



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia

Chambres Extraordinaires au sein des Tribunaux Cambodgiens

**ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ**

Kingdom of Cambodia

Nation Religion King

Royaume du Cambodge

Nation Religion Roi

អង្គជំនុំជម្រះសាលាដំបូង

Trial Chamber

Chambre de première instance

ឯកសារដើម

ORIGINAL/ORIGINAL

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TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

11 March 2016

Trial Day 381

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

The Accused: NUON Chea
KHIEU Samphan

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SREA Rattanak

For Court Management Section:
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List of Speakers:

Language used unless specified otherwise in the transcript

| Speaker | Language |
|----------------------------|----------|
| Judge FENZ | English |
| The GREFFIER | Khmer |
| Ms. GUIRAUD | French |
| Ms. GUISSE | French |
| Mr. KOPPE | English |
| Judge LAVERGNE | French |
| Mr. LYSAK | English |
| Mr. NETH Savat (2-TCW-817) | Khmer |
| The President (NIL Nonn) | Khmer |

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

2 (Court opens at 0905H)

3 MR. PRESIDENT:

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

5 Today, the Chamber will hear testimony of a witness, 2-TCW-817,

6 in relation to Phnom Kraol Security Centre.

7 Mr. Em Hoy, please report the attendance of the parties and other
8 individuals to today's proceedings.

9 [09.06.49]

10 THE GREFFIER:

11 Mr. President, for today's proceedings, all parties to this case
12 are present.

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

16 The witness who is to testify today -- that is, 2-TCW-817,
17 confirms to his best knowledge, he has no relationship, by blood
18 or by law, to any of the two accused -- that is, Nuon Chea and
19 Khieu Samphan, or to any of the civil parties admitted in this
20 case.

21 The witness took an oath before the Iron Club Statue this
22 morning, and there is no reserve witness today.

23 [09.07.50]

24 MR. PRESIDENT:

25 Thank you, Mr. Em Hoy. The Chamber now decides on the request by

2

1 Nuon Chea.

2 The Chamber has received a waiver from Nuon Chea, dated 11 March
3 2016, which states that due to his health -- that is, headache,
4 back pain, he cannot sit or concentrate for long. And in order to
5 effectively participate in future hearings, he requests to waive
6 his right to be present at the 11 March 2016 hearing.

7 Having seen the medical report of Nuon Chea by the duty doctor
8 for the Accused at ECCC, dated 11 March 2016, which notes that
9 Nuon Chea has back pain -- back pain and cannot sit for long and
10 recommends that the Chamber shall grant him his request so that
11 he can follow the proceedings remotely from the holding cell
12 downstairs. Based on the above information and pursuant to Rule
13 81.5 of the ECCC Internal Rules, the Chamber grants Nuon Chea his
14 request to follow today's proceedings remotely from the holding
15 cell downstairs via an audio-visual means.

16 [09.09.06]

17 The Chamber instructs the AV Unit personnel to link the
18 proceedings to the room downstairs so that Nuon Chea can follow.
19 That applies for the whole day.

20 Court officer, please usher the witness into the courtroom.

21 (Short pause)

22 (Witness enters the courtroom)

23 [09.10.55]

24 QUESTIONING BY THE PRESIDENT:

25 Q. Good morning, Mr. Witness. What is your name?

1 MR. NETH SAVAT:

2 A. Neth Savat.

3 Q. Thank you, Mr. Neth Savat.

4 Are you known by any other names?

5 A. Tha. My native name is Net Tha.

6 Q. And what is your official name, for example, the name that
7 appears on your identity card?

8 A. It is Neth Savat.

9 [09.11.50]

10 Q. And when were you born?

11 A. I was born in 1942.

12 Q. Thank you, Mr. Neth Savat.

13 And please wait for the microphone to be operational before you
14 speak. Otherwise, your voice does not go through the
15 interpretation system. Although you speak in Khmer, it has to be
16 simultaneously interpreted into the working languages of the ECCC
17 -- that is, English and French.

18 You need to have a slight pause before you answer the question so
19 that you also have a chance to think of how to respond. And
20 please limit your response to the question.

21 And where were you born?

22 [09.13.05]

23 A. I was born in Peam Chi Miet village, Nang Khi Loek commune,
24 Kaoh Nheaek district, Mondolkiri province.

25 Q. In the document, it is stated that you were born in Laos and

4

1 you only moved to Cambodia when you were 11 years old. Is that
2 correct?

3 A. Yes, I was born in Bak village, Nam Nao commune, Keng Kang
4 district, Savannakhet province. And when I was 10 years old, I
5 came to live in Peam Chi Miet village, Chi Miet commune, Kaoh
6 Nheaek district, Mondolkiri province.

7 Q. And where is your present address?

8 A. I live in Peam Chi Miet village, Nang Khi Loek commune, Kaoh
9 Nheaek district, Mondolkiri province.

10 [09.14.46]

11 Q. And what is your current occupation?

12 A. I worked in the farm and in the plantation, and I also raised
13 livestock.

14 Q. What are the names of your parents?

15 A. My father is Net, and my mother is Tum.

16 Q. What is your wife's name, and how many children do you have?

17 A. My wife is Thuoy Chan, and we have five children.

18 Q. Thank you, Mr. Neth Savat.

19 The greffier made an oral report that you are not related, by
20 blood or by law, to any of the two accused -- that is, Nuon Chea
21 and Khieu Samphan, or to any civil parties admitted in this case.
22 Is that correct?

23 A. I am not related to any -- to any of them -- that is, Nuon
24 Chea and Khieu Samphan.

25 Q. And have you taken an oath before your appearance -- that is,

5

1 before the Iron Club Statue to the east of the Chamber?

2 A. Yes, I have.

3 [09.16.40]

4 Q. Mr. Neth Savat, the Chamber would like to inform you of your
5 rights and obligations as a witness.

6 Regarding your rights, as a witness in the proceedings before the
7 Chamber, you may refuse to respond to any question or to make any
8 comment which may incriminate you. And that is your right against
9 self-incrimination.

10 On your obligations, as a witness in the proceedings before the
11 Chamber, you must respond to any questions by the Bench or
12 relevant parties, except where your response or comment to those
13 questions may incriminate you, as the Chamber has just informed
14 you of your right as a witness.

15 You must tell the truth that you have known, heard, seen,
16 remembered, experienced or observed directly about an event or
17 occurrence relevant to the questions that the Bench or parties
18 pose to you.

19 [09.17.55]

20 And Mr. Net Tha, have you been interviewed by investigators of
21 the Office of the Co-Investigating Judges? If so, how many times,
22 when and where?

23 A. I was interviewed twice: one was in Chi Miet, and on the other
24 occasion, it was in Ratanakiri province. <This is the third
25 time.>

1 Q. Thank you.

2 Before you appear before us, have you read, reviewed or had it
3 read aloud -- that is, your written record of the interviews with
4 the OCIJ investigators in order to refresh your memory?

5 A. Yes, I read some yesterday, and I can recall parts of the
6 written records of my interviews.

7 Q. And to your best recollection, do the written records of your
8 interview reflect your answers that you gave to the
9 investigators?

10 A. Yes, it is consistent. I refer to the written record of my
11 interview is consistent.

12 [09.19.52]

13 MR. PRESIDENT:

14 Thank you.

15 And pursuant to Rule 91bis of the ECCC Internal Rules, the
16 Chamber hands the floor first to the Co-Prosecutors to put
17 questions before other parties. And the combined time for the
18 Co-Prosecutors and the Lead Co-Lawyers is two sessions.

19 You may proceed.

20 QUESTIONING BY MR. LYSAK:

21 Thank you, Mr. President. Good morning, Your Honours, counsel.

22 Q. Good morning, Mr. Neth Savat. My name is Dale Lysak. I'll be
23 asking you some questions this morning.

24 I want to start, if I may, with just a few background questions
25 about yourself and also the province that you're from,

1 Mondolkiri.

2 Can you tell us a little bit about Mondolkiri province, including
3 back in the 1970s? Was Mondolkiri a highly-populated province in
4 Cambodia?

5 [09.21.08]

6 MR. NETH SAVAT:

7 A. There were quite a large population living in Mondolkiri, but
8 I cannot tell you the details. I cannot tell you how many
9 thousands of people were living in the province.

10 Q. Well, let me see if I can help you. We have a statement from a
11 witness who worked in the Mondolkiri provincial information
12 office.

13 Your Honours, this is document E3/5178. He said, and I quote,
14 that:

15 "During the Khmer Rouge period, the province was home to 19,000
16 people -- 19,000 people."

17 Does that refresh your memory? Does that number sound about right
18 to you, Mr. Witness?

19 A. That is about right. The number was more than 10,000.

20 [09.22.25]

21 Q. You, yourself, have -- are an ethnic Lao. Were there many
22 ethnic minorities who lived in Mondolkiri?

23 A. Yes, there were other ethnicities, namely, Phnong, Tumpoun,
24 <Kraol> and a few others that lived in Mondolkiri province. There
25 could be more, but I could not get all.

1 Q. Do you -- are you able to provide us with an approximation of
2 what percentage of the population of Mondolkiri were ethnic
3 minorities back in the seventies?

4 Was it the majority of the population, less, most of the
5 population? Can you give us some sense of how many of the people
6 in Mondolkiri were ethnic minorities?

7 A. I can only give you an estimate. There was about six to seven
8 per cent of ethnic minorities living in <Mondolkiri> province.

9 [09.24.25]

10 Q. Can you tell us back in the seventies, before the Khmer Rouge
11 -- or back in the sixties, perhaps, before the Khmer Rouge were
12 in power in Mondolkiri, what were the most common languages that
13 were spoken there among the various ethnic minorities?

14 A. The Khmer language was generally used.

15 Q. Were there any other languages that most of the people spoke
16 in addition to Khmer?

17 A. And the Phnong language. That is all in Mondolkiri province.
18 So the Khmer language was the first language -- or the primary
19 language, Phnong was the second major language, and then there
20 were other people who spoke various other ethnic language,
21 including Laotians, <Kraol> and Jarai language.

22 Q. And can you tell us, what year was it when the Khmer Rouge
23 gained control of Mondolkiri province?

24 A. It was 1970.

25 [09.26.20]

1 Q. Turning to your background, sir, you state in your OCIJ
2 interview, E3/7695, that you joined the Revolution in 1966 to
3 1967 and that you joined the Revolution with a person named Phan
4 Khon, alias Chuon.

5 Can you tell us who Phan Khon alias Chuon, was?

6 A. The name was Phan Khon, and I joined the Revolution around
7 1967 or '68.

8 Q. And can you clarify for me, was it Phan Khon who introduced
9 you to the Revolution, or did the two of you join together at the
10 same time? And if so, who was it that introduced you to the
11 Revolution?

12 A. There were people who actually persuade -- persuaded us to
13 join the revolutionary movement, and those were Kham Phoun and Ta
14 Ham. And they were there in Peam Chi Miet village.

15 [09.28.20]

16 Q. And after joining the Revolution, did you ever become a member
17 of the Party?

18 A. I became a Party's member in 1970. That was when I was
19 inducted into the Communist Party.

20 Q. And who was it that inducted or introduced you to the Party in
21 1970?

22 A. It was Kham Phoun and Ham.

23 Q. Now, in your OCIJ interview, you also describe how, after you
24 joined the Revolution, you worked as a messenger from 1968 to
25 1970.

10

1 During that time, did you ever escort or guard any senior leaders
2 of the Khmer Rouge who were travelling through Mondolkiri?

3 A. I was appointed as a messenger and also to escort guests from
4 my location to other locations (inaudible) from Torng Pang
5 mountain to Kaoh Kalem river. And I was no longer a messenger by
6 1970, and I was assigned to be a member of the economic section
7 to go and purchase unhusked rice and to look after cattle. So I
8 was tasked to purchase unhusked rice and corn.

9 And later on, I was assigned to be part of the economic section
10 of a hospital, and that's due to a number of people who were
11 admitted to that hospital.

12 [09.31.18]

13 Q. Thank you.

14 I'll ask you a few questions about each of these positions.

15 Let me start with the period you were a messenger back in 1968 to
16 1970. Who were the Party leaders, Khmer Rouge leaders, who you
17 escorted through Mondolkiri?

18 A. As I said, they were Kham Phoun and Ham.

19 Q. Were there Party leaders of the Khmer Rouge who weren't based
20 in Mondolkiri, but were travelling through the province who you
21 were assigned to guard or escort?

22 A. At the time, it depended on the locations. And later on, <in
23 '70>, after the liberation, the location was in Kaoh Nheaek.

24 [09.32.50]

25 Q. Let me see if I can refresh your memory on this, Mr. Witness.

11

1 In your OCIJ interview, E3/7695, reading from Khmer, ERN
2 00236715; English, 00239485 through 486; French, 00274815; this
3 is what you said in your OCIJ statement -- quote:
4 "In 1968, I worked as a messenger escorting senior cadres from
5 Torng Pang to Kalem in Kaoh Nheaek district. I used to escort
6 Khuon alias Thuch, who later became secretary of the North Zone.
7 Other persons whom I used to escort included Pol Pot's wife,
8 named Khieu Ponnary, Tiv Ol and Nuon Chea."
9 Is that correct, Mr. Witness? Were there some occasions where you
10 escorted Nuon Chea when he was travelling through Mondolkiri?
11 A. That is correct. I, at one time, accompanied him from <Torng
12 Pang> to <Kalem>. And also Tiv Ol, from Da Eh (phonetic) to
13 Kalem. Ta Thuch, Ta Khuon, they were travelling together, and I
14 also accompanied the two later individuals, but my task was to
15 accompany them from Tonle to <Torng Pang>. And when they crossed
16 to the other side of the river, it was others who were
17 responsible for accompanying them to other locations. <My task
18 was to accompany them from Kalem to Torng Pang.>
19 [09.35.30]
20 Q. As I'm not familiar with the locations you're describing, were
21 they travelling north in the direction to go towards Ratanakiri,
22 or were they travelling in some other direction when you
23 accompanied them?
24 A. It was in the north from Torng Pang, so usually I accompanied
25 them back and forth <from Torng Pang to Kalem>. And sometimes I

12

1 accompanied those individuals back to <Torng Pang>.

2 Q. And were there soldiers or militia who were assigned to assist
3 you when you were accompanying Nuon Chea and Ta Thuch on these
4 journeys?

5 A. When Ta Nuon Chea went to that location, there was some
6 soldiers with him. Around 20 of them were with him. Those people
7 were soldiers, and I was with them at the time. So it was not a
8 large trip at the time.

9 [09.37.22]

10 Q. And how did you know that the persons you were accompanying
11 were Nuon Chea and Ta Thuch?

12 A. I do not understand about that issue. It was other people who
13 were responsible for accompanying them after Torng Pang. I was
14 only accompanying them up to Torng Pang, and then other people
15 were responsible for accompanying those people to other
16 locations, as I said.

17 Q. I understand that.

18 What I was asking you is how you knew who these people were. Did
19 they introduce themselves to you or, when you were given this
20 assignment, were you told who it was that you would be escorting?

21 A. When they saw me, in fact, those people <> were with Ta Ham
22 and <Sopheha>. And at the time, they said those people were Nuon
23 Chea and Tiv Ol, so I learned that from those people, they spoke
24 about that issue to one another, so this is what I can recall.
25 They did not tell me directly, but on some occasion, I overheard

13

1 what they were speaking about those people.

2 [09.39.32]

3 Q. Thank you.

4 Let me turn to the positions you held subsequent to being a
5 messenger after 1970.

6 You've told us that you first were assigned to an economics unit
7 and then, later, in 1976, were assigned to work in a hospital.

8 Let's start with the economics unit, or office, that you worked
9 at.

10 You indicate in your OCIJ statement -- well, first of all, who
11 was the chairman of the economics office that you worked for
12 after 1970?

13 A. The chief of the economics section was Ta Kham Phoun. He was
14 also the sector committee. To the communists' people, he was
15 known as the chief of the economics section, so I was only a
16 member within that economics section responsible for buying rice.
17 That happened in 1970 up to 1976.

18 [09.41.10]

19 Q. You also identify in your interview a person named Sonthan.

20 Who was the person -- you indicate he was your immediate
21 superior; that he was the chairman of a unit and you were the
22 deputy.

23 Can you tell us who Sonthan was and what unit he was responsible
24 for?

25 A. He was chief or secretary of the ministry; Ta Sonthan, Ta

14

1 Chuon and me at the time <were> working in the Ministry of
2 Economics. They were not part of sector committee.
3 These people were responsible for commerce and economy. I am
4 referring to Sonthan, who was the chief of economy at the time.
5 [09.42.18]

6 Q. So do I understand correctly that Kham Phoun was on the sector
7 committee, the person who's overall responsible for economics,
8 and yourself, Chuon, and Sonthan, worked at the ministry or
9 office that was under Kham Phoun?

10 Do I understand correctly?

11 A. Yes, you are right. Kham Phoun was sector committee, had
12 overall responsibility for economy. And I, together with Sonthan
13 and Chuon, were within the office of economy directly responsible
14 for trading.

15 Q. And was the office of economy the same as the commerce office,
16 or was it a different office than the commerce office?

17 A. Kham Phoun was in a different office, and Ta Sonthan was
18 working within a different office responsible for commerce. And I
19 was responsible for economic affairs at Kaoh Nheaek <number 9>.

20 [09.44.10]

21 Q. There are references to the commerce office as the K-16
22 office. What I wanted to clarify, did you work at the K-16 office
23 or were you at a different office than K-16?

24 A. I worked in Office <K-21>, currently number 9 of village Srae
25 Sangkom. The name -- the designated number was K-21.

15

1 Q. Did you know an office called K-16 and, if so, where was it
2 located and who was in charge of K-16?

3 A. Office <K-16> was for Kham Phoun, the sector's committee
4 responsible for economic -- economy.

5 Q. Okay. Thank you for clarifying that.

6 The next position -- you've indicated that in 1976, you were
7 assigned to work in the economics unit of a hospital. Was that
8 the sector hospital and, if so, where was the sector hospital
9 located?

10 A. That hospital was belonged to the sector, and the actual
11 location of that hospital at the time is now in number 9, <Srae
12 Sangkom> village.

13 [09.46.38]

14 Q. So this is the same -- the same village in Kaoh Nheaek, the
15 same place where you had worked at the economics office, Office
16 21. Is that correct?

17 A. That is correct. The same location where I used to work within
18 K-21. K-21 was before located in this area as well.

19 Q. And when you worked at the hospital, who were the chairman and
20 the deputy responsible for the sector hospital?

21 A. Ta Ham had overall supervision over the hospital, and then Ta
22 Phat, Neang (phonetic) Bou Lai, they were also responsible for
23 that hospital.

24 Q. And later, we're going to talk about a period where you were
25 detained at the -- an office called K-17. What I wanted to just

16

1 ask you now is, how far -- were the sector hospital and Office 21
2 where you worked, were these close to K-17, the sector
3 secretary's office?

4 How -- what was the distance between the hospital, the economics
5 office and the K-17 office where the sector secretary was based?

6 A. Regarding the distance, it was perhaps one kilometre away from
7 hospital to K-17 where Ta Ham was located.

8 [09.49.20]

9 Q. Before we turn to the events at K-17, one other background
10 question I wanted to ask you about, Mr. Witness: Were you a
11 relative of Northeast Zone secretary Ya, who's also known as Men
12 San?

13 Were you related to Ya?

14 A. He was my <brother>-in-law. He married my younger sister.

15 Q. What was the name of your younger sister who married Ya?

16 A. Her birth name was Neth Ma (phonetic). And currently, which is
17 her new name, is Neth Voeun (phonetic).

18 Q. When did she marry Ya?

19 A. In 1968.

20 [09.51.02]

21 Q. During the Khmer Rouge regime, did you ever meet north-- Ya,
22 the Northeast Zone secretary? Did you ever see him and, if so,
23 can you describe to the Court when it was that you met Ya?

24 A. I met him in the forest, and then, later on, in Tuol Kork when
25 I was hospitalized in the hospital in Phnom Penh. I met him also

17

1 at -- in Tuol Kork area, and I also went to his residence.

2 He was assigned to be responsible for the Northeast of -- within
3 <Kratie>, and when I was <released from the> hospital, I also met
4 him. And then I went back to Mondolkiri.

5 Q. What happened to Ya during the Khmer Rouge regime?

6 A. I did not witness that. I learned from others that he was tied
7 up and killed. I do not know whether it's true, since I did not
8 witness that.

9 Q. Who was it that told you he was tied up and killed?

10 A. I heard from others. I do not know whether it's true. I heard
11 from others saying about that. It is all I could remember.

12 [09.53.18]

13 Q. Did your sister ever tell you what happened to her husband,
14 Ya?

15 A. Regarding my sister, after the arrest of Ta Ya, she formulated
16 a letter and sent it to me at Kaoh Nheaek. She said she wanted to
17 go and live in Mondolkiri after that time.

18 And I was afraid of others after seeing the letter, and I
19 forwarded the letter to Ta Ham. He said nothing, and he ignored
20 that letter and kept it <aside>.

21 And I have never -- and from that time, I did not hear about my
22 sister. <I did not dare talk about that.> I, in fact, at the
23 time, wanted my sister to go live in Kaoh Nheaek. I felt -- I
24 felt pity on her since I heard that her husband suffered <a> bad
25 ordeal. However, she <had> two children, <they were all boys>.

18

1 Q. That's one -- that's something I just wanted to clarify.
2 During the Khmer Rouge regime, was your sister ever arrested? And
3 can you clarify for us whether your sister, who was married to
4 Ya, survived the Khmer Rouge regime?

5 A. From the news that I received, <when the Khmer Rouge arrived,
6 they could not transport all of them, so they left them there>.
7 And I, at one time, thought that she may not live through the
8 period since, from that time onward, I never received any news
9 from her.

10 [09.56.15]

11 Q. Let me just read to you an excerpt from an interview you gave
12 to DC-Cam, document E3/7696; Khmer, 00231537; English, 00384159;
13 French, 00384264. I quote:

14 "Once he was arrested (referring to Ya) his wife was still there
15 and sent me a letter. Then I heard the arrest and smashing
16 happened."

17 Question: "Who were arrested?"

18 Answer: "My younger sister, Ya's wife<>." End of quote.

19 Do I understand correctly that your sister was not -- initially
20 not arrested at the same time as Ya, but later on was arrested
21 and disappeared? Do I understand correctly, Mr. Witness?

22 A. Yes, that is correct. It was -- it did not happen at the same
23 time during her husband's arrest. She was later on arrested.

24 [09.58.00]

25 Q. And have you ever seen your sister again since she was

19

1 arrested?

2 A. No, I did not see her again. I did not see her again from
3 1975. Never saw her. I never saw her. After the letter was sent
4 to me, I did not see her again. I did not know at the time
5 whether she died or was living?

6 From the news, I did not have any hope that she was living. I
7 also thought that her children did not live also at the time.

8 Q. I want to turn now to some questions about some events you
9 describe in your statements.

10 Were you arrested by the Khmer Rouge during 1977 and, if so, can
11 you describe to the Court how it came about that you were
12 arrested?

13 Can you describe the events that took place leading up to and the
14 day of your arrest?

15 [09.59.28]

16 A. I was arrested in 1977 in January. And then I was placed and
17 detained for one month.

18 My relatives, my children, my nieces and my nephews and children
19 and I were all arrested and detained for one month. For one
20 month. And then we all -- we were all released and assigned to
21 work in worksites.

22 We were there at <the> worksites for two <years>. And later on,
23 we were freed by the Vietnamese in 1979. This is all that I could
24 recall.

25 And at that time, they said Kham Phoun and Sonthan <had> betrayed

20

1 the regime. <They were arrested before me.> And it was said that
2 they had link to the Vietnamese. That was the reason of the
3 arrests. How could we have relation with the Vietnamese at the
4 time since we did not see them in the location?

5 [10.01.50]

6 Q. In regards to the time or -- the month or time at which you
7 were arrested, we've heard testimony in the first trial in Case
8 002 and from the last witness about an incident in Phnom Penh in
9 which Sector 105 secretary Ham was supposedly killed by deputy
10 secretary Kham Phoun.

11 What I -- I don't want to ask you about those events. What I do
12 want to know is: Were you arrested before or after the death of
13 Ham and Kham Phoun?

14 Was it before or after their deaths that you were arrested?

15 A. I believe there were conflicts between Ham and Kham Phoun. As
16 for me, I was the -- one of the subordinates of Kham Phoun.

17 However, I believe the same thing happened to those under the
18 subordination of Ham, so there were two separate groups. One
19 belonged to Ham and one belonged to Kham Phoun. And Ham came from
20 Kaoh Moueleu. He also had his relatives living in that area.

21 [10.03.41]

22 Q. In your OCIJ statement, E37695 at Khmer, ERN 00236715;
23 English, 00239486; French, 00274816; you state, quote: "Shortly
24 before they arrested me, Laing or Ham and Kham Phoun shot each
25 other dead in Phnom Penh."

21

1 My question to you was: How long after the deaths of Ham and Kham
2 Phoun -- how long after that was it when you were arrested? You
3 say it was shortly after that, but how many days or weeks, to the
4 best of your recollection?

5 A. It was not long. It was about one week after Ham and Kham
6 Phoun killed each other in Phnom Penh. And after that, there was
7 this policy of arresting us.

8 [10.05.21]

9 Q. You've indicated that there were other people who were
10 arrested.

11 How many other people, to the best of your recollection, were
12 arrested around the same time, and who were the other people who
13 were also arrested?

14 A. I cannot recall them all. As for my relatives who were
15 arrested, I could recall some of their names. And all together,
16 there were about 80 people who were arrested and detained at
17 where I was detained. And that included both men, women and
18 children. And only a small number of the detainees were Khmer, as
19 the majority were ethnic minority people. So there were numerous
20 people, and I could not tell them all.

21 As for the cadres, there was Ta Chanda (phonetic), So Sokhot
22 (phonetic) and Sin Huor (phonetic). The last two are still
23 living. And I cannot recall other names.

24 [10.06.55]

25 Q. Were the people who were arrested all or mostly people who

1 were relatives of Kham Phoun or people who worked in the
2 economics offices that fell under Kham Phoun's responsibility?

3 A. There were only a small number of relatives of Kham Phoun, as
4 the majority were those workers who worked under the supervision
5 in the office of Kham Phoun. Not everyone was related to Kham
6 Phoun, but they were workers or his subordinates.

7 Q. You've indicated already that you had worked under Kham Phoun
8 in the economics office.

9 Were you also related to Kham Phoun?

10 A. Yes, I am related to his wife. His wife was the aunt of my
11 wife.

12 Q. What was the name of Kham Phoun's wife, and what did she do in
13 Sector 105?

14 A. Lap. Lap was the name of Kham Phoun's wife. She was also known
15 as Bopha.

16 She also worked in that office. She led people to work in that
17 office as part of the economics work -- that is, to work in the
18 rice fields and to work in the plantation. She did not involve in
19 any politics.

20 [10.09.38]

21 Q. And when you say she worked -- also worked at the office, are
22 you talking about the K-16 office, Kham Phoun's office, or the
23 Office 21, the economics office where you had worked?

24 A. She worked at the economic office -- that is, at K-16 because
25 her husband was in charge of the sector's economics. Here I refer

1 to Kham Phoun's wife. However, herself did not have any major
2 role. She would lead workers to <> the rice fields or the
3 plantations.

4 Q. What happened to Kham Phoun's wife after his death? What
5 happened to Lap, alias Bopha?

6 A. I did not know what happened to her because <the> arrest <was>
7 about a week after Kham Phoun and Ham killed each other. And I
8 believed she also was arrested along with her children and family
9 members during that time.

10 [10.11.40]

11 Q. Did you ever see her again after you were released from your
12 detention?

13 A. No, I never saw her again because after I was released from
14 the detention, I was sent to a worksite. I was not allowed to
15 travel to Kaoh Nheaek area, and we were instructed only to go and
16 work in the northern direction <at Srae Pok river>. And I did not
17 know what happened to her because she had also been arrested. And
18 her children actually fled, and the children are now living in
19 Kampong Cham.

20 In fact, I correct myself. I refer to only an adopted daughter
21 who is still living in Kampong Cham.

22 Q. What ethnicity was Kham Phoun?

23 A. Kham Phoun was Laotian and Tumpoun, so he was a mixed
24 ethnicity of Laotian and Tumpoun.

25 Q. Were you working at the sector hospital at the time of your

24

1 arrest and, if so, were there other people from the sector
2 hospital who were arrested on the same day or around the same
3 time as you?

4 A. That was a sector's hospital. However, I worked for the
5 economic unit for that hospital. For the leadership level at the
6 hospital, there were Bou Lay and Bour Ly, who were female, and
7 they were arrested as well. And I cannot recall any other
8 individuals.

9 So to my understanding, there were three, Bou Lay, Bour Ly, who
10 were in the leadership level, and myself; all three.

11 [10.14.40]

12 Q. What was Bou -- you say two women, Bou Lay and Bour Ly. The
13 first woman, Bou Lay, what was her position at the hospital and
14 who was she married to?

15 A. Bou Lay was the chief, and she was my superior. She married
16 Ra, so Ra was her husband. And Ra was a nephew of Ta Kham Phoun.

17 Q. And how about the other woman, Bour Ly? What was her position
18 at the hospital, and who was she married to?

19 A. Bour Ly was in charge of midwifery, and her full name is Bour
20 Ly Thon (phonetic), and she married Svay. And in fact, she came
21 from Ratanakiri and she was Tumpoun.

22 [10.16.40]

23 Q. The day you were arrested, how were you transported, where
24 were you taken and how were you transported there? Let's start
25 with that.

25

1 A. They brought a vehicle to take us <to> K-17. And after we got
2 off the vehicle into -- and got into the house, they instructed
3 us to <sit down> and they tied us up. And they placed us to the
4 corner of that house.

5 MR. PRESIDENT:

6 Thank you. It is now convenient to have a short break.

7 We'll take a break now and resume at 10.30.

8 Court officer, please assist the witness during the break time
9 and invite him back into the courtroom at 10.30.

10 The Court is now in recess.

11 (Court recesses from 1018H to 1035H)

12 MR. PRESIDENT:

13 Please be seated.

14 The Court is now back in session and the floor is given to the
15 Co-Prosecutors to resume the questioning.

16 [10.36.32]

17 BY MR. LYSAK:

18 Thank you, Mr. President.

19 Q. Mr. Witness, we were talking about the day that you were taken
20 to -- arrested and taken to K-17. You talked about being driven
21 in a vehicle there.

22 Were there other people who had been arrested in the same vehicle
23 with you and, if so, who was in that vehicle with you?

24 MR. NETH SAVAT:

25 A. After that time, people had been sent into that location. My

1 wife, together with my children, as well as my younger siblings
2 and others had been transported to that location, many of them,
3 60, 70 or 80 of them. I cannot recall all of them since it
4 happened long time ago.

5 [10.37.55]

6 Q. I understand. I'm asking about the vehicle in which you were
7 brought to K-17.

8 You've identified another person from the hospital who was
9 arrested, your chief or superior at the hospital, Bou Lay. Was
10 she in the same vehicle as you or was she taken to K-17 by a
11 different vehicle or means?

12 A. They were transported in the same vehicle on the same day as I
13 was also on that vehicle. We were in the same vehicle.

14 Q. And how long was Bou Lay detained or - I'm sorry, Bou Lay. How
15 long was Bou Lay detained with you at K-17, and what happened to
16 her?

17 A. I met Bou Lay in the detention facility at the time. Bou Lay
18 was detained there for half a month, and then this individual was
19 transported out while I was still being detained within that
20 centre.

21 I do -- I did not know where Bou Lay was sent to afterwards.

22 [10.39.45]

23 Q. Did you ever see her again after that day that she was taken
24 out from K-17?

25 A. No, I have never seen her since then.

1 Q. Now, between the time of the deaths of Ta Ham and Kham Phoun
2 and the time you were arrested, did you see a document or a
3 circular about the subject of arrests and, if so, can you
4 describe for the Court the document you saw during that time
5 period?

6 A. No documents at the time. I heard from others about that.

7 Q. In your OCIJ interview, you referred to a circular that you
8 received which you read to some of that hospital economics unit.
9 Can you describe that document to us?
10 How did you receive it, when did you receive it, and what did the
11 document say?

12 [10.41.38]

13 A. On this particular issue, after the incident of Ta Ham and
14 Kham Phoun, there were others going to our location to make an
15 announcement, particularly Chuon alias Phan Khon, used a small
16 loudspeaker going into the detention centre. He, at the time,
17 made <the first> announcement that, "Please do not feel afraid or
18 terrified. We, in fact, detained all of you, but we encourage all
19 of you not to feel terrified or scared."

20 And at the time, the <second> announcement was also about the
21 treason committed by Kham Phoun. And <third,> he also stated that
22 he was there in the name of the sector <committee>. He made such
23 an announcement about the treason of Kham Phoun, but he did not
24 show us any relevant documents.

25 A few days later on, my child wanted to go to relieve

28

1 <him/herself>, and my child called "Uncle Chuon<>". And the
2 security guard said, "<>Why <do> you call out the name of Chuon
3 since Chuon was also the one <who> betrayed regime?" <That's how
4 we came to know that Chuon was also accused of being a traitor.
5 That was several days after the announcement was made.>

6 [10.44.06]

7 Q. Okay. You're describing something from your DC-Cam interview
8 of an announcement that Chuon made on the day you arrived at
9 K-17.

10 I want to focus on the period just before you were arrested, and
11 I'm going to read to you an excerpt from your OCIJ interview,

12 E3/7695; Khmer, ERN 00236716; English, 00239487; French,
13 00274817. This was your testimony to OCIJ:

14 Question: "Did you notice who gave the order for your arrest?"

15 Answer: "Shortly before my arrest, I received a circular from the
16 upper echelon, probably from the sector secretary. I don't

17 remember who signed it. I read that circular to the personnel of
18 the hospital economics unit. That circular talked about the three
19 categories of the enemy. The enemy in the first category had to
20 be smashed. The one in the second category had to be detained.

21 The one in the third category had to be sent to the cooperative."

22 End of quote.

23 [10.45.44]

24 Do you remember this document, Mr. Witness, and can you tell us
25 how it was that you received this circular or document?

1 A. That was the case before my arrest. I was given a letter -- a
2 document, rather, telling the female and male combatants in
3 Office 80. I do not recall the -- all the content. And then that
4 document, it discussed the three types of enemies.

5 The first type was to be smashed. The second was to be detained.
6 And the third group was to be sent to cooperatives. That was the
7 first point.

8 And I was -- I also received a letter of invitation to a meeting.
9 The meeting did -- was not held -- did not usually hold at K-17.
10 And at the time, as I received a letter of invitation to attend a
11 meeting at K-17, I felt a little bit shocked at the time, <but I
12 did not know what to do or where to go>. And the vehicle came to
13 take me, and it was that time that I was arrested.

14 In fact, at first, I did not know about the principle or <the>
15 plan, but later on, <it was only> after I <was arrested that> I
16 started to realize that <the idea of sending us letters to make
17 an announcement> was <to get us arrested>.

18 [10.48.10]

19 Q. The first category of enemies in this document, the people who
20 were to be smashed, were these people identified by name or what
21 did the document say about who were going to be considered in
22 this first category of enemies who were going to be smashed?
23 What did the document say about that, if you remember?

24 A. It -- the document said there were three types of enemies, and
25 the document did not discuss who were to be considered within the

1 first group, second group or third group.

2 [10.49.08]

3 Q. On the subject of documents on the categories of people to be
4 arrested, I want to read to you, Mr. Witness, an excerpt from the
5 OCIJ interview of Sao Sarun, who you know replaced Ta Ham as
6 sector secretary. This is document E3/367, E3/367; Khmer,
7 00251440 through 41; English, 00278697; French, 00486013.

8 Sarun, here, testifies about a meeting at which the secretary of
9 Division 920 had received a list of the people to be arrested,
10 and this is what he said. I quote:

11 "Ta San from Division 920 came to the meeting with Ta Sophea and
12 me. He personally spoke about that arrest, for example, the
13 arrest of Net Tha. Ta San already held the list, and I could not
14 refuse." End of quote.

15 The first question, Mr. Witness: Who was Ta San? Did you know
16 this person identified by Sarun as Ta San?

17 A. I am not sure about Ta San. It was said that Ta San was the
18 commander of the division, but I did not see him. I used to work
19 with Ta Sarun. He was -- he used to be the sector committee as
20 well.

21 Concerning disclosing the document or documents, it was the
22 policy of the upper echelon to arrest the three categories of
23 enemies, the document or documents that were given to me on one
24 occasion. After the arrests, soldiers from the division were sent
25 to <guard> the detainees.

1 [10.52.06]

2 Q. Do I understand correctly that it was division soldiers who
3 were assigned to guard you at -- while you were detained at K-17?
4 Do I understand correctly?

5 A. That is correct. Soldiers from the division, as I said.
6 The soldiers from the sector, then the soldiers from the division
7 were assigned to guard all of us during the time that we had to
8 go to relieve ourselves day and night, so they came to guard us
9 day and night. So those people were from the division.

10 Q. And were those soldiers armed?

11 A. Yes, they were armed. While we were being walked to bathe or
12 to relieve, they had weapons with them. Eight, nine or ten of
13 them were there to guard the prisoners<>.

14 [10.53.40]

15 Q. And can you describe for us the building in which you were
16 detained at K-17?

17 A. The building, <> on the ground floor, <> it had <a> concrete
18 or tile floor. And the wall was -- the walls were made from
19 wooden planks. It was two-storey building. And the walls upstairs
20 were also made from a wood plank. And the roof was made from
21 corrugated iron.

22 There -- and as I said, it was a two-storey building.

23 Q. Were there prisoners detained on both floors of the building
24 and, if so, what floor were you detained on?

25 A. I was detained on the ground floor, and some were on the

32

1 second floor. I heard the sound of urinating, and also the sound
2 when those detainees were released perhaps to -- were released<>,
3 perhaps, to relieve themselves. And I also heard sounds of
4 releasing or unlocking the shackles. <More people> were detained
5 on the ground floor, <that was the second category group,> and
6 <not> many of the detainees were on the second floor. <There were
7 only a few of them; they were the first category group.>

8 THE KHMER INTERPRETER:

9 Rather, correction from the interpreter, not many detainees were
10 on the second floor.

11 [10.55.56]

12 BY MR. LYSAK:

13 Q. Now, you've indicated that you -- when you were detained on
14 the ground floor, you were tied up. Can you describe how it was
15 that you were tied up during the period you were detained at
16 K-17?

17 MR. NETH SAVAT:

18 A. Our hands were tied to -- behind our back, and our ankles were
19 also tied up. <We were tied to a table> set <> in <a> corner of
20 the <ground floor> for them to have meetings. And we were tied up
21 and put in row.

22 Q. Were you tied up like that the entire month that you were at
23 K-17?

24 A. Yes, that is true. I was tied up for the entire <time>.

25 [10.57.22]

1 Q. You mentioned that you heard the shackles -- the sound of
2 shackles being unlocked. Was there anyone on the ground floor who
3 was shackled, or was it -- the sound that you heard, was that
4 coming from the upper floor?

5 A. I heard the sound of the shackles <on the second floor>. The
6 detainees were -- on the ground floor were tied up to the hammock
7 string. They were not shackled.

8 Q. The -- you've described hearing the sounds of the shackles
9 being unlocked coming from upstairs. Did you ever see the
10 shackles that were used on the upper floor at K-17?

11 A. Yes. That -- those shackles were made out of wood, and it had
12 the bar -- the wooden bar to be inserted into the rings. The
13 detainee was -- were shackled to one of their ankle. The
14 shackles, as I said, were made out of wood.

15 Q. When was it that you saw these shackles? Was it during the
16 month that you were at K-17, or was it later on that you saw
17 these shackles?

18 A. It was before that time. One month before that time.

19 [10.59.47]

20 Q. I'm not sure I understood. Are you saying you saw the shackles
21 before you were detained at K-17, or during the month you were at
22 K-17?

23 A. I had seen those shackles before. I had seen those shackles
24 one month before my detention.

25 Q. And can you tell us, what was the occasion? How is it that you

34

1 came to see these shackles one month before your detention?

2 A. Ta Ham took me upstairs because, at that time, people from --
3 actually, Ta San, the chief of the division, was detained there
4 along with other people from the division.

5 Q. Just to clarify, you're saying that, previous to your
6 detention, Ta Ham had taken you to the upper floor at K-17 once,
7 and there were prisoners from Division 920 who were detained
8 there?

9 Did I understand correctly?

10 A. Yes. Because at that time, the event did not happen yet, and
11 Ta Ham was still there. And when he took me upstairs, I saw <them
12 shackled>.

13 [11.01.55]

14 Q. Now, you've indicated that during the month you were at K-17,
15 there were -- the guards there were division soldiers. Was there
16 a person who was in charge of the detention of the prisoners?
17 Was there one person who was -- who had overall responsibility
18 and, if so, who was that?

19 A. I did not know because, at that time, I was being detained and
20 I did not know who was in charge of that K-17 office because I
21 was not allowed to walk outside.

22 Q. Did you ever see Ta Sarun there during the month you were
23 detained at K-17?

24 A. No, I did not.

25 Q. What about Ta Sophea, the sector military chief? Did you see

1 him at K-17?

2 A. No. Only later when I was assigned to work at the worksite, I
3 saw Ta Sophea, who came to the worksite one time. And I was sent
4 there after I was released from detention.

5 [11.03.44]

6 Q. You talked about there being a small number of prisoners who
7 were held on the upper floor. Did you know who -- during the
8 month you were at K-17, who were the -- who were the prisoners
9 who were held on the upper floor?

10 A. From what people said, there were Sonthan, Tha, Ra, Voeun
11 (phonetic) and Kem Chan.

12 Q. Who was Kem Chan?

13 A. Kem Chan had his native name as Phoeuk.

14 Q. But what was his position in the sector?

15 A. Kem Chan was a district committee, and Ra was also part of the
16 district committee. And Ra was the deputy.

17 As for Tha, Tha and Sonthan were at the economic unit or
18 commerce.

19 [11.05.37]

20 Q. Now, you previously talked about Sonthan as your boss at the
21 economics office.

22 Was he at -- detained at K-17 the entire time -- the entire month
23 you were there, or was he taken away at some point?

24 A. He was detained on the upper floor, and his office was the
25 commerce office. And in fact, he was overall in charge of the

1 Ministry of Economics there.

2 I -- while I was detained on the ground floor, Tha and Sonthan
3 were detained on the upper floor. <They were the first category
4 group.> Ra was the deputy secretary of Kaoh Nheaek district, <Kem
5 Chan was a district committee member,> and in fact, there were
6 four members who were part of the district committee.

7 Q. Were these prisoners on upper floor, were they there the
8 entire month that you were at K-17, or were they taken away at
9 some point?

10 A. From what I heard, they were taken out and transported by
11 vehicle, but I cannot recall whether they had been taken away
12 before I was released or whether it happened after my release.

13 Q. Did you ever see any of those people again? Did you ever see
14 Sonthan, Tha, Ra, any of those people who were detained on the
15 upper floor?

16 Did you ever see them again?

17 A. No, I did not. And they disappeared since.

18 [11.08.20]

19 Q. After you arrived at K-17, Mr. Witness, were you interrogated?

20 A. No, I did not hear anything about torture. As for the
21 interrogation, I could not say because they were detained on the
22 upper floor while I was detained on the ground floor.

23 Q. I know you've indicated that your recollection of this isn't
24 great. Let me read to you a short excerpt from your DC-Cam
25 interview, E37696; Khmer, ERN 00231542; English, 00384164;

1 French, 00384268; this is what you said in your DC-Cam interview:

2 Question: Once you were detained there, did you see prisoners
3 were taken to be interrogated?"

4 Answer: "Yes, they all were interrogated. Even I was." End of
5 quote.

6 I understand you're saying that there -- you were not tortured,
7 but were you questioned and can you tell us about what questions
8 you were asked, who you were questioned by, if you remember?

9 [11.10.16]

10 A. I was questioned once. We all were questioned. I was taken out
11 of the detention room and questioned, and I was asked who
12 actually inducted me into the Party. And I said it was Ta Kham
13 Phoun. And then I was asked whether I was sure. I said yes. And
14 they did not ask me any more questions after that.

15 Q. You said you were taken out of the detention room. Where was
16 it that you were taken to be questioned?

17 A. I was taken out of the detention house, and then I was
18 questioned. They did not take me far from the detention house.

19 Q. And who was it that questioned you? Who was it that took you
20 out of the detention house and questioned you?

21 A. I did not know them, but they were people from the division.
22 And I cannot recall it well. The chief was <Theu> (phonetic).
23 That's all I can recall.

24 [11.12.20]

25 Q. Okay. You've talked about -- earlier about Bou Lay, the woman

1 who was your chief at the sector hospital, being taken out of
2 K-17, possibly others who were on the first floor.

3 Did you ever hear where these people were taken? Did you ever
4 hear anything about executions of people who had been detained
5 and where it was that people were taken to be executed?

6 A. I did not know about that. However, what I could say is that
7 some detainees were taken and placed on a vehicle and drove away.
8 And I did not know what happened to them later.

9 Q. I want to read another short excerpt from your DC-Cam
10 interview, E3/7696; Khmer, 00231531; English, 00384152; French,
11 00384258. You said -- quote: "Some killings happened, but not at
12 the prison. They did along the way to Kratie."

13 And earlier in the interview, you talked about hearing that
14 people on the upper floor had been transported to the west.

15 Who is it that you heard -- who is it that told you that
16 prisoners who were taken away were sent to the west to the -- in
17 the direction of Kratie? Who is it that you heard that from?

18 [11.14.50]

19 A. I heard it from other people, but I personally did not see
20 that. People whispered from one to another about this.

21 Q. All right. You've indicated that the day that you arrived at
22 K-17, Phan Khon alias Chuon, came to K-17 and made an
23 announcement and that you described how, a few days later, your
24 son and you asked about him and received a response from the
25 guards that indicated that he had now been considered as one of

1 the traitors.

2 Do you know what happened to Chuon after you were arrested and
3 detained at K-17?

4 A. Chuon was not detained at K-17 office. Maybe Chuon was
5 arrested in Kratie. And he was not arrested and detained at K-17
6 office at all. However, as I said earlier, he came into that
7 building where I was detained and made an announcement regarding
8 the traitor, <Kham Phoun,> and that we should not worry about
9 that. For that reason, in order to put things in orderly manner,
10 we had to be detained temporarily. <After the announcement was
11 made, he left.>

12 And maybe later on he was arrested somewhere near Kratie, but I
13 was not sure about that.

14 [11.17.03]

15 MR. LYSAK:

16 Mr. President, with your leave, I'd like to -- at this time, to
17 provide a document to the witness, document E3/1645, E3/1645. It
18 is an S-21 prisoner list of -- which identifies over 140 cadres
19 from Mondolkiri, Sector 105 and Division 920 who entered S-21 on
20 the 23rd of November 1977. There are a number of people on the
21 list that I would like to ask the witness about.

22 So with your leave, may I provide this document to the witness?

23 MR. PRESIDENT:

24 Yes, you may.

25 [11.18.15]

1 BY MR. LYSAK:

2 Q. Mr. Witness, it's a long document, so I'll refer you to a
3 couple of spots here.

4 The second column of the document has the numbers, and if you
5 could turn to number 128 on the list. If you look for number 128,
6 the number 128 on this list of prisoners who entered S-21 on the
7 23rd of November 1977 is Phan Khon alias Chuon, identified as a
8 commerce member of Sector 105.

9 You've testified, Mr. Witness, that you joined the revelation --
10 the Revolution with Chuon back in 1967 or '68.

11 Based on your knowledge of him, was Chuon someone who was loyal
12 to the Revolution?

13 Mr. Witness?

14 MR. PRESIDENT:

15 Court officer, please assist the witness and try to locate number
16 128. If he cannot locate that one, he cannot respond to the
17 question.

18 (Short pause)

19 [11.20.40]

20 BY MR. LYSAK:

21 Q. So Mr. Witness, if you're looking at 128, the S-21 prisoner
22 identified there is Phan Khon alias Chuon, identified as a 35
23 year-old male who was a member of the commerce in Sector 105.

24 Is this the same Chuon that we've been talking about?

25 MR. NETH SAVAT:

41

1 A. Yes. The name Chuon is on this list, too. And that is correct
2 because this Chuon also came from Sector 105.

3 Q. And you've testified that you joined the Revolution with
4 Chuon. To your knowledge, was he a person who was loyal to the
5 Revolution?

6 Do you have any information about -- about Chuon and whether
7 there was any reason for him to be sent to S-21?

8 [11.22.02]

9 MR. PRESIDENT:

10 Witness, please hold on.

11 And Counsel Victor Koppe, you have the floor.

12 MR. KOPPE:

13 I object to the formulation of this question. I'm not quite sure
14 what it means, "loyal to the Revolution". He might have been
15 loyal to the Revolution, but still at one point in time committed
16 treason, so the question "being loyal to the Revolution" is a
17 very vague, unclear question. Any answer that the witness might
18 possibly give will not be very helpful.

19 [11.22.44]

20 BY MR. LYSAK:

21 Mr. President, let me -- as I want to end and leave some moments
22 for the civil parties.

23 Let me refer the witness to a statement he made in his OCIJ
24 interview. This is E3/7695; Khmer, 00236713; English, 00239484;
25 French, 00274814.

1 Q. This is what you told OCIJ. You said, "As I know it, he" --
2 you were referring here to Phan Khon alias Chuon -- "was not the
3 person who assigned Kham Phai to work as a spy, or he, himself,
4 did not work as a spy with Kham Phai because Chuon was a real
5 revolutionary." End of quote.

6 What did you mean when you told OCIJ that Chuon "was a real
7 revolutionary"?

8 MR. NETH SAVAT:

9 A. I was asked by the investigators whether Chuon was appointed
10 by Kham Phai to -- or rather, to let him to join the Revolution.
11 And I said Chuon was a separate person from Kham Phai.

12 And on the question whether he was loyal to the Revolution or
13 not, I cannot attest to that. And I do not know the reasons why
14 he was sent to S-21 <because I was in> Kaoh Nheaek.

15 [11.24.58]

16 Q. My last question for you, Mr. Witness.

17 On the same S-21 list, you were looking at number 128. The next
18 person on that list, if you could look at number 129, is
19 identified as Sitang alias Bor Ly (sic), a 27 year-old female,
20 who was the deputy chief of midwife in Sector 105, and the wife
21 of Svay.

22 My question: You spoke earlier about one of the other people who
23 was arrested around the same time as you from the sector
24 hospital, a woman named Bour Ly; is this the same person who you
25 previously identified as one of the persons who -- who were

1 arrested in November 1977?

2 A. Bour Ly could have been arrested a day before my arrest, and
3 after she was arrested, I did not see her. She was not detained
4 in the same detention centre where I was. And then it was Bor Ly
5 (sic). And here it states about her age as -- of 27 years old, so
6 this is about -- probably about Bour Ly, or <maybe> Sitang <was
7 her birth name>.

8 MR. LYSAK:

9 Thank -- thank you very much, Mr. Witness, for your time this
10 morning.

11 And Mr. President, we have no further questions.

12 [11.27.05]

13 MR. PRESIDENT:

14 Judge Lavergne, you have the floor.

15 JUDGE LAVERGNE:

16 Thank you, Mr. President.

17 I would like to <bring some clarification for the> transcript<>.

18 There is a discrepancy in the spelling of <the name of> detainee

19 <128> in both the French and English versions. In the English

20 version, the name is written as "Phan Khon"; whereas in the

21 French version, it is written as "Phan Youn", so it would,

22 perhaps, be good to cross check with the translation services

23 whether there is need for harmonization of the <spelling of> the

24 name of that detainee<>.

25 MR. LYSAK:

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1 Yeah, thank you, Judge Lavergne; we'll ask CMS to look into that.

2 [11.28.15]

3 MR. PRESIDENT:

4 Witness, you can keep the document with you for now.

5 And I'd like now to hand the floor to the Lead Co-Lawyers to put
6 questions to this witness. You may proceed.

7 QUESTIONING BY MS. GUIRAUD:

8 Thank you, Mr. President, and good morning to all of you. I will
9 probably need more than the five minutes that <> I can see <on>
10 the clock.

11 Witness, good morning. I am Marie Guiraud. I represent the
12 collective of the civil parties in this trial and I have a few
13 follow-up questions to put to you.

14 Q. You said, this morning, that in your province, the main
15 language was Khmer, but that people also spoke Lao, Tumpoun, or
16 <> Jarai, so I wanted to know if you, yourself <> can speak Lao?

17 [11.29.20]

18 MR. NETH SAVAT:

19 A. Yes, I speak both, the Laotian and the Khmer languages; and
20 when I speak to my family members, I speak Lao.

21 Q. Thank you. So was Lao authorized during the DK period? Did you
22 have the possibility of expressing yourself in that language back
23 then; do you remember that?

24 A. Yes, we spoke Lao. When we met people who spoke Lao, we spoke
25 Lao and if I saw Khmer people, I would speak Khmer to them.

45

1 There were other minority languages including Tumpoun, Phnong,
2 etc., and the language was not prohibited; however, as I stated,
3 Khmer was the main language at the time.

4 [11.30.40]

5 Q. So during the Khmer Rouge period, basically speaking, you
6 never heard that it was forbidden to speak Lao or another
7 minority language; did I understand you correctly?

8 A. Yes, we were not prohibited from speaking any minority
9 languages. We could speak <Lao, Kraol,> Phnong, Jarai, Tumpoun,
10 or any minority languages that you could.

11 Q. Thank you. You said earlier that your wife and your children
12 were also arrested in 1977 and I wanted to know how many children
13 you had back then and how old your children were when they were
14 arrested in 1977.

15 A. My wife and children were arrested, as well, and there were
16 seven of them all together. My -- and my eldest son was about 17
17 or 18 years old and the second one was about 16, so the age was
18 starting from there going downward. At the time, we had seven
19 children, but two passed away and now we have only five.

20 Q. And do you remember the age of the youngest child who was
21 arrested that day?

22 A. My youngest child is over 30 years old this year. He was born
23 in 1981 or '82.

24 [11.33.04]

25 Q. And in 1977, when your wife and your seven children were

1 arrested and detained with you, what was the approximate age of
2 the youngest of your children? Was this child just a baby or a
3 <young child> or a teenager? Can you give -- give us an idea?

4 A. At the arrest -- during the arrest, five of my children were
5 arrested and later on, I had two other children, so together I
6 have seven children.

7 During the time, I had <five children,> three sons and one
8 daughter, and after that incident or after that time, I had two
9 other children, <one son and one daughter>. The youngest <> son
10 was around two years old. <He was born in December '75>, and in
11 1977, I went through <the> ordeal, so he was <> around two years
12 <old> in 1977<>.

13 [11.35.12]

14 Q. Thank you. Do you remember the conditions under which your
15 children, <aged between 17 and 2 years old>, were detained with
16 you? And do you remember, for example, the sanitary conditions
17 and the food that was given to them? Do you have any
18 recollections about the detention conditions of your children?

19 A. Regarding the conditions of the detention and meal, we had
20 meals within the detention centre. We were there in -- inside the
21 building. We can -- we could not go anywhere we wanted, <> and
22 <for hygiene, it was us adults who> cleaned the detention centre.
23 The food condition was not good. We had pumpkin <soup>. We had
24 pumpkin, at the time, for the entire month and -- together with
25 rice; no meat, no fish or meat. We were given a small bowl of

1 meal with merely one piece of meat or two pieces of meat and we
2 had pumpkins. The food condition was very bad -- was worst.
3 And there was only one toilet for all of us, no hygiene, no
4 sanitation, no water for us to bathe. At the beginning, we were
5 allowed and walked to take a bath once a week. <The water was not
6 clean.> It was a small <dike> or bathing place for all of us. We
7 were walked to that bathing place.

8 [11.37.42]

9 At the beginning, the string was released -- was untied from our
10 ankles, <that's how we could walk there;> and while we <were> at
11 the bathing place, our hand -- one of our hands <was> released
12 from <the> string, and after bathing, we wore our clothes and
13 then <our hands were tied up again, and> we were walked <to> the
14 building. <When we entered the room,> our ankles <> were tied up.
15 So it was lucky enough for me to survive. Thanks to my mom<'s
16 milk>, I could survive the regime. So the conditions were the
17 worst. The same happened to children.

18 We had rice together with pumpkin. Fish was everywhere; meat was
19 everywhere, but we were deprived of such latitude. We were not
20 given <> meat and fish. We did not dare to <say anything about>
21 the food conditions. <>

22 <MS. GUIRAUD:

23 There is no translation. Mr. President, there is no translation.

24 MR. NETH SAVAT:

25 So what could we do?>

1 [11.39.33]

2 MR. PRESIDENT:

3 It is now break time, lunch break. The Chamber will take lunch
4 break from now until 1.30 p.m.

5 Court offer -- Court office -- Court Officer, please assist the
6 witness during the lunch break and please invite him back into
7 the courtroom at 1.30 p.m.

8 And the Chamber will give some more time to Lead Co-Lawyers for
9 civil party.

10 Security personnel are instructed to bring the accused, Khieu
11 Samphan, to the waiting room downstairs and please have him
12 returned into the courtroom before 1.30 p.m.

13 The Court is now in recess.

14 (Court recesses from 1140H to 1333H)

15 MR. PRESIDENT:

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

17 Before giving -- giving the floor to Lead Co-Lawyer for civil
18 party to resume questioning, the Chamber wishes to hear

19 submission of parties in relation to Defence Counsel for Mr. Nuon
20 Chea's request to admit document E319/23.4.1, under Internal Rule
21 84 -- 87.4.

22 On 7 March 2016, the -- the Defence Counsel for Mr. Nuon Chea
23 filed list -- filed a list of documents which they wish to use
24 during the hearing of 2-TCE-88. Among those documents, there is
25 document E319/23/.4.1, which is not admitted yet into the

1 evidence.

2 The defence for Mr. Nuon Chea request that that document should
3 be admitted as evidence under Internal Rule 87.4; therefore, the
4 Chamber is now hearing submission orally of parties in relation
5 to the admissibility of that document.

6 First, the Chamber will give the floor to the -- the defence team
7 for Mr. Nuon Chea to submit and address the Chamber in relation
8 to the request. You may now have the floor.

9 [13.35.34]

10 MR. KOPPE:

11 Thank you, Mr. President. Yes, very briefly, document
12 E319/23.4.1, is the DC-Cam statement of upcoming witness
13 2-TCW-840. It's a DC-Cam statement of him and his wife. TCW-840
14 is a witness for Au Kanseng security centre. As the Trial Chamber
15 knows, he was initially scheduled to appear on Wednesday, 9
16 March. So at the time of filing, the documents to be put before
17 the expert, we realized -- we -- we figured there was no need to
18 have a special 87 request; however, the witness could not appear
19 as scheduled, due to health issues, but it is our understanding
20 that he might come back if his health approves -- improves.
21 Obviously, the content of his statement is relevant to the issues
22 discussed in this case since he was already called as a witness
23 by the Chamber.
24 In addition, his statement is relevant to our position and that
25 is also the questions that we would like to put to the expert

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1 next week because this witness, in his DC-Cam statement,
2 confirmed that, indeed, So Phim wanted to overthrow Pol Pot and
3 the CPK since 1975.

4 He also discusses the event of the assassination attempt against
5 Pol Pot, which, according to him, was plotted by So Phim;
6 relevant ERNS, for the record, are 01079524 in English and
7 01079526 in English.

8 [13.37.47]

9 Finally, in his DC-Cam statement, this upcoming witness also
10 stated that, among 21 party central members, only nine central
11 committee members remained faithful.

12 So for -- for numerous reasons, his DC-Cam statement is relevant
13 and the most obvious one is, of course, that it is a statement
14 coming from the upcoming witness himself.

15 MR. PRESIDENT:

16 Thank you.

17 The floor is now given to the Co-Prosecutors to respond to the
18 submission of Mr. Nuon Chea's defence team in relation to the
19 request to admit document E319/23/4.1. You have the floor now.

20 MR. LYSAK:

21 Thank you, Mr. President; I'll -- I'll be brief. I won't take
22 issue, at this time, with the characterization of what this
23 witness says in this interview. I have doubts as to how a witness
24 who had nothing to do with the East Zone would be in any position
25 to speak to So Phim plots, but this is a statement of a upcoming

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1 trial witness and -- and we have no objection to the admission of
2 this document.

3 [13.39.24]

4 MR. PRESIDENT:

5 What about the lawyers for civil parties?

6 MS. GUIRAUD:

7 No objection, Mr. President.

8 MR. PRESIDENT:

9 And the defence team for Mr. Khieu Samphan?

10 MS. GUISSSE:

11 Yes, Mr. President, quite obviously, there is no objection

12 because it's a statement of an <upcoming> witness.

13 MR. PRESIDENT:

14 Thank you. The discussion of the request by the defence team for

15 Mr. Nuon Chea is now concluded. The Chamber thanks you for your

16 submissions and responses. And these submissions and responses

17 can be the basis for the Chamber to issue the decision on the

18 request to admit that document in due course before hearing

19 2-TCE-88.

20 And now the floor is given to lawyers for civil parties to resume

21 questioning and you will be given only <10> minutes <at> the

22 most.

23 [13.41.03]

24 BY MS. GUIRAUD:

25 Thank you, Mr. President.

1 Good afternoon, Witness. I would like to carry on putting some
2 questions to you regarding living conditions and detention
3 conditions at K-17.

4 This morning, you explained the circumstances under which you
5 lived through this month of detention. I would like to put some
6 follow-up questions to you.

7 Q. During the period of your detention, did you observe that some
8 of the persons with whom you were detained fell sick, and if yes,
9 what were the diseases that were rampant at K-17 at the time?

10 [13.42.00]

11 MR. NETH SAVAT:

12 A. <The people who were detained there with me>, during that
13 time, did not have any diseases for that entire month. That's
14 all.

15 Q. We heard a witness testify yesterday, Mr. Chan Toi, who stated
16 that he was also detained at the same time as you, on the same
17 floor, and he talked of skin diseases that appeared to be
18 particularly rampant, at the time; did you observe the same? He
19 spoke at 13.42 yesterday.

20 A. Yes, Chan Toi, he was detained together with me. He said that
21 detainees had skin diseases. I don't think they had skin
22 diseases, but I may have forgotten that.

23 Q. Thank you. This morning you told us that five of your children
24 were detained with you. What can you tell us on the manner in
25 which your children survived those months of detention; do you

1 have any particular memories regarding the detention of your five
2 children, who were aged between <> 2 years and 18 years?

3 [13.44.02]

4 A. My five children were with me within the detention building.
5 After one month, we were freed and allowed to work in -- at
6 worksites. Five of them were detained with me in the same
7 building as the parents. In fact, we were <together at all times,
8 not> in different places.

9 Q. Were there many children on the ground floor of K-17, where
10 you were detained for one month, and if yes, how old were the
11 children who were with you? Your own children were aged between 2
12 years and 18 years; were there many children in that detention
13 facility; particularly, <many> young children on the ground floor
14 where you were detained?

15 A. Children, yes, they were there, but not many. Some were
16 younger than my 2-year-old baby, not many of them were younger
17 than my 2-year-old baby. I may have forgotten. Some may have been
18 1 year or 2 years old, <about> 4 to 10 <of them>.

19 [13.45.57]

20 Q. Do you recall whether any of those children fell sick and if
21 yes, what can you tell us about that?

22 A. It seems that no... <or yes>. I may have forgotten and I may not
23 have looked around at that building within the -- I may not have
24 looked around inside the building.

25 Q. Thank you. This morning you stated that after a month, you

1 were transferred to a labour camp. Can you describe to us the
2 conditions or circumstances under which you left K-17 and arrived
3 in the labour camp? Were you escorted by guards? Were you taken
4 there in a vehicle? <What> can you remember <about> when you left
5 K-17?

6 A. I was removed from that detention centre. I was taken away
7 <from K-17> by <> vehicle and the vehicle was driven northward --
8 northwards. That included <children,> men and women; perhaps 20
9 to 30 of us were sent to worksites. <It was a> Chinese-made
10 vehicle, Celica (phonetic).

11 Q. Were there any guards escorting you during the journey?

12 A. No, during the journey,<> there <were> the leading cadres, but
13 no security guards.

14 Upon our arrival at the worksites, we were told <that we did not
15 have the right to move freely> and we were prevented from going
16 to <> Kaoh Nheaek, but we were allowed to go to the north<, to
17 Srae Pok river>.

18 After the announcement, I<> did not <feel like going back to Kaoh
19 Nheaek, not even if I was allowed to>. I really -- I started to
20 hate Kaoh Nheaek from that time onwards.

21 [13.49.32]

22 Q. Thank you. You have stated that there were no guards during
23 your trip in the Chinese vehicle, but you stated that there were
24 senior cadres; that is what I heard in French. Can you confirm to
25 us that senior cadres were present and who were you referring to

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1 when you used the term "senior cadres"?

2 A. Ta An Sy was there on the same vehicle. He was considered the
3 leading cadre. He was on the same vehicle, at the time, and now,
4 I have heard that he is already deceased. I do not know others
5 beside him at the time.

6 He was on the same vehicle leading all of us to the worksites and
7 introduce -- he -- he was with us in order to introduce us to
8 those at worksites.

9 [13.50.49]

10 Q. This will be my last question to you, Witness. I'd like to
11 understand whether Ta An Sy was <the> person who drove the
12 vehicle that took you to the labour camp; did I properly
13 understand your answer?

14 A. The driver was there and he was also there together with the
15 driver, but he was the one who introduced us to those who were at
16 -- who were at the worksites.

17 MS. GUIRAUD:

18 Thank you, Mr. Witness.

19 I have no further questions for the witness, Mr. President.

20 MR. PRESIDENT:

21 Thank you. The floor is now given to the defence teams for the
22 Accused starting first from the defence team for Mr. Nuon Chea to
23 put questions to this witness. You have the floor now.

24 [13.51.57]

25 QUESTIONING BY MR. KOPPE:

1 Thank you, Mr. President. Good afternoon, Mr. Witness. I have a
2 few questions that I would like to put to you this afternoon.

3 Q. This morning, you spoke about your sister, who was married to
4 Ney Sarann alias Ya; when did your sister marry to Ya?

5 MR. NETH SAVAT:

6 A. It was in 1968 in the forest. The meeting -- the wedding was
7 organized by others, not by parents. Angkar was the one who
8 organized such a wedding. From my recollection, it is -- it was
9 in 1968.

10 [13.53.02]

11 Q. And was it in 1968 that you met for the first time, Ya, or did
12 you -- had you known Ya already before that?

13 A. Only after that time did I <see> him. I have never known him
14 before or I had never seen him before.

15 Q. Can you tell us how often you had contact with Ya between 1968
16 and September '76, when he was arrested?

17 A. I did not contact him regularly. I met him once, in Tuol Kork,
18 in Phnom Penh, and then another -- on another occasion in Kratie.
19 Two times, I met him two times, and after that, I went back to
20 Kaoh Nheaek.

21 Q. Did you meet him also in Mondolkiri? Did you speak to him in
22 Mondolkiri?

23 A. Oh yes, he went to Mondolkiri once and that was close to Kaoh
24 Nheaek, and currently it is now Kaoh Nheaek; that location, I
25 mean. He was there once and that location was known as <> Phum

1 <Ou Buon> Kraom (phonetic), at that time, and it was the place
2 that I saw him, as well, at that time. And after <that>, I <>
3 never <saw> him <again>.

4 Q. Have you ever seen Ya together with Khuon, also known as
5 Thuch, also known as Koy Thuon, the secretary of the North Zone?
6 [13.55.28]

7 A. Regarding Koy Thuon, when he visited the Northeast, his name
8 was known as Khuon. He made regular visits through the forest and
9 after the liberation in 1970; his name was changed to Thuch --
10 Koy Thuon -- Thuch, rather.

11 I heard he was in charge of the North Zone; that is all I know.
12 But I, myself, I personally did not see him from 1970, but before
13 1970, I had seen him since he made regular visits to the upper
14 level of the country and back to the lower level of -- the lower
15 part of the country. <He was in Ratanakiri,> so he made regular
16 visits to the upper land and the lower land. And after 1970, I
17 had never seen him.

18 Q. Do you know what the relationship was between Koy Thuon and
19 Ya? Were they close together? Is there anything that you can tell
20 us about the relationship between those two?
21 [13.57.13]

22 A. I do not know about that since I was in a different location
23 in and he was in another location.

24 Q. Do you know whether Koy Thuon was arrested before or after Ya
25 was arrested?

1 A. From the situation that I have grasped, Koy Thuon had been
2 arrested first, before Ya. Koy Thuon arrest happened in 1976 and
3 Ya may -- Ya's arrest may have happened in 1977. It is my
4 estimate. Perhaps, Ya have been -- may have been arrested in late
5 1977, or earlier than that, but I recall that Koy Thuon had been
6 arrested first.

7 Q. Have you ever heard, either during the DK regime or
8 afterwards, the accusation that Ya had, at one point in time,
9 ordered Koy Thuon to poison both Pol Pot and Nuon Chea?

10 MR. PRESIDENT:

11 Please hold on, Mr. Witness.

12 You have the floor now International Deputy Co-Prosecutor.

13 MR. LYSAK:

14 Yes, our objection is that this -- this is a leading question. If
15 Counsel is basing this claim on some piece of evidence that is
16 other than an S-21 confession, he should -- he can use that, I
17 guess, to confront the witness, but he shouldn't be leading --
18 leading the witness on this issue.

19 [13.59.31]

20 BY MR. KOPPE:

21 I'm not sure where the leading element comes in, Mr. President,
22 but I'm happy to rephrase.

23 Q. Have you ever heard anything, Mr. Witness, about plans of both
24 Koy Thuon and Ya, whom you knew well, to kill the secretary of
25 the CPK and the deputy secretary of the CPK?

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1 And my knowledge -- my source for this information, Mr.

2 President, is not a confession, but the "Black Paper."

3 MR. NETH SAVAT:

4 A. I am not aware of that issue. They were in Kratie, lower part

5 of the country, and I was in Mondolkiri, away from that Kratie.

6 [14.00.34]

7 JUDGE FENZ:

8 Sorry Counsel, just to have a -- a record, a complete record, can

9 you give us the -- the number of the source?

10 BY MR. KOPPE:

11 The "Black Paper", Judge Fenz, that is, E3/266. I have the

12 English ERN for you now only; that is 00082542.

13 Q. Let me move on now, Mr. Witness, to some other people that Ya

14 might have been close with. Have you ever--

15 MR. PRESIDENT:

16 Please hold on. Judge Lavergne, you have the floor first.

17 JUDGE LAVERGNE:

18 Counsel Koppe, could you tell us if the "Black Book" provides a

19 source regarding a possible project <to kill> Pol Pot and his

20 deputy<>?

21 [14.01.39]

22 BY MR. KOPPE:

23 They don't mention any specific sources, but that doesn't, of

24 course, mean that it is not correct.

25 Q. Let me, like I said, move on, Mr. Witness, to the connections

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1 between Ya, your brother-in-law, and others. What was Ya's
2 relation to Tiv Ol?

3 MR. NETH SAVAT:

4 A. I did not know about that. I did not know if they had any
5 relation.

6 Q. But it is correct that you knew Tiv Ol; is that correct?

7 A. Yes, I knew him.

8 Q. Do you know whether there was any relation between Ya and
9 Chhouk or Chan Chakrey?

10 [14.02.56]

11 A. I did not know this Chan Chakrey person. I knew Tiv Ol, as I
12 stated earlier.

13 Q. Have you ever heard of someone called Keo Meas -- Keo Meas?

14 A. No, the name does not ring a bell.

15 Q. I will get back to them shortly. One last question as to
16 possible relationships between Ya and others. Do you know if
17 there was any relationship between Ya and So Phim?

18 A. No, I did not. I never saw So Phim. He was in a senior
19 position and I was so far from him.

20 Q. All right, let's move on to the next subject, Mr. Witness, and
21 that is the -- the killing or the murder of Ham. Though you
22 weren't asked any questions this morning, but I'm going to ask
23 you a few questions. What it is -- what is it that you know about
24 Ham's death; who was responsible, in your recollection, for Ham's
25 death?

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1 A. I did not know this person, Ham, you mention -- you mentioned.

2 Q. It might be my pronunciation. Ham, also known as Laing, Ta

3 Ham, who was -- who was killed in 1977, what is it that you can

4 tell us about the death of Ta Ham?

5 [14.05.13]

6 A. I did not witness the event. I only heard people speaking

7 about it; that Ham and Kham Phoun killed each other, but this is

8 just a rumour that I heard from others that these two killed each

9 other in Phnom Penh.

10 Q. Have you heard at one point in time that Kham Phoun, Kham

11 Phoun murdered Ham with a piece, an iron piece coming from a car?

12 That he --

13 A. That's what I heard, yes. But I do not know whether that

14 actually happened because I did not see it.

15 Q. Have you heard whether subsequently Kham Phoun was either

16 killed by others or committed suicide?

17 [14.06.43]

18 A. No, I did not know whether he actually killed himself or he

19 was killed by other people.

20 Q. To, DC-Cam, you stated that both Ham and Kham Phoun had

21 absolute trust in each other. They were like brothers. Why did

22 you say that? What was the source of your information? Was that

23 something that you observed yourself?

24 MR. PRESIDENT:

25 Witness, please hold on.

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1 And Deputy Co-Prosecutor, you have the floor.

2 MR. LYSAK:

3 Thank you, Mr. President. I just ask that Counsel provide us with
4 the ERN references when he is going to use the DC-Cam interviews
5 so we can make sure, unlike yesterday, it's not coming from the
6 section of the interview where he is simply reading the S-21
7 confession.

8 BY MR KOPPE:

9 No problem, Mr. President. Only now the English ERN, that is,
10 00384116; where the question is from the investigator, "How
11 intimate was the relationship?" and the witness answers, "They
12 were working together just like brothers and sisters." "What
13 happened after that?" And then the witness answers, "They had
14 absolute trust in each other."
15 So this is clearly coming from the witness. So my question again,
16 Mr. Witness, what is the source of this statement that you gave?
17 Why did you say they were like brothers and had absolute trust in
18 each other?

19 [14.08.56]

20 MR. NETH SAVAT:

21 A. Yes, they liked each other and they worked together. That is
22 true, and that is from what I actually observed. They treated
23 each other as brothers and, actually, they were related. So I
24 could not make out what happened after the events of the killing.

25 Q. Well, that was exactly going to be my next question. Have you

1 heard anything as to the reason why Kham Phoun killed Ham with an
2 iron bar from a car or with an iron bar? Why did he do that?

3 [14.09.52]

4 A. I do not know about the reason for the killing because I only
5 heard that they killed each other in Phnom Penh while I was in
6 Mondolkiri, that is, in Kaoh Nheaek to be precise. I cannot tell
7 you the reasons they killed each other.

8 Q. This morning, Mr. Witness, answering a question from the
9 Prosecution, you said that, "You were a subordinate of Kham
10 Phoun." What made you say that you, '75, '76, '77, you were
11 subordinate to Kham Phoun?

12 A. Because I worked under his direction or instruction and he
13 provided me with training and leadership, and that later on
14 appointed me in a junior leadership on the ground. That's what
15 happened.

16 Q. And as I understand from your testimony this morning, you also
17 had some form of family relationship or at least your wife had.
18 Is it correct that I -- if I say that your wife was the aunt of
19 his wife?

20 A. Yes. In fact, Kham Phoun's wife was the aunt of my wife.
21 That's what I said this morning.

22 Q. If I would use that term, would it be fair to say that you
23 were in Kham Phoun's network?

24 [14.12.19]

25 MR. PRESIDENT:

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1 Witness, please hold on.

2 And the Deputy Co-Prosecutor, you have the floor.

3 MR. LYSAK:

4 I would ask counsel just to explain what he means by that term.

5 That term is a pretty charged one that had a certain meaning

6 during the Khmer Rouge period, so I think he should be very clear

7 what it is that he is asking the witness.

8 [14.12.46]

9 MR. KOPPE:

10 I know it has a certain meaning. I did not use the word "string"

11 which is I think the most commonly used word, but I believe the

12 word "network" is reasonably neutral, so I will be able, should

13 be able to ask him that question. If it's "no", it's fine. If he

14 can confirm it, I think I should be able to ask the question.

15 (Judges deliberate)

16 [14.14.05]

17 MR. PRESIDENT:

18 The objection by the Deputy Co-Prosecutor is sustained since the

19 term "network" has several connotations. For that reason, the

20 Chamber instructs the witness not to respond to the last question

21 by the defence team for Nuon Chea.

22 BY MR. KOPPE:

23 Fine, Mr. President.

24 Q. At one point in time in your DC-Cam statement, and it might be

25 a mistranslation, it is English page, 003841111; you referred to

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1 Ham as "A Ham" or in English, "the contemptible Ham". Is that
2 something you said? Was Ham in your view "A Ham", the
3 contemptible Ham?

4 [14.15.14]

5 A. No, I did not say something like that, but maybe that is what
6 is stated in that document. I never called him by that phrase and
7 this is not what I said, and that is the truth.

8 Q. No problem. Maybe there was a translation issue in that DC-Cam
9 statement. Let me move on now to another subject which was
10 discussed this morning.

11 That is the three categories that you mentioned, the categories
12 of people in one form or the other committing treason. You said
13 that you received or that you read a circular. But did you also
14 see similar categories in a magazine called, "The Revolutionary
15 Flag"?

16 A. I only saw that document and I was instructed to disseminate
17 that information at the hospital, that is, to those youths, male
18 and female combatants at the hospital. And the document mentioned
19 these categories. That's the source of my knowledge, that is, I
20 learned from that document. But I cannot tell you the criteria
21 for each of the three categories. And <it was only after> I was
22 arrested <that they divided> the <enemies in> three categories.

23 [14.17.50]

24 Q. We don't have a copy of that circular anymore that you refer
25 to, but let me see if I can assist you by refreshing your memory

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1 by reading an excerpt from a document, E3/13.

2 That is a document containing, Mr. President, the minutes of the
3 meeting of secretaries and deputy secretaries of divisions and
4 independent regiments. It's dated 9 October 1976, and I
5 particularly refer to English ERN, 00940354; French, 00344983
6 (sic); and Khmer, 00052413 until 14.

7 So Mr. Witness, you don't have this document but I am going to be
8 reading it to you and then ask you if the formulation of these
9 three categories somehow refreshes your memory.

10 "Operational methods:

11 1. Continuous education is imperative.

12 2. It is imperative to purge no good elements absolutely in the
13 sense of an absolute class struggle. The purge is premised on
14 three principles.

15 Category 1: the dangerous category; they must be absolutely
16 purged.

17 Category 2: the ordinary liberal category; they must be educated
18 again and again in our education schools.

19 Category 3: the category of those who have primarily been incited
20 by the enemy, merely believing in the enemy incitement. As a
21 first step they should undergo refashioning to get them to no
22 longer believe the enemy." End of quote.

23 Is this something that you might have read in that circular as
24 well that you referred to this morning?

25 [14.20.20]

1 A. I can only recall what I have stated regarding the three
2 categories and I do not recall any other specific parts. As a
3 matter of fact it happened many, many years ago. I recall the
4 three categories of the enemy. That is the first one to be
5 killed, second one to be detained and the third one to be sent to
6 the cooperatives. And besides -- and besides this, I cannot
7 recall anything else. This is -- this happened in 1976.

8 [14.21.13]

9 Q. Would it be fair to say that you were probably seen as a
10 Category 2 person?

11 A. Yes.

12 Q. Let me move to the next subject, Mr. Witness, and that is two
13 persons that you referred to also this morning, Svay and his wife
14 Bour Ly and Kasy.

15 A. Her name is Bour Ly Sitang. <> Svay<'s wife -->

16 MR. PRESIDENT:

17 Witness, please listen to the <complete> question first before
18 you respond. Also, it is not appropriate for you to speak when
19 the microphone is not operational. You need to respond only when
20 you are asked.

21 BY MR. KOPPE:

22 Q. Mr. Witness, you yourself -- I believe if I am quoting you
23 correctly. You have been accused of having a Vietnamese
24 connection. Do you know what Svay and his wife Bour Ly and, or
25 Kasy have been accused of? Why were they either arrested or

1 killed or escaped? Do you know that?

2 [14.23.22]

3 A. Regarding Svay and his wife, they were also accused of having
4 a connection with Vietnam and Svay tried to abscond the arrest,
5 but the wife, Bour Ly Sitang, was arrested as a result.

6 Q. Please go ahead.

7 A. What else you want me to say?

8 Q. This is the accusation that you might have heard of. Do you
9 know whether Bour Ly and her husband were really involved in
10 working closely together with Vietnam?

11 A. I did not know about that.

12 Q. Do you know whether any of those three people were involved in
13 bringing Vietnamese military into the territory of Democratic
14 Kampuchea?

15 [14.25.14]

16 A. No, I did not know anything about that.

17 Q. Do you know whether they were in any way involved in --

18 MR. PRESIDENT:

19 Counsel Koppe, please give us the reference in your question. You
20 need to give us the document number as well as the relevant ERNs.
21 And you used to oppose the other side for asking questions
22 without citing the reference, and I think you need to apply that
23 to your questioning as well.

24 MR. KOPPE:

25 I was on the impression that I first have to ask open questions

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1 and then I can refer to the document because I will.

2 And, no, Judge Lavergne, I am not referring to any confessions. I
3 am referring, if you want to know, to E3/7960. Every question
4 that I am having is related to E3/7960, which is the summary of
5 DC-Cam statements.

6 MR. PRESIDENT:

7 Yes, < if > you have a proper reference, < > you may continue.

8 [14.26.42]

9 BY MR. KOPPE:

10 Q. I was asking you, Mr. Witness, just before, whether you know
11 anything about Vietnamese military being brought into DK
12 territory. Have you heard any information as to the involvement
13 of those three people in a rebellion movement, also sometimes
14 referred to as the "Kham Phoun movement"?

15 MR. PRESIDENT:

16 Witness, please hold on.

17 And Deputy Co-Prosecutor, you have the floor.

18 [14.27.27]

19 MR. LYSAK:

20 I don't have any objection to the first part of the question, but
21 the characterization of something as the "Kham Phoun movement", I
22 don't think Counsel should be introducing that himself. He should
23 be asking the question of witnesses, if there are admissible
24 documents, he can later confront. But I don't think Counsel
25 should be testifying and characterizing himself.

1 MR. KOPPE:

2 I am not characterizing, Mr. President. I am actually citing from
3 a DC-Cam statement. I am happy to refer you to it. Page 30 in
4 English of E3/7960, English ERN, 00450295; French, 0073899 (sic);
5 and Khmer 0085 --

6 MR. PRESIDENT:

7 Counsel Koppe, please give the number of the document as well as
8 the relevant ERNs and please do it slowly.

9 BY MR. KOPPE:

10 It's on the case file, Mr. President. It's E3/7960, English pages
11 30 and 31, ERN English, 00450295 and 296; French, 0073899 (sic);
12 and Khmer, 00851666. There the witness refers to the rebellion
13 movement and further up reference is made to the "Kham Phoun
14 movement".

15 Q. So, Mr. Witness, although I have been interrupted quite a bit,
16 I hope you still remember what I said. Have you ever heard of
17 rebellion movements led by Kham Phoun? Have you ever heard of
18 Vietnamese military being secretly brought into territory of
19 Democratic Kampuchea?

20 [14.30.15]

21 MR. NETH SAVAT:

22 A. No, I did not hear anything about that.

23 Q. Let me see if I --

24 A. If I knew it, I would say it, but I did not.

25 Q. Let me try to be a little more specific. I am now turning to

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1 that same document, E3/7960, Mr. President, page 15. In English

2 ERN is 00450280; Khmer, 00851637; and French, 00763882.

3 This witness says the following:

4 [14.31.08]

5 "Bour Ly had always been a medical person. The relations to

6 Vietnamese was like that mentioned earlier. Her husband, Svay,

7 really acted like that with the network which was followed up to

8 the border. He was the one who brought the Vietnamese to secretly

9 operate in the province. The reason of arresting the wife because

10 the husband was shooting people." End of quote.

11 This is something that's a little bit more detailed, Mr. Witness.

12 Is this something that you have heard of or that you have any

13 knowledge of?

14 MR. NETH SAVAT:

15 A. No, I did not hear that. What I knew was that Svay fled and at

16 some point he secretly returned with a hand gun. First, he came

17 to my area. Svay actually was fixing a machine and then my

18 combatants came to the area and they were fired upon by Svay and

19 then <these> combatants came to tell me about that.

20 And at other point he went to a garage and opened fire at the

21 people there. Somehow he fled<>. Later on, I heard that he

22 <hanged> himself <in a rice field> and died. But I did not see

23 him bringing any Vietnamese troops into the area.

24 [14.33.21]

25 Q. Let me read another excerpt from another witness. That's the

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1 same DC-Cam document, Mr. President. It's English page 30,
2 English ERN, 00450295; French, 0073898 (sic) and 99; Khmer
3 00851665 and 66.

4 "Since early 1977, I served regional military battalion 52 until
5 the Vietnamese liberation. In 1977 there were Vietnamese attacks.
6 It was the Vietnamese who started the attacks first. We had been
7 prepared since the Kham Phoun movement but guns were in the
8 warehouse but carried. In about late '76 and early '77 Kham Phoun
9 and Svay were arrested for an alleged plot with the Vietnamese.
10 Kham Phoun brought Vietnamese in through Svay. Svay was a Jarai
11 ethnic. The Vietnamese were secretly kept near the village. They
12 had the so-called struggle."

13 It's another formulation of pretty much the same events. Can you
14 give a reaction to this excerpt that I just read to you, Mr.
15 Witness?

16 [14.35.15]

17 MR. PRESIDENT:

18 Please hold on, Mr. Witness.

19 You have the floor now, International Deputy Co-Prosecutor.

20 MR. LYSAK:

21 Thank you, Mr. President. I just want the record to be clear.
22 Counsel is characterizing this again somewhat. He should be just
23 reading quotes, but the first quote he read had to do with
24 apparently -- it seems to have to do with the locals fighting
25 against the Vietnamese. The second quote is the witness

1 describing the allegations against these people. So he is
2 certainly entitled to put this to the witness, but I don't think
3 he should be characterizing what this proves.

4 [14.36.07]

5 MR. KOPPE:

6 I do not agree, Mr. President, with this objection because I
7 think it's clearly -- that this witness is being very specific as
8 to what the Kham Phoun movement was all about. As a matter of
9 fact, his unit was instructed to fight what he called the "Kham
10 Phoun movement" or, in other words, the rebellion, because a
11 little further down in that same statement he says, "When Kham
12 Phoun and Ham died, battalion or regiment commanders in Kaoh
13 Nheaek were disarmed. The Vietnamese left. My unit only was armed
14 to suppress rebellion movement." So I don't think that this
15 witness is just merely saying what an accusation might have been
16 but is in fact someone who knew that the "Kham Phoun movement",
17 as he calls it, was actively engaged in working with DK's biggest
18 enemy, Vietnam.

19 [14.37.02]

20 JUDGE FENZ:

21 The way I understand it, we have a clarification on the record,
22 not an objection? Yes?

23 MR. LYSAK:

24 Yes. I just think he should stick to the quotes and not
25 characterize because, again, I disagree entirely with the

1 characterization he is giving here. And I am reading this. It
2 says nothing of the sort.

3 BY MR. KOPPE:

4 I wasn't characterizing. I was quoting literally, Mr. President,
5 from this statement.

6 Q. So again, Mr. Witness, having heard this excerpt from this
7 witness' statement, can you give a reaction as to the activities
8 of this rebellion movement and its working together with Vietnam?

9 MR. NETH SAVAT:

10 A. I did not see that happening. No Kham Phoun movement took
11 place during that time. I was located in a nearby location close
12 to Kaoh Nheaek and the Vietnamese troops came into the area, but
13 I did not <see it>. I have never seen that <or> known of this
14 issue.

15 [14.38.43]

16 Q. Well, let me see if that is entirely correct, Mr. Witness. The
17 interviewer of DC-Cam talked to you quite lengthily and he has
18 put to you a confession, the content of which we are not allowed
19 to discuss with you. However, independently of that confession,
20 you did say something to DC-Cam which I would like to read to
21 you. I'll read slowly so that you can see that whatever I am
22 reading is between brackets and is in fact the witness'
23 statement. It is E3/7696, English ERN, 00384186; Khmer, 00231565;
24 French, 00384289.

25 On the bottom of the English page you say, Mr. Witness, "Yes, all

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1 weapons were collected but Kham Phoun might have some weapons
2 hidden."

3 MR. PRESIDENT:

4 Hold on, Counsel. You have the floor now. You have the floor now,
5 International Deputy Co-Prosecutor.

6 [14.40.13]

7 MR. LYSAK:

8 Yes, Mr. President. We object to Counsel using this part of the
9 DC-Cam interview. If you look at this, the third day of his

10 DC-Cam interview which starts at English, 00384164; Khmer,

11 00231543; and French, 00384268; this entire part of this

12 interview is the witness reading a confession and the S-21

13 confession of Chuon, Phan Khon alias Chuon, and occasionally

14 making comments about the content of the confession.

15 This entire question and answer part is inadmissible under the

16 Court's rules. I could not question a witness in this Court by

17 taking an S-21 confession, reading it and then asking the witness

18 whether that is true.

19 And it is also very unclear in here what exactly the witness is

20 speaking to, whether he is confirming the accuracy of events, of

21 people. It is simply impossible to extract from this -- this part

22 of his interview admissible evidence.

23 Counsel is not precluded from asking these questions himself to

24 the witness, but I think he is precluded from using this part of

25 the interview that clearly is derived from the witness reading an

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1 inadmissible S-21 confession and then being asked questions about
2 that inadmissible S-21 confession.

3 [14.42.22]

4 MR. KOPPE:

5 Mr. President, I disagree. Apart from many attempts to sabotage
6 my questioning, I have hardly been able to ask any questions. I
7 think I am entitled to ask this particular question because I
8 have asked him open questions based on DC-Cam statements of other
9 witnesses. Then he said, "I do not know".

10 However, it is clearly from the record of this DC-Cam interview
11 that he is presenting his own knowledge, and he is here saying
12 Kham Phoun might have some weapons hidden in order that his
13 forces could take them. So he is offering his own knowledge
14 triggered, I agree, with reading that confession but it doesn't
15 necessarily mean that him offering his own -- his own knowledge
16 should be inadmissible or that I cannot ask a question about
17 that.

18 [14.43.28]

19 MR. LYSAK:

20 Just to be brief, you simply cannot tell here whether the witness
21 has his own knowledge about this or whether they are just engaged
22 in a discussion about the content of this S-21 confession. So he
23 can ask open questions, but it is simply impermissible to be
24 using statements that immediately follow literally within one
25 question having read an excerpt from the S-21 confession to the

1 same effect.

2 MR. KOPPE:

3 It is -- the Prosecution is clearly misstating the record, Mr.
4 President. It is Dara from DC-Cam who is asking about the trail
5 about weapon collection and then this Dara says, "Weapon
6 collection began. Who ordered to do it?" And then the witness
7 says, "Ham." And then Dara says, "Ham?" And then the witness
8 says, "Yes, all weapons were collected but Kham Phoun might have
9 some weapons hidden in order that his forces could take them."
10 That is perfectly admissible evidence and, I think, the witness
11 should be able to respond to my question.

12 [14.44.43]

13 MR. LYSAK:

14 This is a perfect example because what he just read from was
15 actually when the witness went back to the S-21 confession. You
16 can go to the S-21 confession and see these references.
17 So Counsel should not be using this. It was shameful yesterday
18 when he tried to slip this in underhanded without notifying the
19 Court what he was doing. But this part of the interview is all
20 based on an inadmissible S-21 confession.

21 (Judges deliberate)

22 [14.45.28]

23 MR. PRESIDENT:

24 Now the issue is deferred for a while. It is now a short break
25 time. So we will take a -- the Chamber will take a short break.

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1 The Court officer, please assist the witness during the break
2 time and please invite him back into the courtroom at 3 p.m.

3 The Court is now in recess.

4 (Court recesses from 1446H to 1507H)

5 MR. PRESIDENT:

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

7 And before I hand the floor to the defence team for Nuon Chea to
8 put questions to this witness, the Chamber hands the floor to
9 Judge Lavergne to make an oral ruling <on> the objection by the
10 International Deputy Co-Prosecutor in <relation> to the <document
11 which has been used as reference for the last few questions>.

12 Judge Lavergne, you have the floor.

13 [15.08.40]

14 JUDGE LAVERGNE:

15 Yes, thank you, Mr. President.

16 The Chamber is going to sustain the objection, so the witness
17 does not have to answer the question that was put to him by
18 Counsel Koppe.

19 The Chamber during the break examined the document in question,
20 E3/7696, and noted that this is an interview by DC-Cam of Neth
21 Savat, but the following is said in English, it is at English ERN
22 00384164, "Note: The statements in parenthesis are the direct
23 statement of Neth Savat, not that of Phan Khon in his
24 confession."

25 [15.09.45]

1 So the Chamber understands that everything that is in parenthesis
2 corresponds to answers provided by Neth Savat, and everything
3 that is not between brackets corresponds in fact to the reading
4 of the confession from S-21. And that is why the Chamber does not
5 authorize the question to be put, because what was read was not
6 what was between the brackets, but what came directly from the
7 confession.

8 MR. KOPPE:

9 I'm not sure if I understand because it says "Savat" and then the
10 brackets open, "Yes." Him saying, "Yes, all weapons were
11 collected but Kham Phoun might have some weapons hidden in order
12 that his forces could take them." End of bracket. Laughing.
13 So that's his answer. It's not the confession. That's why I was
14 asking the question, which also brings me to another point.
15 Investigators of the Co-Investigating Judges have used
16 confessions to ask questions to witnesses. Does your ruling now
17 mean that answers given by those witnesses prompted by the
18 reading of confessions are now also excluded from the evidence?

19 [15.11.28]

20 MR. LYSAK:

21 If I may respond to that last comment, there is one well-known
22 interview where that took place and, indeed, when that -- with
23 Meas Voeun and this happened in the first trial when that part of
24 his statement was brought before this Chamber the Nuon Chea
25 defence objected because the witness was being questioned using

1 an S-21 confession and asked to confirm whether or not that was
2 correct.

3 The Trial Chamber sustained the objection of the Nuon Chea
4 defence and so that part of the statement was not allowed. So the
5 Nuon Chea defence itself has argued against themselves in this,
6 in these proceedings before.

7 [15.12.21]

8 And before I get off my feet, this relates to a question that
9 Judge Lavergne asked about the "Black Paper" earlier. Counsel
10 attempted to use the "Black Paper", a piece of propaganda from
11 the Democratic Kampuchea government on this alleged plot to kill
12 Pol Pot.

13 And if you look at the "Black Paper", specifically ERN 00082542,
14 it is clear where that information comes to in answer to Judge
15 Lavergne's question because that page says, "When he was arrested
16 in 1976, Koy Thuon revealed the plot." So they are clearly
17 repeating information that was obtained after Koy Thuon's arrest
18 during his interrogation.

19 MR. KOPPE:

20 Koy Thuon wasn't interviewed in S-21 in '76 but, that aside, Mr.
21 President, I don't think I have an answer to my first observation
22 and that is that the relevant excerpt from Savat that all weapons
23 were collected but Kham Phoun might have some weapons hidden in
24 order that his forces could take them, that is still his
25 testimony.

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1 As you know, we have a different -- I have a different position
2 in relation to my colleagues. We believe that in accordance with
3 academics Chandler and Heder and also upcoming expert, Hinton, by
4 the way that on the certain circumstances, if prudently done,
5 confessions could be used as evidence.

6 However, having said that I still don't understand the ruling
7 because it is Savat's testimony.

8 [15.14.30]

9 MR. PRESIDENT:

10 The Chamber has <already> ruled on this matter that <you are not
11 allowed to use this kind of> document <in this line of
12 questioning because> it is an extract from the confession, <no
13 matter where the document comes from>. If you have more
14 questions, please move on to that question. If not, then the
15 floor will be given to the next defence team.

16 BY MR. KOPPE:

17 Oh, well. I will move on, Mr. President.

18 Mr. Witness, what is it that you know about Division 920?

19 MR. NETH SAVAT:

20 A. I did not know anything about that.

21 [15.15.30]

22 Q. Have you heard of Division 920?

23 A. Which division are you referring to?

24 Q. Nine-two-zero, 920.

25 A. No, I did not know about that division. I did not know who was

1 in charge of that division.

2 Q. Have you ever heard of Chhin, the Division 920 commander?

3 A. Is it Sin (phonetic)? I only heard from other people regarding
4 this person, but I never spoke in person to him. I only saw
5 <that> person <walking back and forth>. I did not meet him in
6 person and I was not in any position to speak to him, <because I
7 was in a lower position.>

8 Q. I understand. Do you know whether Division 10 -- 920, excuse
9 me, was in any manner involved in bringing Vietnamese troops into
10 DK territory?

11 A. No, I did not know about that and I did not see it either.

12 Q. I am allowed to ask follow-up questions, Mr. President. For
13 the record, this is something he was read to from the confession
14 and he confirmed it in his DC-Cam statement. However, I shall
15 move on. This Chhin, Division 920 Commander, do you know whether
16 he had any relations with Division 310 Commander Oeun?

17 [15.18.16]

18 A. No, I <do> not <know>.

19 Q. Have you ever heard of plans --

20 A. <> If I don't know, I <will> say so.

21 Q. Have you ever heard of plans of Division 310, 450 and others
22 to, at one point in time, attack the radio station of Phnom Penh,
23 attack Pochentong Airport, kill senior leaders and organize a
24 coup d'états against the CPK?

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

1 [15.19.04]

2 MR. PICH ANG:

3 Mr. President, my apology for standing up. I would like to get
4 the source <and the document number> of the question of Counsel
5 Koppe.

6 BY MR. KOPPE:

7 It's testimony from various Division 310 combatants who testified
8 in this Trial Chamber. Sem Hoeurn is one of them. There are some
9 others. There is also DC-Cam testimony confirming this. So I
10 think it's well on the record. But I was asking an open question.
11 He says he doesn't know.

12 Q. Let me read something different to the witness and ask him
13 whether he has any knowledge of these excerpts. Mr. Witness,
14 that's the same document I was reading from earlier. It's minutes
15 of a meeting chaired by Son Sen. Do you know who Son Sen was?

16 MR. NETH SAVAT:

17 A. No. I did not know him.

18 [15.20.47]

19 Q. Son Sen in Document E3/13 is talking to the various division
20 commanders including Oeun and Chhin. And he is saying the
21 following, and I am quoting from ERN English, 00940343; Khmer,
22 00652406; and French, 00334976. He is analyzing the situation. It
23 is October 1976. It is a month after the arrest of Ya, your
24 brother-in-law. And Son Sen, is saying the following, he
25 distinguishes two enemies, enemy to the west and, second, the

1 enemy to the east. And he is saying the following: "The key plan
2 of the enemy of the east, the Vietnamese with the Soviets behind
3 them was to attack from the inside through the traitorous forces
4 of Ya, Keo Meas, Chhouk and Chakrey. What they would have liked
5 in terms of an attack from the outside was to attack in
6 Czechoslovakia and Angolan style, but this was merely a moral
7 boost because given our situation this was not something the
8 enemy could do." End of quote.

9 [15.22.35]

10 Mr. Witness, you were a CPK cadre since 1968. You had a mid-level
11 position in the Northeast Zone. You were closely connected, I
12 believe, to Kham Phoun. Is this something that you have any
13 knowledge of, the Vietnamese trying to attack Democratic
14 Kampuchea using internal collaborators?

15 A. I did not know about that.

16 Q. Fine. Thank you, Mr. Witness. Some last smaller questions.

17 Have you ever heard of an organization called FULRO?

18 A. I only heard people talking about FULRO, but I did not see it
19 and I <do> not know what FULRO was involved in. I <also do> not
20 know anything surrounding this FULRO.

21 Q. Do you know whether there is one FULRO organization and
22 another dealing with FULRO -- dealing with Champa, called FULRO
23 Champa?

24 A. No, I <do> not know about that.

25 Q. So you never heard of FULRO Champa; is that what you are

1 saying?

2 A. Yes. I <do> not know about that.

3 [15.25.06]

4 Q. Let me read to you something from your own statement to

5 DC-Cam, E3/7696, English ERN, 00384134 and 35; French, 00384241;

6 in Khmer, 00231511 and 12.

7 The question put to you is:

8 "Have you ever heard the word 'FULRO'?"

9 And then you answer, "Yes".

10 And then the question: "What does it mean?"

11 And you answer: "FULRO was a group of strugglers."

12 And a little bit further: "What were their purposes? Struggled
13 against whom?"

14 "They said that they struggled against the Vietnamese, the
15 communists."

16 "As they were struggling, what did they expect in return?"

17 "They wanted the country." is your answer.

18 "What land?"

19 "The land which belongs to Champa kingdom." is your answer.

20 [15.26.12]

21 And then a bit further on: "So you knew about FULRO? You did not
22 know any other things, other things else?"

23 And then you answer, "They came here and I also saw a colonel
24 too."

25 Does that refresh your memory, Mr. Witness?

1 A. No, I didn't say that. I didn't know about that.

2 Q. But I was just reading from your DC-Cam statement. Is it
3 something that you forgot?

4 A. I didn't say that. Maybe that was wrongly put in the
5 statement, because I did not see any FULRO.

6 Q. No problem. Mr. Witness. Last question. Have you ever heard of
7 something called the "Khmer Sar" or the "White Khmer"?

8 A. No. I did not see any Khmer Sar.

9 Q. My question was whether you heard of them.

10 A. I did not know anything about the White Khmer or the Black
11 Khmer.

12 Q. Are you tired, Mr. Witness?

13 [15.28.04]

14 A. Yes, rather tired.

15 MR. KOPPE:

16 I will stop my questions. Thank you, Mr. President.

17 MR. PRESIDENT:

18 I'd like now to hand the floor to the defence team for Khieu
19 Samphan.

20 You may proceed, Counsel.

21 [15.28.22]

22 QUESTIONING BY MS. GUISSÉ:

23 Thank you, Mr. President.

24 And perhaps to reassure everyone, let me inform everyone that we
25 have only a few questions and we will certainly complete our

1 examination before 4 p.m.

2 Good afternoon, Witness. My name is Anta Guisse. I am

3 International Co-Counsel for Mr. Khieu Samphan. I have a few

4 complementary questions for you with a view to clarifying what

5 you have stated today.

6 Q. First of all, <I would like some clarification on the two>

7 times you were interviewed. I understand you were interviewed for

8 the first time by DC-Cam staff and, later on, you were

9 interviewed by investigators from the Office of the

10 Co-Investigating Judges. Is that correct? Does that refresh your

11 memory <of the two times you were interviewed>?

12 MR. NETH SAVAT:

13 A. Yes, I was interviewed twice. One was in my village and the

14 second time was in Ratanakiri Province. <Now, this is the third

15 time>.

16 Q. I would like us to start with the first time you were

17 interviewed by DC-Cam staff. When you were interviewed, do you

18 remember whether you were the only person in the room in which

19 you were interviewed or there were other persons with you in that

20 room?

21 [15.30.02]

22 A. You mean when I was interviewed? If that was the case, there

23 was only me who was there.

24 Q. I am talking of your interview with DC-Cam. Are you sure that

25 you were the only person <> when you were interviewed on that

1 day?

2 A. Yes, I was the only one who was interviewed.

3 Q. I put this question to you and I hope it will refresh your
4 memory <because in the> DC-Cam document, E3/7696, apart from
5 yourself and the person who interviewed you, <sometimes> there
6 <are interventions by> someone <whom> I believe was Mr. Chan Toi,
7 who testified yesterday<>.

8 Does that refresh your memory, <that he was> present at the time
9 you were interviewed by DC-Cam?

10 MR. PRESIDENT:

11 Deputy Co-Prosecutor, you have the floor.

12 [15.31.28]

13 MR. LYSAK:

14 Yes, thank you. Just for the record, and this may help counsel
15 with the witness, this interview took place over a three-day
16 period. It's only on the third day that the presence of Chan Toi
17 is recorded. The same pages that we talked about before, English,
18 384164.

19 So I think Counsel should be specific in refreshing the witness
20 about this; that it was only on the last day that this other
21 person was present.

22 BY MS. GUISSÉ:

23 My question did not have any trap in it since the witness has
24 confirmed that he was interviewed on two occasions. I have no
25 problem being more specific.

1 Q. Witness, as the Co-Prosecutor has just stated, do you remember
2 whether you were interviewed by DC-Cam staff over a number of
3 days and that on the last day, when you were shown the confession
4 we talked of a while ago, do you remember whether Tauch was
5 present?

6 And may I inform the Chamber and the parties that I am referring
7 to document E3/7696, for instance the ERN in French is, 00384273;
8 the ERN in English is, 00384169; and the ERN in Khmer is,
9 00231547; in which mention is made of Tauch, <appearing as a
10 speaker> according to this audio transcript. Does this refresh
11 your memory?

12 MR. NETH SAVAT:

13 A. <I would like to explain this. When I first met with him, it
14 was in a village> in <1999;> I was given a <> document <> to
15 read. It was about the story of Ta Chuon. I, at the time,
16 finished reading -- after I read that, and then I was asked
17 whether that story was true and I said yes. <And for the second
18 time -- For the first time,> Toi was <also> there, but he did not
19 <work>. And <the second time, it was in Ban Lung, Ratanakiri;
20 there were> Toi, me and Sieng (phonetic). I was given a <>
21 document as well to read and names were mentioned in that
22 document, <such as the names of wives and husbands, original
23 names, and new names>.
24 And I was asked to read a lot at the time and the question was
25 put to me whether the content was correct<, and I said it was

1 correct. It also included their <> places <of birth and> so on
2 and so forth, and I stated at the time it was correct.

3 [15.35.10]

4 <> And then the question was also about Kasy's wife, and I said
5 the wife <was> living <at Moueleu village>. And <Leng>'s wife,
6 what about <Leng>'s wife? In my reply, <I said his> wife also
7 <was still alive, and I heard that she was living in Yadav>.

8 And there are many other names which I cannot recall since I am
9 getting old now.

10 Q. I very well understand that <these> interview<s> took place a
11 long time ago and you may well have forgotten some of what you
12 said, but you have confirmed that Chan Tauch was with you at a
13 point in time when you were interviewed by DC-Cam.

14 You were also interviewed on a second occasion by investigators
15 from the Office of the Co-Investigating Judges and a number of
16 documents were shown to you.

17 Do you recall having read those documents when you were
18 interviewed for the second time by OCIJ investigators?

19 A. I <only> recall <those names mentioned a moment ago.> I cannot
20 recall all of the issues at the time since it happened a long
21 time ago.

22 [15.37.01]

23 Q. No problem. I just wanted to confirm to me that you read the
24 documents before you were interviewed or while you were being
25 interviewed by OCIJ investigators.

91

1 And I'm referring to document E3/7695. The French ERN is,
2 00274813; in Khmer it is, 00236713; and in English 00239483; and
3 the following pages, in which a number of documents are mentioned
4 and these -- this is for the information of the parties and the
5 Chamber<;> these correspond to confessions or biographies.

6 Mr. Witness, do you recall having seen the documents shown to you
7 by OCIJ investigators and in respect of which you made some
8 remarks?

9 [15.38.25]

10 A. I cannot recall it well.

11 Q. That's okay. Let us now talk about the time of your arrest.

12 You stated that when you were arrested sometime in 1977; it
13 appears that, this morning <> you mentioned January 1977 -- at
14 least that is what I heard in the interpretation -- in your prior
15 statements you spoke rather of November 1977.

16 Does that refresh your memory and can you specify the date of
17 your arrest? Was it in November or in January?

18 A. It was in January 1977, the month that I was arrested, and
19 then I was detained for one month. <And> after <that,> I was
20 transferred to the worksite. That's all what happened to me. It
21 was not in November as you said.

22 Q. As regards the time of your arrest, I understood from your
23 testimony that you were arrested at your place of work. Do you
24 recall who was driving the vehicle that transported you to K-17?

25 [15.40.45]

1 A. <It was> Ta Phak (phonetic). That was the vehicle of the
2 state, <but there was a driver, and> Ta Phak (phonetic) <was the
3 one who> took me to K-17, at which I was arrested. Ta Phak
4 (phonetic) is deceased now.

5 Q. I heard the name Ta Pha (phonetic). <> In your DC-Cam E3/7696,
6 ERN in French <00384217>; ERN in Khmer, 00231486; and the ERN in
7 English, 00384111. A name in that document is Pheak, P-H-E-A-K,
8 and you state in that document that he worked with you and that
9 he was a unit head.

10 And I understand from your DC-Cam statement that <it was> he <>
11 who drove the car. Is that the person you are referring to in the
12 answer you've just given?

13 [15.42.35]

14 A. His name was Phak (phonetic). There was another individual
15 driving the vehicle, and that vehicle <> belonged to the state<,
16 and the car was a Chinese model>. Ta Phak (phonetic) took us
17 <there. Those names were similar - Ta Phak (phonetic) or Ta
18 Pheak>.

19 Q. Can you tell the Chamber what was the position of Ta Phak
20 (phonetic)?

21 A. <Ta Phak (phonetic)> was my chief at the hospital. <He was> in
22 charge of the work at hospital.

23 Q. In answer to a question put to you this morning by the
24 Co-Prosecutor, you stated that you did not know who was the head
25 of K-17 but you did say that you had observed that the persons

1 who were guarding you were soldiers, and I also understood that
2 they were soldiers from the division. That is what I heard. Is
3 that indeed what you stated? And, if yes, do you know the
4 division to which those soldiers belonged?

5 A. It was Ta San's division<, but> it was from the upper level.

6 Q. And how did you know that those soldiers came from that
7 division headed by Ta San?

8 A. <I did not know how, but> I <only> saw those people coming to
9 <guard> us. I <did> not know how those soldiers were assigned to
10 perform the tasks.

11 [15.45.29]

12 Q. Were they the ones who told you that they were from Ta San's
13 division?

14 A. <No,> they did not tell me. I knew that those soldiers were
15 from that division <because> I learnt that from other youngsters
16 <who were with me; they said that those were division soldiers>.

17 Q. And who are those youngsters you are referring to?

18 MR. PRESIDENT:

19 Please observe the microphone.

20 MR. NETH SAVAT:

21 A. I am referring to my co-inmates, co-detainees.

22 [15.46.43]

23 BY MS. GUISSÉ:

24 Q. You stated that you did not know who was the head of K-17.

25 When you were interviewed on the same issue by DC-Cam officials,

1 and this is document E3/7696, French ERN, 00384227; ERN in
2 English, 00384120; ERN in Khmer, 00231496; you did not speak
3 specifically of the head of K-17. But when you <were> asked to
4 say who <was responsible for your arrest>, <> you answered, "They
5 had their chief, <> it was <> their <chief> who issued orders.
6 Successively at the time, there was Ta Sarun."
7 My question to you therefore is as follows: At the time of your
8 arrest, did you know whether Ta Sarun was <responsible for this
9 arrest>, or you <simply mentioned Ta Sarun to the> DC-Cam staff
10 because <you know that> at <one> point in time he came to that
11 area? Can you be more specific?

12 MR. PRESIDENT:

13 Please hold on, Mr. Witness. You have the floor now,
14 International Deputy Co-Prosecutor.

15 MR. LYSAK:

16 Thank you, Mr. President. I just want to clarify -- correct a
17 reference that Counsel made. It may have been how my question --
18 my question may have been improperly translated in French this
19 morning.

20 My question to him this morning was not "Who was the head of
21 K-17?", my question was "Who was the person who was in charge of
22 the detention of the prisoners at the K-17 Office".

23 I think the record is pretty clear who the head of K-17 was, so I
24 may have not been translated into French correctly, but the
25 response of this witness this morning was that he didn't know who

1 was in charge of the detention at K-17.

2 [15.49.16]

3 BY MS. GUISSÉ:

4 Yes, precisely. It appears that that is exactly what I stated in
5 my -- I said in my question -- by saying that you said that you
6 did not know who was in charge of the K-17 detention centre, so I
7 was referring to what the witness had stated in his DC-Cam
8 statement at the time.

9 So I did understand from the answer he gave this morning that he
10 didn't know who was in charge of K-17, but since he gave an
11 answer which is rather confusing, that is why I'm asking him to
12 clarify what he told DC-Cam at the time of his interview.

13 Q. So, Witness, can you be more specific and answer the following
14 question. Do you know who was at the head of the K-17 detention
15 centre?

16 [15.50.21]

17 MR. NETH SAVAT:

18 A. I was detained during that period, and that is why I said I do
19 not know about that issue; Ta Sarun <or> perhaps <another
20 person>. And as I said, I was detained in the detention centre at
21 the time.

22 Q. <What did you know or what did you learn <> regarding Ta
23 Sarun's position>, without knowing specifically whether he was at
24 the head of K-17 or not? <Do you remember or would you like me to
25 refresh your memory in relation to what you said to DC-Cam?>

1 A. Ta Sarun was the sector committee. He used to be <a member of
2 the> sector committee. After Ta Laing and Ta Kham Phoun, I did
3 not know what was going on.

4 Q. Do you therefore confirm that Ta Sarun was indeed the
5 secretary of Sector 105?

6 [15.52.05]

7 A. I do not know about that since I, as I said, was detained.
8 There was no public announcement made known to me. I cannot give
9 you my estimates or my guess <regarding> who was the chief, who
10 was the <> deputy chief <and who was a member>, at the time. I
11 had been arrested and then placed in the detention and afterwards
12 I was transferred to the worksite.

13 Q. I put this question to you, Mr. Witness, because when were you
14 interviewed by DC-Cam -- and I gave the ERN number -- this was
15 the question that was put to you: "What was Ta Sarun's position?"
16 And your answer was as follows: "He was chief of the province<>."
17 And the next question was as follows: "<What was the province>
18 chief<'s name> at the time?"

19 And your answer was as follows: "The <region> chief was known as
20 the <region secretary>. After Ta Laing and <Kham> Phoun's death,
21 the only person left was Ta Sarun."

22 And then another question was put to you: "<In which region was>
23 Ta Sarun <> secretary?"

24 And your answer was, "<Region> 105".

25 Another question was put to you: "What powers did he have <> as

1 secretary of the <region>?"

2 And your answer was as follows: "He had authority over the entire
3 <province>. He would be called the governor of the <province>
4 today."

5 [15.54.05]

6 Does this refresh your memory as to what you told DC-Cam or it
7 doesn't remind you of anything, in which case I will move on to
8 another question?

9 A. It happened a long time ago<.> I cannot recall it. He used to
10 be <in> the leadership of the sector <committee,> and after
11 <those people went away>, after<> Laing<, Kham> Phoun <and Mei
12 (phonetic) went away>, and then I did not know who <> replace<d>
13 those people. So that is all I can recall.

14 Q. You described the K-17 building as one that had two floors.
15 Can you confirm the location of that K-17 building in relation to
16 <Phnom Kraol> mountain? Can you tell us where that K-17 <office>
17 was in relation to that mountain?

18 [15.55.35]

19 A. <K-17 was located in Phnom Kraol where> there was a small dam.
20 <The> road <that went down> to Kratie <through a new road> to the
21 west<> was the location of Office 17. There <> was a small dam,
22 and a big<> dam was <> to the north <-- south> of the <Phnom
23 Kraol> mountain. <That> was the location of K-17 <>.

24 Q. To be more precise, was that building situated on Phnom Kraol
25 mountain or at the foot of that mountain or at the summit of the

1 mountain? Where exactly was Office K-17 located?

2 A. <> Phnom Kraol or Kraol mountain was located in the south and

3 the office was located in the northwest, not in the north<; it

4 was at the foot of mountain>. And there <> was a stream

5 surrounding Kraol mountain or Phnom Kraol. So the office was on

6 the other side of a small dam. <That was> Office <K-17>.

7 So if you want to be sure, you can see it -- go to see it

8 directly, then it is sure for you. <It was located in Kaoh Nheaek

9 district.>

10 [15.58.06]

11 Q. Thank you for the efforts you've made to be <> accurate, <Mr.

12 Witness>. I have one last question regarding the number of

13 persons who are <on> the ground floor of building K-17. <We have

14 heard several figures cited to the Chamber; today> you talked of

15 80 persons, <confirming> what you told DC-Cam interviewers, but

16 in the hearing you talked of 50, 60 and 70. And in your statement

17 before Co-Investigating Judges, you spoke of about 40 persons.

18 I know that the events occurred a long time ago. To the best of

19 your recollection, can you tell us what is a more accurate figure

20 between the two figures you gave, 40 and 80, on various

21 occasions?

22 A. On this particular issue, I'm not quite sure. It is my guess,

23 perhaps it did not reach 80. I did state that to the interviewer,

24 but it was only -- it is only a guess or an estimate.

25 And we separated from each other later on and some of us are

1 living in the far distant -- were living in the far distance from
2 us, from me, so I do not know for sure.

3 MS. GUISSÉ:

4 Mr. Witness, thank you for the efforts you have made. I'll leave
5 you to go and have a rest now.

6 Mr. President, I have completed my examination of this witness
7 and my colleague confirms that he doesn't have any questions for
8 the witness. Thank you.

9 [16.00.28]

10 MR. PRESIDENT:

11 Thank you. I am grateful to you, Mr. Neth Savat. The hearing of
12 your testimony as a witness has now come to an end. Your
13 testimony will contribute to the ascertainment of the truth. And
14 you may return to your residence or to anywhere you wish to go. I
15 wish you good luck, good health and prosperity in your life.

16 Court officers, please work with the WESU to send the witness,
17 Neth Savat, to his residence or to any places he wishes to go.

18 It is now time for the adjournment and the Hearing will be
19 resumed on Monday 14 March 2016, at 9 a.m. From 14 to 17 March
20 2016, the ECCC will be hearing an expert, 2-TCE-88, in relation
21 to the facts within the letter of appointing an expert as you
22 have received <the document, E388>. Please be informed and please
23 be on time.

24 Security personnel are instructed to bring Khieu Samphan and Nuon
25 Chea back to the ECCC's detention facility and have them returned

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1 into the courtroom before 9 a.m. on Monday 14 March 2016.

2 The Court is now adjourned.

3 (Court adjourns at 1602H)

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