. In fact, Mr. Chandler -- I was trying to interrupt you, in
22 fact, because my feeling was, when I listened to your answer,
23 that maybe my initial question hadn't been sufficiently precise,
24 and that you didn't quite grasp it. And that was why, rather than
25 using more valuable time, I was in fact attempting to stop you

15

1 short, for which I apologize.

2 [09.32.26]

3 Basically speaking, my question was to ask you if, in your view,
4 there had been a kind of progressive movement towards greater
5 stringency in the collectivization policies, and would you draw a
6 difference between the period before 1975 and the period after
7 '75, along those lines?

8 A. Oh, I certainly would. I'm sorry if I didn't get the point of
9 the question.

10 The difference -- one of the differences, however, is not the
11 difference between the policies being pursued, which was -- as I
12 was trying to say, identical policies in both places, but the
13 large number of witnesses the second time, the small number of
14 witnesses the first time; the small geographic zone the first
15 time, the large geographic zone the second.

16 So, the second time, we're talking of evidence that's come in
17 from the entire country; first time from just a portion of one
18 province. So, of course, it gets much larger, and the evidence
19 suggested it got worse, but we just have so much more evidence
20 that they're -- they're different phenomenon.

21 [09.33.51]

22 Q. And on the question of this greater stringency, the hardening,
23 are you telling me that, in probative terms, there wasn't much to
24 go on in the first case and much more in the second, and things
25 were less generalized in the first case than in the second? But

16

1 what about the sheer toughness of the measures that were adopted?

2 Was there a progression in that sense as well?

3 A. Good question. There's lots of evidence that nobody was a
4 tougher person under DK than Ta Mok. This is the same, but he had
5 a more cooperative Base People type province area under his
6 control in the Southwest under DK than, say, the people in the
7 Northwest had, who were, as I said before, dealing with hundreds
8 of thousands of New People who had no agricultural experience and
9 a great deal of expectations on the part of the government.

10 The harshness of treatment, I think -- I went to a site before --
11 maybe it's part of the Court record -- there's certainly an
12 excellent chapter and article by Michael Vickery about variations
13 under Khmer -- under DK where he was talking with refugees quite
14 early, '80-'81, in Thailand, showing that there's a great
15 difference in the way identical policies were implemented in
16 different places. The policies were never ignored. There were no
17 revolts by cadre, but places with trained -- trained cadre, a
18 longer period of -- of CPK control, a smaller number of New
19 People all seemed to operate in a smoother way than places with
20 untrained cadre lots of New People.

21 [09.35.41]

22 So things I don't think got more severe in the Southwest, for
23 example they stayed severe, but people were used to that. They
24 were more severe in the East than they certainly had been under
25 Sihanouk, but they're less severe than they were in the

17

1 Northwest. So, yes, I mean that's the best I can do with your
2 question.

3 Q. Thank you. Staying with this subject, as far as you are aware,
4 can one say that, in certain regions, the zone and district heads
5 behaved like petty warlords -- or whatever you might wish to call
6 them -- who didn't necessarily report on everything they were
7 doing to the Centre?

8 A. I'm not really ready to use that kind of language. And we --
9 again, how do we know what they didn't report? I mean this is,
10 again, looking for the invisible archives, and so on.

11 [09.36.54]

12 Certainly there was great variety in the reputation of these
13 people among people who were in their zones. So Phim, for
14 instance, the Eastern Zone leader who committed suicide in '78,
15 was recalled by New People refugees, whom I have spoken to, as
16 someone who was as good as you could expect from the Khmer Rouge
17 as tolerant as they could hope for. They were people who have
18 gone to the Eastern Zone from Phnom Penh. Others like -- Ta Mok
19 was quite severe, certainly, with -- with any New People or
20 anything any objections to his control.

21 [09.37.24]

22 I hesitate to use "petty warlords". We're not talking about
23 pre-revolutionary China here, we're talking about a country that
24 was under pretty - more, I think -- probably more centralized
25 political control than had occurred in -- in its history. So

18

1 "warlords" is a -- is a phrase I don't want to -- a word I don't
2 want to use.

3 Q. Can you tell us if, in the prevailing conditions in Democratic
4 Kampuchea, the lower level chiefs tended to send valid
5 information to the top of the pyramid on the genuine state of
6 their region or if they were in a better position, if they tended
7 to make things sound rosier?

8 A. That's -- that's a good question. It's impossible to answer
9 again.

10 We have no idea of the -- of how valid the few correspondences we
11 have between zones are. We suspect this is probably the case.

12 Certainly we know the quotas were not being met and the reports
13 to the Centre for rice -- reports to the Centre did not say the
14 quotas are not being met, but I'm certainly, completely unwilling
15 to make a blanket statement about reports to the Centre when (a)
16 so few of them survived, and (b) we have no idea of knowing how
17 true or false these reports are without a lot of corroborating
18 evidence.

19 I don't think they are a very good source of evidence for people
20 not telling the truth, for example, because I think people who --
21 people had to be very sure footed under this regime and some
22 people who didn't tell the truth -- and I suggest -- in the ways
23 you suggest -- were purged as soon as the -- the truth came out.
24 So it's hard to answer your question on a -- in a blanket way.

25 [09.39.50]

1 Q. On the subject of the purges -- this is a question that you
2 might find too general in which case you do not, of course, need
3 to answer. But those who were referred to as enemies were first
4 purged because they were considered to be enemies of the regime,
5 or were they purged more on the basis of belonging to ethnic
6 groups or certain classes?

7 [09.40.18]

8 A. This is a question that lies at the centre of this whole
9 inquiry. I don't want to make a definitive answer to it, but
10 certainly the evidence is that purges based on racial or ethnic
11 categories came rather later than earlier. Purges -- and purges
12 of what were called class enemies, it's hard to say whether all
13 these people were actually members of a improper, antagonistic
14 class. They were branded as that. They were also branded as KGB
15 agents and impossible things that just meant you're against us
16 we'll give you a bunch of labels. So the purges were not racially
17 based.

18 [09.40.57]

19 I think in -- in general, the purges were very seldom racially
20 based and it's hard to say even that the murders of ethnic
21 Vietnamese in the country in 1978 can be termed as purges. I
22 think they can be -- that, to my mind, and this is an arguable
23 point that the -- how do I want to say this -- the -- what the
24 regime did to the Vietnamese seems to me to qualify as genocide
25 under the UN Convention, and this is part of a -- my own -- I've

20

1 said this in -- in my writings. The other purges, by and large,
2 do not, but this is just -- that's a personal opinion, but
3 certainly they came late in the regime. Any -- any purges related
4 to ethnic groups came late in the regime rather than early,
5 rather than '75-'76 or even '77 actually.

6 Q. Staying with the subject of the purges but moving towards
7 another aspect, we do know that under the Democratic Kampuchea
8 regime purges even reached people in very high positions, and I
9 have some difficulty understanding a couple of aspects of what
10 you have testified here which seems to contain a contradiction,
11 but I'm sure you can enlighten me.

12 [09.42.33]

13 On the one hand, you seem to have said that there were -- there
14 was very little open debate within Democratic Kampuchea even at a
15 very high level, and at the same time, you said that decision
16 making within Democratic Kampuchea seemed, to you, to be much
17 more collective than you wrote 22 years ago.

18 So my question is: How can you take decisions in a collective
19 manner if there is no open debate?

20 [09.43.08]

21 A. It depends how small the collective group is. I mean an open
22 debate is not characteristic of DK. Decisions made by a secret
23 group have the validity that group gave to them. I don't think
24 there's a problem. I don't see -- there probably are -- I'm sure
25 my testimony's full of contradictions and I'm sorry for them, but

21

1 this doesn't seem to present one to me, but let me -- let me
2 supplement that.

3 We have no evidence that the purges of very high people in the
4 Party are the direct result of open opposition to the regime
5 spoken in a collective context by one of these people and
6 actually this is not when you get to people like Vorn Vet and so
7 on or in the Central Committee.

8 In their long confessions -- it's not admissible as evidence --
9 they never say they raised issues at the Party and there's no
10 evidence that they did. They were purged for some other reason
11 than failing to or making open objections to policies at these
12 collective meetings.

13 [09.44.25]

14 Q. So you believe that they could do so freely? They could
15 express themselves openly at these meetings, is that what you
16 believe?

17 A. Oh, of course not. I mean, you see what's happened to -- what
18 they knew what would -- no, I'm sorry, I'm stammering. I
19 shouldn't do that.

20 These people had gained confidence in each other as a kind of
21 composite group -- group-think group. "Group think" is a term
22 used for the Pentagon planners of the Vietnam War, for example.
23 They had a like set of ideas and a like set of objectives. They
24 did not -- they accepted the leadership of the Standing
25 Committee. The Standing Committee accepted the leadership of Pol

22

1 Pot. There may well have been some questions raised at some of
2 the disappeared archives, the wonderful cloudy things that we
3 wish we had access to.

4 [09.45.21]

5 But the whole tradition -- it seems to me -- of what I've read of
6 other Communist parties and so on, particularly in China or the
7 Soviet Union is -- Vietnam -- the open discussion of involving --
8 that suggested sharp deviations from set policy or sharp
9 objections to statements by the secretary of the Party were --
10 that was fatal. People just didn't do it. So the -- I wouldn't
11 ever say open discussion we're not talking of a French cabinet
12 meeting or an Australian, you know, congress. This is a different
13 world.

14 [09.46.04]

15 Q. Let's turn to another subject that you, yourself, have just
16 mentioned because you raised the matter of archives. When he was
17 asking you questions, my colleague, Son Arun, from the Nuon Chea
18 defence team, asked you if you had visited all of the places that
19 you talk about in your books and you answered that it wasn't
20 necessary -- necessarily essential in the work of a historian.

21 [09.46.48]

22 And I want to ask you about looking at contemporaneous documents
23 in their original form. You, yourself, concurred that the
24 political context in Cambodia has always been somewhat difficult
25 since the end of the Democratic Kampuchea regime, and in that

1 atmosphere, perhaps some documents were to just be culled or made
2 unavailable. And would you not feel that for a historian, at some
3 point or other in time, it's much better to have the documents in
4 your hands, that are meant to be the real originals rather than
5 just copies?

6 A. Oh, certainly. I mean, that - that goes with saying. I think
7 we do have a great many original DK texts in our hands, however,
8 particularly those springing from S-21. These are not Xeroxes.
9 They -- these are the original texts, as far as we can tell,
10 unless they're massively forged with original typescripts and so
11 on, which is unthinkable given the financial resources of the
12 early years of the PRK. Certainly, it'd be better to have -- it'd
13 be better to have things we don't have, but that's -- I mean,
14 that's true of life. I mean it's -- it's -- you do your best with
15 what you've got but, yes, it is regrettable.

16 Again, I want to get back to the -- this culling issue. It looks
17 as if there's some going on, but I don't what to make too much of
18 it -- as I said this to the Nuon Chea defence -- because when you
19 don't know what's missing, you really can't make a lot of
20 decisions. There may be only one or two, could be a hundred I
21 don't know what is missing. There's no record that says we used
22 to have these records here they're no longer here. That -- that's
23 not what's happening. Things are -- things that we would like to
24 see, well, such as the Standing Committee meetings -- which were
25 sure -- I am certain were amended right up to the end of '78 --

1 are missing, for example.

2 [09.49.07]

3 Q. On the same subject, you said yesterday in this courtroom that
4 you could estimate some 300 meetings taking place of the Standing
5 Committee during the regime and we currently have 19 sets of
6 minutes which are titled "Meetings of the Standing Committee".
7 Now, that's not a particularly glorious number 19 out of 300 is
8 some 8 per cent, I believe.

9 And here I'm not trying to lay any blame at anybody's doorstep
10 for this particular situation that's far from my purpose, but I
11 want to ask you if, as a historian, facing a situation where 92
12 per cent of the minutes that report on the activities of the
13 supreme body of the Party if any such historian is in a very
14 difficult situation, almost unmanageable in attempting to achieve
15 his or her objectives.

16 [09.50.23]

17 A. I'd say to some extent. I mean, the minutes of the Standing
18 Committee of the Soviet Union and Communist China have never been
19 available to western writers, yet some very respectable and, I
20 think, pretty widely accepted histories of elements of those
21 regimes have been drawn from other sources. So I don't think not
22 having -- and it should be more like a 150 rather than 300. I
23 should -- my last arithmetic I took was 1948 so is it -- if it's
24 a weekly meeting - you have a three-year regime -- let's say it's
25 about two or one -- or over 150. This is a remark of -- that

25

1 Khieu Samphan made openly, they met sometimes once or twice a
2 week so let's say once a week twice would get you to 300 and so
3 on.

4 I don't think -- I think these meetings are crucial, but they're
5 -- they're not necessarily available. American cabinet meetings
6 are not available; they're confidential. People write history
7 without these things and accept that fact. It's regrettable, but
8 I just -- I don't know what to say; not "object", it's a court
9 word, I don't want to use that word. But "unmanageable" is not a
10 word I'd use because -- I mean, people manage without these
11 things and they manage commendably. They write good history
12 without these particular documents -- or they can write good
13 history and they can write bad history also.

14 [09.51.40]

15 Q. Tell me, the shortage of contemporaneous documents that we've
16 just been talking about, could this possibly provide an
17 explanation if you compare some of your works? The one entitled
18 "Voices from S-21," which is based on important archives found in
19 S-21. If you compare that with other works on the regime can that
20 perhaps explain the differences -- some are in the more narrative
21 style than others that lends itself more to the style of writing
22 novels, and I think my learned colleague, Mr. Karnavas, referred
23 to this as well. Is this perhaps an explanation of the variety
24 and difference that can be seen between your different books?

25 [09.52.55]

1 A. Well, I wish I had written novels. I've never written a novel.
2 I wish I had. I'd like to be a novelist, but I'm not. And I don't
3 think biographies are novels. I don't think they are non-fiction.
4 I don't think they are fiction. I don't accept that
5 differentiation. They're a different genre from narrative
6 political history. They have to be. They're about an individual
7 person.

8 But, yes, there is a difference. For instance, for my book, "The
9 Tragedy of Cambodian History", I used almost no original Khmer
10 Rouge documents because I hadn't gotten into Cambodia before I
11 submitted the manuscript. It had some documents that had come out
12 through various people from S-21. I used a few confessions. I had
13 -- I had access to some of these early Standing Committee
14 meetings so I printed it in that book "Pol Pot Comes to Power". I
15 did the best I could. And also, of course, that's only one
16 chapter of the book is devoted to this period rather than the
17 book covered a 35 year period.

18 [09.53.58]

19 For the Pol Pot book, I used as many original documents as I
20 could, again, including recorded speeches of his and documents
21 from "Tung Padevat", which was "Revolutionary Flag's",
22 contemporary, lots of contemporary Khmer Rouge documents which we
23 have in its original, or we have copies of the original. I used
24 some confession texts. Already I was starting to work on the
25 archives at S-21. I had already -- I'd come back to Cambodia for

1 research in '90-'91 and submitted the manuscript in '92.
2 The third manuscript -- the third book was -- I think I said --
3 not in narrative form because it wasn't a history of S-21 it
4 wasn't a narrative history of S-21, that's only the first
5 chapter. It was an analysis of the operations of S-21, as far as
6 this could be induced from -- in large -- to a large extent from
7 the archival materials springing from that place.

8 [09.55.05]

9 And as I said before, when someone asked about percentages of
10 sources and interviews -- sources and interviews, the interviews
11 were highest in the first book and lowest in the -- in the S-21
12 book -- the percentage of interviews versus documentary work.
13 Each book is different. Each book required a slightly different
14 technique. I don't think a--
15 Yes, so I'll leave it at that, except to renew my reluctance to
16 accept the idea that I've been writing fiction.

17 Q. Well, I wasn't really intending to go quite that far, Mr.
18 Chandler.

19 Over the last few days, you have been presented with photocopies
20 of documents that are supposed to date back to the days of the
21 regime. And among the documents that you have seen in the last
22 few days, are there some which, in your career as a researcher,
23 you have had in your hands in the original form?

24 A. Yes, there are. Some of the Standing Committee minutes in
25 original form were given to me in that form. I xeroxed them that

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1 night and returned them to the person who had given them to me so
2 actually the phrase "in my hands" is rather good. This is -- I
3 had them in my hands before I read them. Some of the confessions
4 from S-21, the original copies I have held in my hands, others I
5 have seen in Xerox form so that's the answer to your question.

6 [09.57.09]

7 Q. To be a little bit more precise and perhaps to quote an
8 example, on the first day of the hearings you explained that an
9 original minutes of the 30th of March 1976 had been given to you,
10 or perhaps to Ben Kiernan by somebody who had found it in a house
11 in 1979. Would you be able to give us the name of the person who
12 gave you or Ben Kiernan -- I didn't quite understand which of the
13 two it was, that particular document at that time?

14 A. Yes, this was -- I think it's a -- it's a -- it's been
15 recorded in Court minutes. It was not a confidential element.
16 I've sent letters in response to a request from the Court about
17 this. It was given to Ben Kiernan in, I think, 1990 -- 19 --
18 sorry, 1982. He gave him a handful -- I think six or seven
19 documents. The man is Khieu Kanharith. He was later an official
20 under the current regime.

21 [09.58.17]

22 In 1990, when I first came back to Cambodia, I went to see Khieu
23 Kanharith just to interview him about the Khmer Rouge regime, and
24 he said: I have been upset by the fact that Ben Kiernan published
25 only one of the documents I gave him -- the one that you've just

1 been referring to -- and because I'm -- because of that, I'd like
2 to give you the others that I found which I've held in reserve.
3 So he gave me another seven or eight which I took off to a
4 xeroxing machine and returned to him the next morning.
5 So there are documents. And I've -- I've -- all these lines of
6 transmission are -- are in letters that I've sent in request --
7 to request from the Court so I'm not being as precise as those
8 documents are about when I got what and so on, but I think it's
9 about half and half. And they were found in the same house at the
10 same time. But he'd been holding on to them, waiting to see if
11 they would get published, and then he was planning to give Ben
12 some more, but then held on to all of them except this one for
13 his own research did not share them with me or anyone else used
14 them in his book.

15 [09.59.28]

16 Now, the ones that were given to me, in contrast, I xeroxed them,
17 concealed the name of the provider because that was important for
18 him as a Cambodian, at the time -- but xeroxed and sent -- and
19 with his permission, (inaudible) that, sent copies of these
20 documents to as many scholars as I -- as I thought would be
21 interested, including Ben Kiernan. So I opened up and said, "This
22 is out there now. Let's -- we can talk about it if you want to",
23 rather than keeping it in some desk drawer of my own. That's just
24 a bit of -- of history. That's in the letters also that I've sent
25 to the Court.

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1 Q. A few weeks ago, the current directors of DC-Cam came to
2 testify in this Court and I asked the director some questions and
3 he was not willing to say where he had conserved originals from
4 the Democratic Kampuchea period. And it does seem to me that, in
5 a judicial context, this is a particularly important question --
6 the whole issue of originals.

7 [10.01.02]

8 On your part, did you have any particular idea why DC-Cam might
9 be so unwilling to say where the place that the original
10 documents were conserved was?

11 MR. PRESIDENT:

12 Mr. Expert, please wait. We hear the objection by the Prosecution
13 first.

14 The Prosecution, you may proceed.

15 MR. ABDULHAK:

16 Your Honours, first of all, I don't think the -- the very fact
17 stated by my learned friend is true.

18 I don't recall DC-Cam witnesses being unwilling to disclose the
19 sources of documents they received. In fact, we spent almost two
20 weeks hearing evidence on that issue. There might be some very
21 limited exceptions and that's where there were confidential
22 sources. I don't think they relate to any of the documents we've
23 been looking at over the last few days.

24 But, putting that factual point aside, the question is
25 inadmissible insofar as it requires the expert to opine as to the

1 opinions of another party.

2 MR. VERCKEN:

3 Just one point, Mr. President. Your Honours, I think my learned
4 friend has mixed up what I said or didn't understand what I said.

5 I didn't say that DC-Cam did not accept to -- to say where or
6 what were the sources. I am talking, rather, of where they kept
7 the archives. I asked the Director of DC-Cam where he kept the
8 archives and he did not want to answer that question so I'm
9 asking Mr. Chandler whether he would know why they refused to do
10 so -- any reasons that would explain why they refused to do so.

11 (Judges deliberate)

12 [10.03.58]

13 MR. PRESIDENT:

14 The objection and its ground by the Prosecution is valid,
15 therefore it is sustained.

16 The question is irrelevant to the expertise of this expert
17 witness. Therefore, the Chamber does not need to hear the
18 response by the expert to this question.

19 [10.04.35]

20 BY MR. VERCKEN:

21 I will therefore move on to another question.

22 Q. Mr. Chandler, during the first day of your testimony before
23 this Chamber, Judge Cartwright asked you to comment on the
24 minutes of the 30th of March 1976, titled "Decision of the
25 Central Committee on a Number of Problems".

1 Those minutes were not signed and the participants at that
2 meeting are not indicated nor is there any list of participants.

3 In a bid to clarify that situation, Judge Cartwright asked
4 whether in March 1976 some of the members of the Central
5 Committee attended that meeting.

6 My question has to do with your opinion on the organ of the Party
7 that produced that document. You've seen that document on several
8 occasions, if need be I will show it to you again. The title of
9 the minutes includes the terms "Central Committee". Some
10 researchers, including Craig Etcheson, mentioned with regard to
11 that document -- think that that document was not from the
12 Central Committee, but from the Standing Committee. Do you have
13 any opinion on this subject?

14 [10.06.39]

15 MR. PRESIDENT:

16 Mr. Expert, please wait. We hear the objection by the Prosecution
17 first and then the ruling by the Chamber.

18 The Prosecution, you may proceed.

19 MR. ABDULHAK:

20 It's an important question, Your Honours, and it should not be
21 asked in such vague terms.

22 To refer vaguely to other experts such as Craig Etcheson and
23 then, without referring to any specific document that Dr.

24 Etcheson authored -- to draw such a conclusion is not proper.

25 If my friends wish to refer to other materials and those

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1 materials can be put to the expert, we'd like to see if they were
2 on their list for use in Court today, and we can proceed from
3 there. But vague references to other experts as a way of leading
4 the expert, in Court, to a particular conclusion are not
5 appropriate.

6 [10.07.37]

7 MR. PRESIDENT:

8 The objection and the ground is valid.

9 We also listened to the question by the defence counsel, but you
10 did not mention the particular of that document. You talk about
11 the document dated the 30 of March '76, you need to provide the
12 details of that document -- the document ID, ERN number, for
13 instance. And if it's possible, for the document that is not
14 available in regards to other experts, you need to provide the
15 detail as much as possible regarding that particular document.

16 MR. VERCKEN:

17 Yes, Mr. President, it is true that I am at times rather
18 spontaneous, but we are talking of a key document that has been
19 the subject of debate before this Chamber for weeks. The minutes
20 of the decision of the Central Committee has the following
21 reference: D3/12.

22 [10.09.11]

23 MR. PRESIDENT:

24 Court Officer, could you deliver the hard copy to the expert for
25 his examination?

1 MR. VERCKEN:

2 Thank you, Mr President.

3 Q. Mr. Chandler, are you aware that there was a technical
4 discussion regarding the exact organ which was the source of that
5 document -- the source of these minutes?

6 MR. CHANDLER:

7 A. No, if it occurred in the Court, I do not -- I'm not aware of
8 that.

9 Excuse me, if you mean -- I hope you mean the -- not the source
10 through which the document was -- we talked about before, but you
11 mean the title at the top, if it's the -- okay, fine. In that
12 sense, no, I was not present or aware of any -- of that technical
13 discussion.

14 [10.10.46]

15 Q. Very well.

16 I'll move on to another question, to another subject. I would
17 like us to talk about the issue which was conveniently called
18 "Office 810". You have explained what that term "810" means
19 before this Chamber.

20 A. (Microphone not activated)

21 MR. PRESIDENT:

22 Mr. Expert, please wait till you see the red light on the
23 microphone.

24 MR. CHANDLER:

25 I'm very sorry. I must say, before I came down here, my daughter,

1 who lives in New York, was amazed that I had never spent any time
2 in Court. So my behaviour might be irregular; I apologize for
3 that.

4 A. But just to clarify, if -- I don't know what the defence
5 lawyer said in French, but in English it came over as "810",
6 which is -- I'm sure he knows it - it means "870", I don't want
7 it going on the record as "810", that's all I was trying to say.
8 "810" is "870". I'm happy to discuss 870. Thank you.

9 [10.12.06]

10 BY MR. VERCKEN:

11 Q. Yes, I indeed was referring to 870. You have explained that
12 term to this Chamber as a code name standing for Pol Pot. You
13 also described Office 870 as a place where all the documents and
14 the paperwork of the Party was managed or processed.

15 I would like us to look at another transcript dated 9th of
16 October 1975; the reference number is E362. May I request that
17 copy of this document be shown to the expert with the Chamber's
18 leave?

19 MR. PRESIDENT:

20 Yes, you may do so.

21 Court Officer, could you deliver the hard copy for the expert's
22 review?

23 BY MR. VERCKEN:

24 Q. My question has to do with page 2 of this document, and we
25 note that, on that page, we have a distribution of posts and the

36

1 expression "870" is used on two occasions. Under point 8, it is
2 -- we see "Comrade Doeun, Chairman, Political Office of 870". And
3 at point 12, we see "Comrade Yem, Office 870". May I request you
4 to say whether you can make a distinction between the two names
5 referred to as "Office 870"? Can you explain that to us?

6 [10.15.19]

7 MR. CHANDLER:

8 Can I move the -- can I move the page -- can my page -- up a
9 little bit please on my screen, raise the -- what I'm looking at?

10 MR. PRESIDENT:

11 Court Officer, could you assist the expert?

12 [10.15.48]

13 MR. CHANDLER:

14 A. Thank you, that's all I needed. I'm afraid pushing the page
15 down didn't help me with my answer. But, yes, there's certainly a
16 distinction between these two names. Doeun is Sua Vasi.

17 I'm not -- with prior notice, I could have found it in my hotel
18 room. I think the code Comrade Yem -- I'm not sure I could
19 identify him; he's certainly a different person. It is not, as
20 far as I know, a code name -- in your interest, a code name ever
21 used by Khieu Samphan. It may have been, but not to my memory,
22 not to my knowledge. So this is name I don't recognize; it's
23 certainly different from the other one.

24 [10.17.17]

25 Q. Regarding the duties and responsibilities of each of those

1 persons, members of the "bureau" as described, can you furnish
2 any further explanations on these duties and responsibilities or
3 you cannot say any more than what we have on the document?

4 A. I can't really say anymore from my own research, no.

5 The following paragraph, where I would suggest that there was a
6 great deal of work coming into this office or -- it may have been
7 Pol Pot talking about himself, but in sense it's the same thing.
8 He talks about an overload of paper, so I presume one of the
9 roles of these people was to channel this material so that it
10 could be in manageable form.

11 A little -- a slight modification I'd like to make to your
12 earlier question. I don't think I ever said -- and if I did, it
13 was not well said -- that all the paperwork concerning the Party
14 came to 870. The -- if all the paperwork concerned with the Party
15 came to 870, the building would be buried with paper and nobody
16 would be living inside it. This was -- paper directed to 870 came
17 to 870. A lot of paper was, but not all the paper concerned. The
18 phrase you used, I think, was "all the paper concerned --
19 concerning the Party". That's not the phrase I'd use. Otherwise I
20 can't expand and I -- I just can't go further than that.

21 [10.18.58]

22 Q. Yes, I had said that in line with what you said at the hearing
23 of the 10th of July. You even talked about the "lungs of the
24 Party". This is perhaps a generalization, and I agree with you.
25 You also said before this Chamber -- or expressed the idea that

38

1 Khieu Samphan took over from Doeun at the head of what is
2 described here as the Political Office of 870.

3 My question to you is: What are your sources? Do you have any
4 tangible evidence that allows you to express such an opinion?

5 A. I can only say that I've read it in many places, that's maybe
6 an evasive answer, but I can't remember specific sources, a piece
7 of information that is definitely in the - in the public domain.
8 I haven't seen a reason to say that it's false.

9 [10.20.18]

10 One reason to suggest it might be false is that your client has
11 denied it, so that's - that's a piece of evidence that one has to
12 weigh in to. So this is why I'm not really ready to weigh those
13 two against each other and be definitive. This is not something I
14 worked on very -- at any stage recently.

15 Q. I have a question which reflects my curiosity, and you'll tell
16 me whether it is out of place. You would have observed that last
17 week, at a point in time, still with regard to Office 870 on
18 which you were being questioned, you somehow refused to say
19 anything regarding the work of Mr. Steve Heder. Can you explain
20 why you refused to say anything on his work?

21 A. I don't think I did refuse to say anything about his work. I
22 said a fair bit about his work, actually. I don't think "refused
23 to say about his work" was -- is an accurate statement. I may
24 indeed have based some of my thinking about this particular move
25 on things that he wrote, so I could say that is -- that's true. I

1 think these statements have also been written by other people
2 working independently. But, yes, okay, Steve Heder was one of the
3 sources for my – my view that Khieu Samphan did occupy this
4 position. And material that he used that I was not able to verify
5 – clearly, it was his work, and I – I guess I accepted it -- some
6 of it, that particular part anyway.

7 Q. I will now move into another line of questioning. My question
8 has to do with an answer you gave regarding the chain of
9 transmission of information from S-21 right to the top of the
10 pyramid of Democratic Kampuchea.

11 When you were questioned on that subject, you first of all
12 recalled Duch's statement during his trial in which he said he
13 reported to Son Sen. And then you stated as follows -- let me
14 quote your answer of the 10th (sic) of July 2012, in the
15 afternoon, between 3.21 and 3.23: "Son Sen was of the view that
16 S-21 was sufficiently important to report what was happening
17 there to other members of the Party." End of quote.

18 My question to you is as follows: As part of your research, did
19 you unveil or discover any contemporaneous documents showing that
20 Mr. Khieu Samphan received information from Son Sen, information
21 emanating from S-21?

22 [10.24.05]

23 A. No, I've never seen such a connection. But I must say again
24 the translation came through as testimony on "10th of July"; I'm
25 sure you've said 20th, but just -- the translation said I was

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1 testifying on the 10th, and I was in Australia on the 10th, so
2 that doesn't work.

3 Otherwise, no, the -- I mean, I'm not trying to be facetious. The
4 answer to your question is no, I have not seen such documents.

5 Q. Regarding the transcript, I was referring to the 18th of July
6 transcript.

7 Regarding what you said on the 19th of July -- that is the second
8 day of your testimony -- you have already been examined on the
9 answer you gave. I will refer to a passage in your statement and
10 it's page 21 (sic), 30 -- 10.04, the French version -- quote:

11 "It appears that the period in 1960 in the jungle was a period of
12 political preparation, we prepared them for coming to power
13 rather than for evading Sihanouk's police."

14 [10.25.40]

15 In fact, I have a problem understanding your statement, the
16 statement you gave. And I understand it even less when I compare
17 it to what you said subsequently. And you did say subsequently
18 before this Chamber that following their stay in the jungles, the
19 CPK leaders were able to escape from the zone under the control
20 of the King, they even escaped from Samlaut. And you said
21 yesterday that if the situation hadn't been that serious, Khieu
22 Samphan wouldn't have fled.

23 Do you confirm that the repression was very serious -- that the
24 repression of the Samlaut problem was such that it was so serious
25 that Khieu Samphan had to escape from Phnom Penh?

41

1 [10.27.00]

2 A. Absolutely. And reading some of the things -- reading my own
3 material after that part of the sessions, I found that -- I found
4 it made me remember that Sihanouk had actually accused Khieu
5 Samphan to his face of fomenting the Samlaut rebellion, which is
6 a very treasonous offence. And I think Khieu Samphan -- I can't
7 speak for him of course - but I think that kind of sentence is
8 rather terrifying and it certainly would contain, by implication
9 at least, a jail sentence.

10 [10.27.32]

11 So I think that accusation would -- I would infer was sufficient
12 to impel Khieu Samphan -- I would say unwillingly -- I think he
13 would have preferred to stay in Phnom Penh and do the work he was
14 doing unwillingly but rationally into the maquis or the jungle.

15 Q. Still on the same period, in your book "Tragedy of Cambodian
16 History" -- reference D108/50 in English, there is no Khmer
17 translation, page 167, ERN 00193250 -- you talk about the
18 assembly of 15,000 students in Kandal province and these students
19 thought that Khieu Samphan had died.

20 My question is as follows: Could such a situation -- to your mind
21 -- have prompted Pol Pot for instance, to hijack Khieu Samphan's
22 popularity?

23 [10.29.22]

24 A. I certainly would not agree with that supposition, I don't see
25 evidence for it. I said in my first -- I forget which day it was

1 now, I'm sorry but -- that Khieu Samphan in this period --
2 certainly in his electoral district he was one of the very few
3 assemblymen who visited his district and cared and responded to
4 difficulties that district had. I met people over the years who
5 were in his electorate -- and this is even after the Khmer Rouge
6 period -- certainly after the Khmer Rouge period -- and these
7 people all asserted that this was a really unusual loyal and
8 popular deputy.

9 [10.29.59]

10 So I think the demonstration -- I don't think this was organized
11 by the CPK which in any case was in Ratanakiri at the time -- the
12 directorship. I don't think they sent a telegram to somebody --
13 who I can't imagine. I don't see who in Kandal, in the high ranks
14 of the Party at this time, were able to mobilize 15,000 students
15 with the false but quite plausible news that Khieu Samphan had
16 been killed.

17 When people disappeared under Sihanouk, just as they disappeared
18 under the Khmer Rouge, there was never any admission that they
19 had been arrested, tried, convicted, and executed; they
20 disappeared. And his disappearance -- I think shocked his
21 electorate and I think this demonstration in his favour -- I just
22 can't imagine why that would happen. And the long history of a
23 relationship between Pol Pot and Khieu Samphan never suggests
24 that Pol Pot was in any case ever concerned with sabotaging Khieu
25 Samphan's popularity. I think this was a preoccupation of

43

1 Sihanouk. Sihanouk did not like this popularity one bit. I think
2 Pol Pot -- I can't speak for him, so that's the end of my answer,
3 I'm sorry.

4 [10.31.22]

5 Q. That was a very precise answer to the question I was asking.
6 Perhaps I didn't express myself clearly enough. I wasn't trying
7 to suggest that the presence of the 15,000 students in the
8 province of Kandal had been manipulated by the Party. That wasn't
9 the thrust of what I was saying.

10 What I was asking - well, it was just an example, I suppose, of
11 Khieu Samphan's popularity, and I was wondering if you could
12 comment on the scope and this -- what was at stake in terms of
13 Khieu Samphan's popularity, and the Kandal example was just used
14 as an illustration.

15 [10.32.14]

16 Can we say that Khieu Samphan's popularity at the time could have
17 been something of interest, politically speaking, to the Khmer
18 Rouge?

19 A. Oh, certainly. I think the behaviour of the "three ghosts"
20 before they were ghosts was very useful to the Party. And it's my
21 view that these people were actually under Party direction
22 generally - "stay in the open, act as a front, do what you can to
23 pursue our overall goals".

24 [10.32.50]

25 I think their popularity in that sense was pleasing -- must have

1 been pleasing to the leadership, we have no record of that. And
2 whether someone is pleasing or not is never the kind of language
3 these people use. Were they doing their work well or not? I think
4 their work was quite satisfactory.

5 What happened in '67 as we said in the first question was that
6 Khieu Samphan unexpectedly became terrified by the language that
7 Sihanouk was using to him, which could hardly have been put in
8 his mouth by the Communist Party, and made him think, if I stay
9 longer, I'm going to go into prison.

10 And I had an interview, during my writing that book, with a
11 French official very close to Sihanouk at this time who claimed
12 to me that he had been visited by Khieu Samphan for his friend a
13 day or two before he left, and he told the person I interviewed,
14 "I will have to -- I have to get out of town. I'm sorry. You're
15 my friend. This is au revoir." They were speaking French. "This
16 is goodbye." And my friend -- my interview person says it was a
17 sad moment because he, himself, a French progressive, felt that
18 Khieu Samphan was doing very commendable work, not for the Party.
19 My friend -- my interview back then was by no means ever a member
20 of any French Communist Party -- of any Communist Party.

21 [10.34.23]

22 Q. At the time, he wasn't a member of the Communist Party, Mr.
23 Chandler, at the time. That's what surprises me here. You
24 describe Khieu Samphan as somebody who had done a good job for
25 the Party, whose work was commendable. And I'm somewhat surprised

45

1 by that description you are giving us. What is the source for
2 this particular analysis?

3 MR. PRESIDENT:

4 Dr. Chandler, could you please hold on?

5 The Co-Prosecutor is on his feet. He may now proceed.

6 [10.35.09]

7 MR. ABDULHAK:

8 In the interests of allowing our counsel -- our learned friend to
9 get through his material, we've not objected to a lot of the
10 leading questions, but that was a particularly blatant example of
11 counsel testifying as to Mr. Khieu Samphan's membership, or
12 otherwise, of the CPK.

13 (Judges deliberate)

14 [10.36.20]

15 MR. PRESIDENT:

16 The objection by the Co-Prosecutor is appropriately reasoned and
17 sustained.

18 Counsel for Mr. Khieu Samphan is advised to rephrase the
19 question.

20 BY MR. VERCKEN:

21 Thank you, Mr. President.

22 Q. Mr. Chandler, in your answer, what I heard in my headphones
23 was that before Mr. Khieu Samphan's departure for the jungle, you
24 were describing his activity as being that of somebody who was
25 obeying the dictates of the Party.

1 And so my question that I was putting you was to know if, as you
2 see things and before 1977, Khieu Samphan was already being
3 remote controlled by the Party? And if such is the case, could
4 you please tell us what the basis for such an opinion would be?

5 Thank you.

6 [10.37.49]

7 MR. CHANDLER:

8 A. It's an inference. And, of course, in your earlier question,
9 it's difficult to say if I can't pick a phrase out of a question
10 that wasn't allowed. You said that we'd know he wasn't a member
11 of the CPK. I wish I knew your sources for that because you have
12 no information about his membership or non-membership.

13 [10.38.07]

14 Indeed, we have no information about anybody's membership in the
15 CPK. It was always secret. No membership cards that I know of
16 have survived. So he could have been a member all along, or
17 never, or whatever. Never seems to me extremely unlikely. This is
18 a person who was a member of the French Communist Party who has
19 never deviated -- deviate is a bit demeaning -- who has never
20 altered his perspectives on views of world history, who has close
21 association with other members of the CPK at the Kampucheaot
22 School where he taught. His close association with the other two
23 ghosts, certainly who were also, if they weren't members of the
24 CPK, they certainly were acting in its interests at many stages
25 of their open careers.

47

1 [10.38.58]

2 I think -- the idea that Khieu Samphan -- this is one that is
3 pretty widespread and popular and it's one that I don't accept
4 for lots of reasons. I have to go back to my sources, which I
5 can't do today, to say why I'm saying that, but I think it's
6 unfeasible to suggest that Khieu Samphan was sort of a
7 left-leaning -- a French style, left-of-centre liberal who was --
8 that this was all he was. That he was not -- or he had become
9 disconnected from the international communism movement which he
10 joined in France, saw no possibility, feasibility, profit,
11 whatever you want to use, in connecting himself with the movement
12 in France -- in Phnom Penh, a move that every other member of the
13 people who had come from France -- Son Sen, Khieu Samphan, Ieng
14 Sary, Pol Pot, many others -- when they came home from France,
15 had membership in the Communist Party -- they joined the
16 Cambodian Party.

17 [10.40.06]

18 So to say that he didn't ever do that, just because we don't have
19 his membership card, seems to be a hard ask. Certainly his
20 membership, as I said, was secret. Sihanouk thought he was a
21 deep-dive Communist, but Sihanouk didn't know about the CPK
22 either. He had no idea that its structure was out there, but he
23 was ready to accuse Khieu Samphan of this heinous crime, which
24 led Khieu Samphan to flee.

25 [10.40.35]

48

1 Now, he fled to the countryside, and who does he meet? Oh, just
2 by coincidence, he meets Ta Mok. "Where'd he come from?" "I never
3 saw him. I'm not a member of the Communist -- who is this guy?"
4 Well, this is part of the part that makes it unbelievable that he
5 wasn't -- had connections that he could use when he fled. He
6 didn't flee into a part of the forest that he had no connections
7 with.

8 So that's my rather -- that's a rather murky reply to your good
9 question.

10 [10.41.14]

11 MR. PRESIDENT:

12 Thank you, Counsel and Dr. Chandler.

13 Since it is now an appropriate time for the adjournment the Court
14 will adjourn for 20 minutes. The next session will be resumed by
15 11 o'clock.

16 Before the adjournment, we would like to ask counsel for Mr.
17 Khieu Samphan to advise the Chamber as to how much time he would
18 need to put further questions to the expert, please.

19 MR. VERCKEN:

20 Thank you.

21 Mr. President, if it's all right by you, I'd like to give you an
22 answer to that question at the end of the coffee break. I need to
23 just check over the remaining questions that I have to ask, so
24 perhaps I shouldn't give you a precipitated answer right now.

25 [10.42.13]

1 MR. PRESIDENT:

2 Thank you.

3 However, you are not supposed to put questions beyond lunch
4 break. You are advised to ensure that you make the most of the
5 remaining time before the lunch adjournment to finish all the
6 questions.

7 Court officer is now instructed to assist Dr. Chandler during the
8 adjournment and have him return to the courtroom by 11 o'clock.

9 (Court recesses from 1042H to 1101H)

10 MR. PRESIDENT:

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

12 We shall hand over the floor to Khieu Samphan's defence to
13 continue putting questions to the expert. You may proceed.

14 [11.02.16]

15 BY MR. VERCKEN:

16 Thank you, Mr. President.

17 Q. Mr. Chandler, I would like us to return to what we were saying
18 before the break. I would like you to comment on what I see as a
19 contradiction. What I mean is this. On the one hand, you state
20 that the status of members of -- or membership of the Party was
21 confidential and no dates for membership were provided. At the
22 same time, you state that despite such confidentiality, such
23 secrecy, Mr. Khieu Samphan is described, with regard to the
24 period before 1967, someone who was a member of the Party.
25 My question to you is: What is your source for describing Mr.

1 Khieu Samphan as such?

2 A. Thank you. Well, I hope there's no contradiction. Evidence for
3 secret membership is not available, but my assertions that he may
4 -- seemed to me to have been a member at the time stem from his
5 -- the trajectory of his life, the continuity of his loyalties,
6 and so on.

7 [11.04.03]

8 In fact, I could qualify my sentence by saying that it's possible
9 that it was in the interest of the Party not to induct Khieu
10 Samphan into its membership, in order to keep him as a front
11 operator, friendly to them and friendly to their policies. This
12 is reflected very faintly by the fact that he wasn't brought onto
13 Central Committee until 1971. So he's got to have been a member
14 of the Party at least since 1971, not -- never a member of the
15 Party, because you don't ask people off the street to get on to
16 the Central Committee.

17 But I think it's more likely that he, like all his colleagues
18 from France who had joined the French Communist Party and who had
19 worked closely together in various schools, and so forth, in
20 Phnom Penh, that he -- it seems very unlikely to me that he
21 alone, of all that group, would not have been privy to the
22 existence of the CPK and to the way that it would behave. He may
23 not have been going to secret meetings -- there's no evidence
24 that Khieu Samphan, for example, was at the Congress in 1960 -
25 I'd - no, it's never been asserted, but that he would continue to

1 be seeing a group of his friends from Paris, all members of the
2 CPK, and still, for reasons that will elude me, refusing to join
3 the Party himself, just seems very unthinkable to me. "You go
4 ahead and be Communist; I can't be one for reasons that I can't
5 explain, but I'm still friends with you, I teach at the same
6 school, and so forth".

7 [11.05.59]

8 Q. I think we can discuss this matter indefinitely because we are
9 talking of assumptions here, and I don't want my learned friend
10 of the Prosecution to object to any attempt to further discuss
11 this issue.

12 So let me ask you another question which is not very far off from
13 this one. My question has to do with a meeting of the Central
14 Committee. You told this Chamber that the decision to evacuate
15 Phnom Penh had been taken by a Central Committee meeting held in
16 February 1975.

17 [11.06.53]

18 You said on 19th of July 2012, page 56, at about 11.47 -- and you
19 said as follows: "I think it is public knowledge that this is
20 found in several sources."

21 My question to you Mr. Chandler is as follows: What is the
22 tangible basis that you have for asserting that that decision to
23 evacuate Phnom Penh was taken by a Central Committee, or at a
24 meeting of the Central Committee held in February 1975?

25 A. As I recall from that testimony, which you recall more

1 sharply, of course, by being able to look at the transcript – and
2 I'm not making – oh, I'm seeing the transcript myself, no blame
3 there, I have it right here – I think I was basing that assertion
4 on the fact that the February meeting on the published work of
5 Ben Kiernan, who was himself basing it on interviews that he'd
6 had with people who had attended the meeting or had attended a
7 meeting, a larger meeting following the Central Committee
8 meeting, I'm sorry not people on the Central Committee -- Ben did
9 not speak to people on the Central Committee himself.

10 That's what I remember; I may be wrong. I hope I'm correct here.

11 [11.08.24]

12 Q. I have paused because the French interpretation doesn't appear
13 to have been very practical, and so I want to seek your
14 clarifications. You talked about a more "broad-based meeting".
15 Can you please further explain what you meant when you talked
16 about "meetings"? I didn't quite understand what you said
17 regarding the Central Committee and "broad-based meetings".

18 A. That was how this – the meeting that – where these decisions
19 were announced, not the meeting at which these decisions were
20 taken was described. That's the best I can say. I have not done
21 research into this particular meeting myself.

22 [11.09.34]

23 Q. Are you aware that authors other than yourself, for instance,
24 Mr. Short, did not voice the same opinion regarding the date on
25 which that decision was taken?

1 MR. ABDULHAK:

2 Objection, Mr. President.

3 MR. PRESIDENT:

4 The Prosecution, yes, you may proceed.

5 Mr. Witness, please hold.

6 MR. ABDULHAK:

7 Again, on the same basis as one of our earlier objections, these
8 vague references to supposed opinions of other experts without
9 reference to the specific source are unhelpful and will not
10 elicit the best evidence for this Chamber. If my friend wishes to
11 put before the expert Mr. Philip Short's analysis of this problem
12 then we'll have no objection provided that the document was put
13 on the document interface in a timely manner, but we cannot
14 accept counsel summarizing other expert evidence and putting it
15 to this expert.

16 [11.10.59]

17 BY MR. VERCKEN:

18 Yes, Mr. President, let us be serious. We are examining an
19 expert, someone who is well versed with various thesis as to how
20 the facts were at use, and he is trying to explain to the Chamber
21 that there may have been contrary thesis coexisting with others
22 that are of concern to us. I can give you the reference of Mr.
23 Short's publication, but I will simplify the question and ask Mr.
24 Chandler whether he is aware of this other theory. This would
25 enable us to move forward without necessarily having to provide

54

1 long references on issues that have – that Mr. Chandler is
2 perfectly aware of.

3 It is document E3/9 and the references in French as follows:
4 00639458, in English 0036199 and in Khmer it is 00755581.

5 Q. This is a reference to the passage in the book titled "Pol
6 Pot: Anatomy of a Nightmare" – quote -- I'll read in English,
7 since it is in English: "In the autumn of--"

8 [11.13.11]

9 MR. PRESIDENT:

10 Counsel, please repeat the Khmer ERN number as your statement
11 earlier was too quick.

12 BY MR. VERCKEN:

13 Of course. The ERN for Khmer document is 00755581.

14 And I quote: "In the autumn of 1974, when the decision was taken
15 to evacuate Phnom Penh?"

16 [11.14.03]

17 Mr. Chandler, were you aware of the existence of another date?

18 And there are many other dates, by the way. And what do you say
19 to that?

20 MR. CHANDLER:

21 A. Well, I -- thank you. I can only say I've certainly read this
22 book; I've certainly read that page. I read it maybe six years
23 ago. I'm certainly aware that there are other theories around. I
24 would like to be sure that I saw the references for that there
25 about the '74 versus '75 decision that was taken. I'd need the

55

1 footnotes and I'd need to check the footnotes and if I'd had this
2 question in Australia I could answer it more substantially, but
3 yes.

4 The point of your question -- am I aware that there's differences
5 of opinion and am I aware of Short's view in general - yes. And
6 today, on this particular point, yes.

7 [11.15.28]

8 Q. Still regarding the evacuation of Phnom Penh, according to
9 what you know and since you have referred to this in your
10 testimony, regarding evacuations prior to 1975, had those
11 evacuations caused losses as significant as those we witnessed
12 during the evacuation of Phnom Penh?

13 And, if so, can you give a basis for your explanations? Were the
14 evacuations that occurred before 1975 some kind premonition
15 regarding visibility and whether the subsequent evacuations could
16 have occurred on the basis of what had happened before 1975?

17 [11.16.55]

18 A. Okay, the first part of your question -- there's no way they
19 could have been as severe because the scale of the evacuation is
20 far smaller. The towns of Udong and Kratie were much smaller than
21 Phnom Penh. I think there is ample interview material available
22 for the way these people were treated. Whether it was already
23 part of a wider policy is impossible for me to say, but it seems
24 to me what I did say in the testimony about these pre-1975
25 evacuations was that it was traditionally not in the interest of

1 an invading force to take a city, for example, and then withdraw
2 leaving the population to go about its own business.

3 [11.17.45]

4 The population of Udong was taken away from Udong precisely to
5 deprive - I can't say precisely, but it looks as if to put -
6 deprive the Lol Nol regime of this human resource. In Kratie, I'm
7 not sure of the details. I don't think we have evidence of quite
8 as much suffering being caused as in the Udong evacuation which
9 was larger.

10 Q. So, if I understood your answer correctly regarding Udong, or
11 the Udong evacuation, that was one stage in a process to conquer
12 power. Is that what you mean?

13 A. Yes. I mean everything they did in the Civil War was a step
14 toward gaining power. This was just one of them.

15 Q. In your biography of Pol Pot -- and I will quote a passage,
16 this is -- it is on page 60, the document is E3/17 and the ERN in
17 English is 00392974 and in Khmer it is 00821724 -- and you write
18 as follows: The Vietnamese in the early sixties had advised the
19 Cambodians to pursue the fight solely on a political basis, a
20 basis that - I quote - "was suicidal" -- end of quote.

21 Can you explain why pursuing the political struggle "was
22 suicidal"?

23 [11.20.13]

24 A. Well, pursuing the political struggle as such was not
25 suicidal, but telling the Cambodian Communists that they could

1 not take up arms when they were being oppressed as was happening
2 in the 1960s meant that they were giving them a recipe either to
3 shut up or to get killed. And this was kind of direction that I
4 think there are documents that indicate the Khmer Rouge resented
5 a lot. What they wanted -- what the Vietnamese wanted in Cambodia
6 at this stage was that political struggle could continue against
7 Sihanouk, but nothing could be done to hamper or to undermine the
8 informal alliances Sihanouk had reached with the Vietnamese.
9 And this would be undermined exactly as it was in 1969 -- '69,
10 '70 when the Khmer Rouge took up arms against the Sihanouk regime
11 before the coup. It was interpreted by Sihanouk as they're still
12 acting under Vietnamese guidance which was not -- necessarily was
13 not all true of these particular movements, but this must be a
14 betrayal by the Vietnamese of the policy that he developed with
15 them.

16 [11.21.17]

17 So, it was certainly in Vietnamese's interest not to have armed
18 resistance to Sihanouk. It was a suicide because it did not give
19 the Communist movement any -- the option of defending itself
20 against aggression.

21 MR. VERCKEN:

22 Thank you, Mr. Chandler.

23 Mr. President, I have no further questions for the expert.

24 (Judges deliberate)

25 [11.22.24]

1 MR. PRESIDENT:

2 Thank you, Counsel.

3 The hearing of testimony of Professor David Chandler has come to
4 a conclusion.

5 Professor David Chandler, on behalf of the Bench, the Trial
6 Chamber would like to thank you very much for spending your
7 valuable time to testify as an expert in the proceedings before
8 us during the last six days. Your testimony will surely be part
9 of the contribution to us attaining the truth and we wish you all
10 the very best and have a safe journey back home. You're excused.
11 Court Officer, in cooperation with the WESU unit, please arrange
12 for his return.

13 You may speak, Mr. Expert.

14 [11.23.22]

15 MR. CHANDLER:

16 Very briefly, Mr. President, thank you for those gracious
17 remarks.

18 I'd like to say that, although it may not have seemed so to many,
19 this has been a very intriguing and interesting experience for
20 me, and I hope I have been helpful.

21 [11.23.34]

22 I want to put on record, however -- there's no "however" at all
23 -- my gratitude to the Chamber for inviting me, my gratitude to
24 the supportive personnel -- supporting personnel of the tribunal
25 for being so helpful to me just in arranging my -- making

1 arrangements for me.

2 And, finally, I'd like to express my gratitude to the lawyers for
3 the Defence, the Prosecution, and the civil parties for working
4 hard to ask interesting, penetrating, and -- I hope, in terms of
5 history -- helpful questions for your deliberations.

6 So, in closing, I'd just like to express my quick thanks to all
7 the people who have been working with me in my five and a half
8 days, and although it may not seem like it, I have enjoyed it,
9 thank you -- or seemed like it at times, I'm sorry.

10 MR. PRESIDENT:

11 Since the time is also appropriate for the morning break, the
12 Court will now adjourn and will resume at 1.30 this afternoon.

13 All parties and the public I inform that from 1.30 this
14 afternoon, we will hear the testimony of the witness TCW-564, who
15 is waiting downstairs.

16 The Defence Counsel, you may proceed.

17 MR. PAUW:

18 Thank you, Mr. President. Our client, Mr. Nuon Chea would like to
19 follow this afternoon's proceedings from his holding cell as he
20 is suffering from a lack of concentration, has a headache and
21 pain in his back. So, with your permission -- we have prepared
22 the waiver, and Nuon Chea would like to stay in the holding cell
23 this afternoon. Thank you.

24 [11.25.32]

25 MR. PRESIDENT:

60

1 Having heard the request by Nuon Chea by his defence counsel to
2 follow the proceedings through a remote means -- that is, by
3 audio-visual means -- for the afternoon session due to his back
4 ache and headache and his inability to concentration -- and, the
5 Defence Counsel, you need to submit the letter of waiver of the
6 Accused to the Chamber for his direct expressions in the
7 courtroom and instead to follow it through a remote means in the
8 holding cell downstairs -- the Chamber agrees to this request
9 which he made through his defence counsel to follow the
10 proceeding downstairs through audio-visual means for this
11 afternoon session.

12 The Defence Counsel, you are required to immediately deliver the
13 letter of waiver to the Chamber with a thumbprint or a signature
14 of Nuon Chea.

15 The AV Unit, you are instructed to link the proceeding to the
16 holding cell downstairs for Nuon Chea to follow it for this
17 afternoon session.

18 [11.27.20]

19 Security guards, you're instructed to take the two Accused to the
20 holding cell downstairs during the adjournment, and for this
21 afternoon you need to have Mr. Nuon Chea in the holding cell
22 downstairs to follow the proceeding remotely.

23 The Court is now adjourned.

24 (Court recesses from 1127H to 1333H)

25 MR. PRESIDENT:

61

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

2 As the Chamber informed the parties and the audience this
3 morning, we will hear the testimony of a witness with the
4 pseudonym TCW-564, and if there is no matters to be raised by any
5 party, the Chamber will invite the witness to the courtroom.

6 Defence Counsel, Michael Karnavas, you may proceed.

7 [13.34.21]

8 MR. KARNAVAS:

9 Good afternoon, Mr. President. Good afternoon, Your Honours. And
10 good afternoon to everyone in and around the courtroom. Before
11 the witness appears, I wish to bring up -- bring a matter to the
12 Court's attention and to the Prosecution's attention concerning
13 this particular witness and so we could see how we would proceed
14 or how we should proceed in light of what we think may be an
15 irregularity.

16 The witness gave two statements to the Office of the
17 Co-Investigative Judges. The second statement was dated 21
18 September 2008. As you well know from previous experiences that
19 we've had here in Court, the practice is to have a lengthy
20 interview, then to summarize, and then to read back the summary,
21 and the summary becomes the statement. Sometimes the summaries
22 are five or 10 pages long, even though the discussions may have
23 taken hours and hours.

24 [13.35.34]

25 In this particular instance -- in this particular instance, if we

62

1 look at the second statement, which is E3/63, also known as
2 D107/3, the interview begins at 9 o'clock and ends at 11.00, so
3 it's a two-hour interview. As part of our due diligence, we
4 actually go and listen to the entire tape to see whether the tape
5 is consistent with the summary and if anything pertinent was left
6 out. In this instance, at least, my colleagues, both Mr. Ang Udom
7 and So Mosseny, both lawyers, listened to the tape, and it
8 appeared that the witness was reading answers. In other words, it
9 wasn't a conversation; it was a question being read and answer
10 being read back. And so we had the entire discussion, the
11 interview, transcribed into English so I could see.

12 [13.36.56]

13 And what we see, both in English and in Khmer, is that the
14 summary is the exact version as what is on the tape itself. The
15 second interview, of course, is approximately -- when you get
16 through the preliminaries of names and what have you, it's about
17 four pages long. So in a two-hour discussion with -- only a tape
18 of 10 to 12 minutes was generated, four pages of transcription.
19 What happened during the other 48 minutes? Was the witness
20 provided the answers and then he was reading the answers to the
21 questions?
22 Now, it may not be the practice in other places around the world.
23 I don't know what - what those practices are. But at least it
24 would seem to me that if you're conducting an interview, it
25 should be question and answer as opposed to reading the answers,

1 unless, perhaps, he was given the questions in advance, he read
2 them, he wrote out the answers, and then read them out -- I don't
3 -- read them back into the record. I don't know. But for us, it
4 would appear that this is an irregularity.

5 [13.38.18]

6 Now, we had a previous witness, Your Honours, as you may recall,
7 who gave an interview, and it wasn't until he was questioned that
8 it came to light that the day before, before going on tape, he
9 had a full eight-hour interview during which period he was shown
10 documents and then went on -- on record the following day with no
11 mention of it on the - on the summary.

12 Now, we do think that this is a situation that should be
13 clarified. The transcription came in about one -- 10 minutes
14 after 1.00 today, so I'm raising it as early as I was able to --
15 in addition to -- with my colleagues, to see that this was an
16 issue.

17 And so I leave it to you, Your Honours, to decide how to proceed,
18 whether you wish to ask the witness how it went or leave it to
19 the parties to get into it. But I wanted to raise it so that
20 there is no suspicion on the Trial Chamber's part that, perhaps,
21 we were trying to game the process, that we were trying to take
22 an advantage. We're raising it as quickly and as early as
23 possible. But we think it's an irregularity; we want to go into
24 it. And I think the Prosecution would probably want to do the
25 same, since they -- they are, in all likelihood, going to rely on

64

1 the second interview as well as the first interview if they need
2 to refresh the witness's memory. Thank you.

3 [13.40.07]

4 MR. PRESIDENT:

5 The Prosecution, you may respond.

6 MR. LYSAK:

7 Thank you, Mr. President. And I thank counsel for bringing --
8 raising that matter at this time. I think it is premature a
9 little bit but I understand what he's saying.

10 [13.40.30]

11 I saw the transcript when it was posted yesterday in French and
12 looked at it, and it appeared to me to match the actual written
13 statement. And I understand now that counsel are complaining
14 because the recorded interview matches the statement.

15 What I would simply say is we're going to question this witness.

16 If there are any issues, it will come up in his testimony. I'm
17 quite certain there aren't any, but I do appreciate counsel
18 informing us of his position. And if it turns out the Court needs
19 to make any inquiries, certainly that's something that can be
20 done.

21 But at this stage, I think we should proceed with the
22 questioning, and that's why we bring the witness into Court. We
23 will see what his testimony is here.

24 (Judges deliberate)

25 [13.50.42]

1 MR. PRESIDENT:

2 The Chamber has heard the observation made by the defence counsel
3 regarding the procedure in making the written record of interview
4 during the conduct of the investigations undertaken by the Office
5 of the Co-Investigating Judges.

6 In order to clarify the matter further and since there is the
7 presence of this particular witness, the Chamber will therefore
8 invite the witness to enter the courtroom to answer to some of
9 these procedural matters as raised by the international defence
10 counsel for Ieng Sary regarding the investigative stage.

11 Court Officer, please invite the witness TCW-564 in, as well as
12 his duty counsel.

13 (Witness enters courtroom)

14 [13.53.32]

15 MR. PRESIDENT:

16 Good afternoon, Mr. Witness.

17 You have been instructed by the court officer in order to allow
18 you to respond to the question put to you by any of the parties.

19 First, you need to hear the question, and you wait until you see
20 the red light on your microphone, then you can speak so that your
21 voice will go through the interpretation system, which will be
22 interpreted into two separate languages used in this courtroom.

23 QUESTIONING BY THE PRESIDENT:

24 Q. Witness, can you tell the Chamber your official name?

25 MR. ROCHOEM TON:

66

1 A. Good afternoon, Mr. President. My name is Rochoem Ton. I also
2 have the name by Phy Phuon, and my alias is Vycheam.

3 [13.55.15]

4 Q. Do you know the Khmer language?

5 A. I can do some reading and writing, but it's not that
6 consistent.

7 Q. Thank you.

8 Can you spell your name, the first name that you just gave?

9 A. My first name is Rochoem Ton, and the second name is Phy
10 Phuon.

11 Q. How do you spell your first set of name -- that is, Rochoem
12 Ton?

13 A. (Microphone not activated)

14 MR. PRESIDENT:

15 Please wait until you see the red light on the microphone before
16 you speak. The red light means the -- your microphone is
17 operational.

18 MR. ROCHOEM TON:

19 A. (No interpretation)

20 THE INTERPRETER:

21 The witness spells his name in the Khmer alphabet.

22 [13.56.51]

23 BY THE PRESIDENT:

24 Q. Thank you.

25 Mr. Rochoem Ton, how old are you?

1 MR. ROCHOEM TON:

2 A. I am 65 years old.

3 Q. Thank you.

4 Where is your current residence?

5 A. I'm residing in Daung village, Malai sub-district, Malai
6 district, Banteay Meanchey province.

7 Q. Thank you.

8 What is your current occupation?

9 A. I'm a farmer and also a rice farmer.

10 Q. Thank you.

11 What is your father's name?

12 A. My father's name is Pa Tout Kvek.

13 Q. Can you repeat your father's name? Please make it slower.

14 A. His name is Pa Tout Kvek.

15 Q. Thank you. And what is your mother's name?

16 A. Her name is Ros Chambech.

17 Q. And your wife's name?

18 A. Her name is Sreng Kim Ly.

19 Q. Thank you.

20 How many children do you have?

21 A. I have four children.

22 [13.59.08]

23 Q. Thank you.

24 Can you inform the Chamber your place of birth?

25 A. I was born at Ket village, Ta Lav sub-district, Andoung Pech

1 district, Ratanakiri province.

2 Q. Thank you. Is it Andoung Pech or Andoung Meas sub-district?

3 A. Previously, it was known as Andoung Pech, but it is now known
4 as Andoung Meas.

5 Q. What is your ethnicity?

6 A. My ethnicity is Jarai.

7 [14.00.20]

8 Q. Thank you, Mr. Rochoem Ton.

9 According to the report of the greffier of the Trial Chamber
10 reported to the Chamber yesterday, you have no relationship with
11 the parties to the proceedings, including the Civil Parties and
12 the accused persons; is the report correct?

13 A. Yes, it is.

14 Q. This morning, the greffier reported to us that you already
15 taken an oath at the Court; is that true?

16 A. Yes, it is.

17 Q. Thank you.

18 [14.01.18]

19 During the proceedings, as a witness, the Chamber wish to apprise
20 you of the rights as follows.

21 As a witness, you can reject any questions that lead to your
22 responses in self-incrimination, the rights of -- the right
23 against self-incrimination.

24 As a witness, you have duty to provide testimonies. You are to
25 respond to questions posed to you by the Chamber and the parties

69

1 to the proceedings except the responses that are
2 self-incriminating, as indicated above.

3 As a witness, you are to tell the Court, based on your
4 experience, what you have witnessed regarding the events and
5 facts to the questions posed to you by the Judges and the parties
6 to the proceeding. You shall only tell the truth, nothing but the
7 truth.

8 Did you understand this?

9 [14.03.04]

10 A. Yes, I do, Your Honour.

11 Q. Thank you. My next question is:

12 Have you ever provided interviews to investigators from the
13 office of the Co-Investigating Judges during the last few years?

14 A. Yes, I have.

15 Q. Now, I would like to only ask you about the interviews you
16 gave to the investigators from the Office of the Co-Investigating
17 Judges of the ECCC, not other interviews.

18 Have you ever given interviews or have you ever been interviewed
19 by people from the Office of the Co-Investigating Judges, and how
20 many times were there?

21 A. I was interviewed twice.

22 Q. Do you remember when the first interview was conducted and
23 where?

24 [14.04.44]

25 A. The first interview was conducted in Malai district, in Malai

1 commune, Banteay Meanchey province.

2 Q. Do you remember when, exactly, it was?

3 A. It was in 2007.

4 Q. When was the second interview conducted and where?

5 A. The second interview was conducted at my home in 2008. I think
6 it was in September 2008.

7 [14.05.42]

8 Q. Thank you.

9 Before you come here, have you ever seen or read the record of
10 the interviews you gave to the investigators from the office of
11 the Co-Investigating Judges -- the two interviews you just
12 mentioned?

13 A. Yes, I have read the records time and again, but I do not
14 remember them all. I don't remember the details.

15 Q. Thank you.

16 Based on your best knowledge and recollection, are the records of
17 the interview relevant or consistent to the accounts you gave to
18 the interviewers -- interviewees -- I mean, the investigators
19 when the interviews were conducted at your home in Malai?

20 [14.07.23]

21 A. I have noted that the accounts reflect the records I gave to
22 them during those two occasions.

23 Q. During the interviews, if you can recollect, how were you
24 asked questions? For example, were questions posed to you and you
25 responded, or were you fed with some answers where you could read

1 from a written paper?

2 A. I told them what I witnessed -- saw -- from the very
3 beginning, starting from 1967 onwards.

4 Q. When, during the course of the questioning, were questions
5 being posed to you, then you responded to the questions, then
6 another question was put and then another response was made. Was
7 it the procedure during such interview?

8 A. Questions were raised, responses were made. The investigators
9 put some questions to me, and I responded to the questions I was
10 asked.

11 [14.09.28]

12 Q. Thank you. When the interviews were concluded, what were the
13 procedures before the conclusion of such interviews? Tell the
14 Court if you remember the procedure during the conclusion of the
15 interviews.

16 A. After question and answer sessions, finally, I was read out
17 the documents. After the document was read out and I agreed, then
18 I gave my thumbprint on the papers.

19 Q. Thank you. Did you do that on both occasions or just on one
20 occasion only?

21 [14.10.35]

22 A. I did in both occasions.

23 Q. Do you still recollect the procedures during the interview --
24 regarding the interview, whether the record of your interview was
25 kept?

1 A. Indeed, the interviews were recorded. However, the recording
2 of the interview was not played back to me.

3 MR. PRESIDENT:

4 Thank you.

5 Fellow Judges of the Bench have any questions to put to the
6 witness? If so, you may proceed.

7 [14.11.50]

8 During your course of testimony you will be assisted by your duty
9 counsel -- the counsel assigned to assist you, arranged by the
10 WESU unit. He is here to ensure that your testimonies are not
11 self-incriminating. In other words, the duty counsel is here to
12 help you not to self-incriminate in your testimonies, unless --
13 except you choose to do so, whether the responses are
14 self-incriminating. So the counsel is here to assist you not to
15 do that but, if you choose to do it, it's up to you.

16 According to the Internal Rule 91 bis and the order of
17 questioning to the witness, the Chamber would like to hand over
18 to the Prosecution to proceed with the questions to Mr. Rochoem
19 Ton.

20 QUESTIONING BY MR. SENG BUNKHEANG:

21 Thank you, Mr. President. Good afternoon, Your Honours and
22 parties to the proceedings. And very good afternoon to Mr.
23 Witness.

24 Q. Mr. Rochoem Ton, I have a few questions to pose to you. The
25 first question is about the brief description of your early days

1 when you joined the revolution. When did you join the revolution
2 and what made you join it?

3 [14.14.11]

4 MR. ROCHOEM TON:

5 A. I joined the revolution on the 24th of August 1963. The reason
6 I joined the revolution, because I had a brother-in-law who
7 advised me that we minority groups should take the opportunity as
8 provided to join the revolution. That's what I was advised. And I
9 had to think about this for a while. And having consulted with my
10 parents, finally, my parents agreed that I could join the
11 revolution. Whatever other people could do, I could do the same,
12 so I should not hesitate to join the revolution. So, ultimately,
13 I joined the revolution.

14 Q. Thank you.

15 After you had joined the revolution, you became a member of the
16 CPK or you became a member of the Youth League, for example?

17 [14.16.44]

18 A. I joined the revolution in 1963. By 1968, I joined the Youth
19 League as a member. By 1971, I became a member of the Party.

20 Q. Who inducted you to become -- or to join as a member of the
21 Party?

22 A. My brothers, who had observed my performance, my good
23 performance. And based on this merit, I was allowed to join the
24 Youth League and later on converted to become a member of the
25 Party.

1 Q. You said brothers introduced you to the Party. But who were
2 those brothers?

3 A. They died already. Brother Man, who passed away, was one of
4 them who introduced me. He died in 196 -- rather, 1974. And
5 Brother So Hong introduced me to the membership of the Party. It
6 was in 1971.

7 Q. Do you still remember what roles Brother Man or Hong held?
8 [14.18.50]

9 A. I've referred to Man as Brother Man. He was the secretary of
10 the sector in Preah Vihear province. And So Hong -- Brother So
11 Hong introduced me to the Party as a member because he had been
12 working with me for some time. He was a senior person and he had
13 managed me all along and guided me to become the member of the
14 Party.

15 Q. Thank you.

16 During the time when you had become the member of the Party, had
17 you ever attended any political sessions, or study sessions,
18 where political lines, or Party lines were introduced?

19 A. Yes, I had. I had attending sessions when I was in the
20 revolution. Brother Man would teach us about the policy of the
21 revolution -- how to love the people, how to serve the people and
22 the revolution. The other brothers also taught us the same
23 lessons.

24 Q. You said that other brothers also gave lectures in the study
25 sessions. Who were these brothers?

75

1 A. (Microphone not activated)

2 [14.21.02]

3 MR. PRESIDENT:

4 Witness, could you please be advised to hold on a little bit
5 before your response? Wait until you see the red light on your
6 mic.

7 You may proceed.

8 MR. ROCHOEM TON:

9 A. Brother Man was the one who taught me. And I stayed with him.
10 Another brother was Brother Yem. Brother Yem was from Kratie.
11 When he went to Ratanakiri, he went there to give lectures. Then
12 there was another brother. I called him Uncle number one -- Pol
13 Pot, indeed, who also taught us. And Uncle Ieng Sary and his wife
14 also taught me.

15 [14.22.15]

16 Q. Thank you. Did you ever attend any study sessions in which Mr.
17 Nuon Chea was giving lectures?

18 A. Yes. Nuon Chea, Khieu Samphan were also seen attending the
19 sessions where I attended.

20 Q. You said Nuon Chea and Khieu Samphan attending -- attended
21 study sessions. Were they there as students or lecturers or
22 presenters?

23 A. They were instructors, teaching in those sessions.

24 Q. Do you still recollect the study sessions, where and when were
25 they conducted?

1 A. The study sessions where Brother Man gave lectures were
2 conducted at Ou Kab River, at the Ou Kab river site -- or river
3 bank -- for three days. And later on there were other sessions
4 when Ieng Sary was teaching. Om Ieng Sary came to teach in 1967.
5 It was a 15-day study session. It was in 1967. The sessions were
6 conducted in Ktae (phonetic) village, Bar Keo district,
7 Ratanakiri province.

8 [14.25.02]

9 Then there were other sessions chaired by Om Pol Pot at Office
10 100. Sometime he chaired the sessions, sometime his wife would be
11 the one who gave lectures.

12 Then there were other sessions where Brother So Hong was the
13 lecturer. And after Phnom Penh had been liberated, Om Khieu
14 Samphan was also seen teaching in the sessions, and Om Ieng Sary.
15 Yun Yat also engaged in teaching the sessions.

16 Q. According to your best recollection, what would be the issues,
17 or the topics discussed during the study sessions?

18 A. We were taught mainly the general situation within the country
19 -- the local situation and outside situation -- outside here
20 referring to the international situation. And also, we were
21 taught about how to -- how to follow the principle of national
22 democratic revolution and the organizational position, or stance.
23 And we were asked to criticise ourselves and be criticised
24 through the life view sessions.

25 [14.28.20]

1 MR. PRESIDENT:

2 Counsel Karnavas, you are on your feet. You may now proceed.

3 MR. KARNAVAS:

4 Thank you, Mr. President. My apologies for interrupting. I am

5 told that one of the answers might have been misinterpreted -- in

6 English, at least.

7 Once the fall of Phnom Penh -- he mentioned two particular names.

8 If he could mention those names again? I don't want to lead the

9 witness, but I'm told that one of the names was misinterpreted in

10 English -- the wrong name was given, that is.

11 MR. PRESIDENT:

12 The Prosecution, could you clarify the response with the witness

13 regarding your question? So we try to put the proper record in

14 the transcript.

15 [14.29.38]

16 BY MR. SENG BUNKHEANG:

17 Thank you, Mr. President.

18 Mr. Witness, could you please restate your response again? There

19 might be a case of the misinterpretation. Where we want to make

20 the matter clear, you stated that the instructors after the

21 liberation of Phnom Penh; who were those instructors -- or

22 teachers?

23 MR. ROCHOEM TON:

24 A. After the liberation, the first instructor was Om Khieu

25 Samphan. It was at the Soviet Technical School. And the other

78

1 instructor was Bong So Hong. He was teaching at the Ministry of
2 Commerce, which is -- which was adjacent to the current Ministry
3 of Defense. Om Yun Yat was also the instructor at that Soviet
4 Technical School.

5 [14.31.11]

6 Q. Was Nuon Chea an instructor at the time as well? That's what I
7 heard in your previous response.

8 A. Yes, Om Nuon Chea was also an instructor. He was teaching at
9 the Vihear Preah Keo.

10 Q. Thank you.

11 Now we move on to my next question. Just then, you told the
12 Chamber that the teaching was mainly focused on the general
13 situation both inside and outside the country. Can you elaborate
14 further for the Chamber, what were discussed regarding the
15 general situation inside and outside the country?

16 [14.32.17]

17 A. I cannot recall every detail for that discussion, however, in
18 principle regarding the outside the country situation, they would
19 tell us about which countries that supported our revolution, and
20 which countries opposed, and which country sympathized with our
21 revolution and movement, so they provided the clear distinction
22 between these different groups, different countries, based on
23 their view at the international stage.

24 Regarding the situation inside the country, it focused mainly on
25 our movement, on the politics, to what level the people

1 participated in the movement and support, our resistance
2 movement.

3 Also, they discuss about the masses movement throughout the
4 country to oppose our common enemy and that they would mobilize
5 the forces throughout the country as the core force at every
6 level of strata in the country in order to continue our
7 resistance movement. And once the movement is strong enough, we
8 could achieve anything we want, and that was very clear. If we
9 have both -- the masses movement, the military force, and the
10 economic force, we could achieve our goal.

11 [14.34.24]

12 Q. Thank you.

13 In that study session, were any documents provided to the
14 participants?

15 A. Everyone received a document. All the participants received
16 documents. For each study session, there were documents given to
17 the participants, because by the end of the study sessions, once
18 we absorbed the knowledge, we would have to implement and to
19 improve what we learned in our actual practice.

20 Q. Can you tell us the documents that you were given, what were
21 they?

22 A. Those documents were about, for instance, as I said earlier,
23 about the situations outside the country. Another document
24 reflected about our internal movement of our policy, for instance
25 about the size of our liberated zone. They also gave us the

80

1 provisional liberated zone, also the size of the white zone, so
2 that we can closely monitor the movement and the progress.

3 As for the revolutionary life-view, we were also given that
4 document and we were also given another document regarding the
5 future measures. So, as a member of a Party, we need to reflect
6 on ourselves, what we need to improve, for instance.

7 [14.36.42]

8 Q. Thank you. Can you recall the titles of those documents? Were
9 they mainly documents or were they books or magazines?

10 A. During the study session, we wrote what we were taught in the
11 class, but at that time the document was not given. We were only
12 given the documents after the liberation, and later on there were
13 the "Youth" magazine, and the "Revolutionary" magazine, and also
14 the "Front Flag" magazine - "Tung Renakse", in Khmer.

15 Q. You talk about the "Youth" magazine, the "Revolutionary Flag"
16 magazine, or the "Front Flag" magazine. When were these published
17 -- in what year?

18 [14.38.15]

19 A. As I recall, it started from 1976.

20 Q. Now, for -- I'm going to ask you regarding your experience
21 through your participation in the Revolutionary Movement and CPK,
22 in particular during the time that you were in Ratanakiri from
23 the 1967 to the 1970. When you were in Ratanakiri during that
24 period, did you meet the senior leadership of the CPK, and if so,
25 whom and where?

81

1 A. The first leader that I met was Bong Man, and then I worked as
2 a bodyguard to protect him.

3 And the second leader, in 1967, I met Om Ieng Sary. At that time,
4 Om Ieng Sary had a letter that wanted me to deliver to the
5 Vietnamese side. It took me a few days to locate the location, so
6 it took me about four or five day roundtrip. When I first arrived
7 at the Vietnamese site, they did not recognize me. However, upon
8 receipt of the letter, they then respected and welcomed me. That
9 was the second time. So that was the second leader after Bong
10 Man.

11 And the third leader was Om Pol Pot -- that was in December 1967,
12 when he arrived there. At that time, he was sick, so I carried
13 him to stay at a hospital, a Vietnamese hospital, and after he
14 recovered, he returned to Office 100. And Om Ieng Sary was at
15 Office 102 at the time.

16 [14.41.29]

17 Q. Thank you. When you met the leadership level, for example Pol
18 Pot and Ieng Sary, were you introduced to them? Or how did you
19 come to know them?

20 A. As I said from the outset, my brother-in-law, Loen, who
21 stationed permanently in Ratanakiri, and I knew them through that
22 brother-in-law of mine.

23 MR. PRESIDENT:

24 Thank you, Mr. Witness and the Prosecutor.

25 The time is now appropriate for a short recess. We shall recess

82

1 for 20 minutes and resume at 3 p.m.

2 Court Officer, could you assist the witness during the break, as
3 well as the duty counsel, and have him back in the courtroom at 3
4 p.m.?

5 (Court recesses from 1442H to 1504H)

6 MR. PRESIDENT:

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

8 Without further ado, we would like now to hand over to the
9 Co-Prosecutor to proceed with the questions to the witness.

10 BY MR. SENG HUNKHEANG:

11 Thank you, Mr. President.

12 Q. Mr. Witness, before we broke, you indicated that you brought
13 Pol Pot, who was sick, to Vietnam for treatment. Can you tell the
14 Court, what kind of illness did Pol Pot have at that time?

15 MR. ROCHOEM TON:

16 A. Pol Pot had malaria. He was admitted at the hospital in
17 Vietnam for one month. When he recovered, he returned.

18 Q. So it is fair to say that he came to Cambodia after he
19 recovered. He spent one month there.

20 [15.05.45]

21 My next question is: What was the reason behind sending all the
22 way to be treated in Vietnam?

23 A. I do not think I know the reason -- the detailed reason behind
24 this. I was asked to help take him to the hospital and that -- I
25 was called again to bring him back when he recovered. He had to

1 spend 15 days in the office before he fully recovered and got
2 back to work.

3 Q. Thank you.

4 The next question is about your work in 1907 – rather, 1967 to
5 1970. What kind of tasks did you perform for Pol Pot and Ieng
6 Sary during that time?

7 A. During this period, I had worked under supervisions --
8 instructions from them. I worked as a messenger, carrying letters
9 to districts, and my permanent role was doing farming. I had to
10 farm 24 hectares of land, using buffaloes as the means for
11 ploughing the fields. At that time, we also had 300 soldiers
12 stationed at the Northwest to assist us with the farming. And I
13 also engaged in the competition campaign, and the person who won
14 this competition would be awarded prize, and I was number 1. My
15 office also was proud to be offered the number 1 prize. It was in
16 1969, as I remember.

17 And I, as indicated, worked as messenger, farmer.

18 [15.09.02]

19 And during that time, American bombardments were widespread all
20 across Ratanakiri. Bombs were dropped in villages and districts,
21 and I -- we had to take refuge in jungles. We would move from one
22 place to another. It was really difficult. Our offices also had
23 to be relocated very frequently to avoid being attacked by the
24 enemies.

25 And on the 18th of March, when the coup d'état was staged, the

1 Liberated Zone was dissolved. It affected five provinces:
2 Ratanakiri, Stueng Trang, Mondulkiri, Kratie, and another
3 province (sic). So we worked mainly in Ratanakiri, where there
4 were jungles where we could take refuge and moved about easily,
5 because we did not have any other option, other than staying in
6 the jungles to avoid the American bombardments.

7 [15.10.48]

8 Q. As a messenger, did you serve both Ieng Sary and Pol Pot, or
9 other people?

10 A. They worked to the north of Se San River, and we were
11 stationed to the south of the Se San River. So we were on
12 different sides of the river. After the bombardments were more
13 widespread, we had to move to the north side of the river all
14 together. And I served Angkar -- or Om Ieng Sary and Pol Pot all
15 together, and other brothers at the base at Ratanakiri -- I
16 served other cadres in Ratanakiri who were the subordinates of
17 these people, and they also administered local communities,
18 people who managed Bar Keo and Veun Sai districts. This is how I
19 worked.

20 Q. Thank you.

21 Do you still remember, to whom were the letters sent after you
22 took them from Om Ieng Sary and Pol Pot?

23 A. I indicated already that Om Ieng Sary was to the south of the
24 river site, and Pol Pot, to the north. I had to carry letters
25 from Ieng Sary to Pol Pot, and from Pol Pot back to him.

1 [15.13.06]

2 Q. Thank you.

3 Do you know what Ieng Sary did back then? What was his role?

4 A. At that time, Pol Pot and he, himself, was in permanently at

5 that location. And these people would communicate one another.

6 And during the sessions, we were told that they -- he was in

7 charge -- or they were in charge -- overall in charge of that

8 Northeast Zone.

9 And as I said, there were cadres from Veun Sai, Bar Keo, and

10 Lumphat districts. At that time, there were only districts.

11 Cadres from the district would be gathered where education --

12 where sessions would be conducted for them. The spouses of these

13 people also remained with them all along.

14 Q. Thank you.

15 [15.14.47]

16 Now, you talked about Ieng Sary. What about Pol Pot? What did he

17 do?

18 A. As I saw, Pol Pot wrote documents, messages. The letters from

19 him would be then distributed to other locations, to Veun Sai,

20 Bar Keo, and Lumphat districts. The letters were seen to be taken

21 from him. Sometimes, he also provided educational sessions to

22 cadres who gathered from sectors and districts.

23 Q. Thank you.

24 You just testified that Pol Pot was at Office 100 when Mr. Ieng

25 Sary worked at Office 102. How far was the -- each office located

1 from one another?

2 A. Office 100 was about 3 kilometres from Office 102, but it
3 would take us a while to travel from one office to another
4 because they were located in the jungle.

5 Q. Thank you.

6 Could you also tell the Court about the security, the guard --
7 how security was provided in the location?

8 [15.17.28]

9 A. All the ethnic minority groups were there. There were about 60
10 people, 30 of whom were deployed to Office 100, and other 30 was
11 deployed to Office 102 to provide security to the leaders. There
12 were inside security guards, and outside the complex of the - of
13 the location, and we were formed into shape of triangle, and we
14 were told to maintain secrecy, and we were told that if we could
15 maintain secrecy, we could win the -- we could win the - victory
16 50 per cent already.

17 Q. Thank you.

18 During that time, what was your observation concerning the
19 relationship between Pol Pot and Om Ieng Sary? How close was such
20 a relation?

21 A. They were close as friends and siblings. They loved each other
22 as colleagues in the resistance. They respected and loved one
23 another. They shared everything, including foods. So they set a
24 good role model, and we also had to follow the model.

25 Q. Thank you.

1 [15.20.04]

2 In Ratanakiri, in these offices, during that time, had Pol Pot
3 ever been abroad?

4 A. Perhaps early 1969 or late 1969, he went to Vietnam, then to
5 Peking. Om Ieng Sary remained in the office when his wife left.

6 Q. You say that Uncle Ieng Sary remained at the location. So this
7 means that when Pol Pot was away, Om Ieng Sary was in charge; is
8 that correct to say so?

9 A. Yes, it is.

10 MR. PRESIDENT:

11 Counsel Karnavas, you may now proceed.

12 MR. KARNAVAS:

13 I would appreciate it if we not lead the witness. Just ask the
14 witness who might have been in charge once Pol Pot left. That
15 would have been correct, so -- I know it may seem minor, but the
16 gentleman should know not to lead at this point. Thank you.

17 [15.21.50]

18 MR. PRESIDENT:

19 Co-Prosecutor, you may continue your questions.

20 BY MR. SENG BUNKHEANG:

21 Thank you, Mr. President.

22 Q. Early on, you indicated that you did farming and that the
23 farming was assisted by some soldiers. Could you tell the Court
24 what else did the soldier do, apart from doing farming?

25 A. In 1968, '69, what I saw was that the enemy was widespread. So

88

1 the forces were supposed to counterattack this, and they were
2 based in Bar Keo district. There was no soldier in Andoung Meas
3 district. We had to contain the enemy and in some locations, if
4 possible, we had to do something to ensure that the enemies'
5 foods were dried up. We did our best not to allow the enemy to
6 expand the scope of its barrack -- or base.

7 [15.24.18]

8 At that time, when the soldiers assisted the farming, not all the
9 300 soldiers came all together to assist us with the farming;
10 some were there, some were protecting the location.

11 Q. Thank you. Do you know who was in charge of the soldiers?

12 A. By late 1968, Son Sen arrived. Son Sen was in charge of
13 military affairs. He, alongside his wife, were the ones who
14 managed this.

15 Q. Thank you.

16 From 1967 to 1970, were there any other leaders, apart from the
17 people you referred to, been to the location?

18 A. As indicated, from 1967, there were Ieng Sary, his wife, and
19 in late 1968, there were Son Sen who arrived at that place. Koy
20 Thuon was also seen there, but he was not there permanently; he
21 went there for 10 days and left and came back. Nuon Chea also
22 went there before he moved to Kratie province.

23 [15.26.30]

24 Q. Did Mr. Nuon Chea go there often?

25 A. I only saw him once. It was in late 1969 already when I saw

1 him. He was there briefly, about a few days, before he left.

2 Q. Do you know what Nuon Chea did when he was there for a few
3 days?

4 A. He went there to meet his people. He met with Pol Pot, Ieng
5 Sary, Nuon Chea himself, and Koy Thuon. They met together.

6 Q. Do you still recollect, what was the meeting about -- why
7 these people met?

8 A. I'm afraid I don't know the detail. After the meeting, they
9 parted their way, and we were also asked to attend a meeting
10 where we were told about the situation within each province and
11 what we needed to do with our forces, and it was the meeting
12 chaired by Pol Pot. The meeting was about to enhance our capacity
13 in our work and to achieve our goal, as intended.

14 [15.29.00]

15 Q. Thank you.

16 Do you know the person by the name of Pang? Was he there, in
17 Ratanakiri, back then?

18 A. Pang met with Pol Pot in December 2000 -- rather, 1967, he was
19 seen there when we met Pol Pot.

20 Q. Do you know what he did back then? What was his role?

21 A. Pang was in charge of administration. He managed some
22 activities. For example, when people came to contact him
23 regarding Office 100, then he would be the focal person for
24 contact. And at that time Son Sen did -- had not arrived yet;
25 Pang was fully in charge.

1 Q. Thank you. In Ratanakiri province, do you know whether there
2 was any security centre?

3 A. Back then, I did not know about any security centre.

4 Q. Thank you. Can you recall whether the Party's leadership in
5 Ratanakiri province stayed there, in Ratanakiri, until when? And
6 if they left, when did they leave?

7 [15.31.47]

8 A. In Ratanakiri province, those leaders, as I mentioned earlier
9 -- that is, Bong Man, Om Ieng Sary, Om Pol Pot, and later Son Sen
10 -- these four individuals remained in Ratanakiri province. Maybe
11 I misunderstood your question.

12 Q. Would you like me to repeat my question?

13 MR. PRESIDENT:

14 The Prosecution, could you repeat your last question? It seems
15 that the witness did not get it.

16 BY MR. SENG BUNKHEANG:

17 Thank you, Mr. President.

18 Q. My question is that: The Party's leadership who stayed in
19 Ratanakiri province, did it stay there -- until when did it stay
20 there? And if they left, when did they leave?

21 [15.33.14]

22 MR. ROCHOEM TON:

23 A. In late 1969, Pol Pot and his wife left for Vietnam, and Bong
24 Man went to Preah Vihear province. As for Om Ieng Sary, he
25 remained there. Son Sen and his wife also remained there.

1 However, after his trip to Vietnam and to Beijing, by May, Pol
2 Pot returned. I went to receive him at Kantuy Neak in May. At
3 that time, in Ratanakiri province, Ieng Sary and Son Sen remained
4 there, and upon the arrival by Pol Pot in May 1970, they went to
5 Kampong Cham province in Stueng Trang district, and I went along
6 with them. So, after I went to greet him in Kantuy Neak, then I
7 went along with them to Stueng Trang district, in Kampong Cham
8 province. The journey from Kantuy Neak to Kampong Cham took seven
9 months.

10 [15.35.13]

11 Q. Thank you. Did you know the reason for the -- for the
12 relocation of the office?

13 A. He told me that, due to the changing situation which became a
14 little bit better, we had to mobilize our forces. Some forces had
15 to mobilize outside to gain support for the movement, and inside
16 the country other forces need to manage to lead the masses and
17 the military.

18 And at that time Om Ieng Sary and Son Sen remained there. Son Sen
19 was in charge of the military, and Ieng Sary was overall in
20 charge in Ratanakiri province, and when he left -- he left in May
21 1970.

22 Q. Thank you. You just stated that -- the relocation from
23 Ratanakiri province to Stueng Trang district. Can you identify
24 the location of Stueng Trang district -- in which province?

25 A. Stueng Trang district was -- there was Trapeang Prei village,

1 Tbaeng village, Trapeang Tuem village, and Boeng village -- were
2 part of that Stueng Trang district. And there was a location
3 called Tuol Sambour as well in that part of the jungle, which was
4 within the vicinity of Preaek Prasab district leading to Kratie
5 province.

6 [15.37.39]

7 Q. Thank you. Regarding those locations you mentioned, how far
8 were they from Stoeng Chinit, if you can make such a comparative
9 distance?

10 A. From the office in the jungle, we had to cross Stoeng Chinit
11 before we reached Trapeang Tuem village. It was not that far.

12 Q. Thank you.

13 Can you recall the new location that the CPK leaders went to make
14 their base there? What was the name? Or was the name remained the
15 same?

16 A. It was known as S-71.

17 Q. Thank you. Can you tell the Chamber, what was the role and
18 function of Office S-71?

19 [15.39.08]

20 A. That office was the very important office. After the coup
21 d'état, all the commands were combined into that one very office.
22 All the centres' members were gathered there, and all the
23 sectors' leaders, all the district leaders were all gathered
24 there at that very office after the coup d'état.

25 Q. Thank you.

1 As for you, personally, did you meet Khieu Samphan frequently
2 then?

3 A. I met him for the first time in that office. Previously, I
4 heard his voice on the radio broadcast and through the relayed
5 and presentations by Om Pol Pot. He informed us that we would
6 meet many other people when we reached Stueng Trang district in
7 Kampong Cham province. Actually, he came to visit the kitchen
8 hall where I worked at the back, and we were rather close to one
9 another back then because at that time leaders were closer to us,
10 and we were happy; we were not worried about anything.

11 [15.41.07]

12 Q. Back then, did you know the role of Khieu Samphan?

13 A. I observed he did a lot of writing. He had a small house by
14 himself and he wrote a lot, but I didn't know the content of what
15 he wrote. He just kept writing and writing. He was very educated
16 in both the Khmer and the French languages.

17 Q. Did you know or were you told by Khieu Samphan of what he
18 wrote?

19 A. No, he did not tell me. However, he had a group, and at that
20 time there was this movement called the -- named the National
21 United Front, and he wrote everything for that Front movement.

22 Q. Back then, did you know about the content of what did he write
23 regarding the National United Front? Did you know it by yourself
24 or were you told or informed by any individual?

25 [15.43.10]

1 A. The content was broadcast on radio, and I listened to it. And
2 later on there were also documents discussing -- talking about
3 the National United Front. I've read those documents, and so did
4 other people. And sometimes he also gave lectures in study
5 sessions regarding the forces of the National Liberated Front and
6 measures to be taken, the importance of that Front, for instance,
7 both inside and outside the country. He made it clear regarding
8 this point.

9 Q. Thank you. Can you recall, upon his teaching, what did he
10 actually explain regarding the internal and external forces - or
11 inside and outside the country?

12 A. From what I can recall regarding the forces of the Front,
13 first, we need to gather the forces of any intellectuals, gather
14 them all. And, next, we shall gather the forces inside the
15 country -- throughout the country, that is. Of course, there were
16 distinction regarding the class levels, and we had to gather all
17 the forces possible to the large extent if we can, without only
18 focusing on the workers and the peasant classes, but on all
19 strata of the society. He made that clear, that all the national
20 forces had to be gathered so that we can form a national
21 consolidated force which will be very strong inside the country
22 with the support from the outside force.

23 [15.45.55]

24 Q. Thank you. You just stated earlier that Khieu Samphan gave
25 lectures and he talks about the distinction of social classes.

1 What are the social classes?

2 MR. PRESIDENT:

3 Witness, please wait. We will hear the objection by the defence
4 counsel first.

5 Counsel, you may proceed.

6 MR. KONG SAM ONN:

7 Thank you, Mr. President. From what I heard from the witness's
8 response, he did not say that Khieu Samphan lectured regarding
9 the classification of social classes. He only talked about the
10 consolidation of all the forces in the country. And when the
11 Prosecution quoted him, it seems that it is a misunderstanding of
12 the statement made by the witness.

13 [15.47.09]

14 MR. SENG BUNKHEANG:

15 Thank you, Mr. President. The witness did state that Khieu
16 Samphan talked about the -- gathering other forces regarding the
17 Front, and it is clear that -- the counsel can refer to the
18 transcript -- that the witness talks about the various social
19 classes.

20 And in order to clear the matter further, I would like to seek
21 your permission to put that question to the witness.

22 MR. PRESIDENT:

23 You may proceed.

24 BY MR. SENG BUNKHEANG:

25 Thank you, Mr. President.

1 Q. Mr. Witness, as the defence counsel stood on his feet and said
2 that you did not talk about the teaching of Khieu Samphan
3 regarding the classification or classes, can you clarify this
4 matter a bit further?

5 [15.48.15]

6 MR. ROCHOEM TON:

7 A. Just then, I said that the teaching -- his teaching regarding
8 the Front was to gather the forces both inside and outside the
9 country. And for the forces inside the country, there were
10 classes -- there were distinction of social classes, and we're
11 only not talking about the workers and the peasant class, but we
12 talk about all the strata or all the classes in society.

13 MR. PRESIDENT:

14 The objection raised by the counsel for Khieu Samphan is not
15 sustained.

16 Mr. Witness, please reply to the last question asked to you or
17 put to you by the Prosecution, if you can recall the last
18 question.

19 [15.49.21]

20 BY MR. SENG BUNKHEANG:

21 Q. In order to speed up the process, I will put the question
22 again to the witness. The question is the following: Regarding
23 the teaching by Khieu Samphan on the classification or classes,
24 what did he talk about?

25 MR. ROCHOEM TON:

1 A. What I knew was what I stated earlier -- that is, to mobilize
2 the forces, both inside and outside the country, and not just to
3 focus merely on the worker and the peasant classes, but we tried
4 to gather all the forces possible throughout the country to
5 consolidate into one national force.

6 Q. Thank you.

7 During the journey for the relocation from Ratanakiri province in
8 1970, did Ieng Sary take part in that journey for the relocation
9 with the other Party members?

10 A. Ieng Sary did not take part in the journey because he remained
11 in the Ratanakiri province.

12 [15.50.57]

13 Q. Thank you. Can you recall, until when did Ieng Sary remain in
14 Ratanakiri province?

15 A. Based on my recollection, he remained in Ratanakiri province
16 until early 1971, when he left for Vietnam. At that time, Son Sen
17 also left the province to station in Kampong Thom province. So no
18 one else remained in Ratanakiri province by that time.

19 Q. Until when did Ieng Sary remain in Beijing?

20 A. He went to Beijing in early 1971 until the liberation on the
21 17 April 1975.

22 Q. Thank you. Can you tell us, what did -- what role did he
23 perform during his time in Beijing?

24 A. I did not know about his role at that time through any
25 meeting, but I only learned about it through the broadcast on the

1 radio, that he was a special representative for the resistance
2 movement for Sihanouk -- or Samdech Euv.

3 Q. Can you recall, regarding the radio broadcast announcing that
4 Ieng Sary was the special representative, what was his functions
5 -- can you recall that?

6 [15.53.46]

7 A. At that time, I heard it on the radio broadcast from Beijing,
8 that he was the special representative of the resistance movement
9 to support Samdech Euv in Beijing. That's what I heard of on the
10 radio. That was in early 1971.

11 Q. Thank you. As for yourself, during the time that you were at
12 the Office S-71, what was your role?

13 A. At Office S-71, I was in the bodyguard unit and I did not
14 station there permanently. Frequently, I was on mobile to the
15 zone committee or the zone office, for example, to the East Zone
16 or to office -- to also Zone 304. But when I remained in that
17 office, I was part of the bodyguard unit.

18 Q. Regarding your mobilized task, who else did you go with?

19 A. I went by myself. My task as a messenger, I would have an SL
20 motorbike and a pistol, and then I went by myself, solo, to this
21 zone or that zone.

22 [15.56.08]

23 Q. Regarding the delivery of letters to this zone or that zone,
24 who actually gave you the instructions to deliver those letters?

25 A. The letters were then organized by a person named by Bong Pang

1 - I called him Bong Pang -- who actually administered the letter
2 delivery.

3 Q. In order to clarify further, you were a messenger; were -- did
4 you work as a messenger for any particular leader or individual?

5 A. At that time, usually, each letter -- for example, a letter to
6 Zone 203 that is to be delivered to So Phim and to Zone 304 was
7 to deliver to Koy Thuon. As for the Southwest, it was to be
8 delivered to Ta Mok.

9 Q. Thank you. But my question is that: To work as a messenger
10 delivering those letters to this zone or that zone, who did you
11 work for -- or which leader did you work for?

12 A. I worked for the leadership group -- that is, for Om Pol Pot.
13 Because at that time I worked for him, so whatever he ordered me
14 to do, I just did it.

15 [15.58.18]

16 Q. Thank you. Did Pol Pot ever go to the zone like you did?

17 A. Yes, he did. He went to 203; he went to 304; he went to the
18 Southwest.

19 Q. Thank you. Can you recall, when Pol Pot went to various zones,
20 what did he do at those zones?

21 A. When I went with him, he would go to the zone office to meet
22 with the zone committee; that's the first thing he did. And then
23 he would invite other sector leaders or chiefs to come and work
24 with him.

25 Q. Do you know, upon the calling of the sector and district

100

1 chiefs to work with him, what kinds of tasks did he assign to
2 them?

3 A. I was actually a bodyguard -- his bodyguard, so wherever he
4 went, I stayed close to him. So, usually, from what I observed,
5 he would conduct a study session to give instructions to those
6 people regarding the revolutionary view, and after that he would
7 assign tasks to those people. And it was both at the sector
8 level, as well as at the district levels. And he gave detailed
9 instructions regarding the specific situation in a particular
10 zone or sector or district and what measures needed to be done in
11 order to improve the situation.

12 [16.00.49]

13 MR. PRESIDENT:

14 Thank you, the Prosecution. Thank you, Mr. Witness.

15 Today's proceeding has come to a conclusion. The Chamber will
16 adjourn for today's hearing and resume tomorrow morning -- that
17 is, Wednesday, the 26th of July 2012 -- starting from 9 a.m.

18 The session will start with the continuation of questioning by
19 the Prosecution to the witness. This information is both for the
20 parties and for the public.

21 Mr. Rochoem Ton, your testimony is not yet concluded, and we will
22 continue to hear your testimony again tomorrow.

23 [16.01.41]

24 And likewise, for the duty counsel, your presence is required.

25 Court Officer, in cooperation with WESU unit, please assist the

101

1 Chamber for his returning to his residence and have him return
2 tomorrow morning for his testimony at 9 a.m.
3 Security guards, you're instructed to take the three Accused back
4 to the detention facility and have them return to the courtroom
5 prior to 9 a.m. In the case of Ieng Sary, if there is a waiver of
6 his direct presence in the courtroom, as he usually does on a
7 daily basis, if that is the case, please liaise with the greffier
8 and have him brought to the holding cell downstairs equipped with
9 the audio-visual means. And the Chamber will examine the issue
10 and rule accordingly prior to the commencement of the session
11 tomorrow morning.

12 The Court is now adjourned.

13 (Court adjourns at 1602H)

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