



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

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

ឯកសារដើម
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TRANSCRIPT OF TRIAL PROCEEDINGS
PUBLIC
Case File N° 002/19-09-2007-ECCC/TC

16 December 2015
Trial Day 350

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

The Accused: NUON Chea
KHIEU Samphan

Lawyers for the Accused:
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For the Office of the Co-Prosecutors:
Nicholas KOUMJIAN
SONG Chorvoïn

For Court Management Section:
UCH Arun

I N D E X

Mr. PAK Sok (2-TCW-1000)

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
The GREFFIER	Khmer
Ms. GUISSÉ	French
Ms. GUIRAUD	French
Mr. KOPPE	English
Mr. KOUMJIAN	English
Judge LAVERGNE	French
The President (NIL Nonn)	Khmer
Mr. PAK Sok (2-TCW-1000)	Khmer
Ms. SONG Chorvoin	Khmer

1 PROCEEDINGS

2 (Court opens at 0908H)

3 MR. PRESIDENT:

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

5 Today the Chamber will hear a witness 2-TCW-1000.

6 Greffier, Ms. Chea Sivhoang, please report the attendance of the
7 parties and other individuals at today's proceedings.

8 THE GREFFIER:

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

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

14 A witness who is to testify today, 2-TCW-1000, confirms that to
15 the best of his knowledge he has no relationship by blood or by
16 law to any of the two Accused, that is Nuon Chea, Khieu Samphan,
17 or to any of the civil parties admitted in this case. The witness
18 took an oath before the Iron Club Statue this morning and he is
19 now in the waiting room waiting to be called by the Chamber.

20 Thank you.

21 [09.10.58]

22 MR. PRESIDENT:

23 Thank you, Ms. Chea Sivhoang. The Chamber now decides on the
24 request by Nuon Chea.

25 The Chamber has received a waiver from Nuon Chea dated 16

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1 December 2015 which states that due to his health, headache, back
2 pain, he cannot sit or concentrate for long, and in order to
3 effectively participate in future proceedings, he requests to
4 waive his right to participate in and be present at the 16th
5 December 2015 hearing. Having seen the medical report of Nuon
6 Chea by the duty doctor for the Accused at the ECCC, dated 16
7 December 2015, who notes that Nuon Chea today has back pain when
8 he sits for long and dizziness, and the doctor recommends that
9 the Chamber grant him his request so that he can follow the
10 proceedings remotely from the holding cell downstairs.

11 Based on the above information and pursuant to Rule 81(5) of the
12 ECCC Internal Rules, the Chamber grants Nuon Chea his request to
13 follow today's proceedings remotely from the holding cell
14 downstairs via audio-visual means, this applies to the whole day.
15 AV Unit personnel are instructed to link the proceedings to the
16 room downstairs so that he can follow the proceedings.

17 Now, the Chamber would like to give the floor to the defence
18 team for Mr. Nuon Chea. I note that he would have liked to make
19 the submission yesterday but the floor <is given today>, and now
20 you have the floor. You may proceed.

21 [09.12.53]

22 MR. KOPPE:

23 Thank you, Mr. President. Good morning Your Honours, good morning
24 Counsel.

25 Yes, indeed I would like to make a few submissions in relation to

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1 a witness who testified here 13 days ago, on the 3rd December
2 2015. That person was named Prak Doeun. And Mr. President, you
3 might recall that in the morning there was a discussion about
4 certain questions I wanted to ask this particular witness. He had
5 earlier given testimony about the killing of his wife, his
6 Vietnamese wife, indicating that the killing was done by cadres
7 from the village or from the region. When it was my turn to ask
8 him questions I wanted to know from him whether he was ever
9 accused of having killed his own wife. And you might remember
10 that when I was asked by Judge Fenz why I was asking this
11 question, I answered that that question was triggered by
12 something that he said himself in his civil party application,
13 E3/4989. I argued then that spontaneously, out of the blue, he
14 offered in his application, and I quote again, "I would like to
15 deny that the Khmer Rouge ever forced me to kill my Vietnamese
16 wife in order for me to survive. I swear that this was not true."

17 [09.14.56]

18 The question that I wanted to ask, like I said, was, "Were you
19 were ever accused of being involved yourself in the killing of
20 your wife and were there ever any criminal proceedings against
21 you in the early 1980s."

22 All those questions were about the reliability of this witness.
23 As I said, as you might remember, I was prohibited from asking
24 these questions. However, at a later stage, we stumbled upon
25 another civil party application, that is after the witness had

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1 gone. It's a handwritten civil party application, or rather a
2 victim statement, a statement written and drafted, as it seems,
3 by the same lawyer as the lawyer of Prak Doeun. This victim
4 statement is numbered E3/4732 and the English version is the
5 original. The English version has the thumb print on it and on
6 English page 00427379, this particular civil party says the
7 following and I quote, "I know of one Khmer husband who was
8 ordered/forced to kill his Vietnamese wife under the threat of
9 being killed himself. His name was Mr. Ga Duon. He was not
10 ordered to kill his two mixed children. He killed his first wife
11 by taking her somewhere and beating her on the head. He is still
12 alive and lives in Baribour district, in my area, Kampong Chhnang
13 province. He now has another wife and one of his daughters." The
14 name "Duon" (phonetic), Baribour district, Kampong Chhnang
15 province, is the same district that Prak Doeun is from.

16 [09.17.27]

17 Now the reason I'm making these submissions, Mr. President, is
18 that I would like to get clarification from especially the Lead
19 Co-Lawyers for civil parties, whether they know that the person
20 referred to in E3/4732, Ga Duon, is indeed the same person as
21 Prak Doeun. If this is indeed -- if this civil party is indeed
22 referring to Prak Doeun, was this something that counsel, the
23 civil party counsel who is a lawyer for both people, was that
24 something that she knew at the time. And depending on the answers
25 or the clarifications hopefully provided to us and the Chamber by

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1 the civil party lawyers would assist us in reaching a decision to
2 recall or not recall Prak Doeun. Because the question whether he
3 was himself involved in the killing, that he actually killed his
4 wife himself, goes of course directly to his reliability because
5 here in this courtroom, he said that he had nothing to do with
6 that, or rather he said that it were other people who did the
7 killing of his wife.

8 So I hope my submissions are clear Mr. President.

9 [09.19.15]

10 MR. PRESIDENT:

11 Thank you. Mr. Co-Prosecutor, do you have something to address
12 the Chamber in regards to the submission made by the defence
13 counsel?

14 MR. KOUMJIAN:

15 Your Honour, I have nothing to add. The only question I have is
16 the document that counsel referred to, that came to his attention
17 recently, how long has that been in the possession of the
18 Defence? That is the civil party application that they think
19 might refer to the witness who has testified and -- already.

20 MR. PRESIDENT:

21 What about the Lead Co-Lawyers for civil parties? Do you have a
22 response to make? Please wait, you have the floor first, Judge
23 Lavergne. You can now proceed, Judge Lavergne.

24 [09.20.27]

25 JUDGE LAVERGNE:

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1 Just a request to Counsel Koppe to <make sure everything is
2 perfectly clear,> I believe I remember <-- the sound quality is
3 not very good. I do not know whether it is a general problem. Can
4 you hear me?> I hear static in my headset, I hear static. There
5 is a lot of static. <Can you hear me? Perhaps the problem is
6 solely on the French channel.>

7 THE INTERPRETER:

8 The interpreter hears Judge Lavergne with great difficulty.

9 [09.21.02]

10 MS. GUIRAUD:

11 Yes, indeed, there is static on the French channel, and all
12 channels, I have noticed.

13 <MS GUISSSE>

14 <And a priori on all the channels, if I understand properly -- on
15 all the channels, pardon me.>

16 [09.21.14]

17 JUDGE LAVERGNE:

18 Maybe this microphone works better? Yes, indeed.

19 Well, it's just a question for Counsel Koppe to make sure that
20 everything is clear: I believe I remember that this witness
21 answered your questions regarding whether or not he had been
22 accused of killing his Vietnamese wife and whether or not he had
23 indeed killed his Vietnamese wife, is that the case?

24 MR. KOPPE:

25 If you read the transcript, what the witness does answer is that

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1 he talked to people, seeming to imply government officials in the
2 1980s, but my questions as to whether he ever was in prison or in
3 jail or whether he was ever criminally prosecuted, all those
4 questions were not allowed by the Bench. I think these questions
5 in the light possibly of that new -- or the civil party
6 application that I just mentioned, should have been allowed,
7 providing of course that this Ga Duon is indeed the same person
8 as Prak Doeun.

9 MR. PRESIDENT:

10 Thank you. Now the floor is given to Lead Co-Lawyers for civil
11 parties to make a response to the submission made by the defence
12 team for Mr. Nuon Chea, that is Mr. Koppe.

13 [09.23.16]

14 MS. GUIRAUD:

15 Thank you, Mr. President, and good morning to all of you.
16 <Quite honestly>, I don't know on which basis our colleague is
17 relying on to request from us, the civil party Co-Lawyers, to
18 provide them with that information. If the Chamber requested us
19 to do so, fine, but I don't know why I have to respond to the
20 Defence's request, because I don't see the legal <grounds for
21 such a request>. The Defence of course can submit a new request
22 based on <Rule> 87.4 <of> the Internal Rules, but I don't see how
23 we could proceed otherwise. One comment, however, regarding the
24 document that is used today by our colleague Koppe; well, this
25 document has been on the case file for many years already. It was

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1 part of the documents proposed in our lists as of 2011, that is
2 to say before the severance, and then it was proposed again <in
3 our> July 2014 <list>. So it's a document <that has been>
4 accessible to all parties <for a very> long <time>, it's not a
5 new document, and I note that the information provided by the
6 civil party does not correspond to Prak Doeun. We're speaking
7 about Ga Duon, we're not speaking about Mr. Prak Doeun. It is
8 indicated here that his wife survived. Prak Doeun said in a very
9 clear way that his wife did not survive, etc., etc. So my
10 proposal is the following: if the Chamber believes that I must
11 provide this information, I will do so, but I want to be clear
12 about the <procedural basis on> which we're operating, otherwise
13 the Defence can submit a written submission to request a
14 re-examination of Mr. Prak Doeun, and then we will respond to the
15 Nuon Chea defence's submission in writing based on <Rule> 87.4.

16 [09.25.31]

17 MR. KOPPE:

18 I'm not sure if I'm allowed a short response, Mr. President, what
19 the civil Lead Co-Lawyer -- the civil party is referring to
20 because this person did say that Ga Duon killed his first wife by
21 taking her somewhere and beating her on the head. It seems to
22 correspond with the statement of Prak Doeun himself that he says,
23 "I swear I didn't do that, I swear this is the truth." And he
24 offered that explanation in his own civil party application. So
25 if it is the same person, and it really looks like it is the same

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1 person, then again that goes directly to the reliability of this
2 civil party. Of course, there is no way of forcing the civil
3 party lawyers to give information as to whether these two persons
4 are the same, I understand that, but I would like to remind the
5 Lead Co-Lawyer that if this is the case, this might be a
6 situation of conflicting interest and we will think about whether
7 we should take this matter to the Australian Bar. However, we do
8 not wish to go that far at all. We just would like to have the
9 information whether this person is indeed the same person as Prak
10 Doeun. And if these submissions don't go anywhere today then we
11 will request a recall of Prak Doeun at a later stage.

12 [09.27.31]

13 MS. GUIRAUD:

14 Thank you, Mr. President. A short answer, however, to explain or
15 to clarify a point of confusion: the French translation I heard
16 of the civil party application of this civil party, that is the
17 E3/4732, is different in English and in French. So it's indicated
18 that it is she, the wife, who survived, where she lives -- and
19 she lives in Baribour district; but in the English version, it
20 says that he survived and that he lives in Baribour district.
21 That's why I said that she survived, on the basis of the French
22 document. So I hope that my colleague follows me properly. In any
23 case, this is what is indicated in the French translation of the
24 application.

25 MR. KOPPE:

10

1 Very briefly, the English, as I said, is the original version
2 that was drafted by counsel Lyma Nguyen and it says, "He killed
3 his first wife by taking her somewhere and beating her on the
4 head. He is still alive and lives in Baribour district in my
5 area. He now has another wife."

6 That seems quite obvious to me.

7 [09.29.04]

8 MS.GUIRAUD:

9 I agree entirely with you but I was simply explaining why I had
10 indicated that she is still alive because back then I was reading
11 the French document. This is why I brought this up, whereas of
12 course the original English version is different. So I simply
13 wanted to clarify this point. Now regarding the fact that the
14 civil party lawyers or the Lead Co-Lawyers are obliged to
15 disclose to the Chamber if this person is the same, I will then
16 rely on the Chamber's wisdom. If the Chamber wishes to consult
17 <us> on a formal basis to see if there is a conflict of interest,
18 of course we will abide <by the Chamber's request>, but in the
19 meantime I consider that it's up to the Nuon Chea defence to
20 formulate a request on the base of Rule 87.4 so that we can
21 respond in writing.

22 [09.30.14]

23 MR. PRESIDENT:

24 Thank you for addressing the Chamber and the Chamber will take
25 all the submissions and responses into consideration in due

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1 course, and particularly during the time that there are no
2 hearings <in this end-of-year period.>

3 Now the Chamber proceeds to hear 2-TCW-1000. Before the Chamber
4 invites the witness into the courtroom, the Chamber would like to
5 inform the parties that this witness is interviewed within the
6 investigative phase and <the International Investigating Judge
7 requests that their pseudonym be used for this witness for the
8 purpose of maintaining confidentiality during the investigation
9 process. The Chamber deems this limited measure is legally
10 appropriate in this case.> However, the <instruction> is to be
11 balanced with the needs to <public hearings> and the integrity of
12 the investigation. Parties are reminded to be careful when using
13 document E319/3 <in disclosure documents of Case 003 and Case
14 004>.

15 Court officer, you are instructed to invite 2-TCW-1000 into the
16 courtroom.

17 [09.33.46]

18 Good morning Mr. Witness.

19 The Chamber just received the news that <> this witness has a
20 duty counsel<, Mr. Moeurn Sovann,> with him and so I would like
21 to ask the court officer to invite the duty counsel into the
22 courtroom so that he can sit along with the witness.

23 [09.35.43]

24 QUESTIONING BY THE PRESIDENT:

25 Mr. Witness, during the hearings and based on the request of the

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1 Co-Investigating Judge, the Chamber is asked to refer you to your
2 pseudonym 2-TCW-1000 or a witness. So parties together with the
3 Chamber are not allowed to use your surname and your first name
4 in public during the proceedings. Now the Chamber would like to
5 ask briefly your background. In document E319/23.3.48, on page 2,
6 <> Greffier please show the highlighted points on page number 2
7 to the witness concerning the background of the witness; full
8 name, parents' name, place of birth, and so on and so forth. And
9 Mr. Witness I would like to instruct you to tell the Chamber the
10 points which are not incorrect; if it is correct, it is okay and
11 you can inform the Chamber accordingly.

12 Q. Mr. Witness, can you read and write?

13 [09.37.33]

14 <MR. PAK SOK:>

15 A. Yes, I know how to read Khmer but not well.

16 Q. So please read all the <yellow> highlighted sentences and
17 points and tell me whether or not they are correct, and if <you
18 find something incorrect,> you can tell me so. <If you find it is
19 correct, please say "correct".>

20 A. Thank you, Mr. President. Everything is correct here including
21 my full name.

22 Q. Greffier, please <put> the document <into the case file. Mr.
23 Witness, based on the document of the Greffier,> to the best
24 knowledge of the witness, the witness has no relationship by
25 blood or by law to any of the two Accused and to any of the civil

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1 parties admitted in this case, is this correct?

2 A. That is correct. I have no relationship by blood or by law to
3 any of the Accused or to anyone here.

4 Q. Before your appearance, have you already taken an oath before
5 the Iron Club Statue <located on the east side of this
6 courtroom>?

7 A. Yes, I took an oath already, everything is done.

8 [09.39.27]

9 MR. PRESIDENT:

10 Now I would like to inform you now your rights and obligations
11 <before the Chamber. For your rights,> as a witness in the
12 proceedings before the Chamber, you may refuse to respond to any
13 question or to make any comment which may incriminate you, right
14 against self-incrimination. Your obligations; as a witness in the
15 proceedings before the Chamber, you must respond to any questions
16 by the Bench or relevant parties except where your response or
17 comments to those questions may incriminate you as the Chamber
18 has just informed you of your rights as a witness. You must tell
19 the truth that you have known, heard, seen, remembered,
20 experienced or observed directly about an event or occurrence
21 relevant to the questions that the Bench or parties pose to you.
22 Mr. Witness, have you ever been interviewed or have you ever
23 provided any statements to the investigator of the OCIJ? If that
24 is so, how many times did they happen?

25 [09.40.50]

14

1 A. I <was> interviewed twice, once at my house and another one in
2 Kampot.

3 Q. Thank you. Before coming here before the Chamber, have you
4 reviewed or did someone read the statements to you that you
5 provided two times to the investigators, one at your house and
6 another one in Kampot <city>?

7 A. Yes, I have reviewed the documents on some points but not all
8 of them, and I may have forgotten some other points.

9 Q. To the best of your knowledge, do the statements you have
10 reviewed correspond to <or are they consistent with> what you
11 told investigators of the OCIJ once at your house and another one
12 in Kampot?

13 A. Yes, I could recall some points; I could recall much of them
14 but not all of them.

15 MR. PRESIDENT:

16 In accordance with Rule 91bis of the Internal Rules, the floor is
17 given first to the Co-Prosecutors before other parties. The
18 combined time for Co-Prosecutors and Lead Co-Lawyers for civil
19 parties is three sessions. You may now have the floor.

20 [09.43.04]

21 QUESTIONING BY MR. KOUMJIAN:

22 Thank you, Mr. President. Good morning Your Honours, counsel,
23 civil parties and Mr. Witness.

24 Sir, if you don't understand any of my questions, please ask me
25 to repeat them.

15

1 Sir, at what point in your life did you join a military force?

2 <MR. PAK SOK:>

3 A. I joined the military in 1972 until 1979.

4 [09.43.43]

5 Q. Sir, what was the military force that you joined at that time?

6 A. I joined the army in Kampot province and then in 1975, I
7 joined division 164.

8 Q. Okay, thank you. Just so we're clear when you say you joined
9 the army in '72, you mean the Lon Nol army or which army do you
10 mean?

11 A. Originally, I joined the Khmer Rouge military.

12 Q. I'm interested particularly for the purpose of this Trial in
13 the period between 1975 and '79. So I'm going to concentrate on
14 those years. You said in 1975 you were a member of Division 164,
15 is that correct?

16 A. That's correct.

17 Q. Do you know who was the commander of the division between 1975
18 and '79?

19 A. From 1975 -- in 1975 there was not a division yet, only
20 starting from 1976 there <was> an establishment of the division
21 and Ta Meas Muth was the commander of the division based in
22 Kampong Som.

23 Q. This division that you call 164, did it have any other names
24 at any time?

25 A. Based on my memory, there was another person named Ta Saroeun

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1 and another person named Ta Nhan. There was also the East Zone
2 named Ta Doem, and Ta Doem, later on disappeared and I did not
3 know the reason of his disappearance.

4 Q. Thank you. I don't think you understood my question. I'm sure
5 it's my fault, let me repeat it. The name of the division, 164,
6 did the division have another name before it was called 164?

7 A. No, there wasn't.

8 [09.47.20]

9 Q. Did you ever know of a Division 3?

10 A. Yes, that was not Division 3, it was in fact Regiment 3, and
11 later on it was integrated into Division 164.

12 Q. Division 164, under the command of Meas Muth, you said from
13 1976 on, can you tell us was that part of a larger army of a zone
14 army or any other entity?

15 [09.48.15]

16 A. Yes, the division was within the division <under> the military
17 zone.

18 Q. What zone was it a part of, if any?

19 A. Yes. It was within the military zone of Kampong Som.

20 Q. Have you ever heard of the army of the centre?

21 A. Yes, I heard. Yes, that <military zone was actually located
22 in> the central army. It <was> Division 164.

23 Q. So can you explain that? Are you saying that division 164 was
24 part of the army of the centre?

25 A. Yes, it's part of that.

17

1 Q. Thank you. So from the time that the Khmer Rouge captured
2 Phnom Penh in April 1975 until the Vietnamese came in January
3 1979, can you explain the positions you held within the Khmer
4 Rouge military forces?

5 [09.50.18]

6 A. From 1975 to 1979, I was in Division 164; I was in the
7 Battalion <622 and> the Regiment <62 based in Poulo Wai island.>

8 Q. Can you explain what kind of training you had, any kind of
9 specialised training?

10 A. No, I was just a soldier, I did not participate in any
11 training.

12 Q. Did you only fight on land or did you also fight from boats,
13 or were you assigned to boats?

14 A. Before 1975, I fought on land but in 1975 I fought in water.

15 Q. Did you receive some training before joining any naval force?

16 A. Yes, I received some naval training, about once or twice.

17 Q. During those years, 1975 to '79, did you receive any political
18 training?

19 A. No, I did not.

20 Q. Did your commanders ever talk to you about what the Khmer
21 Rouge policies were or goals?

22 A. He did not talk about politics or I did not know about any of
23 those policies.

24 Q. When you were part of the naval forces, can you explain to us
25 what your job was, what were your orders?

1 [09.53.36]

2 A. During the naval fighting in the sea, <the order came> from
3 the division to the regiment and <subsequently,> the regiment
4 <transferred the order to my> battalion, so I was in the
5 battalion <as the navy>, I received the order from the regiment.

6 Q. Were you stationed on boats that patrolled waters off the
7 coast of Cambodia?

8 A. When I was on the boat, when it was night time, <we> patrolled
9 along the border.

10 Q. Did you receive any orders about what to do if you encountered
11 other boats in the water, boats carrying refugees, for example,
12 or fishermen?

13 A. When I was in the navy, I was in battalion 140, there was no
14 such an order; but when I was back on the island, if there were
15 boats from Thailand, there was orders of arrest, and if there was
16 such an order, I went to make an arrest.

17 Q. Okay. Let's go back and let me understand your answer. You
18 said you had these orders when you were on an island. Can you
19 explain what was your job when you were on the -- first, which
20 island are you speaking of?

21 A. The original island I was based was Tang island, and after
22 Tang island, I was assigned to Poulo Wai island.

23 Q. What years were those when you were on these islands?

24 A. In 1975 I was based in Tang island and in 1976 I was at Poulo
25 Wai island.

19

1 Q. And how long did you stay at Poulo Wai island?

2 A. It was until 1977 that I left Poulo Wai island.

3 Q. Where did you go after 1977?

4 A. In 1977 the Angkar assigned me to the naval force.

5 Q. Where were you based when you were assigned to the navy?

6 A. I was based at Ou Chheu Teal port.

7 [09.58.05]

8 Q. When you were based at Ou Chheu Teal port, would you patrol in
9 naval vessels waters off the coast of Cambodia?

10 A. All the fighting boats, they stayed but there are a number of
11 boats that went out to patrol, and if <an incident happened>,
12 then those boats <were ordered to> fight.

13 [09.58.43]

14 Q. Did you receive orders to stop other boats that were not part
15 of your navy and if they refused to stop, to sink them?

16 A. At that time,<> there was not the coming of the Vietnamese
17 yet, <so> I did not receive any order from any levels of the
18 Angkar.

19 Q. So you were a soldier in the naval forces and you had no
20 orders, you could just do whatever you wanted?

21 A. Only when I received the order from the upper level that my
22 force started to go out. If there was no order, we did not dare
23 to do anything.

24 Q. So I understand the time that you are talking about, when is
25 it that you said, you were saying that you received orders to go

1 out from your upper level?

2 A. I did not receive the order to patrol but it was the
3 responsibility of the different groups who <were> responsible for
4 patrolling. For <us, the crew on those boats> did not go
5 anywhere; only when there was any incident happened <that they
6 were ordered to carry out the operations.>.

7 Q. Are you aware of orders to stop motorboats and if they refused
8 to stop, to sink them?

9 A. At that time I did not experience receiving orders to stop or
10 to sink any ships.

11 Q. You told us about being interviewed in Kampot, that interview
12 took five days, is that right?

13 [10.01.42]

14 A. <No>, it was only three days, not five days.

15 Q. And you said you've reviewed those interview records today. So
16 I'm going to read to you one of your answers from the second day,
17 that's E319/23.3.44, and this is your answer number 26 in all
18 three languages. You told the investigator, "If we ordered any
19 motorboat to stop and they did not stop on our orders, we could
20 fire and sink it right away. I myself never shot any motorboats
21 myself but people in my unit did, to shoot at and sink
22 motorboats. These sinkings were carried out following the general
23 orders of the division." And in answer 27 you said, "It was a
24 general order of the division to all units. These orders came
25 from the division down to the battalions."

21

1 Now sir, is that true what I just read?

2 [10.03.10]

3 A. Yes, the orders came from the division down to the regiment,
4 and the regiment down to the battalion. So if you follow this
5 chain of command, that's correct.

6 Q. When a boat was stopped, did those in your forces on your boat
7 have an order to report to the upper echelon who was on the boat
8 that was stopped? In other words, their ethnicity and who they
9 were?

10 A. If there was an arrest of motorboat, <such as Thai> motorboats
11 <>, and if there was such arrest, we reported to the battalion
12 and the battalion reported to the regiment, and the regiment
13 reported further to the division.

14 Q. My question is: did you have to report to the regiment, to the
15 division, who was on the boat? In other words, these are refugees
16 from Vietnam or fishermen from Thailand or westerners? Did you
17 have to do that kind of report?

18 A. Yes, there were reports from one level to another level; if
19 there were arrests of the Vietnamese, and then we reported about
20 the arrest of Vietnamese. If there were arrests of the Thai, we
21 reported the arrest of the Thais, so it was a clear report that
22 went from one level to the upper level.

23 Q. And what were the orders as far as what you were to do with
24 the Vietnamese that you found on boats?

25 [10.05.46]

1 A. It did not happen when I worked there. Concerning the
2 Vietnamese, if there was an order from the division to send those
3 Vietnamese on land, we had to <follow the order. Afterwards>, I
4 did not <know> where those Vietnamese were sent to.

5 [10.06.16]

6 Q. Sir, next answer in the interview I was just talking about,
7 answer 29, you said, "The orders were clear on whether they were
8 to be killed on the spot or sent ashore. If those persons
9 captured were Vietnamese soldiers, we had to send them to the
10 shore, then they would broadcast their confessions via the
11 national radio before they killed them."

12 Is that correct, do you know that?

13 A. That is true.

14 Q. So the orders that were given to kill people on the spot, who
15 were the kinds of people that they ordered to kill on the spot on
16 the sea?

17 A. I did not know on this point. When I was ordered to make an
18 arrest, I would carry out an order and I myself never executed
19 anyone.

20 Q. You said that some Vietnamese soldiers were taken and they
21 would broadcast their confessions on the national radio before
22 they killed them. Do you know where it was that they recorded
23 their confessions?

24 A. I do not know on this point.

25 Q. In this trial, excuse me, in this first part of this trial,

1 Case 002/01, the 3rd April 2012, the commander of S-21, Duch,
2 testified and he was asked at 9.59 in the morning, "You mentioned
3 in evidence that Nuon Chea had asked S-21 to record the responses
4 of two Vietnamese prisoners of war per week for broadcasting. Do
5 you remember saying that?"

6 And Duch answered, "Thank you. Mr. President, the truth is on 8th
7 January 1979, Brother Nuon called me to work. It means that it
8 was after the meeting of the victory of the revolutionary army
9 over the Vietnamese army. Brother Nuon asked me to interrogate
10 the Vietnamese war prisoners and recorded their prisoners'
11 confessions."

12 Did you ever hear broadcast the confession of anyone that you saw
13 captured on the sea?

14 [10.09.29]

15 A. I do not know regarding this point.

16 Q. What happened to people who taken in the boats, particularly
17 Vietnamese refugees who were taken to shore? First, let me ask:
18 were Vietnamese refugees taken to shore or were they killed, if
19 you know?

20 Let me rephrase the question. First of all sir, did you yourself
21 ever capture any boats, people in boats?

22 [10.10.21]

23 A. At that time, I myself did not make the arrest.

24 Q. Sir, weren't you involved in the capture of Vietnamese
25 refugees?

24

1 A. No, I was not involved in it.

2 Q. Were you on a boat and your boat captured Vietnamese refugees,
3 including a man who had a hand amputated? Did that happen?

4 A. At that time, I was part of the naval unit already; I saw the
5 incident with my own eyes at Ou Chheu Teal port when the persons
6 were sent ashore.

7 [10.11.47]

8 MR. PRESIDENT:

9 Thank you, international Co-Prosecutor. It is now break time; the
10 Chamber will take a short break from now until 10.30.

11 Court officer, please assist the witness during the break time in
12 the waiting room and please invite him back into the hearing room
13 at 10.30 together with the duty counsel.

14 (Court recesses from 1012H to 1033H)

15 MR. PRESIDENT:

16 Please be seated.

17 The Chamber now continues hearing testimony from the witness, and
18 now the floor is given to the International Deputy Co-Prosecutor
19 to put further questions to the witness. You have the floor now.

20 BY MR. KOUMJIAN:

21 Q. Sir, as a member of the Khmer Rouge army or navy military
22 forces, did you have any ability to disobey orders? Was it
23 possible for you to disobey orders?

24 <MR. PAK SOK:>

25 A. No, I could not disobey order. If there was an order coming

25

1 down, we needed to enforce it.

2 Q. What happened to those who would disobey an order?

3 A. Those who disobeyed the orders would face problems <at a later
4 stage>.

5 Q. When you say "problems", what do you mean?

6 A. There would be action taken afterwards, like arrest or they
7 would be sent to re-education.

8 Q. Sir, I'm going to read from your statement, again the same
9 one, E319/23.3.44. In answer 36, you said this, "I once
10 transported persons captured by my ship and brought them to Ou
11 Chheu Teal port. They totalled 12 to 13. I still remember that
12 amongst them was a man with an amputated hand."

13 Sir, do you remember now being part of transportation, your group
14 transporting people captured by your ship, 12 or 13, including a
15 man with an amputated hand?

16 A. Yes, I remember that those people were arrested and they
17 brought in and those captured people were beaten before they were
18 transported out <by truck> of Ou Chheu Teal.

19 [10.36.43]

20 Q. What kind of people were these: were these armed soldiers or
21 what were they?

22 A. Based on the question of those ethnic Vietnamese people on the
23 boat, the <amputee> was a soldier. Besides him were ordinary
24 people. When we asked them, "Where you were heading to?" And then
25 they answered they were heading to Thailand, and they were

1 arrested between the island of Tang and Poulo Wai and they were
2 brought into the port.

3 [10.37.31]

4 Q. Did they have any arms or attempt to resist arrest?

5 A. No, there were no <weapons>.

6 Q. Do you remember any baby being among that group, do you
7 remember if there was an infant?

8 A. Yes, I remembered. At that time, when they were brought in to
9 Ou Chheu Teal port, the baby cried loudly because the mother was
10 tied up and then the baby was <thirsty and craved> breastfeeding.
11 Then the soldiers threw the baby into the sea.

12 Q. Thank you. Now, when you were working at the Ou Chheu Teal
13 port, do you remember approximately how many Vietnamese were
14 brought in to that port, captured at sea?

15 A. In 1977, I witnessed once or twice and later on there were no
16 incidents where harm was caused to the arrested people <on that
17 port. When> people were brought in, <usually,> they were taken
18 out <by truck> immediately <to Kampong Som town>.

19 Q. The people were brought in and taken where?

20 A. I did not know where they were taken to because my
21 responsibility was assigned to base at the port.

22 [10.39.57]

23 Q. I'm a bit confused because of an answer that you gave during
24 your interview, and this E319/23.3.46 at answer 9. You were asked
25 how long you worked at Ou Chheu Teal port. And you said, "I

1 worked there the whole year 1978 until the Vietnamese came." You
2 were then asked how often they sent people through the Ou Chheu
3 Teal port and how many people came to the port each time. Your
4 answer, answer 10, was, "The number of captured totalled
5 thousands as far as I know. Each month consisted of 10 to 50
6 persons." You were then asked, "Based on your experience and
7 knowledge, in your unit and other units of the navy, between 1975
8 and 1979, approximately how many civilian refugees and fishermen
9 who entered Cambodian territorial waters were captured and
10 killed?" And you answered, "Thousands. They included Thai
11 fishermen and Vietnamese fishermen and refugees who were arrested
12 and killed on the sea, on the islands or on the mainland."
13 Sir, is that true what I just read? Did you have that
14 information?

15 [10.41.42]

16 A. Yes, that's correct. I would like to apologise that I could
17 not recall everything from 1977 to 1978 because there were many
18 things happened. People were <subsequently> arrested and sent
19 through the port. Among them were Thai fishermen and <several>
20 ethnic Vietnamese who were travelling to Thailand. So at that
21 time they were arrested and killed and they were not sent out to
22 anywhere.

23 Q. Now sir, did you ever get any information about where people
24 were killed who were taken to shore and where they were buried?

25 A. I did not go beyond my place. At Ou Chheu Teal port, people

28

1 were transported to Kampong Som, <but regarding the> killing, I
2 did not know the exact site where they were executed. Besides
3 Kampong Som, they were also killed at orange and <durian>
4 plantations and I knew some of this.

5 Q. Thank you. How did you learn that people were killed at the
6 coconut plantation?

7 A. In 1976-1977, I used to live somewhere near the orange
8 plantation because I was <linked to an unclean tendency.> So they
9 sent me to do rice farming near Ream<.> At that time, <majority
10 of> people who <committed the> killings came from the regiment
11 where I worked <previously, that was> Regiment 62. Those who were
12 arrested<, were taken by> this Regiment <62> to <an> orange
13 plantation <and a coconut plantation where the execution took
14 place.> Their dead bodies were used as fertiliser <right there>.

15 Q. Thank you. Just so we're clear: who was it that was being
16 killed and the bodies used for fertiliser? What types of people?

17 A. They were Thai and ethnic Vietnamese people.

18 [10.45.27]

19 Q. Do you remember how you learnt about that? I know you were not
20 involved yourself, but how did you learn about those killings?

21 A. I lived close to the execution site and my biography, in my
22 original Regiment 62, shows some of the soldiers who <used to>
23 live with me and I knew, I asked them and those soldiers told me
24 that the <> executions <really happened>.

25 [10.46.19]

1 Q. By the way, can you just explain to us briefly why it was that
2 you were being punished at that time?

3 A. Thank you for your question. At that time I was based in
4 <Division 160, in> Regiment <62>; they had discipline and they
5 did not have confidence in me as a good soldier because my group,
6 consisted of 12 people, which were responsible for sawing wood,
7 and at that time there were bad words <written, "Communist
8 Devil", At that sawing-wood site, these written words were seen
9 by someone> from the battalion <who went there to inspect the
10 site, then we were summoned> to gather at the battalion and they
11 asked us, "Which one among all of you written that bad words?" At
12 that time I was illiterate, I could not read, I told them that I
13 could not write. And at that time I did not <> participate in the
14 writing of that bad word. So five or six among my group were
15 responsible for the writing of that bad word; all of them were
16 arrested and later on they withdrew confidence from me, I was
17 considered as a suspected element<, an unclean element in the
18 unit.> So they <removed> me <and sent> me to the rice field near
19 the orange plantation.

20 Q. They had written the word "thmil" or "devil", which -- is that
21 correct?

22 A. No, the word "thmil" - "thmil" means "communist devils", which
23 violated their law, that's why those people were arrested and
24 sent to prison <at Toek Sap>. And as for me, they withdrew
25 confidence from me and sent me to do rice farming because they

30

1 considered me as a suspected element of KGB of the Vietnamese<>.

2 Q. Thank you. So during that time that you were under suspicion
3 and near Ream, did you also learn about the fate of 17 April
4 People in that area?

5 [10.49.49]

6 A. Thank you for your question. I knew about the 17 April People
7 in Kokir village, Smach Daeng, <Put Te (phonetic),> they withdrew
8 from Ream and Kang Keng and sent them to Kokir village in Smach
9 Daeng. I knew about what was happening in <1977>. In the end of
10 1977, I knew about this because I was assigned to <farm rice>
11 with these 17 April People. But <in a later stage, when> I did my
12 rice farming with these people, I noticed that there were
13 disappearances of them one after another and I suspected this. <I
14 was curious why these people no longer came to join the
15 workforce.> I asked a soldier who was responsible for herding
16 ducks, <on a road> located near the Kokir <village. Since I knew
17 this person> I asked <him>, "I noticed the disappearance of those
18 <> people who worked with me, where were they sent to?" The
19 soldier told me <clearly that>, "Those 17 April People were
20 transported two or three trucks and killed at <Se-i (phonetic)>
21 site." This is the true story.

22 [10.51.34]

23 Q. Thank you, sir. Sir, when you were with the Khmer Rouge naval
24 forces, was there a difference in your orders about how to treat
25 people that you found on the boats? Was there a difference if

1 they were Thai or if they were Vietnamese, as far as what
2 happened to them?

3 A. There were different treatments, I would like to tell you
4 about this. In 1976<, that was not 1977 yet>, which I already
5 gave the answer, I myself arrested the ethnic Vietnamese from a
6 boat consisting of around 10 people. Among them they were armed
7 and they shot at us. So there came an order from the upper level
8 to sink them because they shot at us. So we sank their boat.
9 Later on, I arrested three Thai <boats, which was a
10 800-horsepower engine, a 1,500-horsepower engine>, and a
11 <1,200-horsepower engine.> Those <Thai> people <were> on board,
12 each boat consisted of <10 people,> 15 people, 20 people. So
13 those Thai fishermen were sent to Ream and later on I was
14 assigned to work at Ream and <then, I was sent to that location
15 and> met those Thai people. They worked at the dam at Ream. No,
16 no, they worked at a dam at Kaoh Ta Kaev. So I was assigned to
17 work at Kaoh Ta Kaev and I met those Thai people. I asked the
18 guard who guarded those Thai people whether those Thai people
19 would be sent to be killed or sent to somewhere else. The guard
20 told me that they would not kill those Thai people, they would
21 send these Thai people back to Thailand and that was what I was
22 told.

23 Q. And what about Vietnamese people who were not armed, were not
24 soldiers, the refugees you spoke about, what would be their fate
25 in your experience?

1 [10.54.54]

2 MR. KOPPE:

3 Mr. President, I would like to object to this question, it's been
4 asked before as well. Prosecution makes it sound that there is
5 only a possibility, either it would be an armed soldier or a
6 refugee. You don't have to be a soldier, you don't have in a
7 uniform, you don't have to be armed to be a soldier. So it would
8 be appreciated if the Prosecution asked it neutrally. So if a
9 boat, and an unknown boat enters into territorial water, it is
10 unclear who these people are. I think it is the standing practice
11 in every country also today that the boat is stopped. The fact
12 that the person on the boat is not armed or is not wearing a
13 uniform doesn't necessarily mean that he's not a military.

14 [10.55.47]

15 MR. KOUMJIAN:

16 Now just to be clear, our case is and the evidence is people
17 unarmed, not in uniform, not soldiers were killed, and that's
18 what I'm getting at. No international law allows the killing of
19 people even if they were soldiers and were captured without any
20 legal process, which is what our case is about.

21 MR. KOPPE:

22 I wasn't referring to the killings of civilians.

23 MR. KOUMJIAN:

24 That's what I'm asking.

25 MR. KOPPE:

33

1 I was referring to who was on the boat. The fact that someone is
2 on a boat and not armed, not wearing a uniform does not
3 necessarily mean he couldn't be a Vietnamese military. I think --
4 I'm not talking about the killing, I'm talking about what this
5 witness potentially saw on a boat in open sea.

6 BY MR. KOUMJIAN:

7 I think counsel will have three quarters of a day to ask those
8 questions, when we get to the next year.

9 Q. Sir, what would happen -- what were your orders? You talked
10 about the Thais who were not killed; what were the orders of what
11 happened as far as what to do with Vietnamese refugees? I'm not
12 talking about people who were armed or soldiers; what was the
13 orders that you received about them?

14 <MR. PAK SOK:>

15 A. The <status of the> Vietnamese were <greatly> different from
16 <that of> the Thai. The Vietnamese were considered as the
17 hereditary enemy of Pol Pot, so regardless of whether they <were>
18 military or civilians, when they had guns <and shot at us>, they
19 must be shot <and sunk>.

20 Q. What about when they did not have guns? Most of the -- many of
21 the people you stopped you said were refugees, is that correct?
22 Many of the people that the naval forces stopped?

23 [10.58.13]

24 A. As I gave in my previous answer, those without guns were
25 arrested and sent to Ou Chheu Teal to be sent further to the

1 division headquarter. Here I talk about what happened in 1976
2 when I was not yet joined <Regiment 140>, when I was still with
3 Regiment 62. At that time, I would like to tell you that when I
4 captured the Thai ship or sank the Vietnamese vessel, <the>
5 orders <came> from my regiment and my battalion. When there was
6 one Vietnamese vessel which had guns, our Cambodian boats chased
7 them down and they shot at us. When we knew that they were ethnic
8 Vietnamese and they had guns, and then we received the order that
9 because they had guns, regardless of whether they were military
10 or they were civilians, so the order was that the vessel <must>
11 be sunk.

12 Q. I want to ask you about something you said in another
13 interview, and that is -- do you recall an interview you gave in
14 2007 to someone named Dany from DC-Cam?

15 A. I can recall but I forget her face now. I remember when she
16 went to interview me.

17 [11.00.37]

18 Q. Okay. I'm going to read part of that interview. And in Khmer,
19 the ERN -- this is, excuse me, the document is E305/13.23/382;
20 the Khmer ERN 00955507 and on to the next page; in French, it's
21 00980444; and in English 00978576. At that point, sir, Dany
22 asked, "Did you say that you had captured some 'Yuong'?" You
23 answered, "If they had arrested 'Yuong', they killed them."
24 Question, "Where did they kill them?" You answered, "Sometimes
25 they killed them on the island." Dany asked, "Did not they send

35

1 them to the shore?" You answered, "Sometimes they killed them on
2 the island." And Dany asked, "Were they mostly 'Yuon' soldiers?"
3 And you said, "They were mostly the refugees escaping to the
4 third country. Most of those people were escaping from a war and
5 travelling through our area. When we arrested them, we shot them
6 to death." Question, "Was it the order from the division to
7 arrest and kill them or did you act on your own?" And you
8 answered, "It was the order from the division." Dany asked, "Who
9 gave the order?" And you said, "The order came from Ta Muth."
10 Question, "Was it the order to kill?" And you said, "Yes."
11 And then Dany asked, "Did they also send any of them to the
12 shore?" You said, "Yes, they did."
13 So when you're talking there about killing refugees escaping to a
14 third country, can you explain where those orders came from?
15 [11.03.07]
16 A. This is true. It is true what you read. The Vietnamese ships,
17 most of those ships went to the third country. The situation was
18 <very> chaotic. There were orders from the division; actually the
19 division did not issue the orders directly to my unit. So the
20 orders came down in hierarchical order from top to the bottom<,
21 division to regiment, and regiment to battalion,> and then it was
22 the soldiers who implemented the orders. Concerning the
23 Vietnamese, some of them were sent to us on board and on some
24 other occasions, if there were many of the Vietnamese, they would
25 be sent ashore. But if there were only a few Vietnamese, they

1 would be killed <right> on the island. This was the real
2 situation. It was the time when I did not <join Regiment 140>
3 yet. <I was in Regiment 62.> The situation I described happened
4 when I was in the regiment 622. Later on, in 1977, I was
5 stationed at Ou Chheu Teal, the situation you described happened
6 in Poulo Wai island. So what I said is to respond to your
7 question.

8 Q. Thank you. When you were with the regiment 622 at Koh Poulo
9 Wai island, do you remember one particular case of a Vietnamese
10 couple and their infant, about one-year-old infant?

11 A. Yes, I can recalled it. One day, three Vietnamese were
12 arrested, a husband, a wife and a one-year-old child. After they
13 were sent to Poulo Wai island, I saw the soldiers from a special
14 unit of Regiment 622 tied the <> Vietnamese and put them under a
15 coconut tree. Later on they were told to kneel down under the
16 coconut tree at that time and their hands were tied to their
17 backs. they were killed with the hoes and the bamboo clubs<. The
18 husband and wife> died. <Later, I witnessed myself that> the
19 one-year-old child, when it saw the mother was bleeding, the baby
20 crawled to the mother and at that time the soldier picked up the
21 baby and smashed against the trunk of the coconut tree. <This is
22 the truth.>

23 [11.06.59]

24 Q. Were any of the people in that family soldiers?

25 A. <The three of them> were civilians. They were ordinary

1 citizens since they had no military uniforms on them and perhaps
2 they were ordinary citizens.

3 [11.07.31]

4 Q. Do you know where they were captured?

5 A. They were captured off Poulo Wai island, about five kilometres
6 away, off the island, Poulo Wai island. The ship or the boat was
7 small, it could not be away from Poulo Wai island <because of big
8 waves. That was why> the boat was captured, <> and they were <>
9 ordinary citizens.

10 Q. Thank you. Now you talked about how these orders came from the
11 upper echelon, from the division down; how were these orders
12 communicated? First of all, when you were working on a boat, did
13 the boats have radios?

14 A. In each ship, there was a radio operating system. When there
15 was a capture, we had to make an <immediate> report to the
16 battalion and then it was the battalion who made the report up to
17 the regiment, and the regiment reported to the division. <Unless
18 the division sent back the order, soldiers could not carry out
19 the operation>.

20 Q. Do you know if written reports were made about incidents at
21 sea in particular?

22 A. There were written reports compiled as well.

23 Q. Your Honour, I would like to show the witness a report, a
24 document, and it appears that we have two copies and a slightly
25 different translation of each, but they're E3/928 and E3/929. And

38

1 I believe they're the identical document I'm going to show the
2 witness, unless someone wants me to show both 928, E3/928. May,
3 Your Honour, this document be shown to the witness and put on the
4 screen?

5 MR. PRESIDENT:

6 You can do so.

7 [11.10.36]

8 MR. KOPPE:

9 Mr. President, I object to showing this document to the witness.

10 I know you will deny my objection but --

11 MR. PRESIDENT:

12 Please remove the document from the witness first.

13 MR. KOPPE:

14 I object to show this document. Obviously, this witness is all
15 the way down in the hierarchy. He has nothing intelligent to say
16 about the division report allegedly going up. It's just probably
17 intended to have this rendered into or brought into the evidence
18 of this particular witness. As I said, I know you will object;
19 he's not the author of the report, he's not the recipient of the
20 report, he has no idea about reporting from division all the way
21 up, he doesn't have any idea about reporting from division down.
22 He can only say something intelligently about his own unit going
23 up and from that unit going down. That's all.

24 [11.11.46]

25 MR. PRESIDENT:

39

1 You have the floor now, counsel for Mr. Khieu Samphan.

2 MS. GUISSÉ:

3 Yes, thank you, Mr President. To complete my colleague's
4 objection, even before we can decide whether the Chamber will
5 grant the request of the Co-Prosecutor, I think that we have
6 adopted a method in examining witnesses, so before presenting a
7 document to the witness we have to ask questions to the witness
8 to see what the link may be between the witness and the document
9 and see if he's aware of this document, and then we can see maybe
10 how we can present a document to him. But now, showing him the
11 document right off the bat, especially given the witness's level
12 of awareness, I think it's a bit premature.

13 MR. PRESIDENT:

14 You have the floor now, Judge Lavergne.

15 [11.12.58]

16 JUDGE LAVERGNE:

17 Yes, I think the Co-Prosecutor <will clarify> this, but <do we
18 understand that> this report concerns <arrests?> If that's the
19 case, I think that we have already put many questions regarding
20 arrests to this witness.

21 MR. KOUMJIAN:

22 Yes, specifically it refers -- is that a question for me, Your
23 Honour? Yes, it specifically refers to the arrests and the, I
24 would say, the execution of Vietnamese captured.

25 [11.13.42]

1 MR. PRESIDENT:

2 You have the floor now, Counsel.

3 MS. GUISSÉ:

4 Thank you, Mr. President. Well, here I have a problem in terms of
5 methodology. Beyond considering the arrests in generic terms, if
6 we want to refer to a document speaking about one specific
7 incident, we should ask questions about that specific incident to
8 see if the witness is aware of this. The document <is entitled,
9 "Secret Telephone Communication",> with a specific date are here,
10 so I think we can put questions beforehand, but <just> because
11 the document speaks about arrests in general <does not mean we
12 can> find a link directly with the witness. <I believe that in
13 the past, in any case, as far as the Defence is concerned, they
14 were stricter about this.> I'm requesting the same kind of level
15 of exigency for the Co-Prosecution.

16 MR. PRESIDENT:

17 This time you are allowed to do so, International Lead Co-Lawyers
18 for civil parties. So you have the floor this time. Next time
19 make sure that you are after the Co-Prosecutor <> in sequential
20 order. So you have to be sure of when to rise up and make your
21 response or submission. <We have been rigid in such practice so
22 far. When things happen like this, it looks very messy.> So you
23 are allowed to do so this time.

24 [11.15.27]

25 MS. GUIRAUD:

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1 Thank you, Mr. President. I simply wanted to indicate that this
2 document was already presented to the witness during the
3 investigation and the witness already reacted to this document,
4 so he's familiar with this document. And I'm referring here to
5 document E319/23.3.43.3, in which the present document is
6 annexed. So it appears to me<, and I ask the Chamber and the
7 parties to correct me if I am wrong,> that this document was
8 already presented to the witness.

9 [11.16.02]

10 (Judges deliberate)

11 [11.16.45]

12 MR. PRESIDENT:

13 The objection by the Defence counsel to the presentation or the
14 show of the two documents to the witness is overruled since the
15 two documents are relevant and since also that the information
16 from the witness is also relevant <within the facts that we are
17 questioning>.

18 Court officer, please provide the document to the witness so that
19 the witness can have a look. And AV Unit is instructed to project
20 the document on the screen as well.

21 [11.17.27]

22 (Short pause)

23 [11.18.47]

24 BY MR. KOUMJIAN:

25 Q. Mr. Witness, just to save time, I'll let you know that I'm

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1 only going to ask you about the first paragraph and some of the
2 headings and signatures. I'm not asking you about paragraphs 2, 3
3 and the last paragraph.

4 [11.19.01]

5 (Short pause)

6 [11.19.39]

7 Mr. Witness, can I ask the question, then if you need more time
8 to look at the document, you may do so.

9 Q. Sir, the document appears to be dated at the top, in the
10 heading and also just above the signature, the 1st April 1978,
11 and it says on the left it's division 164, political section. On
12 1st April 1978, were you part of division 164?

13 <MR. PAK SOK:>

14 A. From 1978 up to 1979, I was part of <the same division.>

15 Q. Part of that division? We didn't quite get, in English at
16 least, your answer. In 1st April 1978, were you part of division
17 164?

18 A. <No, it was not 1974>, it was in <1979>, I was a part of this
19 division. <It was between '78 and '79.> However, in 1979 I was
20 part of the division for a brief moment.

21 [11.21.42]

22 Q. Okay, thank you. Now it appears at the bottom that it's signed
23 by, at least the name is printed, Muth? Who in division 164 was
24 known as Muth, if you know?

25 A. Muth is Meas Muth; he was the commander of the division <in

1 charge of> Kampong Som.

2 [11.22.18]

3 Q. Now the first paragraph speaks about an incident and I want to
4 ask you if you have any knowledge of this. It says, and frankly
5 there's two different translations in English and I'm using the
6 translation which my colleague tells me is more accurate from
7 E3/928. It says, "The total number of arrested and shot to death
8 Vietnamese from 27 March '78 through 30 March 1978 is 120 head."
9 And then it goes on to say, "In this period we also confiscated
10 five machine boats of 10cc to 37cc machine mighty, a number of
11 weapons, including an M79 and other materials."

12 Sir, do you have any knowledge of that incident?

13 MR. KOPPE:

14 Mr. President.

15 MR. PRESIDENT:

16 Please hold on, Mr. Witness. You have the floor now, Mr. Koppe.

17 MR. KOPPE:

18 Thank you. I object to the phrasing of this question. The
19 Prosecution is using two documents and the sentence that he
20 doesn't like, he takes from one document, and the sentence that
21 he likes, he takes from the other document. Because E3/929 says,
22 "Total number of arrested and fired Vietnamese from --" And the
23 other document says, "Shot to death." Now, I don't know what the
24 original Khmer says, but it's either using one document, reading
25 the whole excerpt, or using the other document; you cannot just

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1 have the best of both the worlds.

2 [11.24.19]

3 MR. KOUMJIAN:

4 Your Honours, I would say it in Khmer if I could, unfortunately I
5 cannot. But I just suggest if counsel refers to his team, his
6 Khmer-speaking team, if they have any question about that, then
7 I'll withdraw my question. But from my speaking to other Khmer
8 speakers, that's the correct translation. But if there is a
9 disagreement then please let us know. We have very educated Khmer
10 speakers on the other side.

11 MR. KOPPE:

12 The solution would be if the national colleague of Mr. Koumjian
13 would read the original Khmer and then the interpreters can
14 translate, that's also possible.

15 [11.25.05]

16 MR. KOUMJIAN:

17 Thank you for that suggestion, that's very fair. (Inaudible).

18 MS. SONG CHORVOIN:

19 Thank you, Mr. President.

20 Mr. Witness, I will read the original Khmer that the
21 international colleague read to you a while ago, E3/929. For
22 transcript, the document is E3/929 and there is another document,
23 E3/928, and from my review, it is the same document. So I will
24 read the whole document in the whole part <as follows:>

25 "First point, the total number of Vietnamese who are captured and

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1 shot to death from <27> March 1978 up to 30th March 1978 were 120
2 heads. 10cc to 37cc, five boats<. There were some weapons
3 captured including one> M79, <> and other materials."

4 BY MR. KOUMJIAN:

5 Q. Sir, hearing that, does that incident -- do you have
6 recollection of that incident? And if not, just tell us whether
7 you do or do not.

8 <MR. PAK SOK:>

9 A. I cannot recall the story described in the document.

10 Q. Okay, thank you. Now sir, at one time, if I understood from
11 your interviews, you did work, this after 1979, after the fall of
12 the Khmer Rouge, you worked as a messenger, is that correct?

13 A. I was a messenger and a guard of Ta Muth in 1979, taking
14 people from Kampong Som to Thailand. There were around 30,000
15 people that I took from Kampong Som to Thailand under the command
16 of Meas Muth. He ordered me to bring those people across to
17 Thailand.

18 [11.28.52]

19 MR. PRESIDENT:

20 Mr. Witness, please listen carefully to the question and please
21 give your response to the limit of your question.

22 The question is: did you ever become a messenger? So the answer
23 should be brief and short from you. There will be subsequent
24 questions put by parties afterwards. <There will be several more
25 questions,> so please listen carefully and give your response

1 carefully as well.

2 [11.29.25]

3 MR. KOUMJIAN:

4 Q. Thank you. Mr. Witness, can you tell us, based on the
5 experiences you have had, whether this type of message was
6 typical of communications between the division 164, and it says
7 it's addressed to Uncle Nuon, Brother Van and Documentation. Do
8 you know if it was common to have this kind of communication
9 between Meas Muth and these people?

10 MR. KOPPE:

11 Mr. President, this is clear invitation for the witness to
12 speculate. He has no knowledge whatsoever of communication
13 between the division and up. Trying to have his position after
14 1979 as a messenger, then link to what happened in 1978 is a very
15 cheap way of trying to get some evidence out of this witness.
16 It's pure speculation that he is inviting this witness to
17 entertain.

18 MR. KOUMJIAN:

19 Your Honour, I'm asking the witness if he has that knowledge; if
20 he doesn't, I hope he tells us he doesn't. Whether he does or
21 does not, that's the question, I don't know the answer.

22 MR. PRESIDENT:

23 The objection of the defence team is overruled. The Chamber needs
24 to hear the response to the last question put by the
25 international Co-Prosecutor. Mr. Witness, if you understand the

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1 question, please give your response to the last question put by
2 the international Co-Prosecutor.

3 [11.31.21]

4 <MR. PAK SOK:>

5 A. I do not know all those you described.

6 MR. PRESIDENT:

7 Thank you. It is now lunch time. The Chamber will take lunch time
8 break from now until 1.30. And the Chamber would like to inform
9 parties that at 1.00 in the afternoon the Chamber will hold a
10 swearing ceremony for one investigator, and the hearing of the
11 swearing-in ceremony will be about 10 to 15 minutes.

12 Court officer, please assist the witness during the lunch break
13 and please invite him back into the courtroom together with his
14 duty counsel at 1.30.

15 Security personnel are instructed to bring Mr. Khieu Samphan to
16 the waiting room downstairs and have him return into the
17 courtroom in the afternoon at 1.30 or a little bit before 1.30,
18 since I have just told that there will be a hearing of swearing
19 ceremony in the afternoon at 1.00.

20 The Court is now in recess.

21 (Court recesses from 1132H to 1331H)

22 MR. PRESIDENT:

23 Please be seated. The Chamber announces the continuation of the
24 hearing of the testimony of the witness. And the floor is given
25 to the International Deputy Co-Prosecutor to continue asking

1 questions to the witness.

2 BY MR. KOUMJIAN:

3 Q. Good afternoon, sir. I just have a few more questions. You
4 told us this morning that the Vietnamese were considered at that
5 time the hereditary enemy. Can you explain where it was you heard
6 this?

7 <MR. PAK SOK:>

8 A. I <actually> was a soldier in Division 164. After 1976, there
9 was a training <session>, and they announced clearly about the
10 hereditary enemy of the Khmer<, that was "Yuon">.

11 Q. Thank you, sir. We would appreciate a few more details, if
12 your memory -- if you can recall back to that training. First of
13 all, can you remember where it took place?

14 A. The training was given at the battalion<. After receiving
15 training from the division level, the regiments and battalions
16 opened small training sessions as well on the islands> .

17 Q. Who would attend the training? Who was being instructed?

18 A. The trainer was the commander of each battalion who received
19 the order from the upper level.

20 Q. Did all of the soldiers or sailors in the battalion, were they
21 all in attendance or required to attend, to the best of your
22 knowledge?

23 A. Yes, it was the policy of the Communist Party of Kampuchea.
24 They announced that all soldiers in division 164 needed to attend
25 the training.

1 [13.35.23]

2 Q. Now sir, when you had a training like this, how serious was it
3 for those of you that had to attend? Were you were allowed to
4 debate and say, "I don't agree with what's being taught"?

5 A. At that time, when we studied about the hereditary enemy, so
6 no one dared to debate about what we were taught about the
7 hereditary enemy, and we needed to follow what we were taught.

8 Q. Thank you for helping us with that. Now, what exactly did the
9 instructor say, instructors say about the hereditary enemy, the
10 Vietnamese?

11 [13.36.35]

12 A. We were instructed to kill, even if it was a baby, because
13 they are our hereditary enemy, so we must kill them. So it was
14 the responsibility of each battalion <that received exact>
15 instructions.

16 MR. KOUMJIAN:

17 Thank you, Mr. President. I don't have any further questions at
18 this time.

19 MR. PRESIDENT:

20 Thank you. Now the floor is given to Lead Co-Lawyers for the
21 civil party. You have the floor now.

22 QUESTIONING BY MS. GUIRAUD:

23 Q. Thank you, Mr. President. Good morning, everyone. Good
24 morning, Witness. My name is Marie Guiraud, and I'm representing
25 the consolidated group of civil parties, and I have a few brief

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1 questions to put to you this afternoon. Mainly I will be asking
2 you to clarify answers you gave this morning. First of all, this
3 morning you stated that you attended two technical training
4 sessions, a naval training before you were assigned to work on
5 the island before you joined division 164. Did I properly
6 understand your testimony this morning?

7 [13.38.32]

8 <MR. PAK SOK:>

9 A. Yes, I was trained at the military school when I joined the
10 navy. Yes, I <did> attend the training.

11 Q. Can you tell us where that training took place?

12 A. My school that trained me in military about the navy, <first,>
13 it was at Damnak Sdech. Later on, it was conducted at Kaoh Manoas
14 (phonetic). So there were two training schools. So I completed my
15 training at Kaoh Rong, and then back to Sokha Hotel.

16 Q. For how long did the two training sessions last, if you do
17 remember?

18 A. Thank you for your question. I was trained for three months.

19 Q. Who were the instructors who conducted those training
20 sessions, if you do remember?

21 A. Thank you. My instructors name was <Chorm (phonetic)>. He was
22 the trainer about the <marine navigation. Chorm (phonetic)>
23 studied from China. After he completed his <studies from> China,
24 he came to train us.

25 [13.40.49]

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1 Q. Was your instructor a Khmer who had undergone studies in
2 China? Or <did> you also <have> Chinese instructors?

3 A. Thank you. When I was trained at my first school in Damnak
4 Sdech at Ou Chheu Teal port, the Chinese participated in the
5 training for about half a month only and then <Chorm (phonetic)>
6 completed his study. He <was> a Khmer person, but he received his
7 training from China. For the Chinese instructors, they could not
8 speak Khmer, but they had <an> interpreter to help interpret
9 during the training <at the workshop. Chorm (phonetic) was the
10 trainer>.

11 Q. Thank you. I have a question regarding the Chinese instructors
12 that you saw during the first part of your training at Ou Chheu
13 Teal. When the Chinese instructors were present, did you see any
14 senior officials or high-ranking officers present, and who were
15 accompanying the Chinese instructors during that training
16 session?

17 A. No, there weren't. There were only Chinese instructors coming
18 by vehicle with their interpreters.

19 Q. Thank you. You stated shortly before I took the floor from the
20 international Co-Prosecutor that you attended a training session
21 in the battalion, and during which you were instructed to kill
22 the Vietnamese. Do you know whether your instructors had, they
23 themselves, attended training sessions before they conducted the
24 training session you attended?

25 [13.43.20]

1 A. Before the training, my teacher -- as for my teacher before
2 the training, I did not know about what he did. So I knew only
3 that he came to teach me at Ou Chheu Teal training school.

4 Q. I would like to read out to you an answer you gave during one
5 of your interviews, and I'm referring here to document
6 E319/23.3.44, question-answer 33 in all three languages. You were
7 reacting to what you stated a while ago to the international
8 Co-Prosecutor -- that is, that you received training on the fact
9 that the Vietnamese were the hereditary enemies. And the question
10 that was put to you was as follows, "How come you knew all that?"
11 And your answer was: "Because the commanders of the battalions
12 and regiments underwent training with the division. And when they
13 returned from the training, they taught us about this in <a>
14 training session."

15 Does this refresh your memory? And did you know during that
16 period that the instructors had themselves received training at
17 the level of the division?

18 [13.45.11]

19 A. Yes, thank you. At the level of the battalion and regiment,
20 who went to study at the division level, they came back and gave
21 instruction <to all naval soldiers within> battalions of the
22 division.

23 Q. And where was the headquarters of the division?

24 A. It was based at a roundabout near the theatre <at Phsar Leu,>
25 Kampong Som city. It was the command headquarters.

1 Q. During that period, had you already heard your superiors say
2 that they had gone to Phnom Penh to receive training?

3 A. At that time, I was a soldier within the battalion 62. I did
4 not know about the <internal> affairs of the upper levels. I knew
5 only about the affairs <that were issued to the lower levels>.

6 Q. Thank you. This morning, you stated that when you intercepted
7 a ship, what mattered was to know whether those on board were
8 armed or not, and it didn't matter whether they were military or
9 civilian persons. And you were answering a question put to you by
10 the Co-Prosecutor regarding persons of Vietnamese origin who were
11 arrested on territorial waters you patrolled. Did I properly
12 understand your testimony this morning?

13 [13.47.44]

14 A. Yes, I did answer like that.

15 Q. Can you explain in further detail the instructions you
16 received when you intercepted a vessel on territorial waters you
17 were patrolling? How were you able to identify the origins of the
18 persons on those vessels? How could you know whether they were
19 soldiers or not or whether they were armed or not? Can you
20 describe to us the procedure you followed to do such an
21 identification?

22 [13.48.29]

23 A. At that time, I was a naval soldier. I <rarely went> out. Only
24 those in a different patrol unit that went out. For my unit, we
25 rarely went out, only when we received the order from the upper

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1 level that we went out. So in my unit, there <were> people who
2 were responsible for patrolling, and there were other people who
3 were responsible for other. For me, I rarely went out.

4 Q. Thank you. I'll read out to you an <excerpt> of an answer you
5 gave to the investigators, and then I'll ask you to make some
6 clarifications. I'm still dealing with document E319/23.3.44, and
7 it is answer number 25. And I will start reading in the middle of
8 your answer. This is what you stated, "In cases where we
9 <stopped> the Vietnamese boats, sometimes we received orders to
10 shoot on the spot and bring the boat to the island <empty>. In
11 general, when we <arrested> less than 20 people, they ordered us
12 to kill them on the spot. If we arrested more than 20 people, we
13 had to send them to Ou Chheu Teal."

14 Do you confirm, Mr. Witness, that that was the order you received
15 during that period? And that one of the criteria given to you was
16 to count the number of persons on board the vessels?

17 A. Yes, that's true. At that time, I noted that when there was a
18 capture of each vessel, there was order from the top that the
19 arrested people needed to be sent to on land, but if the number
20 of arrested people were just only a few people, and then the
21 order was that they needed to be killed on the <sea>, and only
22 the vessels were brought <in for use in units>.

23 [13.51.26]

24 Q. Did you understand at the time the reason for the order to
25 make the distinction between a vessel with many people and

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1 another vessel with a lesser number of people?

2 A. I could not understand the question because the microphone is
3 not hearing well.

4 Q. I will repeat the question. Can you hear me, Witness? Yes?

5 I just read out to you an answer you gave to the investigators,
6 in which you said that, "If we arrested more than 20 people -- or
7 rather, if we arrested less than 20 people, we had to execute
8 them on the spot. And if we arrested more than 20 people, we had
9 to send them to Ou Chheu Teal."

10 During that period, did you know why the distinction was made
11 between vessels on which there were more than 20 people and
12 vessels on which there were less than 20 people?

13 [13.53.15]

14 A. Based on my understanding at that time, when the number of
15 people were less, there was an order to kill on the spot because
16 they did not want to bother with interrogating them. <The
17 majority of people were the Vietnamese who fled to a third
18 country. This> larger number <> were arrested and brought
19 <ashore> to us to interrogate about what was happening in Vietnam
20 and in Cambodia.

21 MS. GUIRAUD:

22 Thank you. I have no further questions for the witness, Mr.
23 President.

24 MR. PRESIDENT:

25 Judge Lavergne has some questions to put to the witness. Judge

1 Lavergne, you have the floor now.

2 QUESTIONING BY JUDGE LAVERGNE:

3 Q. Thank you, Mr. President. Good afternoon, Mr. Witness. I will
4 indeed put a few questions to you with a view to clarifying your
5 life experiences. If I properly understood what you said this
6 morning, you did say that you joined the army, that is, the
7 Revolutionary Army, in 1973. Did I properly understand what you
8 said this morning?

9 <MR. PAK SOK:>

10 A. That is not correct. I said in the morning that I joined the
11 army from 1972, that <was on 2nd> May 1972. It's not 1973, but it
12 was in 1972.

13 [13.55.13]

14 Q. So during that period, it was the army of the FUNK, that is,
15 the <Khmer National United Front>, <or was it a CPK army? Were
16 you a member of the Communist Party <of Kampuchea>?

17 A. I was not the party member. I was an ordinary soldier, and I
18 joined the army in 1972 to 1975. So from 1972 to 1975, I was
19 still an ordinary soldier, not as a cadre.

20 Q. Where were you in 1975? And in which combats did you
21 participate?

22 A. In 1975, after the liberation day of 17 April 1975, I left the
23 <sector> military from Kampot province and joined the Division
24 <164> in <1975>.

25 [13.56.45]

1 Q. On 17 April 1975, <did> you participate in the fighting for
2 the liberation of Phnom Penh or <were> you in the region of
3 Kampot?

4 A. I was at Kampot at that time.

5 Q. So you were in Kampot, and you subsequently went to Kampong
6 Som. Did you leave immediately after 17 April 1975, or <did> you
7 stay on and <leave> later on?

8 A. <Shortly> after the liberation of Kampot province, I went to
9 Kampong Som. My unit assigned me to Kampong Som, and at that time
10 at Kampong Som, the situation was still chaotic. After my group
11 arrived there <> the soldiers <and the 17 April People> were
12 <evicted from> Kampong Som city.

13 Q. While you were in Kampot -- that is, after Kampot town was
14 liberated, and when you arrived in Kampong Som, did you receive
15 specific instructions regarding the former soldiers of the Lon
16 Nol regime and former officials of the Lon Nol regime? What do
17 you remember in that regard?

18 A. About this story, the instructions from the battalion as well
19 as the instructions from the regiment, they ordered soldiers and
20 the 17 April People to be evacuated from the city so that the
21 soldiers would be easy to organize things in the city.

22 [13.59.09]

23 Q. Do you know whether thereafter lists of persons who had been
24 soldiers or officials of the Lon Nol regime were drawn up? And
25 while you were in Kampong Som, did you witness any arrests?

1 A. After <the completion of the evacuation out of Kampong Som,>,
2 the military units and soldiers were not allowed to have any
3 contact with the people. It depended on the upper level, who
4 organized the base area.

5 Q. So what you mean is that you received orders to evacuate the
6 cities, and that once the cities were evacuated, you had no role
7 to play. There were therefore higher units or other people who
8 would take care of the people who were evacuated. Is that what we
9 must understand?

10 A. Yes, that is correct.

11 [14.00.50]

12 Q. This morning, you explained that at one point in time you were
13 punished because you were <seen as a suspect>. And you spoke
14 about some of your comrades who had been sent to a re-education
15 centre at Toek Sap. I'm probably not pronouncing it right, but
16 can you confirm this? Is it there where your mates were sent?

17 A. That is true. My close colleagues were arrested and held at
18 Toek Sap. <At my unit,> trust was withdrawn from me. They had no
19 longer trusted me since I had close colleague who were considered
20 a bad element. I was not detained at Toek Sap, but I was assigned
21 to work the fields <at Ream port>.

22 Q. Do you know which kind of person was detained at Toek Sap?
23 Were there only servicemen who were detained there? Or also 17
24 April People? Who was detained over there?

25 A. They were all soldiers. No 17 April People nor <Lon Nol

1 military> officials <> were detained at Toek Sap. Only the
2 military or soldiers from the Division <164> were sent there to
3 be detained.

4 Q. I understood from what you told us this morning that some of
5 your comrades had been arrested and detained at Toek Sap because
6 they had written things that were not acceptable. So do you know
7 why the other servicemen were detained at Toek Sap?

8 A. Generally, the soldiers whom I had known from <Division> 164
9 were sent there. <Regardless of Regiment 61, 62, 63, 64,> the
10 <soldiers in there would be sent to that place as long as they>
11 had some <> activities against the regime. That is the true
12 incident happening at that place.

13 [14.04.29]

14 Q. Well, I'm going to try to clarify this. Do you remember if,
15 when you were a serviceman, you were obliged to write out your
16 biography? And if that is the case, what did you have to include
17 in your biography?

18 A. 1975 was the liberation day. <Soldiers were scrutinised by
19 filling in> the biography of personal details<. For example,> I
20 myself had relatives and a father who had been a former soldier.
21 So for those who were linked to the former <Lon Nol soldiers>
22 were removed from the division or from the military units. So
23 that is true that all soldiers, servicemen, had to make a
24 biography.

25 [15.05.58]

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1 Q. Were you asked to write this biography once or several times?

2 A. Not once. It happened two, three <,> four <or five> times per
3 year. Perhaps five times per year. So after we made the first
4 biography, we had to declare for the second time our personal
5 details in the biography, whether we had any bad elements linked
6 to family background. And if it happened that we had a bad
7 background or biography, then that bad biography would be
8 retained and kept forever. <Then, it became official to Angkar.>

9 Q. So those who had bad biographies, in particular those who had
10 relatives who had worked as servicemen for the Lon Nol regime,
11 who had been Lon Nol officials, were cast aside. So what did that
12 mean? Were they set aside? Were they taken away? Do you know
13 where these people went? And do you know what happened to them?

14 A. In <Division> 164<,> to what I knew,> there was a mobile unit
15 <namely,> "Ta Chhay Unit". Those who were linked to bad elements
16 would be put in one group. For instance, if I had parents, had a
17 father who was linked to <American> CIA<,> "Yvon's" > or KGB
18 agents, <then, I was no longer trusted. Subsequently,> I would be
19 removed into a mobile unit which was tasked with working the
20 fields near Bo Bos (phonetic), to the north of <Kang Keng and>
21 Smach Daeng. That was the place to <> house those who were linked
22 to the <> tendency <of former regime>.

23 [14.09.06]

24 Q. So I understood that there were soldiers who were sent to Toek
25 Sap, and that was a detention centre or a re-education centre.

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1 And there were also soldiers who had bad biographies and who were
2 set aside, and who were sent to mobile units. <Were> you
3 <yourself> sent to a re-education centre, or were you sent to a
4 mobile unit?

5 A. That is the example. In fact, I was not relocated to a mobile
6 unit. Why wasn't I relocated to that mobile unit? It was because
7 I was trying my best to refashion myself at that time. I bore the
8 situation. I was doing my utmost to work. Seeing this, I was not
9 relocated to the mobile unit. In fact, I was trusted by my
10 battalion and regiment, so I was kept. So it depended on the
11 offences committed by the servicemen. If they committed serious
12 acts, or serious infractions, they would be sent to Toek Sap. <On
13 the other hand, people who were assigned to that mobile unit had
14 light offenses, because they were linked to political tendency,
15 that means, the old element of> former Lon Nol regime<. Also,
16 some had links to relatives implicated former tendency or were>
17 secret agents, CIA or KGB<. These people> were sent to a mobile
18 unit which was considered a place to house the light offenders
19 <while serious offenders were sent to Toek Sap>.

20 [14.11.49]

21 Q. Can you give us an idea? Were there many soldiers who were
22 sent to Toek Sap? Were there many soldiers who were sent to the
23 mobile units? And would they say that certain people had ties
24 with the CIA or the KGB?

25 A. Let me inform the Chamber once again. There was a mobile unit;

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1 actually, the mobile unit housed those who had relatives who were
2 linked to the former tendency. For instance, if I had relatives
3 who were linked to the former tendency <such as CIA or so>, I
4 would be <implicated and> sent to the mobile unit <or the
5 production unit, namely> "Ta Chhay Unit", and this mobile unit
6 was tasked with working the fields. So the offenders who were
7 sent to Toek Sap were those who committed severe infractions.

8 Q. Do you know the number of people who were working in the
9 mobile unit, under Ta Chhay's leadership? And were these people
10 only soldiers with bad biographies?

11 A. There were great numbers of people, 400 or 500, within that
12 mobile unit <or Ta Chhay Unit or production unit>. And the number
13 of people who were at Toek Sap was about 50 or 60 people. For
14 those who were housed at mobile unit, I could see them very
15 often. But I would see those who were detained at Toek Sap once
16 in a while.

17 [14.14.44]

18 Q. I understood this morning that you were punished because they
19 no longer trusted you, because your group was involved in the
20 writing of these unacceptable words, and your comrades were sent
21 to Toek Sap. So where were you sent to?

22 A. After I was trying to refashion myself, and after I was trying
23 to perform as much as possible my duties, I was considered a good
24 person and I was reinstated into my Regiment 662.

25 Q. I understood that well. But before you were reinstated, where

1 were you sent to? Where? I understood that it was neither at Toek
2 Sap nor in a mobile unit, so where were you sent to?

3 [14.16.09]

4 A. I was relocated <> to station at my original island.

5 Q. I believe I understood this morning that when you were sent to
6 your <island of origin>, as you said, you saw 17 April People. Is
7 that so?

8 A. We lived together, I and the 17 April People lived together at
9 Bo Bos (phonetic)<, Put Te (phonetic)> and Kokir (phonetic). We
10 worked there together. And I was with the units working. And
11 those people whom I lived with <and were considered bad element
12 like me,> were doing their best so that they could be reinstated.
13 And I told the Court already <this morning> about those <17 April
14 People. They were trucked out to be executed>. And for my case, I
15 was reinstated after I could refashion myself.

16 Q. I would like to revisit what you said in relation to the 17
17 April People. This morning you said that you had noted that 17
18 April People, would disappear. Did I understand your testimony
19 properly? And do you know why these people disappeared?

20 A. We in fact lived and worked together <with those bad-element
21 people. One by one,> they disappeared from time to time. Seeing
22 their disappearance, I asked <a person who was assigned to watch
23 ducks>, and I was told that two truckloads, or three truckloads
24 of the 17 April People were sent away and killed. After hearing
25 this, <I thought it was true. So,> I was trying my best to

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1 refashion myself with a few or several other colleagues who had
2 been considered having a bad biography as well. <Then, local
3 cadres trusted me and I was sent to my former unit based at an
4 island.>

5 [14.19.37]

6 Q. So, they would look for biographies among the soldiers, but do
7 you know if they also were looking for the biographies of 17
8 April People? And you know if, in particular, they were looking
9 for those who might have been servicemen or officials under the
10 Lon Nol regime?

11 A. Regarding biography, there were no one had links to the former
12 servicemen within all units. <These biographies were clean, free
13 from the link to any political tendencies.> For those who had --
14 once detained at the Vietnamese detention facility <in the '75>
15 were <immediately> removed out of the military units.

16 [14.21.13]

17 Q. I am not sure I fully understood your answer. In fact, I am
18 not even sure you understood my question. So let me put that
19 question back -- put that question again to you in a different
20 way. I am no longer speaking about the soldiers. I am speaking
21 about the 17 April People with whom you worked. These 17 April
22 People -- did they look for the biographies of the 17 April
23 People? And did they look for those who might have been
24 servicemen or officials under the Lon Nol regime among these 17
25 April People?

1 A. To my knowledge, the biographies were not collected from those
2 17 April People. This is my true statement to you, Your Honour.

3 Q. I believe that this morning, you spoke about a soul named Ta
4 Doem, who was a high-ranking officer in charge of Kampong Som. Do
5 you remember Ta Doem?

6 A. Indeed, I made a mention about a person by the name -- I
7 cannot recall his name, not Doeum (phonetic) to my recollection.
8 It was Ta Doem, not Doeum (phonetic). Ta Doem was in -- was part
9 of the Eastern Zone, and his troops <> were <relocated from the
10 East Zone> to Kampong Som. One regiment of his troops was sent to
11 Kampong Som. Ta Doem <was in charge of a division, he> had
12 overall supervision together with Ta Muth. However, he was below
13 Ta Muth. He was under Ta Muth's leadership, to my recollection.

14 [14.23.54]

15 Q. Can you tell us what happened to Ta Doem and to the soldiers
16 of the regiment coming from the East? Did something happen to
17 them?

18 A. Ta Doem was the chief of one regiment, and he was the deputy
19 or the person below Ta Muth. He <later> had been arrested <and
20 disappeared>. After his arrest, other arrests were made one after
21 another, <against> his soldiers <who were from the east. No one
22 left>. Later on, his troops disappeared, and I had no idea at
23 that time where the soldiers of Ta Doem were sent to.

24 Q. Do you remember the date when these arrests occurred?

25 A. To my recollection, first Ta Doem was arrested. Later on,

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1 soldiers within his regiment were also arrested. Because Ta Doem
2 had been arrested, perhaps there was something in Ta Doem's
3 confession, but I did not know what was in his confession. The
4 confession of Ta Doem implicated the soldiers of the regiment <at
5 that Kampong Som>. And later on, the soldiers of the regiment
6 were <removed>, but not sent back to the Eastern Zone, to my
7 recollection. <I did not know where they were sent. I never saw
8 them again.>

9 [14.26.15]

10 Q. Is that the only time when there were series of arrests, or
11 were there several episodes of arrests? Were high-ranking
12 officers arrested later, for example? And were people placed
13 under their authority also arrested?

14 A. I noticed that cadres from battalions from other units were
15 arrested, one after another. One time, three or four were
16 arrested. Later on, after the arrest of Ta Doem, the regiment, or
17 his unit, was dismantled. And soldiers from this regiment were
18 sent to be part of Regiment 61, 62 or other regiments. <> The
19 arrests happened many times; three or four soldiers, three or ten
20 soldiers at a time were arrested.

21 Q. You spoke earlier about confessions. Did you sometimes receive
22 orders <or were there trainings> in which reference was made to
23 confessions of people who had been arrested? Do you remember
24 that?

25 [14.28.16]

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1 A. I had no idea at that time about the confessions. But from my
2 understanding, is that soldiers under Ta Doem were linked to the
3 <political tendencies> of Ta Doem<. The commander was already
4 taken>, so these soldiers were sent away. Soldiers from the East
5 Zone were no longer trusted by the upper echelon, but I cannot
6 tell you where these soldiers were sent to.

7 Q. Now, regarding confessions again, you said that a certain
8 number of Vietnamese people who were armed were brought ashore
9 and then sent away. So do you remember hearing confessions of
10 Vietnamese soldiers?

11 A. When I was with the navy, I did not hear any confession
12 relating to the Vietnamese.

13 Q. Did you have access to the radio broadcasts of DK? Or you did
14 not have access to the radio? Were you able to listen to the
15 radio?

16 [14.30.19]

17 A. Yes, I heard over the radio, but I did not pay close attention
18 to the broadcasts. At that time, as a soldier, I had no free time
19 to enjoy listening to the broadcasts on the radio. Certain
20 offences<, such as CIA or former Lieutenant or Captain,> would be
21 announced on the radio. The <Vietnamese> confessions were
22 broadcast over the radio, but as soldiers, we were not able to
23 listen <frequently>. As a soldier, we had to <join intense
24 training. At dawn around 6 a.m., we had to swim. At 7 a.m, we had
25 to> carry dirt. And we had one hour for lunch. And after lunch,

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1 we had to go back to work. So we had no free time at all. <Those>
2 soldiers <and> I myself were not able and did not have any free
3 time to listen to the radio.

4 Q. During the training sessions you attended while you were a
5 member of your regiment, did you ever discuss any newspapers
6 published by Democratic Kampuchea, such as the "Revolutionary
7 Flag", or the "Revolutionary Youth"?

8 A. Yes, I heard of those magazines at that time, but I was not
9 really interested in <DK "Revolutionary Flag"> magazines. I did
10 not bother to make analysis of those magazines. <Our core> task
11 at that time<, as soldiers,> was to <defend and to> refashion
12 <ourselves>. In fact, I heard of the "Revolutionary Flag" of
13 Cambodia<, but I did not know their internal affairs>.

14 Q. Was it rather a request of the superior officials that
15 soldiers study the contents of articles written in the
16 "Revolutionary Flag" or the "Youth Revolutionary Flag"?

17 [14.33.37]

18 A. I was not aware of that. Perhaps it may have happened that
19 way, but I cannot recall it.

20 Q. A while ago, you stated that, at the beginning of <all> the
21 training sessions you attended, there were Chinese <technicians>
22 who came to train the future <sailors>. Apart from those
23 instructors, did you have, within the <sailors> and the army,
24 Chinese advisers <who were present>?

25 A. I have never seen Chinese advisers. I did <> see them at the

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1 <opening of the> training sessions. After the inauguration of the
2 training sessions, they left. And after that time, there were
3 only Khmer instructors.

4 Q. As regards the equipment you had at your disposal in division
5 164, did you know the origins of those equipment? I am talking of
6 weapons, ammunition, and possibly technical equipment<, you
7 talked about> radios, did you also have radars? Did you know the
8 origins of the equipment you had at your disposal?

9 [14.35.41]

10 A. Indeed. There were military equipment, big and small <guns
11 and> ships. Technical equipment were originally from China. Radar
12 and other equipment, radio communication systems, were all from
13 China.

14 JUDGE LAVERGNE:

15 Thank you very much, Mr. Witness. I have no further questions for
16 the witness, Mr. President.

17 MR. PRESIDENT:

18 Thank you. Although there is time <remaining>, the Court may
19 adjourn <for today> since this <is a new witness that has just
20 been accepted by the Chamber; and was summoned to testify
21 corresponding to> the requests <> from <the Co-Prosecutors. On
22 the other hand,> the Defence Counsel <is asking for more time.>
23 You may now proceed, <International Deputy> Co-Prosecutor.

24 [14.37.05]

25 MR. KOUMJIAN:

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1 Your Honour, I am very sorry to interrupt, but I just wanted to
2 make a very brief statement before we adjourned for this break. I
3 take note -- we took note in the Co-Prosecutors' Office that Your
4 Honours had requested from the Supreme Court some of our filings,
5 one related to the rift and related to the Defence's sixth
6 evidence request relative, I believe, to the Defence request to
7 call Robert Lemkin as a witness. I just wanted to make it clear
8 to Your Honours that our objections to his testimony before the
9 Supreme Court, generally, they do not apply to the trial. We are
10 not objecting to Mr. Lemkin testifying at the trial. There's
11 different issues in 002/01 and 002/02.

12 And also, Your Honours will recall, we have long requested the
13 testimony of Thet Sambath. All of what Mr. Lemkin knows, he knows
14 through Mr. Sambath. Apparently Mr. Sambath does not want to
15 testify, so we think that that should be taken into account in
16 deciding whether Mr. Lemkin has information that could help the
17 Court. So I just wanted to make it absolutely clear to Your
18 Honours that the Co-Prosecutors do not object to the testimony of
19 Mr. Lemkin at the trial in Case 002/02.

20 MR. PRESIDENT:

21 I would like to give the floor first to Judge Lavergne.

22 [14.38.51]

23 JUDGE LAVERGNE:

24 It appears that last week, and this is another matter, Vincent de
25 Wilde, who represented the Office of the Prosecutors, indicated

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1 that there would perhaps be requests for other witnesses to be
2 called regarding the Vietnamese. Are we going to receive a
3 request in that regard? And if so, when?

4 MR. KOUMJIAN:

5 Your Honours, if it's permissible, I will endeavour to respond by
6 email to Your Honours and Defence, copying all parties of course,
7 today on that, to let you know when and if you can expect such a
8 filing. I'm not prepared to answer right now, but I should be
9 able to by the end of the day.

10 [14.39.58]

11 MR. PRESIDENT:

12 Thank you. You can do so, Co-Prosecutor. Once again, although
13 there is some time to continue the hearing, the Chamber cannot
14 proceed to give the floor to the defence counsels. Since this
15 witness is <new who has just been accepted by the Chamber; and
16 summoned to testify as> requested by the Co-Prosecutors to appear
17 in this Court, the defence counsel <of both teams> requested to
18 have some time to review some documents before asking this
19 witness.

20 Tomorrow is the last day of the hearings in 2015, so the Chamber
21 decides to adjourn the hearing today, and the hearings will
22 resume on 5 January 2016. On that day, the Chamber will continue
23 hearing 2-TCW-1000, and then it may hear 2-TCW-848 <>.

24 Regarding the lists of witnesses, civil parties and experts to be
25 called to come and testify before the Chamber, we'll be informed

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1 by senior legal officer very soon.

2 Thank you, Mr. Witness, 2-TCW-1000. The hearing of your testimony
3 has not come to an end yet. You are therefore invited to be here
4 again on Tuesday, 5 January 2016, at 9 a.m. Court officers,
5 please work with the WESU unit to send Mr. Witness back to his
6 residence, or to any place he wishes to go, and please invite him
7 into the courtroom on Tuesday, 5 January 2016.

8 Thank you as well, Mr. Moeun Sovann, the duty counsel, you may
9 now be excused. You are also invited to sit along with the
10 witness on Tuesday, 5 January 2016, at 9 a.m.

11 Security personnel are instructed to bring the two Accused back
12 to the detention of the ECCC, and please have them returned on
13 Tuesday, 5 January 2016, before 9 a.m.

14 The Court is now adjourned.

15 (Court adjourns at 1442H)

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