



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

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

ឯកសារដើម
ORIGINAL/ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ (Date): 27-May-2013, 08:00
CMS/CFO: Sann Rada

TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

20 May 2013
Trial Day 180

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

The Accused: NUON Chea
KHIEU Samphan

Lawyers for the Accused:

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Victor KOPPE
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Trial Chamber Greffiers/Legal Officers:

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Keith RAYNOR

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
JUDGE CARTWRIGHT	English
MS. CHET VANLY	Khmer
MR. IENG PHAN (TCW-253)	Khmer
MR. KONG SAM ONN	Khmer
MR. KOPPE	English
MS. MARTINEAU	French
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. PICH ANG	Khmer
MR. RAYNOR	English
MS. SIMONNEAU-FORT	French
MR. SON ARUN	Khmer
MS. SONG CHORVOIN	Khmer
MR. VERCKEN	French

1

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

2 (Court opens at 0904H)

3 MR. PRESIDENT:

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

5 As scheduled, the Chamber will continue its proceedings by

6 hearing the testimony of a witness, TCW-253.

7 And before we proceed with the hearing of the testimony, we would

8 like to inform parties to the proceedings that for today's

9 proceedings, and the subsequent days, Judge You Ottara will be

10 absent due to his health reason; and after the consultation with

11 all the Judges of the Bench, we decide to appoint Judge Thou Mony

12 to replace Judge You Ottara, who is absent, until the return of

13 Judge You Ottara to his seat. The decision is based on Rule 79.4

14 of the Internal Rules of the ECCC.

15 Mr. Dav Ansan, could you report the attendance of the parties and

16 individuals to today's proceedings?

17 THE GREFFIER:

18 Mr. President, for today's proceedings, all parties to the case

19 are present.

20 As for Nuon Chea, he is present in the holding cell downstairs

21 based on the decision of the Trial Chamber concerning his health.

22 The witness, TCW-253, already took an oath this morning and he

23 confirms to his best knowledge and ability, he has no connection

24 or relation to any of the Accused – that is, Nuon Chea and Khieu

25 Samphan, nor any of the civil parties recognized in this case.

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1 [09.07.35]

2 The witness has a duty counsel, Mam Rithea, and they are ready to
3 be called by the Chamber.

4 We also have a reserved witness - that is, TCW-548 - but this
5 witness hasn't taken an oath yet.

6 MR. PRESIDENT:

7 Thank you, Mr. Ansan.

8 Court Officer, could you invite the witness, TCW-253, and his
9 duty counsel into the courtroom?

10 (Witness Ieng Phan and Duty Counsel enter courtroom)

11 [09.09.10]

12 QUESTIONING BY THE PRESIDENT:

13 Good morning, Mr. Witness.

14 Q. Can you tell us your name?

15 MR. IENG PHAN:

16 A. Mr. President, my name is Ieng Phan.

17 Q. Thank you. How old are you, Mr. Ieng Phan?

18 A. I am 60 years old.

19 [09.10.16]

20 Q. Thank you. Where is your current residence?

21 A. I live at Beng village, Anlong Veng commune, Battambang
22 province.

23 Q. Thank you. What is your current occupation?

24 A. I am a soldier.

25 Q. Thank you. What is your father's name, and your wife's name,

1 your mother's name, and how many children do you have?

2 A. My father is Ieng Phau, and my mother is Uong Mitt, they're
3 both deceased; and my wife's name is Tung Orn and we have five
4 children.

5 Q. Thank you, Mr. Ieng Phan.

6 As reported by the greffier, to your best knowledge and ability,
7 you have no relation by blood or by law to any of the civil
8 parties recognized in this case, 002, nor to any of the two
9 Accused – that is, Nuon Chea and Khieu Samphan; is this
10 information correct?

11 [09.11.46]

12 A. Yes, it is.

13 Q. Thank you.

14 Also as reported by the greffier, you already took an oath before
15 you entered this courtroom this morning; is this correct?

16 A. Yes, it is.

17 Q. Thank you.

18 We would like to inform you of your right and responsibility as a
19 witness before this Chamber.

20 Mr. Ieng Phan, as a witness before this Chamber, you may refuse
21 to respond to any question or request for your comment that would
22 incriminate you. This is your right against self-incrimination,
23 if you think your response might incriminate you. And I believe
24 you understand this right, and for that reason you already have a
25 duty counsel with you. So, if you think any of the questions put

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1 to you may lead to a response that could incriminate you, you may
2 seek consultation with your duty counsel before you decide either
3 to respond or to refuse to respond to such a question.

4 [09.13.19]

5 Also, as a witness before this Chamber, it is your obligation to
6 respond to all the questions put to you by any of the parties or
7 the Bench, except in the case that your response or comment may
8 incriminate you, as I just stated earlier.

9 And also, as a witness, you must tell the truth that you have
10 known, have heard, have remembered or experienced, or through
11 your direct observation of any events concerning the questions
12 put to you by any of the parties or the Bench.

13 Mr. Ieng Phan, have you been interviewed by any of the
14 investigators of the Office of the Co-Investigating Judges during
15 the last few years? If so, how many times, and where did it take
16 place?

17 A. I was interviewed once by the Office of the - in fact, twice
18 at the Battambang provincial town. The first interview was not in
19 details.

20 [09.14.50]

21 Q. Can you recall, when was the first interview taken place?

22 A. The first interview took place in 2009 and the second
23 interview was in 2010.

24 Q. Thank you.

25 Before you appear before this Chamber, have you re-read your

5

1 interviews - that was indeed your interview with the Office of
2 the Co-Investigating Judges in order to recollect your statement?

3 A. Yes, indeed, I reviewed the interviews.

4 Q. Thank you. And to your best knowledge and recollection, could
5 you confirm whether the written record of your interviews that
6 you have read, in fact, are consistent with your responses you
7 gave to the investigator of the Office of the Co-Investigating
8 Judges?

9 A. Yes, the written records of the interviews are consistent with
10 my responses.

11 [09.16.33]

12 MR. PRESIDENT:

13 Thank you.

14 Mr. Ieng Phan, you may put your document aside and listen to the
15 questions put to you by the parties and if you are requested to
16 refer to the document, then you may do so. Otherwise it is not
17 necessary for you to look at the document. Please try to respond
18 to the questions based on your memory and recollection; and you
19 may be requested to refer to your written records of interviews
20 from time to time.

21 And, the Prosecution, you are reminded that for the questioning
22 of this witness you will be given the floor first, and the time
23 allocation for the Prosecution and for the Lead Co-Lawyers for
24 half a day. You may proceed.

25 [09.17.48]

1 QUESTIONING BY MR. RAYNOR:

2 Mr. President, Your Honours, may it please you. Good morning.

3 Good morning to my fellow counsels, and good morning, in

4 particular, to you, Mr. Ieng Phan.

5 Q. Mr. Ieng Phan, I have a series of questions to ask you

6 relating to military matters. You have been a soldier for over 40

7 years and it's your experience and knowledge of these military

8 matters that I anticipate will assist the Tribunal.

9 I will be referring to extracts from your previous OCIJ interview

10 dated the 23rd of November 2009, E3/419.

11 Mr. Ieng Phan, can I start please, just by setting your military

12 history in some context? You stated in E3/419, answer 1, that you

13 joined the army on the 28th of July 1970, when you were aged 18,

14 and that in September 1970 you joined the military forces in

15 District 105 in Takeo.

16 My first question is this: How soon after you joined the district

17 forces were you engaged in any military action with Lon Nol

18 soldiers?

19 [09.20.10]

20 MR. IENG PHAN:

21 A. Thank you for your question. Allow me to respond to this

22 question.

23 I indeed joined the army in 1970, and the reason for me joining

24 the army was that, after the coup d'état by Lon Nol to topple

25 Sihanouk. So the schools were closed at the time and when Samdech

7

1 Sihanouk went to Beijing, he made an appeal to all Cambodian
2 citizens to enter the maquis forest, and from then on I joined
3 the army.

4 Q. And when was your first military engagement with any Lon Nol
5 troops?

6 A. I engaged in fighting against the Lon Nol soldiers after the
7 coup d'état, and in fact, I engaged in the battles on and off
8 frequently since I was in the district militia, and until I also
9 joined the military forces.

10 Q. Thank you. You said also in this same extract, E3/419, answer
11 1 that, in 1972 you became a platoon commander in Company 14,
12 under Sien, and that was a special unit under the supervision of
13 Sector 13.

14 [09.22.20]

15 Can you help me, please, with any major military engagements that
16 you remember in 1973 or 1974?

17 A. Yes, I joined in countless battlefields in Takeo province, in
18 Kampot province, and also in Preah Sihanouk province, in Kampong
19 Speu province, as well as in Phnom Penh.

20 Q. Now, in 1973 and 1974, was the liberated area occupied by the
21 Liberation Forces getting bigger or smaller?

22 A. The liberated area became larger as the Lon Nol soldiers only
23 remained along the main roads and in the provincial towns.

24 Q. Now, during these many military engagements, did all villagers
25 that you encountered support the Liberation Forces?

8

1 A. In general, the Movement, between 1970 through '75, attracted
2 huge support from the ordinary people.

3 Q. If any villagers were considered to have opposed the
4 Revolution, what happened to them?

5 A. At that time, there was none to oppose the Liberation Forces.
6 In fact, they actually joined the Liberation Forces.

7 [09.24.49]

8 Q. Can you help us, please, on what happened to Lon Nol soldiers
9 if they were captured?

10 A. After the arrest of the Lon Nol soldiers, we were at the
11 front; we did not know what happened to them because they would
12 be sent to the rear.

13 Q. Do you have any knowledge during this period of the civilian
14 village populations of Ang Ta Saom and Kampong Trach ever being
15 evacuated?

16 A. During that time, during the battle, in fact, the civilians
17 would evacuate themselves in order to avoid the fighting.

18 Q. After you joined the military were you ever aware of a
19 relocation programme, where people were forcibly moved out of
20 their villages by Liberation Forces?

21 A. At the provincial towns where the Liberation Forces reached,
22 the people themselves moved to the rear and I did not know
23 whether they would return to their provincial towns, because at
24 that time I was at a lower rank of the chain of command.

25 Q. Do you know what happened to these villagers?

1 A. At that time, it was unclear to me.

2 Q. In this period, from 1970 to 1975, how did military units
3 communicate with one and other?

4 A. As for the Liberation Forces, we communicated by radios.

5 [09.27.50]

6 Q. When were telegrams first used?

7 A. When I joined the army, in fact, each unit would have a
8 telegram for the communication with various other units or to the
9 headquarters.

10 Q. Can I just be clear? Was this telegram procedure in place
11 directly after you joined the army in 1970, or did it come a few
12 years later?

13 A. The telegrams were used since I joined the army, just for the
14 communication between the front command and the rear command.

15 Q. Mr. Ieng Phan, I want you to help us next with some military
16 terms. Other witnesses have spoken about them, but perhaps not
17 accurately. Now, in terms of the lower collections of soldiers,
18 can I start with a platoon? Is it right that a number of soldiers
19 would make up a platoon?

20 A. The platoon would compose of 30 soldiers which were from -
21 which were made up of three squads.

22 [09.29.56]

23 Q. So what you've said there is we've actually introduced squad
24 beneath platoon. How many platoons in a company, please?

25 A. Three platoons would make a company. That is, it equals to

1 nine squads.

2 Q. How many companies make up a battalion?

3 A. Four companies would make up a battalion.

4 Q. I'm going to give the structures above this and then I want
5 you to explain them, please, to the Court: regiment, brigade,
6 division, General Staff. Now, was there regiments above the
7 battalion level?

8 A. As I stated, three companies would make a battalion, and four
9 battalions would make up a regiment.

10 Q. Now, if we look at the strata above this now – I should say I
11 was only in the army for four years and you've been in the army
12 for 43 years; but brigades and divisions, can you explain that to
13 the Court, please?

14 A. The difference between the regiment and the division is that
15 four battalions would make up a regiment.

16 [09.32.45]

17 Q. And then do we have so many regiments in a brigade, or in a
18 division?

19 A. For the regiment, four regiments would make up a brigade.

20 Q. And then is it a case of so many brigades making up a
21 division, or have I got that wrong?

22 A. For the military structure at the time, there were indeed
23 divisions and each division was comprised of five brigades. One
24 was an intervention brigade and the other four would be the
25 infantry.

11

1 Q. Thank you. I think that's going to help everyone's
2 understanding now of the military terms that we use.
3 Now, you said in E3/419, answer 1, that in December 1974 you
4 became chairman of Battalion 204, which was part of Brigade 2, in
5 the Southwest Zone. Where were you located in December 1974 when
6 you became chairman of a battalion?

7 [09.35.02]

8 A. In 1974 I became the commander of Battalion 203 in the
9 Southwest Zone under the subordinate of Brigade Number 2.

10 Q. You've used the phrase "commander", and I just want to look at
11 some important positions within a battalion, the names given to
12 the important positions.

13 Now, is it right that every battalion would have a commander and
14 a deputy commander, or have I got that wrong?

15 A. The battalion that I controlled was called a special
16 battalion, 203, and there was a commander and three deputy
17 commanders.

18 Q. Can you help us as to whether there was a secretary and a
19 deputy secretary or not?

20 A. No, at that time, there was no secretary. There was a radio
21 operator.

22 Q. Now, at this time in December 1974, is it right that your
23 brigade commander was Sam Bit?

24 A. No, it was not the regiment. In fact, Sam Bit was in charge of
25 Brigade Number 2 in the Southwest Zone.

1 [09.37.24]

2 Q. I'd like to move on to the subject of meetings to disseminate
3 military orders.

4 Now, in E3/419, answer 3, you said that Ta Mok, the Southwest
5 Zone Commander, called the brigade and division commanders to
6 meetings with him. Can you just give us some idea on how often he
7 would do this?

8 A. As for the works about my knowledge, I would not know much
9 about that. I only had the right to participate in the meetings
10 with the regiment. However, as for the brigades or the divisions,
11 they would be entitled to have the meetings at the zone level.

12 Q. Let's talk about some meetings at your level as a commander of
13 the battalion.

14 In your previous interview, still on answer 3, you said that
15 after the high level meetings that the brigade and divisional
16 commanders would then disseminate information downwards to the
17 regimental and battalion levels; is that correct?

18 [09.39.27]

19 A. Yes, that is correct, as I stated in my written record of
20 interview.

21 Q. So you as the commander of the battalion at this stage, how
22 often would you go to meetings to receive the information from
23 the higher levels?

24 A. The meetings at that time were the meetings held in the
25 battlefield and there were two scenarios. One was based on the

1 real situation, and it was held on a monthly basis. And in case
2 of a special need in a battlefield, as I was the commander of a
3 battalion, I was at the disposal of the regimental commander, so
4 if I was called by the regimental commander at any time to attend
5 a meeting, then I would go to it.

6 Q. Let's say you went to a meeting with the regimental commander,
7 he gave some orders to you as the battalion commander. How would
8 you then disseminate those orders to the soldiers under your
9 authority?

10 A. In the ordinary practice, once I received the commands from
11 the regiment level I would convene the meetings amongst the
12 companies under my control. And as I stated, it could be a
13 regular monthly meeting or it could be based on the real need of
14 the situation.

15 [09.41.25]

16 Q. Thank you.

17 I want to move next to the military orders for the attack on
18 Phnom Penh.

19 Now, you said at E3/419, answer 3 - and I quote:

20 "I attended meetings with Sam Bit when he said that the entire
21 Southwest Zone army was to just attack the Pochentong Airport and
22 then evacuate the civilian population from the city with the goal
23 of assessing to see who were the Lon Nol soldiers." End quote.

24 Now, how many meetings did you attend to receive the orders for
25 this attack?

14

1 A. When we receive an order from the upper level, in particular
2 for the attack on Phnom Penh, I only knew about the plan for my
3 spearhead, and for the – that is, for my battalion. And in fact,
4 the spearheads that I was to attack was around this area – that
5 is, Kantouk area and then leading to the Pochentong Airport. And,
6 of course, I was not aware of the instructions from – for other
7 directions of spearheads. I only knew what was assigned to me.

8 Q. Now, how long before the liberation of Phnom Penh, which was
9 on the 17th of April 1975, how long before that, in days or
10 weeks, did you receive your orders for the attack?

11 [09.44.06]

12 A. In fact, we received the orders one month before it happened;
13 because once we received the order then we need to conduct a
14 proper sort of research. And we needed the time in order to
15 monitor the situation and then to make the report before the
16 attack commenced.

17 Q. Where were you when you received these orders one month
18 beforehand – in other words, what village were you near or in
19 what part of the country were you based?

20 A. In fact, I was in the special battalion unit. It means that we
21 made a sudden attack and a sudden withdrawal, and for that
22 reason, in fact, we based ourselves at the rear, and for the
23 attack of Kantouk and Pochentong, we were about 10 kilometres at
24 the rear, because we only made a sudden attack, and then we made
25 a sudden withdrawal, and then the infantry would take charge of

15

1 the battlefield after we withdrew ourselves.

2 Q. I just want to go back to the orders one month before the
3 attack.

4 Can you remember where you were when you received those orders,
5 or how far away from Phnom Penh you were when you received those
6 orders?

7 A. This location, and when you talk about the battlefield, that
8 was my direction, leaving from Kantouk to Pochentong; and at that
9 time, I was about 3 kilometres away from this area.

10 [09.46.33]

11 Q. Was it explained to you in the special battalion unit why it
12 was important to assess who were the Lon Nol soldiers?

13 A. To me, it is not that difficult, because during the war time
14 the Lon Nol soldiers wore different military uniforms - that is,
15 their para uniforms - and for us, we dressed in the black
16 uniforms. And as for the geographical area, it is distinct. Lon
17 Nol soldiers stayed on one location and we stayed on the opposite
18 direction or location.

19 Q. You said that you received the orders one month beforehand;
20 you then had to make preparations. Now, were any instructions or
21 orders given as to what you should do with captured Lon Nol
22 soldiers during the attack on the airport?

23 A. During the battlefield, there was a universal principle of the
24 prisoner of war. The Upper Echelon always instructed us not to
25 kill the prisoners of war. So, after we liberated the area, and

16

1 if any prisoners of war were arrested, then I would send them to
2 the rear. And of course, it is up to the rear to do whatever they
3 do with those people.

4 [09.48.53]

5 Q. You said that your orders were to evacuate the civilian
6 population from the city. Now, were any reasons given to you for
7 the need to evacuate the civilian population from Phnom Penh?

8 A. As for the issue of evacuation, I'd like to state that of
9 course for any battlefield the civilians would flee from the
10 battlefield area, and at my battalion level, I would not know
11 about the policy of the upper echelon at the rear. But from what
12 I could say, during the battle, people would flee from the
13 battlefield and then they would run to the rear, and I would not
14 know the policy of the upper echelon at the rear to deal with the
15 evacuated people from the battlefield.

16 Q. What my question was aimed at was, were you given any Party
17 line or military instruction on why the people had to be
18 evacuated out of Phnom Penh?

19 A. As I just stated, for the evacuation of people at my level, I
20 was not informed, because I never received instructions from the
21 Upper Echelon regarding this matter. What I only observed was
22 that for any battlefield area the people or the civilians would
23 evacuate themselves to the rear.

24 [09.51.14]

25 Q. Now, on the days leading up to the liberation, did you just

17

1 fight your way towards Pochentong Airport or did you come into
2 Phnom Penh city itself?

3 A. For my spearhead, we did not enter Phnom Penh. We remained at
4 the Pochentong Airport upon our attack, because when we reached
5 and took control of the airport, then the infantry would arrive
6 and then they would base themselves at the airport, and we
7 withdrew ourselves to - back to the rear.

8 Q. So, if we take a few months after the liberation, say, let's
9 say May, June, July of 1975, where were you based during this
10 period?

11 A. About two months after the liberation of Phnom Penh, my
12 battalion forces were required by the Upper Echelon to go to the
13 Khmer-Vietnamese Border at the Mongkol Borei district in the
14 current Takeo province.

15 [09.53.03]

16 Q. Now, who was the military commander of your zone at this
17 stage?

18 A. The divisional commander at the time was Sam Bit.

19 Q. And who, if anyone, was above Sam Bit in the military
20 hierarchy?

21 A. The commander above Sam Bit was the zone commander, and that
22 was Ta Mok. He took charge of the entire Southwest Zone.

23 Q. Now, you've mentioned Sam Bit being one of the commanders. You
24 also mentioned in E3/419, answer 4, that Meas Muth was also a
25 commander of - I don't know, was it Brigade or Division 3? Can

1 you clarify that?

2 A. In the Southwest Zone, there were two brigades, Brigade number
3 2, led by Sam Bit, and Brigade number 3, led by Meas Muth.

4 [09.54.56]

5 Q. And where was Meas Muth's brigade located?

6 A. Brigade number 3 of Meas Muth during the wartime was based
7 along National Road – was based on both sides of National Road
8 Number 4, so they could in fact direct their way either to
9 Kampong Som or to Phnom Penh.

10 Q. How long had Meas Muth commanded Brigade 3?

11 A. As I recall, he was in charge of the brigade for only a few
12 years, about two to three years, and upon the time that Phnom
13 Penh was almost liberated, in fact, he left the brigade and Seng
14 came to replace him for Brigade Number 3.

15 Q. Now, Mr. Ieng Phan, we have a document on our case file; I'm
16 not going to show it to you, I just want to refer to it. It's the
17 August 1975 issue of the "Revolutionary Flag". It's E3/5. But
18 this document reports that on the 22nd of July 1975, there was a
19 ceremony of the Communist Party of Kampuchea Centre to establish
20 the Revolutionary Army of Kampuchea. Now, do you have any
21 knowledge of this ceremony for the formation of the Republican
22 Army of Kampuchea?

23 [09.57.25]

24 A. No, I do not know about the creation of that army because I
25 only knew that the army existed since 1970 until 1975, because to

1 my knowledge, I only knew about the two brigades - that is,
2 Brigade Number 2 and Number 3, in the Southwest Zone.

3 MR. RAYNOR:

4 I am going next to be reading some extracts from your OCIJ
5 statement that I referred to. Can I hand the copy to you just so
6 that you can follow the questions?

7 And I'm - can, Mr. President, this document please be provided to
8 Mr. Ieng Phan?

9 MR. PRESIDENT:

10 Yes, you may do so.

11 Court Officer, could you deliver the document from the
12 Prosecution for the witness examination?

13 [09.58.32]

14 BY MR. RAYNOR:

15 Q. Mr. Ieng Phan, my first question is going to relate to answer
16 number 14, answer number 14, in this document, and this is about
17 screening and removal.

18 You were asked this question: "What do you know about screening
19 and sweeping clean within the Khmer Rouge Army framework?"

20 And your answer was - and I quote: "During the Khmer Rouge era,
21 in general, there was screening within the army framework. That
22 is, if they discovered someone-"

23 Sorry, I'll start again: "That is, if they discovered that
24 someone had inclinations toward former high ranking Lon Nol
25 soldiers, that person would be removed from their position or

20

1 sent to another location like an agricultural worksite. They were
2 not allowed to work again inside the Khmer Rouge military
3 framework. I never saw any killings of people discovered to have
4 those inclinations." End quote.

5 Now, in this screening process, did you ever have to provide a
6 biography or personal history?

7 [10.00.56]

8 MR. IENG PHAN:

9 A. In the common practice in the Khmer Rouge military army, in
10 particular around 1976 and '77, there was a process of screening,
11 as I stated in my interview. Those people who had their relatives
12 who were high-ranking or former high-ranking officials, they
13 would be removed and sent to the rear to raise chickens, to raise
14 pigs, or to break rocks, or to plant cotton, etc. And that was
15 the fact.

16 However, amongst the army, there were only a few cases. For
17 instance, in my unit, there were only two or three cases, and if
18 I recall correctly, nothing happened to them, and that's what
19 happened. And I do not know about other events or incidents
20 happened elsewhere. I could only attest to what happened under my
21 unit.

22 Q. What were the ranks of the people that you know who were
23 removed?

24 [10.02.29]

25 A. As I just stated, I only knew about the unit under my

21

1 supervision, and I did not know what happened in the other units.

2 At that time, the Liberation Forces never used the word

3 "ranking"; we only referred to the military framework, for

4 example, a company, a battalion, or a regiment. And under my

5 battalion, there were those companies and there was a very few

6 combatants who were removed.

7 Q. The question was driving at what level were these people who

8 were removed. Were they commanders, were they at platoon level,

9 company level?

10 A. We can say - I can say that for those people who were found,

11 they were plain combatants, they were also within the platoon

12 level, so the company levels, but I would like to confirm again,

13 there were only very few cases.

14 [10.03.53]

15 Q. I'd like to read, next, an extract to you from a document

16 number E3/798.

17 This is a document from the 30th of August 1976, and it is the

18 meeting of the minutes of the meeting of secretaries and deputy

19 secretaries of divisions and independent regiments. And the

20 extract I want to read is on English ERN 00183968; Khmer,

21 00052382; and French, 00386199. And I quote:

22 "Brother 89 gave an additional summing up:

23 "1. From the discussion, it is apparent that the enemy has

24 commenced activities, and these are activities endowed with a

25 leadership network because the news is the same and the slogans

1 are the same.

2 "The enemy would like to take the opportunity to gather up
3 no-good elements, the status and rank-conscious, those whose
4 families we have swept out, those whom we have removed from their
5 positions, and those who have not internalized the Revolutionary
6 Movement and can't keep up with the rest, and, at the same time,
7 the new people who don't yet understand things, whom we are
8 putting in difficulty and temporarily lack food: the CIA enemy is
9 finding opportunities to gather them all up to attack us." End
10 quote.

11 Now, Mr. Ieng Phan, in your time in the military, from 1975
12 onwards, did any military people talk about "no good elements" or
13 not?

14 [10.07.10]

15 A. In general, in the military forces, of course, people would
16 talk from one to another about the screening, about the removal
17 of this person or that person. However, there was no official
18 instruction for the commanders to proceed with this policy of
19 something. Like us, or like myself, I was not instructed to do
20 so. And for instance, even in my unit, if people were to remove,
21 I was not informed. There would be instructions from the Upper
22 Echelon and those people would have removed.

23 Q. Do you know who came to remove the people from your battalion
24 and where they were from?

25 A. They either came from the divisional level or from the zone

1 level, and when they arrived they would say they would like to
2 invite this person or that person as they were required by the
3 upper level. And of course, I did not have anything to say in
4 that and everybody was scared. I, myself, was scared, in
5 particular, during the period from 1976 to 1978. Regardless of
6 your position as an ordinary combatant or a commander, everybody
7 was scared, and that's the real situation at the time.

8 [10.09.17]

9 Q. I appreciate you and you were in the military. But did you
10 know anything about the removal of New People who don't yet
11 understand things?

12 A. As a soldier, I was really unclear on this issue. For things
13 related to screening, or you can say, related to the political
14 affairs, we, the military, we would not know much about that. Of
15 course, we were fully familiar with the military training, with
16 the defence of our territory. So we did not know what happened
17 much at the rear as we place ourselves for the protection of the
18 country and the border.

19 Q. On the topic of screening and removal, was the CIA ever
20 mentioned, or did you ever hear mention of the CIA?

21 A. During the war time, of course, I heard of the word
22 "screening" and "CIA". Even during the battlefield and after the
23 battlefield, the word was still heard.

24 [10.11.34]

25 Q. You said in E3/419, answer 1, that in October 1976 you became

24

1 the chairman of Regiment 12. Now, was that a promotion for you?

2 A. The promotion was in fact for me as I had been the special
3 battalion commander for quite a long time. So, for that reason, I
4 was promoted and I left the special battalion to become the
5 commander of Regiment 12 under the supervision of Brigade Number
6 2.

7 Q. Now, you've mentioned before this that the Southwest Zone had
8 two brigades, but you stated in this answer that the Southwest
9 Zone military structure changed from two brigades to four
10 brigades. Now, can you help us on why that enlargement of the
11 brigades took place?

12 A. I can say that after the liberation – and it was around 1976
13 or 1977 – two additional brigades were installed and Brigades
14 Number 2 to Number 3 were changed to 210 and 230, respectively,
15 and then there were additional brigades, 250 and 270. So, after
16 the war ended, and in late '76 or early '77, there were four
17 brigades in the Southwest Zone, situated along the
18 Vietnamese-Cambodian border.

19 [10.14.06]

20 Q. Thank you.

21 I want to move on to military communication, at this stage.

22 You've already given an answer about communication, but I want to
23 read you, please, some extracts from that document, E3/419.

24 The first was answer 7 where, when referring to 1977, you said –
25 and I quote: "I was commander of Intervention Brigade 221 in

25

1 direct combat with the Vietnamese troops."

2 Now, is this another promotion, because you had been talking
3 about you being promoted from battalion to regiment? In this
4 extract, you're talking about an intervention brigade. Is that a
5 promotion, or have I got that wrong?

6 A. I just stated that I was in Regiment 12 under the supervision
7 of Brigade Number 2. However, in early 1978, I was sent by the
8 Upper Echelon to Svay Rieng province. So my regiment also went to
9 Svay Rieng. So that is for Brigade Number 2, there was a shortage
10 of my regiment, 12, as we moved to Svay Rieng.

11 [10.15.54]

12 And in Svay Rieng, I was also assigned to be in charge of other
13 three regiments. So, in terms of the military structure, I was in
14 charge or became promoted to become the commander of the
15 Intervention Brigade Number 221 at the time.

16 Q. Thank you, Mr. Ieng Phan; a clear answer.

17 Now, at question 11, in E3/419, you were asked this question -
18 and I quote: "In your position as a brigade commander, how did
19 you communicate with upper-echelon about the work?"

20 Answer: "My military communications were by telegrams, which were
21 transmitted by a 15 watt machine in secret code numbers and then
22 were decoded into letters of the alphabet. The machine could be
23 used with communications radios as well. I routinely used
24 telegrams like this and always sent them to Ren. My telegrams did
25 not pass through any other leadership level, but I do not know

1 who Ren sent telegrams to or what levels they passed through. I
2 received telegrams many times directly from Son Sen. They were
3 about military plans, but those telegrams never passed through
4 any leadership level. After I received the telegrams, I called my
5 subordinates to set out plans to follow the orders of Ren." End
6 quote.

7 [10.18.27]

8 In terms of the telegrams that you received many times directly
9 from Son Sen, were those telegrams only to you or were they
10 copied to other people?

11 A. As for the secrecy of the military, and if Ren or Son Sen sent
12 a telegram to me as the commander of brigade, of course, there
13 would be a direct communication from them to me, and I would not
14 send any telegram to my subordinates. My approach was not to give
15 them any written document because that is for the purpose of the
16 secrecy, and I would convene a meeting for my subordinates, and
17 whatever they could get during the meetings, then that's it.

18 Q. If you were receiving a telegram from Son Sen, would it be
19 apparent from the telegram that it had been copied to other
20 people or was it just a telegram to you?

21 A. As I just stated, when I received a telegram I would - or I
22 could not make a copy of the telegram for other people, but it is
23 under my authority to convene the commanders and my subordinates
24 for a meeting. Of course, in the battlefield, when I had a
25 document with me, I could convene the meetings, and those people

1 at the battlefields, they were not allowed to have any written
2 document with them for the sake of the secrecy.

3 [10.20.44]

4 Q. So how important were telegrams in conveying military orders?

5 A. The importance of the telegrams was of the nature of the
6 military instructions. In between 1976 to 1978, there were issues
7 at the border with the - with Vietnam, so the instructions from
8 Ren and from Son Sen in the telegrams were about the protection
9 of the territorial integrity at the border and about the attack
10 and counterattack.

11 Q. I'm moving to 1977, but only very briefly.

12 You said in E3/419, answer 5 that you were called by Ren to
13 attend the meeting at Ta Mok's house in Takeo city, and that
14 meeting was attended by all brigade and division commanders. What
15 was the purpose of this meeting at Ta Mok's house?

16 A. In late 1977, there was a meeting in which I participated and
17 it was held in Takeo province. It was required for certain
18 military units to send their forces to the East - that is, to
19 Svay Rieng province. That was the main theme of the meeting at
20 the time.

21 [10.23.00]

22 Q. You said also in answer 5 that "Ren frequently went up to
23 meetings in Phnom Penh with Pol Pot and Son Sen. He wrote telling
24 me". So, just roughly, how many occasions did Ren write to you?

25 A. As for each meeting, and as I stated in my document, while I

1 was in Svay Rieng, there was the information of a division and
2 Ren was in charge of the division comprising of five brigades,
3 and my brigade was the Intervention Brigade Number 221, and we
4 were a mobile force. And there were other brigades, including 840
5 and 807.

6 And Ren was the commander of the division, and of course, he had
7 the authority to join the meeting with the Upper Echelon, and I
8 was not allowed to do so, but after the meeting, then he would
9 disseminate the information to the five brigades in a meeting
10 where the brigade commanders and the deputy brigade commanders
11 would attend such a meeting.

12 [10.24.44]

13 In circa 1977 and 1978, there were already attacks back and forth
14 with the Vietnamese forces. For that reason, secrecy was of the
15 utmost importance, and of course, we would not be allowed to leak
16 any information, and telegrams were in fact encoded. And the
17 instructions were all around this very topic.

18 Because as for the military, the military did not focus about
19 anything at the rear, we only focused on about the protection and
20 the defence of our territorial integrity and the attacks and
21 counterattacks, and of course the approach of doing that would be
22 sometimes to draw a sketch on the board for the attacks. And I am
23 sure that, as you stated earlier, you were also in the military
24 for some time, and secrecy for the military was an utmost
25 importance.

1 Q. Thank you, Mr. Ieng Phan.

2 I'd like just to read a couple more extracts about meetings.

3 We're getting towards the end of my questioning.

4 [10.26.02]

5 E3/419, answer 12, you were asked this question: "While you were
6 based in Svay Rieng, did Ren ever hold meetings to tell you about
7 any plans for treason by people in the East Zone?"

8 And your answer: "Ren made announcements during meetings about
9 treason by East Zone cadres, saying that this person had been
10 arrested or that person was sent to upper-echelon, and others had
11 fled to Vietnam. [...] I knew that Ren frequently went up to
12 meetings in Phnom Penh, since he wrote documents telling me that
13 he was going up to Phnom Penh for meetings and requesting that
14 those at the base area master the battlefield with vigilance.
15 Going to Phnom Penh for meetings certainly meant meetings with
16 Pol Pot and Son Sen. The most senior persons in regard to
17 military planning were Pol Pot and Son Sen."

18 Just an approximation: Can you help us on how many times Ren went
19 to these meetings in Phnom Penh - just roughly?

20 [10.28.10]

21 A. In late 1977 or early 1978, the attacks already took place
22 with Vietnam. So Ren, the division commanders, went for meetings
23 in Phnom Penh frequently. I could not count the times or the
24 number of times. However, sometimes he would go on a weekly
25 basis, depending on the urgency of the situations, but of course

30

1 it took place more frequent. The longest was 10 days.
2 Upon their arrival back at the base, the commanders would
3 disseminate those military instructions to the subordinates. They
4 talked about the defence, about the attack and the counterattack,
5 as I stated earlier, and of course, those were the instructions I
6 received in my capacity as the brigade commander regarding the
7 deployment of troops and the attack and the counterattacks.

8 [10.29.30]

9 MR. PRESIDENT:

10 Thank you, Mr. Witness and the Prosecution.

11 The time is appropriate for a short break. We will take 20
12 minutes break and return at 10 to 11.00.

13 Court Officer, could you assist the witness during the break and
14 have him returned to the courtroom at 10 to 11.00?

15 The Court is now in recess.

16 (Court recesses from 1030H to 1053H)

17 MR. PRESIDENT:

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

19 The floor is once again given to the Prosecution to continue
20 putting questions to this witness. You may continue.

21 BY MR. RAYNOR:

22 Thank you, Mr. President.

23 Q. Mr. Ieng Phan, before the break, you were giving evidence
24 about Ren going to meetings in Phnom Penh. My next question
25 concerns the further dissemination downwards through the military

31

1 of instructions, and you dealt with this at answer 13 in E3/419.
2 You were asked – and I quote: "How did Ren disseminate
3 information from those meetings to brigade/division level after
4 he returned to Phnom Penh? Did he talk about who had attended
5 those meetings?"

6 [10.55.18]

7 Answer: "After returning from Phnom Penh, Ren always called all
8 brigade/division commanders to meetings to tell them what he had
9 participated in while he was in Phnom Penh and to tell those who
10 attended the meetings that the upper-echelon attendees were just
11 Pol Pot and Son Sen because they were both responsible for the
12 military. As for the content of the meetings, he spoke only about
13 military strategy and planning focused on countering and fighting
14 Vietnam." End quote.

15 Now, did you then pass on Ren's orders to your soldiers?

16 MR. IENG PHAN:

17 A. Thank you for your question.

18 After I received instructions from Ren, I will disseminate the
19 information regarding the planning and the countering to my
20 subordinates, and I did that through my regiment levels.

21 [10.56.57]

22 Q. So that we have it clearly, you, as the brigade commander,
23 would then get regimental commanders together and pass orders to
24 them; is that correct?

25 A. Yes, that is correct.

1 Q. I'd like to move on to another subject, which is the number of
2 evacuations that took place during the Democratic Kampuchea
3 period from April 1975 through to January 1979. And this was
4 covered in E3/419, answer 15 - and I quote-

5 This is the question from the investigator - I quote: "According
6 to Democratic Kampuchea documents, there were three large-scale
7 evacuations. The first was in April 1975. The second was in mid
8 1975 until 1978. The third was in May 1978.

9 In your position as a military commander, did you know about
10 these evacuation plans?"

11 And your answer: "I heard Ren personally talk about all those
12 evacuation plans, and in general even the ordinary Khmer Rouge
13 combatants knew or heard about those plans. I personally saw them
14 evacuating those people." Close quote.

15 [10.59.18]

16 Now, Mr. Ieng Phan, we've covered April 1975 already. I'd like to
17 ask you, please, about the second large-scale evacuation that
18 started in mid 1975. Can you help us, please, on where people
19 were evacuated to or what the nature of the evacuation was that
20 started in mid 1975?

21 A. I already stated earlier regarding the 1975 event. At that
22 time, I was the special battalion commander, and three months
23 after the liberation of Phnom Penh, my Special Unit was sent by
24 the Upper Echelon to Takeo province adjacent to the Vietnam
25 border. So, for the mid 1975 evacuation, I was not aware of it. I

1 only heard about it, but I did not personally witness the
2 evacuation as I had already been sent to Mongkol Borei district
3 near the Vietnamese border.

4 Q. Now, in terms of what you heard about the evacuation that
5 started in mid '75 until 1978, were people being moved from any
6 particular area to another area, or can you not help us on this?

7 [11.01.28]

8 A. I already stated that I could not explain to you because I did
9 not witness it as I had already left the area - that is, three
10 months after the liberation of Phnom Penh, I was sent to Mongkol
11 Borei district. And at that time, I rarely returned home in three
12 or four months' time.

13 Q. So what did you hear about the second evacuation?

14 A. I only heard about it but I was myself. I did, myself, not
15 receive any instructions from the Upper Echelon, I only heard
16 that after the liberation of Phnom Penh the people were evacuated
17 to the provincial towns and then to further areas, because, at
18 that time, Phnom Penh and provincial towns did not have many
19 people as they were sent further.

20 Q. Let me put the question this way: In your interviews you said
21 that the second evacuation started in mid 1975 until 1978. Now,
22 is this when people were being evacuated to provincial towns?

23 A. Yes, that is correct. People had been evacuated from the
24 cities and the towns.

25 [11.03.16]

1 Q. Can you help us on any of the provincial towns or cities that
2 people were evacuated to during this period?

3 A. Regarding the evacuation, I was not fully sure of the exact
4 event, but as in my native village and about my relatives who
5 lived in Phnom Penh, they were evacuated back to our native
6 village - that is, in Tram Kak district, Takeo province. And
7 after I was sent to the border, and then one time I came to visit
8 my native village, and I saw my relatives living in my native
9 village who had been evacuated from Phnom Penh.

10 Q. You said in the extract I just quoted: "I personally saw them
11 evacuating those people." So that we're clear, what evacuation
12 did you personally witness?

13 A. As I just stated, I saw people evacuated during the time that
14 I was engaged in the battlefield near the Pochentong Airport,
15 because at that time, once the battlefield was heated up, people
16 fled from the area; people walked on foot and sometimes they
17 drove their vehicles. That was the event that I personally
18 witnessed.

19 [11.05.39]

20 MR. RAYNOR:

21 Mr. Ieng Phan, thank you. Those are all the questions from me,
22 but I'd like, at this stage, please, to hand over to my national
23 colleague, Song Chorvoïn, to ask you some further questions. But
24 I'm grateful. Thank you.

25 QUESTIONING BY MS. SONG CHORVOÏN:

1 Good morning, Mr. President, Your Honours, and everyone in and
2 around the courtroom, and good morning, Mr. Witness, Ieng Phan.

3 My name is Song Chorvoin, representing the national prosecutor. I
4 only have a few questions to add to what have already been asked
5 by my international colleague.

6 Q. You already stated, in response to my colleague's questions
7 regarding the screening of the Lon Nol soldiers, while you
8 attacked along the road leading to Pochentong Airport. I'd like
9 you to further clarify this point.

10 [11.07.15]

11 My colleague asked you the question that when the entire
12 Southwest Zone attacked the area in Pochentong and people or
13 civilians were evacuated from Phnom Penh for the purpose of
14 monitoring who were the former Lon Nol soldiers, and in your
15 response to this question you stated that you did not know about
16 the arrests of the Lon Nol soldiers, what you only said was that
17 the Lon Nol soldiers wore different uniforms from the Khmer Rouge
18 soldiers.

19 My question is the following: In order to know whether they were
20 the Lon Nol soldiers or the Khmer Rouge soldiers, were there any
21 special marks in addition to the uniform, as you already stated?

22 MR. IENG PHAN:

23 A. Thank you for your question.

24 When we attacked the Pochentong Airport, and in particular from
25 this area to the airport, which was my main target, there were

1 civilians mixing with the soldiers, we could only recognize the
2 soldiers who were wearing their uniforms. And a lot of soldiers
3 in fact changed their uniforms and wore civilian clothing. And
4 that's what happened, after they changed the uniform and then
5 they went to the rear, and I did not know what happened to them
6 at the rear.

7 [11.09.15]

8 Q. Thank you

9 You said there were some Lon Nol soldiers who were still wearing
10 the military uniforms. When those Khmer Rouge soldiers arrested
11 the Lon Nol soldiers, what happened to those Lon Nol soldiers?

12 A. I already stated earlier, during the attack on Phnom Penh, in
13 particular, in the Pochentong Airport area, the Upper Echelon in
14 fact gave us instructions regarding the universal principle of
15 the prisoners of war, that they should not be tortured. So, for
16 those soldiers, who were arrested, were sent to the rear, and
17 that was out of our responsibility once we sent them to the rear.
18 Then people at the rear or at the base would have to deal with
19 them, and that was beyond my knowledge.

20 Q. Did your Upper Echelon give us the reasons for the distinction
21 between the Lon Nol soldiers and whether the Lon Nol soldiers who
22 were arrested had to be sent to the rear?

23 A. During the heat of the battlefield, it is common that each
24 side had to monitor the situation and the people in particular to
25 look for the weapon or grenades and we had to confiscate those

1 weapons. That was the main task of the military as it had things
2 to do with the security itself.

3 [11.11.10]

4 Q. Can you recall at that time whether those soldiers under your
5 supervision made any arrests of the Lon Nol soldiers?

6 A. For my soldiers, we focused on advancing to the Front. We did
7 not focus on arresting the Lon Nol soldiers. If we met those Lon
8 Nol soldiers, we would only confiscate their weapons and then
9 they would be sent with the civilians to the rear. We only
10 confiscate their weapons and ammunition. That's what happened in
11 the battlefield.

12 If our force had to deal with sending or dealing with those
13 soldiers, then we would not have the forces to advance further.
14 So we only retained the weapons and the ammunition and the people
15 would be sent to the rear.

16 [11.12.11]

17 Q. Did you meet a lot of soldiers, Lon Nol soldiers, who were
18 sent to the rear, if you can recall?

19 A. I cannot recall that, because there were a lot of Lon Nol
20 soldiers in various divisions. There were hundreds and thousands
21 of them from this area leading to Pochentong area, so it is
22 difficult to put the exact number on those soldiers; it was in
23 the hundreds. Some of them surrendered their weapons and then we
24 would collect those weapons.

25 Q. Thank you, Mr. Ieng Phan.

1 I'd like now move on to a new topic, but the topic had already
2 been asked by my international colleague.

3 Regarding the screening within the military framework, in your
4 statement - that is, E3/419 - in answer number 14, you stated
5 that during the Khmer Rouge there were screenings within the
6 military framework. If people who had been found to have
7 inclinations with the Lon Nol - with the high-ranking Lon Nol
8 soldiers, they would be removed or sent to another location, for
9 instance, the agricultural worksites to raise pigs, chickens, to
10 break rocks, or to plant cotton.

11 [11.13.54]

12 My question is the following: At that time, how did you do it?
13 How did you know whether the person had the inclination with the
14 high-ranking Lon Nol soldiers?

15 A. It is not difficult to do the screening because, at that time,
16 everyone had to write their biography, including myself. And in
17 the biography, nobody dared to hide anything, because based on
18 the biographies then people would be sent to their native
19 villages to actually find out whether the biographies were true.
20 As in my case, I wrote my biography and people were sent to my
21 native village to ask about my background. So it is not possible
22 to hide anything in the biography.

23 For that reason, it is easy to find out whether anyone was
24 involved with the Lon Nol soldiers, based on their biography, as
25 they had to go to their native village, and then they would

1 secretly monitor them in their current unit. That's how it was
2 done.

3 [11.15.26]

4 Q. Did you know from when was the biography started?

5 A. Let me give an example, when I joined the army I already had
6 to write my biography including my name, my place of birth. So
7 the biography was already done by the time. It means that for all
8 the soldiers or civil servants when they started engaging in
9 their work of employment or the service, then they had to write
10 their biography. And during the war time, whether the biography
11 was good or not, the force would be retained. But in 1977 or
12 1978, for those people who had the inclinations during the
13 screening process, then they would be removed and transferred to
14 other locations to raise chickens, pigs or to plant cotton or
15 break rocks as just stated.

16 Q. For the making of a biography in 1976, '77 or '78 as you
17 stated, was it a Party policy or did you yourself come up with
18 the decision of making a biography?

19 A. That was the policy implemented within the military. Allow me
20 to say that that was the common practice even for the current
21 military; everybody has to make their biography in the military
22 service.

23 [11.17.40]

24 Q. This is my last question and it is related again to making a
25 biography.

1 After the soldiers made their biographies and that you had to
2 decide whether they had any involvement with the Lon Nol soldiers
3 or whether the biographies had to be sent somewhere or through
4 the upper echelon for a decision to be made?

5 A. Allow me to answer briefly. At my level we had no authority to
6 decide on the biographies. Of course we would ask the
7 subordinates to make biographies and then their biographies would
8 be sent further to the upper echelon.

9 Q. What was the highest level of biography that you had to send -
10 the highest level of upper echelon where you had to send the
11 biographies to?

12 [11.18.46]

13 A. For example, if I was at the battalion level then the
14 biographies will be sent to the regiment and the regiment would
15 send further to the division or the high upper echelon where the
16 decisions would be made.

17 MS. SONG CHORVOIN:

18 Thank you, Mr. Ieng Phan. I have no further question for you.

19 And thank you, Mr. President.

20 MR. PRESIDENT:

21 Thank you.

22 The floor is now given to the Lead Co-Lawyers to put questions to
23 this witness. You may proceed.

24 MR. PICH ANG:

25 Mr. President, the assigned lawyer is Chet Vanly and Christine

1 Martineau. May we seek your permission?

2 MR. PRESIDENT:

3 Yes, they may do so.

4 [11.19.42]

5 QUESTIONING BY MS. CHET VANLY:

6 Good morning, Mr. President and Your Honours. Good morning,
7 everyone in and around the courtroom, and good morning, Mr. Ieng
8 Phan. My name is Chet Vanly, the lawyer for civil parties.

9 This morning you made several statements to this Court, and I
10 only have a few additional questions for clarification from you.

11 Q. You had a military commander role in the Khmer Rouge military
12 force. My question is in what year did you become a Party member
13 in the military?

14 MR. IENG PHAN:

15 A. I became a Party member in 1975 - that is, after the
16 liberation of Phnom Penh.

17 Q. Thank you. When you became a Party member in 1975, what was
18 your role?

19 A. I already stated, immediately after the liberation, I was at
20 the battalion level.

21 [11.21.32]

22 Q. Thank you.

23 You already testified before this Court that prior to 17 April
24 1975 you were in charge of attacking the spearhead at Pochentong
25 Airport. And you already stated that you prepared your force one

1 month in advance. The question is: In the anticipation of the
2 attack, how many forces did you prepare? Did you start the attack
3 before the complete victory on the 17 April 1975?

4 A. The attack was not a just one time attack and reach Phnom
5 Penh. We started initially from the outskirt and then all the
6 forces would gather up in this Kantouk area. And before -
7 immediately before the 17 April 1975, my special forces in fact
8 attacked the airport and at that time the opposite forces
9 surrendered.

10 Q. Thank you. When you attacked the airport, what happened, what
11 challenges did you meet? Could you describe the situation?

12 [11.23.28]

13 A. I cannot recall everything. However, for the attack on the
14 airport, my special forces were not the infantry. The infantry
15 only remained at Kantouk. And from this area to the airport,
16 there were the Lon Nol soldiers. But in fact we actually attacked
17 from their behind - from their back. And at that time we actually
18 attacked the ammunition warehouse at the airport and then it
19 exploded. And when it exploded, those Lon Nol soldiers from the
20 area to Kantouk; they raise their hands and then they
21 surrendered. So we did not in fact engage in large-scale attack,
22 only the Special Unit was involved in the attack on the airport.

23 Q. Thank you.

24 You said that during the attack all the Lon Nol soldiers raise
25 their hands and surrendered. What measures were taken against

1 those defeated or surrendered soldiers, or those prisoners of
2 war?

3 [11.24.44]

4 A. I already replied to that question. My main duty was at the
5 front battlefield. When those Lon Nol soldiers surrendered, we
6 would confiscate their weapon and ammunition and they were sent
7 along National Road Number 4 to the rear base.

8 And as I stated, the principle that the soldiers had to abide by
9 was not to mistreat the prisoners of war during war time.

10 Q. Thank you.

11 Upon the complete control of the airport and the prisoners of war
12 were gathered up, what measures did you take for example to
13 gather up or to collect the military uniforms and the weapons?

14 A. I supervised the Special Unit and the role of the Special Unit
15 was to attack and once the victory was gained, then we withdrew
16 ourselves to the back. And for those people who gathered the
17 spoils of war were the responsibility of the infantry.

18 [11.26.15]

19 Q. Thank you.

20 After the victory was gained against the Lon Nol soldiers, what
21 did you witness? What were the events like? What was the
22 situation involving the civilians? Here I'd like to refer to the
23 situation of the civilians. Were they in a chaotic situation or
24 were they evacuated or what happened to those civilians?

25 A. In fact, I already replied to that question earlier. After the

1 victory was achieved, people had already started leaving the
2 city. I did not know about the evacuation, but of course during
3 the heat of the battle, people would flee from the area and they
4 would continue to leave until the city was emptied. And the
5 situation was very confusing at the time.

6 Q. I still would like you to clarify this event. You stated you
7 were responsible for National Road Number 3 and National Road
8 Number 4 and as you stated, the situation back then was very
9 confusing. Can you tell us about the condition of the people as
10 the people were fleeing the area? And of course you were in
11 charge of the Kantouk area and in charge of National Roads 3 and
12 4.

13 [11.28.09]

14 A. As I stated, I was in the Special Unit and after the victory
15 was achieved I did not remain at one place. But I stated during
16 the fighting the situation was confusing, but after the victory
17 was achieved then I would hand over the place to the infantry.
18 And of course I did not know the measures the infantry would take
19 against the people at the time. I was in a special unit, we did a
20 sudden attack and of course we would retreat after the victory
21 and then the infantry would take our place. And I observed the
22 confusing situation in fact during the attack. And as I stated
23 earlier, two or three months later I was transferred elsewhere.
24 We, in the Special Unit, we did not remain in one place.

25 Q. Thank you.

1 This morning you stated before the Prosecution that after the
2 victory was achieved, you saw people fleeing or leaving the area,
3 but you did not mention about anyone who actually oversaw the
4 evacuation process. You stated that you attended a meeting with
5 Sam Bit for the attack on the airport and for the evacuation. So,
6 during the meeting, did you know who was in charge of the
7 evacuation?

8 [11.29.57]

9 A. Allow me to clarify. First, during the attack people would
10 flee the area in a chaotic way. And secondly, after the victory I
11 would hand over the area to the infantry. And thirdly, I would
12 not know about the evacuation. At that time, there were the
13 district committees and the sector committees who would oversee
14 the situation of the civilians. I only can attest to what I saw
15 or did. But I could not tell you about the district committees or
16 the sector committees because this area was a part of Phnom Penh
17 or Kampong Speu and it was not a part of Takeo province. So I
18 would not know who were the Kampong Speu committee or the Phnom
19 Penh committee at the time. The meetings were only purely of the
20 military nature and affairs.

21 Q. Thank you. In your written record of interview with the
22 Co-Investigating Judges - that is, document E3/149, in answer
23 number 9, ERN in Khmer is 00407750; and in English, 00411007; and
24 in French, 00434788 - that you visited Phnom Penh after the
25 liberation of Phnom Penh on 17 April 1975.

1 [11.31.36]

2 My question is: During that trip who actually authorized you to
3 go? And when you arrived in Phnom Penh, what situation did you
4 observe? Were people remained in Phnom Penh or there was the
5 process of evacuation or Phnom Penh was already emptied?

6 You stated that you went to Phnom Penh on two occasions; one was
7 during the attack and second during the time that you visited
8 Phnom Penh. And my question to that point is that: Did you meet
9 any of the senior leadership during these two trips?

10 A. So, at first, when I attacked in Pochentong I did not go into
11 Phnom Penh. But other unit went into Phnom Penh so that was the
12 responsibility of the other units. Half a month after the attack
13 I moved back to the base and then I asked for a permission to
14 visit Phnom Penh. So, when I arrived at Phnom Penh there was no
15 people, no ordinary people, only soldiers were inside Phnom Penh
16 and soldiers from different units. So there were only soldiers
17 inside Phnom Penh. So I just visited Phnom Penh for only one day
18 and then I returned to my base.

19 [11.33.18]

20 Q. I would like you to clarify, after you visited Phnom Penh what
21 was the condition of the city like? So, as you know, usually a
22 city is full of people but I want to ask what you see during your
23 visit to Phnom Penh at the time?

24 A. I did not see ordinary people over there; the city was quiet.
25 Only Khmer Rouge soldiers were over there. The markets were in

1 chaos and material, machinery were dumped on the road and there
2 was no people over there.

3 Q. So who authorized you to visit Phnom Penh?

4 A. So, as I said, I asked for the permission to visit Phnom Penh
5 because I want to know what happened inside Phnom Penh. So,
6 around 20 days after I attacked into Phnom Penh and then I asked
7 for the permission to visit Phnom Penh. So I do not know what
8 happened immediately after the attack, but this is 20 days after
9 the attack.

10 [11.35.04]

11 Q. According to your written record, answer number 5 in your
12 written record in document E3/419, ERN in Khmer ending in 49, and
13 ERN in French ending in 87, you stated that, at the end of 1977,
14 Ren, the son-in-law of Ta Mok, called you to attend a meeting at
15 Ta Mok's house in Takeo. During the meeting Ta Mok mentioned
16 first the arrangement of troop to support the troop in the East
17 to counter attack to resist the Vietnamese troop. And secondly,
18 to prepare the troop to support the troop in the unit which -
19 whose troop have been withdrawn to the East. So I would like to
20 ask you about the contents of the first meeting and the second
21 meeting here.

22 A. That question has been asked earlier already. As I said, I
23 attended a meeting at Ta Mok's house with Mr. Sam Bit. The
24 meeting was held in late 1977. At that time, the Khmer Rouge was
25 fighting with the Vietnamese already, so the forces from the

1 Southwest had been sent to Svay Rieng to the east already ahead
2 of me. And the meeting was aimed to organize the troop to send my
3 regiment to the East Zone. As I said, there were five divisions
4 in the East Zone, so my regiment - my regiment and another three
5 regiments - in total four regiments were sent to the East Zone.
6 So the meeting was aimed to organize these troops and the aim of
7 the meeting was to prepare how to resist the Vietnamese troop -
8 the Vietnamese attacks.

9 [11.37.55]

10 Q. What do you know about the purges of the cadres in the East
11 Zone?

12 A. I do not know about that because I went over there in early
13 1978 and at the time the purges had been conducted already. I
14 went over there just for the sake of attacking. So, after I got
15 off the truck and then I started the fighting, so I do not know
16 about the purges.

17 Q. So which division participated in the purges of the East Zone?

18 A. I do not know about the purges of the cadres in the East Zone.
19 I do not know which division participated in that - in conducting
20 the purges because I was in Takeo. And there were many divisions
21 in the north and in the east, so I do not know which divisions
22 were assigned to carry out the purges in the East Zone.

23 Q. So do you know whether the division from the Centre
24 participate in the purges - in conducting the purges?

25 A. As I said, I do not know about that. I do not know about the

1 situation in other zones. And I do not know which divisions were
2 assigned to carry out the purges, because when I arrived over
3 there I just participated in the fighting, in the combat.

4 Q. So I would like to read-

5 [11.40.28]

6 MR. PRESIDENT:

7 I would like the counsel to pay attention to the scope of the
8 trial - to the scope of the hearing which has been decided upon.
9 You have a lot of time and then you just asked a lot of question
10 and you may not pay attention to the scope of the hearing. So
11 please pay attention to that and prepare your question in
12 response to the scope of our trial.

13 BY MS. CHET VANLY:

14 Thank you, Mr. President, I would like - I will do that.

15 Q. Mr. Witness, I would like to move to another topic. During the
16 evacuation of people out of Phnom Penh, were you aware of the
17 policy regarding the non-use of money and the closure of a
18 market? Do you know about that?

19 MR. IENG PHAN:

20 A. There were such policy from the upper echelon. At the time,
21 they used the phrase "You have to rely on yourself, we do not
22 need the aid from foreign country, we do not use money so we had
23 to do everything to help ourselves." These are the slogans or the
24 words used during that regime.

25 [11.42.33]

1 MS. CHET VANLY:

2 Mr. President, because of time constraint, I would like to give
3 the floor to my colleague to put question to the witness.

4 MR. PRESIDENT:

5 You may proceed.

6 QUESTIONING BY MS. MARTINEAU:

7 Thank you very much, Mr. President. Good morning to you. Good
8 morning to Your Honours, and good morning to Mr. Witness. I will
9 be very brief.

10 Q. Mr. Witness, you've just made mention of the Khmer Rouge
11 regime policy and you stated before this Court that you were a
12 member of the Party so I assume that you received training. Can
13 you please tell us what the Party's position was vis-à-vis the
14 army? What kind of objectives had been set for the army during
15 the Khmer Rouge regime?

16 [11.43.52]

17 MR. IENG PHAN:

18 A. Regarding military, I believe that I have answered a lot of
19 relevant questions to this. As a soldier, I had limit knowledge
20 regarding political affairs because I had to engage more on
21 military trainings like - for example, shooting guns and engage
22 in the battlefields. So I can say that I knew very little about
23 the political aspect of this.

24 Q. And during the political meetings that you most certainly
25 attended in your capacity as a member of the Party and your

1 capacity as a soldier, and as was mentioned by my colleague with
2 the Co-Prosecutors, there are two issues of the "Revolutionary
3 Flag", which published the regime's objectives and in particular
4 the objectives for the army. Now, aside from the objective of
5 defending the country, which is obviously a military and crucial
6 goal, there was mention of external enemies, internal enemies as
7 well as a set goal of edifying the nation.

8 [11.45.38]

9 Sir, were you asked to provide assistance other than military
10 assistance? For example, were you asked to work in the
11 cooperatives during 1975 to 1979?

12 A. After Phnom Penh was liberated - a few months after that - I
13 was sent by Upper Echelon to border area with Vietnam to the
14 Angkor Borei location. When I was there, I and my troops were
15 partly assigned to defend the country and others in the group
16 were asked to do farming. And we were asked to ensure that we
17 could produce three tonnes of rice per hectare. And we worked
18 very hard and we could see that the rice we cultivated was
19 stacked into heap and there's huge amount of rice being produced
20 by the soldiers. And the policy - the "great leap forward"
21 policy, made us work both defending the country and cultivating
22 rice. And that what I learned about what happened at the
23 battlefield and I know very little about what happened in the
24 rear. But part of the military work was doing farming to ensure
25 that we can make sure we were self-sufficient.

1 [11.47.53]

2 Q. Thank you, sir. One other question: In your region, at the
3 border region and at the time, even though it wasn't totally calm
4 - it was relatively peaceful around 1976 - were you in contact
5 with civilians?

6 There were soldiers dispatched there. Can you talk to us about
7 the relations that you had in that specific region with the
8 civilian population?

9 A. I also wish to make clear on this and I already mentioned that
10 part - or some soldiers had to defend the country at the border
11 area near Vietnam and also cultivate rice. And we worked with the
12 civilians and we had very good cooperation with the people, the
13 civilians in the country. And we became the role-model military
14 unit, regarding how we cooperated well with the villagers. We
15 also improvised some tools and machines so that they could be
16 used as the pump machines to irrigate water for the paddy fields.

17 [11.49.51]

18 Q. And among the civilians - you talked about villagers and you
19 stated earlier that you yourself were an eyewitness of the
20 evacuation of Phnom Penh as well as the evacuation of other
21 cities and towns of Takeo. You knew this. And you talked about
22 the New People during the political meetings. What kind of
23 relations did you have with those particular people who were not
24 natives of the region but who had been displaced and who were
25 being transferred?

1 A. I briefly mentioned on this. As a soldier who was deployed to
2 the border area, I had contact with the civilians in Angkor
3 Borei, in the paddy fields. But when I come - when I came back
4 home, I only made friends with those people who were evacuated,
5 but only some of them, not all the evacuees, because we were
6 afraid to talk to the 17th of April 1975 People. And we would not
7 be brave enough to discuss any matter with these people. I may
8 talk to only some of my relatives who are very well known to me.
9 [11.52.02]

10 Q. Sir, why were you afraid to talk to the April 17th People? Why
11 were you afraid to talk to the New People? It would be logical to
12 be fearful of what had happened since these people had been
13 transferred; but why were you afraid to talk to them?

14 A. To put it simply, it was none of the soldiers' business to
15 talk to people. When I had the opportunity to visit my hometown,
16 I may talk or meet people who were my relatives, but we were not
17 allowed - or it would be very risky, indeed, to engage in a
18 conversation with strangers or people who were evacuees. And we,
19 as soldiers, would be questioned a lot if we were seen talking to
20 New People. And at that time such question would be put by the
21 chief of sector or the secretary of the zone and the question
22 would not be easy to answer if we were believed to have talked to
23 the New People. So, all in all, we - for example, if we had to be
24 in the meeting, we only talk to people in the meeting and we
25 would never talk to other people outside this vicinity.

1 [11.53.55]

2 Q. Why, then, do you say that if you were seen to be speaking to
3 the New People – the April 17th, 1975, People – why would it be
4 seen in the eyes of zone chiefs and district chiefs to be frowned
5 upon? How were the New People perceived? Were they considered
6 enemies? Were they considered dangerous to the regime? Since you
7 were with the villagers living in the region, why did you feel
8 that the April 17th People, the New People, were placed in such a
9 complicated predicament?

10 A. To make it clear, at that time people were assigned with
11 different tasks. For example, the New People would be
12 administered differently from the Base People. And in the
13 military we had our own assignments and duties, and without – or
14 things that fall outside the scope of our authority or assignment
15 we would never wish to risk putting our job on the line. And for
16 that, soldiers did not engage in conversation with the villagers
17 or the civilians.

18 Q. Mr. Witness, you stated that you returned to your hometown.
19 And in that town, can you please describe to us how labour and
20 work of the villagers was organized, perhaps even the work of
21 your own family members? And can you please tell us how people
22 were being treated different based on the fact that – if they
23 were New People or Base People or if they were being integrated
24 with the locals? Can you please tell us what the situation was or
25 what you heard during the political meetings?

1 [11.56.59]

2 A. Every time I visited my village, I noted that the New People
3 and the Base People mingled well together. They appeared to have
4 the same food ration. And at that time I did not see a lot of
5 people having rice porridge; they ate steamed rice instead and
6 they were equally treated.

7 Q. The village was in a very wealthy area.

8 I have one last question for you, sir. Let's go back to something
9 you stated. You said that you were afraid - earlier you said that
10 you were afraid to talk to the New People. And when you made that
11 statement before this Chamber, approximately one hour ago, in
12 response to a question by the Co-Prosecutor, you seemed to be
13 intimating a sense of fear that emanated from outside, from the
14 environment or from a higher level. Can you please describe in
15 greater detail that fear you harboured?

16 [11.58.54]

17 A. Everyone was fearful - it doesn't matter whether they are New
18 People or they are Base People. Any meeting without proper
19 arrangement would not be allowed. I am talking about a meeting
20 when a lot of people would gather. So such meeting had to be
21 organized and authorized. And if you would like to talk to a few
22 people outside of the meeting, you would do that at your own
23 risk. But if you organize a small gathering, then such gathering
24 must be authorized. If not, then you would have all the reason to
25 be fearful.

1 Q. Yes, but why? Why have that fear? Who was being terrorized?
2 For you yourself, you had carried out a rather exceptional career
3 before 1975 and before the regime, and afterwards you faired very
4 well, you survived, and yet you stated that you were afraid. Who
5 was responsible for instilling that fear, and why?

6 [11.58.40]

7 A. Everyone was fearful. In the military, people were fearful; we
8 were afraid. For example, we would be asked to submit out
9 biographies. After the biographies were submitted, then people
10 would come to check out background again.

11 At that time, although I was holding a higher position, I had
12 some relatives who once lived in Phnom Penh and I was afraid that
13 my affiliation or my relationship would jeopardize my position.
14 That was the fear. Whether it was genuine or not, everyone was
15 fearful. This fear atmosphere was seen both in the military and
16 also among the civilians. And I just don't understand or can't
17 exactly tell you when such fear was instilled in the first place.
18 But to tell you the truth, at that time the policy was rather
19 strict, and people had to mind their own business only. People
20 would not be expected to understand everything in detail, and
21 there was no time when such intimidating environment would be
22 read out in a meeting, but we were just fearful.

23 Q. Indeed. There was a very compartmentalized policy; I
24 understand that. But you stated we were afraid and you didn't say
25 who you were afraid of, or what you were afraid, or why there was

1 fear; you simply made the statement. Were you afraid of your
2 superiors? Were you afraid of the leaders? Were you – who was
3 responsible for causing that fear that reigned?

4 [12.03.27]

5 A. During that time, I myself did not even know who would be the
6 most senior people; I only knew the commanders of the division
7 and Ta Mok, who was in Takeo. I knew no one above them. So, when
8 it comes to fear, I and my subordinates and other commanders were
9 fearful and we just did not know why such atmosphere existed. We
10 just did not know how the fear could be instilled, or from whom,
11 but we just felt that way. The policy of intimidating was not
12 disseminated.

13 MS. MARTINEAU:

14 Thank you very much, Mr. Witness. That brings me to a conclusion
15 of my cross-examination.

16 MR. PRESIDENT:

17 Thank you, Counsels, and thank you, Mr. Witness.

18 It is now appropriate moment for adjournment. The Chamber will
19 adjourn until 1.30 p.m.

20 Court officer is now directed to assist the witness and his duty
21 counsel and have them returned to the courtroom by 1.30 p.m.

22 Security personnel are now directed to bring Mr. Khieu Samphan to
23 his holding cell and have him returned to the courtroom when the
24 next session resumes, at 1.30.

25 The Court is adjourned.

1 (Court recesses from 1205H to 1332H)

2 MR. PRESIDENT:

3 Please be seated. The Court is back in session.

4 We would like to give the floor to Nuon Chea's defence to put
5 questions to this witness. You may proceed.

6 QUESTIONING BY MR. SON ARUN:

7 Good afternoon, Mr. President, Your Honours.

8 Good afternoon, Mr. Ieng Phan. My name is Son Arun, the defence
9 counsel for Nuon Chea. You have responded to several questions
10 put to you by both the Prosecution and the Lead Co-Lawyers, and I
11 have some questions for you.

12 [13.34.42]

13 Q. This morning you testified to the questions by the Prosecution
14 and the Lead - Lead Co-Lawyers regarding the military structure.
15 Since the beginning of the trial, we have several former Khmer
16 Rouge commanders - military commanders who testified before this
17 Court. However, there is still uncertainty to the military
18 structure of the Khmer Rouge, and it seems that you are pretty
19 clear on the structure.

20 However, I'd like to clarify further regarding your situation,
21 what role you had when you started to join the military until the
22 rank of the divisional level, if you can recall it.

23 MR. IENG PHAN:

24 A. Thank you for your question. I will briefly respond you to
25 your question.

1 As I stated this morning, I joined the army on the 28th of August
2 1970 – rather, July 1970. And initially, when I joined, I was
3 part of the militia of the Ang Ta Saom commune in Tram Kak
4 district, and then I joined the district military forces of Tram
5 Kak district, with the code name District 105, and then I joined
6 the sector military force in Takeo – that is, Sector 13 – and I
7 remained with the district military force and the sector military
8 forces. I was the commander of a battalion. And that was in 1971.

9 [13.37.20]

10 And in 1972 I joined the sector military forces and I still
11 remained the commander of a platoon. And then I was promoted from
12 a platoon to a company, and by 1974 – that is, in December 1974 –
13 I was promoted to become the commander of the Special Battalion
14 203 attached to Brigade Number 2 in the Southwest Zone.

15 And later on, the 10th in 1976, after the liberation, I left the
16 special battalion, and then I became the regimental commander,
17 still under Brigade Number 2.

18 And after the 17 April 1975 I was still in charge of a regiment
19 stationed at the border, as I stated this morning.

20 And later on there were clashes with Vietnam during 1977 and
21 1978. And as I testified this morning, after I left Takeo I was a
22 regimental commander. But in Svay Rieng I became the commander of
23 an intervention brigade, 221.

24 So I was gradually promoted. And that was the military structure
25 through my experience, starting from platoon to company,

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1 battalion, regimental level to brigade.

2 [13.39.41]

3 And, of course, I was rather familiar with the divisional
4 commander. As I stated, in Svay Rieng, there were five brigades
5 which composed of a division, and I was one of the commanders of
6 the five brigades in Svay Rieng.

7 This is my brief response.

8 Q. Thank you for your response. And allow me to ask you further
9 regarding the division.

10 During the Democratic Kampuchea regime, how many military
11 divisions there were?

12 A. I cannot - I cannot know the overall structures of the
13 divisions; I only knew about the division while I was in Svay
14 Rieng. I cannot know how many divisions there were under the
15 General Staff. I only knew that in the Southwest Zone there were
16 two brigades, and later on it was expanded to four brigades, and
17 in Svay Rieng there were five brigades which formed a division.

18 Q. Thank you. This morning you talked about division. How many
19 brigades that - form a division?

20 [13.41.20]

21 A. During the Democratic Kampuchea regime, there were five
22 brigades which made up a division, and that included an
23 intervention brigade, and that was based on the Chinese military
24 structure.

25 For the U.S. structure, in fact, a division is made up of four

1 brigades; there is no additional intervention brigade as in the
2 Chinese structure.

3 Q. Thank you.

4 During your preparation to attack the Pochentong Airport, in your
5 spearhead - and that was your main target; I mean, the airport,
6 as you stated before this Court this morning - when did you
7 control the airport itself? What day was it?

8 A. We attacked the Pochentong Airport during the night of the
9 16th.

10 Q. You were part of the special force. And during your attack,
11 was the situation difficult or was it easy for you to control the
12 situation?

13 [13.43.21]

14 A. I already stated this morning, the front lines of the
15 battlefield was in fact in this area - that is, in Kantouk - but
16 my special forces were to infiltrate and to fight from the back -
17 that is, behind the enemy. So we made a sudden attack in order to
18 gain a sudden victory, and if we could not succeed, it means we
19 would leave our dead bodies behind. However, luckily, we - we
20 were lucky because we attacked a weaponry or ammunition
21 warehouse, and it was exploded, and then it cause the confusion
22 among the enemy, and then the infantry took control.

23 Q. So it means that your attack and victory was not that
24 difficult to achieve at the time.

25 During the time that you supervised your force and attacked

1 Pochentong Airport, if I am not mistaken, you were in charge of a
2 special brigade; is that correct?

3 A. That is incorrect. I was, in fact, in charge of a special
4 platoon - rather, special battalion.

5 [13.45.17]

6 Q. When you advanced to Pochentong Airport, of course there would
7 be ordinary soldiers at the airport, as well as the air force to
8 protect the airport itself, but you said that the - your battle
9 was not that fierce, since there was an explosion in the area.

10 My question is the following: Did you make any arrests of the Lon
11 Nol air forces?

12 A. I already responded to this kind of question this morning.
13 There was an explosion at the back of the enemy's line, so all
14 the soldiers - that is, the Lon Nol soldiers at the airport -
15 surrendered their weapons, and my group was to confiscate and
16 collect those weapons and ammunition.

17 Q. Did you arrest those soldiers and send them to the rear? How
18 did it happen? Can you tell us?

19 [13.46.51]

20 A. I said that they were sent. It did not mean that my forces
21 sent them to the rear. When there was a large explosion, and not
22 only the soldiers, those civilians who were on foot - and
23 sometimes they were on vehicles - they were retreating to the
24 back, and the soldiers were also sent along with them.

25 Q. Thank you.

1 A number of military commanders testified before this Court and
2 they usually refer to the Southwest Zone forces who made an
3 intervention in the Northwest Zone – rather, in the East Zone.
4 Were you aware of other special sources from other zones who
5 assist in this attack, rather than those from the East Zone?

6 [13.48.20]

7 A. For the East Zone there were not only forces from the
8 Southwest, but there were also forces from other zones, including
9 the North. There was a mixture of various forces from various
10 zones, and I could not grasp the entire situation because, at
11 that time, forces from other zones went there, but the Southwest
12 forces at that time were minimal.

13 Q. I'd like to get clarification on another point. You testified
14 before this Court that before you went to the East Zone, you went
15 for a meeting at Ta Mok's house in Takeo – that is, in the
16 Southwest Zone – and at that time there were military commanders
17 from the brigade up. And also, when you were interviewed by the
18 investigators, you stated that the meetings were only for the
19 brigades and the divisional levels, not the regimental level. But
20 at that time you were in charge of the special regiment. How was
21 it possible for you to be allowed to join that meeting?

22 A. Allow me to respond to this question as I attended the meeting
23 in my capacity at the regimental level.

24 [13.50.32]

25 In fact, the meeting was for the additional forces to the East

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1 Zone, as my regiment would be sent there, and then I were given
2 the responsibilities over three more regiments. So, in fact, they
3 foresaw that I would be promoted to a brigade level, and for that
4 reason I was allowed to join that meeting.

5 Q. But in fact, before you went to the East, you were in charge
6 of only a regiment, and your responsibilities were only added
7 when you were in the East Zone, during your meeting at Ta Mok's
8 house, so it means that there was a plan for you to be promoted
9 to become a brigade commander. Is that correct?

10 A. Yes, it is.

11 Q. You were in charge of soldiers in the Southwest Zone. Were you
12 familiar with the name Chhouk Rin, who was also a military
13 commander in the Southwest?

14 [13.52.02]

15 A. To my indirect knowledge, as I was - just did not meet
16 directly with Chhouk Rin, he was in charge of a regiment under
17 the Brigade 230, and they were at the Kampot area. But,
18 personally, I never attended any meeting with him until the time
19 I went to Svay Rieng.

20 Q. While you attended a meeting with Ta Mok at his house, did
21 Chhouk Rin also participate in that meeting?

22 A. No, he did not because he was only at the regimental level and
23 the meetings were only for the brigade and divisional commanders.

24 Q. During the meeting at Ta Mok's house, who was the chairing
25 committee of the meeting?

1 A. It was Ta Mok who chaired the meeting, as he was in charge of
2 the Southwest Zone.

3 Q. So there was nobody else above Ta Mok to chair the meeting,
4 namely Pol Pot or Son Sen?

5 A. No.

6 Q. Please respond again.

7 A. I already replied that - nobody else above Ta Mok.

8 [13.54.33]

9 MR. SON ARUN:

10 Thank you, Mr. Witness. That's all I have for you, but my
11 colleague would have some questions for you.

12 Thank you, Mr. President.

13 MR. PRESIDENT:

14 You may proceed, the International Counsel.

15 QUESTIONING BY MR. KOPPE:

16 Thank you, Mr. President. Good afternoon, Your Honours. Good
17 afternoon, Mr. Witness. Good afternoon, Counsel.

18 [13.54.51]

19 Mr. Witness, I have some follow-up questions in respect of what
20 you testified earlier today.

21 Q. This morning you spoke of a "universal rule", as you called
22 it, in respect of the treatment of prisoners of war. More
23 specifically, you said that there was an order, or a rule, or a
24 policy not to mistreat Lon Nol soldiers. Lon Nol soldiers, you
25 said, were sent to the rear when they were captured.

1 Could you explain one more time, but this time in more detail,
2 how you knew that such a policy or practice existed?

3 MR. IENG PHAN:

4 A. Allow me to respond to this question. During the heat of the
5 battle, at that time there was a policy, and a policy was
6 directed from the Upper Echelon that a prisoner of war shall not
7 be mistreated during the battlefield. And that policy was
8 disseminated to all the Khmer Rouge military and it was likewise
9 a universal rule.

10 [13.56.31]

11 Q. Could you explain how exactly this policy was disseminated?
12 Did it go through telegrams? Did it go through oral instructions?

13 A. First, the instruction was relayed through telegrams and
14 through the chains of command. When we received a telegram, then
15 we would disseminate to those under our supervision.

16 Q. I know it's long - a long time ago, Mr. Witness, but do you
17 recall the exact wording of those telegrams in which it was
18 ordered not to maltreat Lon Nol soldiers?

19 A. The passage of time from 1975 to the present day has been so
20 long, I can't recall the exact wordings in the telegram or the
21 telegram number; I only recall the main point of the telegram
22 because it's been almost 40 years.

23 Q. I understand that, Mr. Witness. But do you recall how you, in
24 your turn, disseminated the order to your subordinates? How did
25 you tell them that Lon Nol soldiers, when captured, were not to

1 be mistreated?

2 [13.58.59]

3 A. The wordings and the gist were just a part of the
4 instructions. And, as I recall, there was a phrase that for every
5 battle, and if a prisoner of war was arrested, that person shall
6 not be mistreated. And I can't recall the entire content of the -
7 of the passage because the time has passed a long time ago since
8 1975.

9 Q. Just to be clear, Mr. Witness, such a standing order was also
10 in practice before 1975?

11 A. So far as I remember, during each fighting or before each
12 fighting, we were instructed by our superiors on these wordings.
13 I think there were different wordings that we were instructed.
14 The only thing I remember, the main points, were that when
15 prisoners of wars were captured, they should not be mistreated or
16 tortured and every fighting had to proceed after meetings were
17 convened, and in this meeting such policy would then be briefed
18 to all the soldiers.

19 Q. So, Mr. Witness, is it your testimony that the order not to
20 mistreat captured Lon Nol soldiers was repeated on numerous
21 occasions in the period between '70 - 1970 and, let's say, 1975,
22 '76?

23 A. Yes, it is correct.

24 [14.01.37]

25 Q. Mr. Witness, notwithstanding your testimony today, there are

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1 stories that, in fact, captured Lon Nol soldiers have been
2 executed, both before 17 April 1975 and after 17 April 1975. I
3 think I will – I know the answer to the question that I'm asking
4 you, but I'm asking you anyway to be absolutely sure. Were you
5 ever, yourself, directly or indirectly involved in execution of
6 captured Lon Nol soldiers, so both before 17 April 1975 and
7 after?

8 MR. PRESIDENT:

9 Duty Counsel, you may now proceed.

10 MR. MAM RITHEA:

11 Good afternoon, Mr. President and Your Honours.

12 I'm afraid this question is self-incriminating and I'm afraid his
13 response would be incriminating.

14 MR. PRESIDENT:

15 Duty Counsel, I think it is best if you should have consulted
16 with your client first, before you were on your feet. You may
17 discuss with him now.

18 (Witness consults with Duty Counsel)

19 [14.03.58]

20 AV booth officers are now instructed to ensure that the
21 microphone for the witness is activated to make sure that the
22 Chamber hears him, whether he would like to respond or not.

23 MR. IENG PHAN:

24 A. I would like to be brief on this.

25 For my unit, either during the fighting or after the fighting,

1 there was no execution, torture, or mistreatment of the Lon Nol
2 soldiers. As I stated this morning, three months after the
3 liberation, I was deployed to the border area, and we fully
4 engaged in the battlefields in the – at the border to worry about
5 capturing the Lon Nol soldiers back here.

6 BY MR. KOPPE:

7 Q. Thank you, Mr. Witness. A follow-up question: Were you ever
8 ordered by your superior to execute captured Lon Nol soldiers but
9 refused, for instance?

10 [14.05.31]

11 MR. IENG PHAN:

12 A. I wish to make this clear time and again that I personally did
13 not receive any orders from my superiors regarding the
14 mistreatment of the Lon Nol soldiers or the execution of the
15 soldiers. And I belonged to different levels, I rose through
16 ranks, and I never remember having been instructed as such.

17 Q. Have you, Mr. Witness, ever heard Ta Mok speak at meetings
18 about execution of captured Lon Nol soldiers?

19 A. No, I only met Ta Mok at his home, when I worked in Svay
20 Rieng, and I never heard him instruct on killing any of the Lon
21 Nol soldiers.

22 Q. Have you ever heard Son Sen speak about the killing of
23 captured Lon Nol soldiers?

24 A. No.

25 Q. Have you ever heard from other Khmer Rouge soldiers or

1 commanders about execution of Lon Nol soldiers in the Southwest
2 Zone?

3 [14.07.55]

4 A. I believe I already said it and I hope it's clear that I have
5 received no orders or have ever - have ever heard anything about
6 the execution of the Lon Nol soldiers. And once again, because I
7 was deployed to the border area, I did not know much about what
8 happened later on here, at the back.

9 Q. Mr. Witness, have you ever heard stories about the execution
10 of Lon Nol soldiers in Southwest Zone or other zones after 1979 -
11 so, not during your - the time that you were commander, but in
12 the years after 1979?

13 A. I have heard from other people, through hearsay, that some
14 people were executed, but in principle I never saw this.

15 Q. Have you heard after 1979, through hearsay, about a policy to
16 kill Lon Nol soldiers higher than a certain rank - higher than,
17 for instance, the rank of lieutenant?

18 A. Yes, I have heard about this, but in reality I have never been
19 instructed by my superiors on this. It was more a hearsay, and I
20 can't exactly say if this happened because after 1975, three
21 months after April 1975, the situation at the border was so tense
22 and I had to fully engage in making sure that we can perform our
23 duty very well back at that place.

24 [14.10.54]

25 Q. Mr. Witness, I now would like to move on to Lon Nol

1 administration officials - civilians.

2 Do you know if, prior to 17 April 1975, a policy existed that
3 civilian officials in the Lon Nol administration had to be
4 executed?

5 A. I may say that I have heard of this. And it is difficult for
6 me to say whether this practice was in place because I was not
7 experienced this myself to say more than this.

8 Q. Is your testimony that you yourself or your soldiers were
9 never involved in the execution of Lon Nol officials - civilians?

10 A. It is correct. We never engaged in execution of any soldier,
11 and that happened to me and my subordinates. We never did this.

12 Q. We have been speaking earlier about a policy not to mistreat
13 soldiers, Lon Nol soldiers. Do you know if there was a policy -
14 an official policy through telegrams or other instructions, what
15 to do with former Lon Nol civilians?

16 A. I once said that we received telegrams from the Upper Echelon
17 through chain of command, and there were instructions, as always,
18 that whenever prisoner of wars were arrested, they must not be
19 mistreated, tortured, or executed. They had to be sent back to
20 the rear, and that's what - the instructions we obtained.

21 [14.13.50]

22 Q. I understand that, Mr. Witness; we have covered that subject.

23 But my question was related to Lon Nol government or

24 administration officials - so, not soldiers, but the treatment of

25 Lon Nol civilians. What do you know about that?

1 A. I do not even know what happened to the soldiers, the Lon Nol
2 soldiers who would be captured in the battlefields, who had been
3 sent back to the rear, let alone the civilians and how they were
4 treated. I don't know about this because whenever - what happened
5 at the rear was not to our knowledge because we were there and we
6 knew only what happened at the battlefield.

7 Q. Have you ever heard from others about execution of former Lon
8 Nol officials - not soldiers, but officials - in the Northwest
9 Zone right after the liberation in 1975?

10 A. I believe, time and again I said this. After 1975, both the
11 civilians and Lon Nol soldier - rather, officials, to the best of
12 my knowledge, I have no idea what happened to them because I know
13 very little about what happened at the rear. I have some friends
14 - I had some friends who worked for Lon Nol and who would come
15 back home or not. I don't know about this.

16 [14.16.34]

17 Q. Mr. Witness, have you ever heard of the seven "super
18 traitors"?

19 A. I am afraid I don't quite understand your question. And I
20 don't even know the seven "super traitors".

21 Q. Have you ever listened to radio or other communications in
22 which the Upper Echelon was speaking about the seven "super
23 traitors" to which, for instance, Lon Nol - to which Lon Nol was
24 one - was part of, but what was supposed to happen to them after
25 the liberation?

1 A. I have not heard about this. I don't know who they were.

2 Q. Mr. Witness, the reason that I'm asking you these questions,
3 and sometimes even the same questions, is that we have – we have
4 had an expert testifying that the execution of Lon Nol soldiers
5 prior to 1975 and after 1975, 17 April, was a matter of policy
6 ordered by the Upper Echelon, by members of the Standing
7 Committee of the CPK.

8 [14.18.44]

9 So, my last – my last and final question on this subject to you
10 is: Do you know anything about an existing policy, clear to every
11 DK commander, clear to every RAK commander, that such policy had
12 to be effectuated?

13 A. I don't know about this. It is beyond my knowledge. When it
14 comes to who shall be destined for being executed, this matter is
15 none of my business.

16 Q. Okay. I will move on, Mr. Witness.

17 Would you be able to tell the Chamber about how attacks from your
18 unit or other units on cities where Lon Nol soldiers were
19 situated – how the – how these attacks took place?

20 For instance, more particularly, was there a policy, within the –
21 in the ranks, of trying to cause as little as possible civilian
22 casualties, for instance shelling in city? Was there a concern
23 with you or other commanders to try to avoid causing civilian
24 casualties?

25 [14.21.06]

1 A. In each fighting, we received orders, instructions from our
2 echelon - or superiors that we had to do our best to make sure we
3 can minimize the civilian casualties.

4 Q. Could you expand on that? How was that instruction or policy
5 communicated to you and the other commanders?

6 A. These instructions were communicated through telegrams or
7 messages, and I would then impart it - or passed on these
8 messages to my subordinates.

9 Q. Would you be able to give concrete examples on how you
10 instructed your men to cause as little civilian casualties as
11 possible?

12 A. To be more precise, in order to minimize civilian casualties,
13 our primary - prime targets were of military necessity. We
14 attacked the military targets. By that we could limit or reduce
15 the civilian casualty.

16 [14.23.28]

17 Q. And was this policy with every attack on Lon Nol military
18 soldiers or institutions?

19 A. In particular, we attacked the military targets.

20 Q. But how did you - how did you ensure that when you were
21 attacking cities or villages - that you were aiming at military
22 installations rather than aiming at civilians?

23 A. In military, there was a special tactic: before we attacked a
24 military target, we would conduct a search or survey to see how
25 we can attack these premises successfully and with the minimum

1 civilian casualties.

2 Q. Thank you, Mr. Witness. I'll move on now to another subject.

3 Would you be able to tell us what the relation was between Khmer

4 Rouge troops from the Eastern Zone and the Southwest Zone before

5 1975? Were these relations good? Were there conflicts between the

6 two zones?

7 [14.25.47]

8 A. I think the question you asked me is beyond my capacity to

9 respond because it's relevant to upper echelon and I belonged to

10 the low-ranking - low-ranking official.

11 Q. Do you know, for instance, if in 1973 Southwest troops

12 arrested troops from the Eastern Zone? Are you aware of this

13 incident?

14 A. In 1973, no such incident happened.

15 Q. I shall be more precise, Mr. Witness. Do you know anything

16 about an incident of 12 men from the Eastern Zone being captured

17 by troops from the Southwest Zone?

18 A. I don't - I don't know about this. I don't even understand

19 this matter.

20 Q. I'll make it more general again. Were there tensions,

21 conflicts, feelings of being threatened, between the forces of

22 those two zones before 1975 - before April 1975?

23 A. I'm afraid I will be repetitive to respond to you on this. In

24 simple terms, I may say that it is beyond my knowledge to respond

25 to this because these two zones were too far apart. And in my

1 capacity as a soldier at that time, I would not be able to know
2 details about this.

3 [14.28.27]

4 Q. Okay. And, Mr. Witness, did you know commanders from the East
5 Zone between 1970 and '75 - division commanders, zone commanders?
6 Did you know anybody - did you know any officer of the Southwest
7 Zone - excuse me, Eastern Zone?

8 A. No, I didn't. I did not know any specific commanders. And as
9 the commander of the battalion, I was not in a position to
10 establish contacts with other commanders of divisions, for
11 example.

12 Q. Could you explain it to me, Mr. Witness? You were - both
13 forces, forces from all the country, from all the zones were
14 fighting for the same reason, fighting for the same cause:
15 liberating Kampuchea, liberating Phnom Penh. I'm sure there had
16 to be coordination between the various zones. So, could you
17 explain why, at your level, you didn't know any names of
18 commanders of the Eastern Zone prior to '75 and after '75?

19 [14.30.37]

20 A. I have repeated myself on this issue. I did not know about the
21 conflict between the East and the Southwest military zones. I did
22 not know much about that even until today because, as I stated
23 earlier, after the liberation I went to be stationed at the
24 Vietnamese border, and I only returned to visit my village once
25 every three or four months. And I did not know anything much

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1 about the conflict between the two zones, so I cannot tell you
2 about that.

3 Q. I've been asking you questions, Mr. Witness, about what you
4 knew then. Do you know now, today, any names of Eastern Zone
5 commanders who were functioning between 1970 and '75?

6 A. Even up to today, I don't even know any of them because, as I
7 said, the passage of time has been far so long. I know about the
8 current military commanders, but I did not know anything at all
9 about those Eastern Zone commanders who were in charge of the
10 division or brigades or any regiments because I did not have any
11 communication with them or was told anything about them. I'd like
12 to clearly state that at that time the military discipline was
13 very, very strict; everybody minded his or her own business. We
14 were only focusing on our own respective unit.

15 [14.32.53]

16 Q. Just to be absolutely clear so that I understand you well, Mr.
17 Witness, in the period '70-'75, were you, in your capacity as
18 commander in the Southwest Zone, know anything about an attack,
19 for instance, in the Northwest Zone? Would you know that forces -
20 KR forces would attack Battambang somewhere in 1974? Would you
21 know that in advance or would you hear afterwards about that?

22 A. Since 1975 until today, in particular during that - 1975, as I
23 repeatedly stated, I did not know anything about the affairs
24 occurring in the Eastern Zone. I only returned to visit my house
25 or my home once every three months, six months, or sometimes at

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1 nine months. And that's the truth. Although I was a military
2 commander - but I was pretty young then and I did not want to
3 know much about the affairs in other zones.

4 Q. Mr. Witness, maybe it seems that I am repeating the question,
5 but I want to be absolutely clear. For instance in 1973 or 1974,
6 would you hear about attacks in other zones, for instance on Siem
7 Reap or attacks on Battambang? Would that be, in some manner,
8 communicated to you or to your commander so that you were able to
9 hear what was happening in the other zones?

10 [14.35.25]

11 A. Yes, I heard on the broadcast on the Khmer Rouge radio that
12 there was an attack in this battlefield or that battlefield. And,
13 of course, the broadcast was about the battlefield and about the
14 victories in those battlefields.

15 Q. And that was the only way that you heard it, on the radio
16 broadcast; is that correct?

17 A. Yes, that is correct.

18 Q. Another subject, Mr. Witness.

19 Did you ever meet Nuon Chea in person - one to one?

20 A. During the time, I never met him. I never met any of the upper
21 leadership level. I only heard of their names through the
22 instructions by Ta Mok. I never met them until today.

23 Q. Did Nuon Chea ever communicate with you or your commanders via
24 telegrams, for instance, about military matters?

25 A. First, there was no direct communication by telegram between

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1 Nuon Chea and myself. And as I stated, only Pol Pot and Son Sen
2 were in charge of the military, and I did not know what role Nuon
3 Chea played at the time.

4 [14.37.55]

5 Q. In your statement to the OCIJ, you have said that you knew at
6 one point that Nuon Chea was deputy secretary. Do you know what
7 year you found out that he was deputy secretary?

8 A. I only knew about that later on - that is, after - after
9 everything took place. I only knew that Nuon Chea was the deputy
10 secretary. But at that time I did not know who the secretary was
11 or deputies were. I was at a much lower level, so I did not have
12 the authority to know anything about the upper-level hierarchy.

13 MR. PRESIDENT:

14 Thank you.

15 (Judges deliberate)

16 [14.40.08]

17 The time is appropriate for a short break.

18 However, before we take a break, I'd like to inform the parties
19 that after the hearing or the testimony of the witness, Mr. Ieng
20 Phan, the Chamber will hear the request by the Lead Co-Lawyers,
21 and they will be allocated 10 minutes, and then the floor will be
22 given to each party, who will be allocated five minutes to
23 respond to the request by the Lead Co-Lawyers. And this
24 information is for all parties.

25 The time is now appropriate for a break. We will take 20-minute

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1 break and return at 3 p.m.

2 Court Officer, could you assist the witness during the break and
3 have him returned to the courtroom at 3 p.m.?

4 The Court is now in recess.

5 (Court recesses from 1441H to 1502H)

6 MR. PRESIDENT:

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

8 We would like to hand over to Counsel for Mr. Nuon Chea to
9 continue putting questions for this witness. Then counsels for
10 Mr. Khieu Samphan will have the floor.

11 You may proceed.

12 [15.03.15]

13 BY MR. KOPPE:

14 Thank you, Mr. President. I only have very few questions to the
15 witness.

16 Q. Mr. Witness, before the break, you have testified that you
17 never met Nuon Chea in person. Have you ever – have you ever
18 heard him speak in a meeting?

19 MR. IENG PHAN:

20 A. No, I haven't. I haven't received any instructions, either
21 directly or indirectly.

22 Q. I understand. But maybe you heard him speaking on, for
23 instance, political education sessions where lots of other cadres
24 or commanders were present?

25 A. No, I have never heard him speak during political sessions.

1 But I heard from my superior about what he speaks - or spoke in
2 the meetings.

3 Q. And do you remember what that was?

4 [15.05.00]

5 A. It was in 1976, '77, and '78, when the Khmer Rouge soldiers
6 were still engaging in fighting with the Vietnamese troops.

7 Q. My question to you, Mr. Witness, was what your colleague told
8 you that he had heard Nuon Chea say during these political
9 education meeting.

10 A. My subordinates would not hear anything about this. I myself
11 did not hear Nuon Chea speak in meetings, personally, let alone
12 my subordinates.

13 Q. Last question, Mr. Witness: Could you tell the Chamber what
14 you did after January 1979?

15 A. After 1979 I remained a soldier.

16 Q. Until when did you remain a soldier?

17 A. Until these days.

18 Q. Just to be clear, did you stay a Khmer rouge soldier after '79
19 or did you become part of the government forces after '79?

20 A. I had been the Khmer Rouge soldier all along, until the day
21 when the win-win policy employed by the Government of Cambodia
22 and then the Khmer Rouge troops reintegrated into the government,
23 and I am still holding the same position.

24 [15.08.00]

25 MR. KOPPE:

1 Thank you very much, Mr. Witness.

2 Thank you, Mr. President.

3 MR. PRESIDENT:

4 Thank you, Counsel.

5 Next we would like to hand over to counsels for Mr. Khieu

6 Samphan, please.

7 QUESTIONING BY MR. KONG SAM ONN:

8 Thank you, Mr. President. Good afternoon, Mr. President, Your

9 Honours.

10 Good afternoon, Mr. Witness. I have a few questions for you.

11 Before that, allow me to introduce myself, I am Kong Sam Onn,

12 co-counsel or Mr. Khieu Samphan.

13 Q. My first question is about your biography. I would like you to

14 clarify your status during the resistance period and during the

15 Democratic Kampuchea.

16 [15.09.00]

17 I noted your document E3/419. Under question number 1, you stated

18 about how you rose through ranks. Allow me to read this to you.

19 But please let me know if you have obtained the document. If you

20 have, then you can have - you can verify - check against the

21 reading that I will be doing now:

22 Question: "Please describe your background prior to the 17th of

23 April 1975."

24 I may skip this page number 2 and move to page number 3 instead,

25 but it is relevant to question number 1.

1 [15.09.54]

2 Now I will be citing:

3 "I was in the district military forces until the 28th of July
4 1971. I was a combatant at the provincial military level, under
5 the supervision of Saom (deceased), the Sector 13 Committee. My
6 company commander was Sien (deceased). On the 23rd of March 1972,
7 I became the commander of a platoon of Company 14, still under
8 the supervision of Sien. My platoon was a special unit under the
9 supervision of Sector 13. In December 1974, I was chairman of
10 Battalion 204, subordinate to Brigade 2 stationed in the
11 Southwest Zone. During October 1976, I became chairman of
12 Regiment 12, still subordinate to Brigade 2."
13 My first question to you is - you said you were a combatant at
14 the provincial military level. Was provincial military level part
15 of the military structure used in those days?

16 [15.11.44]

17 MR. IENG PHAN:

18 A. I believe that the investigators may have mistyped this. I
19 said that after 1971, I was a soldier, and then I worked as a
20 soldier at the district level, then provincial level, and I was
21 at the platoon already. And I think "combatant" would not be my
22 correct title because I had my role to play as a commander of a
23 platoon back then.

24 Q. Thank you. Can you also clarify when you became the commander
25 of that platoon at the provincial military level?

1 A. It was in 1972.

2 Q. Thank you. How long had you been serving in the military by
3 1972, when you became the commander of the platoon?

4 A. I had been in the military for over two years.

5 Q. Thank you.

6 I may go back a little bit. And I would like to ask you a
7 question before you rose to become the commander of the platoon.
8 Where did you work before you worked at the Provincial Military
9 Unit?

10 [15.14.00]

11 A. First, I worked as the militia at Ang Ta Saom. A short while
12 later I became - worked at the provincial - rather, district
13 military level of Tram Kak.

14 Q. Thank you. In the District 105 military structure, what did
15 you do - what was your role?

16 A. I was the head of the group - or, rather, the squad, but the
17 people did not write it in detail. So, when I worked at the
18 provincial military level, then I became the platoon commander.

19 Q. Thank you. You said that in 1974 you rose to become the head
20 of Battalion 203; is the date correct?

21 A. Yes, it is.

22 Q. Thank you. Regarding your promotion, can you tell the Chamber
23 how you could rose (sic) through the senior ranks by stepping or
24 skipping a few ranks in between?

25 A. I believe that one of the phrases was missing. I said that I

1 worked at the provincial military level as the battalion. But
2 before I became the commander for the battalion, I was the
3 commander of a company already.

4 [15.16.35]

5 Q. Is it fair to say that you rose through proper hierarchy
6 without skipping any ranks but that message was not clearly
7 emphasized in this document?

8 A. I believe that is the case. The document here does not cover
9 my full story, because I rose through ranks step by step, because
10 at the beginning I was the head of a squad of 12 people, then the
11 commander of a platoon, then commander of company, battalion,
12 regiment, so on and so forth, in this hierarchical order.

13 Q. Thank you.

14 I would like to now ask you a question concerning your family
15 background prior to 1975. What class did you belong to before the
16 Democratic Kampuchea regime?

17 A. I belonged to the lower middle class peasant at Ang Ta Saom in
18 Takeo province. I went to high school at Samdech Euv High School
19 at Ang Ta Saom.

20 [15.18.15]

21 Q. Thank you. Did your class status have anything to do with your
22 rising through different ranks until you were promoted to the
23 regiment or level commander?

24 A. Rising through ranks, hierarchal ranks, was done quickly, as
25 well, because I was a brave person, I had good moral, and I

1 served the people very well. So, these three criteria served me
2 well for quick promotion through ranks.

3 Q. Thank you. Did – again, did this have to do with your class,
4 your status as a lower middle class peasant class.

5 A. I think it had something to do with this as well, because
6 before a person was elected to become a commander, he or she must
7 belong to a lower middle class peasant or poor peasant.

8 Q. Thank you. what else made your rise through these ranks?

9 [15.20.06]

10 A. I think I have some special quality and I still remember this
11 very well. I am very brave.

12 Q. Thank you. on the same document, question and answer number 5,
13 I would like to read paragraph number 3 as follows.

14 I think – you were asked this question first: "Document ERN
15 00194462 states that the Southwest Zone military forces
16 participated in operations to sweep clean cadres in the East Zone
17 between 1977 and 1978. Please clearly clarify these events
18 according to your knowledge."

19 And that's the question, and here what you had to respond: "In
20 the meetings, Ta Mok talked about sending the forces to the East
21 to counter the Vietnamese troop that was invading Cambodia. And
22 also the meeting was to prepare additional forces to be inserted
23 to fill out the former forces that had been previous been pulled
24 out and sent to the East Zone. I did not know that – I did not
25 know about that previous plan to pull out forces because I did

1 not attend the meeting."

2 [15.22.27]

3 My question to you is - there was - you said there was a meeting
4 in 1977 about the attack or invasion of the Vietnamese troops
5 into Cambodia. How - can you tell the Chamber the scale of the
6 attack that occurred at that time?

7 A. By late 1977, and in particular early 1978, a large-scale
8 attack was launched by the Vietnamese troops and in Svay Rieng
9 province, Vietnamese troops would be attacking Cambodia at all
10 fronts. So, when I was there with our troops, we already were
11 received by the Vietnamese troops that had pre-occupied this
12 vicinity in Chantrea district and other neighbouring districts of
13 Svay Rieng. So, the attack was of large scale.

14 And you asked me about the meeting at Ta Mok's house. Indeed, the
15 main objective for that meeting was to counter the invading
16 Vietnamese troops at these locations.

17 Q. Thank you. Can you also clarify or tell the Chamber, how long
18 had the Vietnamese troops been in Cambodia attacking Cambodia at
19 that time?

20 [15.24.40]

21 A. When I was there, Vietnamese troops had, as I told you,
22 pre-occupied this whole border area of Svay Rieng. And I was
23 wounded in the attack and I had - yes, I was engaged in the
24 fighting and I had to be admitted in the hospital, where I remain
25 treated for three months. After I was discharged from the

1 hospital, I learned already that Vietnamese troops came deeper
2 inside Cambodia, and our troops would retreat because we were
3 outnumbered by the Vietnamese troops. And some of our troops were
4 arrested by the Vietnamese.

5 So, there were five divisions of Khmer Rouge soldiers who were
6 deployed to counter the Vietnamese troops, but almost all the
7 divisions vanished after all, and we retreated to National Road
8 Number 5.

9 Q. You mentioned about National Road Number 5. Where are you
10 talking about here? Which part of the country are you referring
11 to?

12 [15.26.13]

13 A. At that time, the Vietnamese launched a very large scale
14 attack and they moved all the way to Phnom Penh. That's why our
15 troops had to retreat.

16 Q. From 1977 until the time when the Vietnamese troops attacked
17 Phnom Penh, when was it when the troops – the Vietnamese troops
18 attacked Phnom Penh? And where were you?

19 A. It was in 1978 that attacks had already been carried out. And
20 by late 1978 they reached the area of Road Number 5.

21 Q. So, by late 1977 and early 1978, the Khmer Rouge soldiers were
22 retreating and they would not counter the Vietnamese troops; is
23 that correct?

24 A. That is correct.

25 Q. Thank you.

1 May I now refer to question and answer number 6 in your
2 statement? I would like to read the question first.

3 Question: "Witnesses have spoken about the sweeping clean of the
4 East Zone cadres around late 1977. In your position as commander
5 of Regiment 12 of the Southwest Zone, why were you not assigned
6 to participate in those sweeping clean operations?"

7 [15.28.11]

8 And you said - I will cite your statement: "In 1977, at the
9 Cambodian-Vietnamese border, in Takeo province and in Kampot
10 province, there were disputes with Vietnam. Therefore, my troops
11 were stationed on the Southwest Zone battlefield, at Preaek Chik
12 Vinh; they were in Takeo province. At that time, I was wounded in
13 left hand during combat with Vietnamese troops at Preaek Chik
14 Vinh."

15 My question to you: How large was the battlefield or the fighting
16 in Kampot battle zone?

17 A. In 1977, in Takeo and Kampot provinces, fierce fighting
18 occurred. And by mid-1977, Vietnamese troops already invaded all
19 the way to the vicinity of border of Takeo province. But the
20 Khmer Rouge soldiers had to counter back, and there was a tug of
21 war, and we could drive them back all the way to the Vietnamese
22 and Cambodian border, but they came back. So it was a back and
23 forth fighting, it's like tug of war.

24 [15.30.02]

25 Q. When was this tug of war happening? Did it happen from late

1 1977 or - from when?

2 A. The attack back and forth sometimes took place for one month
3 or two months. So we drove them back, and then they push us back.
4 And the situation was similar to that occurred in Svay Rieng.

5 Q. Thank you.

6 In the same document, in question-answer session number 10, you
7 were asked the following question: "Please describe in detail the
8 supervisory and leadership structure of Sector 13, Tram Kak
9 district, Takeo province."

10 And in your answer you stated: "Saom (deceased) was Sector 13
11 Secretary, Tram Kak district. And Tram Kak district was called
12 District 105, and district committee was Nhev. I do not know
13 where Saom and Nhev came from; I just know that they had been
14 members of the resistance during the pre-1970 era. I do not know
15 clearly the civilian leadership structure because I was in the
16 military. In general, in the hierarchy at that time, sector level
17 was appointed by the zone, and district level was appointed by
18 the sector."

19 [15.31.53]

20 I have additional question to this section of your interview. For
21 the last sentence that you said, "sector level was appointed by
22 the zone, and the district level was appointed by the sector", in
23 practice, did you know about this implementation, in particular
24 in your area, or you think or knew that this kind of
25 implementation was countrywide?

1 A. At that time, my time with the military was not that long. I
2 only heard people talking to one another that the district
3 governor was appointed by the provincial governor, so on and so
4 forth. And, of course, I did not know whether it was a common
5 practice nationwide.

6 Q. Thank you.

7 My last question for you is related to Khieu Samphan. Did you
8 ever know or hear of Khieu Samphan before 1970?

9 [15.33.29]

10 A. I heard of Khieu Samphan's name when I was still at school. At
11 that time, he was a member of the Parliament, but I never knew
12 how he looked like.

13 Q. Thank you. What did you hear about him?

14 A. I heard that he was a member of the Parliament and that he
15 possessed only a very old bicycle. That's all. I did not know
16 anything in details about him.

17 Q. Thank you. And after 1970 until 1975 – that is, the 17 April
18 1975 – did you hear or know more about Khieu Samphan and his
19 role?

20 A. I would like to say that I only heard about it. I heard
21 through other people that he was the President of the State
22 Presidium, but I never met him. As I said, I was at a lower
23 level, so I could not grasp the situation of the upper
24 leadership.

25 [15.35.10]

1 Q. My question to you is for the period between 1970 and 1975.

2 And, of course, we asked you for the period after 1975. Can you
3 clarify that?

4 A. Yes. For the period between 1970 to 1975, I only heard of his
5 name; I never met him.

6 Q. Thank you. What about during the Democratic Kampuchea regime?
7 What did you hear about Khieu Samphan?

8 A. During the period of Democratic Kampuchea, I heard through the
9 meetings with - of the senior leadership that Khieu Samphan was
10 the President of the State Presidium, but I never had any contact
11 with him.

12 Q. Thank you. Did you ever experience receiving any orders, or
13 written orders, or a telegram from Khieu Samphan to your
14 supervisor, and then from your supervisor to you, that you were
15 told by your supervisor that the order or the instruction came
16 from Khieu Samphan?

17 A. I'd like to clarify this issue. For Mr. Khieu Samphan, when it
18 comes to military matters or military training, we never received
19 anything from him.

20 [15.36.59]

21 MR. KONG SAM ONN:

22 Thank you, Mr. Ieng Phan.

23 Mr. President, I have no further questions for this witness.

24 MR. PRESIDENT:

25 Thank you.

1 The hearing – the proceedings of hearing the testimony of the
2 witness Ieng Phan has now concluded. It finished a little bit
3 earlier than we expected, so then we can have more time to hear
4 the request by the Lead Co-Lawyers.

5 We'd like to ask the defence counsel for Nuon Chea whether your
6 client would like to participate in the hearing of the request by
7 the Lead Co-Lawyers.

8 [15.38.01]

9 MR. KOPPE:

10 No, Mr. President, he would prefer to go back to his cell.

11 MR. PRESIDENT:

12 Thank you.

13 And what about Khieu Samphan's defence team? Does your client
14 prefer to remain here to hear the request by the Lead Co-Lawyers?

15 MR. VERCKEN:

16 No, Mr. President, it's the same for Mr. Khieu Samphan, who
17 wishes to return to his temporary cell if possible.

18 MR. PRESIDENT:

19 Thank you.

20 Mr. Ieng Phan, the hearing of your testimony has now concluded,
21 and you're excused.

22 And we would like to thank you very much for your valuable time
23 to come to testify before this Court with patience and best
24 effort. Your testimony may contribute to ascertaining the truth
25 in this case. And we wish you all the best, and bon voyage. And

1 you may return to your residence.

2 As for the duty counsel, you may excuse yourself.

3 [15.39.30]

4 Court officer, in collaboration with WESU, please assist Mr. Ieng
5 Phan to return to wherever he wishes to go to or to his
6 residence.

7 And, security guards, you're instructed to take Nuon Chea and
8 Khieu Samphan back to the detention facility and have them
9 returned tomorrow morning to the courtroom, prior to 9 a.m. As
10 for Nuon Chea, bring him to the holding cell downstairs, which is
11 equipped with the audio and the visual equipment for him to
12 follow the proceeding.

13 (Accused exit courtroom)

14 Mr. Ieng Phan and the Duty Counsel, you are now excused.

15 (Witness Ieng Phan and Duty Counsel exit courtroom)

16 [15.40.47]

17 We will now proceed with the hearing of the request by the Lead
18 Co-Lawyers regarding certain matters.

19 And in order to clarify the request and before I hand the floor
20 to the Lead Co-Lawyers for their request and reasons, I would
21 like to hand the floor to Judge Cartwright to clarify on one
22 request concerning the request made through the Senior Legal
23 Officer of the Trial Chamber.

24 Judge Cartwright, please proceed.

25 JUDGE CARTWRIGHT:

1 Thank you, President.

2 As the President has indicated, the oral submissions relate only
3 to the issue of whether other parties have the right to question
4 civil parties following their statements.

5 [15.41.58]

6 There is an additional matter which the Trial Chamber wishes to
7 clarify and to correct. It – the parties have been advised that
8 the civil parties who wished to call expert TCE-12 are entitled
9 to call him on the 5th of June. That leaves a gap on Monday the
10 27th of May, where he was originally scheduled to be heard.

11 The Trial Chamber does not wish the Lead Co-Lawyers to insert
12 reserve civil parties into that Monday. It would much prefer that
13 the civil parties ensure that their primary selection of civil
14 parties are heard first, starting on Monday morning, the 27th of
15 May, and should there be time later in the week, during the four
16 days that you have for civil parties, then you may call reserve
17 civil parties. The Trial Chamber does not wish to be faced with
18 the prospect of not getting through your primary civil parties
19 because the first half-day has been taken up with your reserve
20 civil parties. So we ask that you reorganize to ensure that your
21 primary civil parties, your first choice, are called starting on
22 Monday morning, the 27th of May.

23 [15.43.54]

24 You have four days only – that is, Monday through Thursday of
25 next week – and you have, by reason of the unavailability of the

1 expert, been granted an extension of half a day to accommodate
2 the expert on Monday the 5th of June.

3 I hope that the Lead Co-Lawyers understand what the Trial Chamber
4 has just ruled.

5 Are there any questions concerning that?

6 MS. SIMONNEAU-FORT:

7 Yes, thank you, Judge Cartwright.

8 There's simply one problem; it's that the civil parties that we
9 have proposed for the 4th of June will only be available on that
10 day. So those, of course, who are set for June 4th cannot be
11 heard before, which means that, hypothetically speaking, the
12 expert's time on 27 May cannot be compensated by a postponement
13 of the civil parties that we had scheduled originally.

14 [15.45.08]

15 So I hope - I'll try to be clear here. And I understand that the
16 expert is scheduled for the morning of the 27th, not for the
17 whole day. So we have, indeed, civil parties available for the
18 27th, the 29th, and the 30th and we have four who can only come
19 on the 4th of June.

20 So, if the Chamber does not wish that we use time that was
21 originally scheduled for the expert on the 27th, on the morning,
22 this cannot be done by postponing all of the civil parties.

23 That's all I wanted to say.

24 JUDGE CARTWRIGHT:

25 There seems to be confusion over dates. You tell us that the

1 expert is available only on the 5th of June and you have four
2 days, beginning from the 27th of May. So where does the 4th of
3 June enter into this discussion?

4 [15.46.15]

5 MS. SIMONNEAU-FORT:

6 We have four days that – the 27th, the 29th, 30th, and the 4th of
7 June. Because of the holidays, there will be no hearing on the
8 28th and on the 3rd. So we have four days. And, indeed, we had
9 scheduled a half-day for the expert at the beginning of these
10 four days.

11 If the Chamber does not wish to give us four and a half days,
12 well, then we will lose the morning of the 27th and we will take
13 the morning of the 5th of June. The rest – and it will still be
14 four days for the other parties. But if the Chamber gives us four
15 and a half days, then we can have the reserve civil parties
16 during the first days, the 27th and the 29th.

17 But we cannot postpone all of the civil parties. We have indeed
18 scheduled for the experts and the civil parties for four days;
19 but because of the holidays, it will have to be spread out this
20 way.

21 MR. PRESIDENT:

22 National Lead Co-Lawyer, you may proceed.

23 [15.47.26]

24 MR. PICH ANG:

25 Mr. President and Your Honours, I understand the concern of the

1 Judges of the Bench, that you prefer to hear the testimonies of
2 the civil parties based on the primary list that we submitted to
3 Your Honours in the first list of the priority civil parties.

4 And, in fact, we are delighted to have a separate time for the
5 expert or additional time for all the civil parties whose names
6 appear on the list.

7 In addition to the priority list of the civil parties, as
8 indicated by my international counterpart, there are three civil
9 parties whose schedule cannot be changed from the 4th of June. As
10 for other civil parties, their schedule can be shifted or moved
11 to the 27th, and also to include the name of the civil party from
12 the reserve list - or to move them forward. And we try to do this
13 so that Your Honours can hear the testimonies of the primary
14 civil parties before the other reserved civil parties on the
15 reserve list, in the case that the hearing of the testimonies'
16 time may change.

17 We try our best to accommodate the time allocation for the civil
18 parties, and if the civil party speaks more than the allocated
19 time, it should be to a minimum level so that opportunity can be
20 given to other civil parties to express themselves as many - as
21 much as possible.

22 Thank you.

23 (Judges deliberate)

24 [15.52.07]

25 MR. PRESIDENT:

1 Judge Cartwright, please take the floor. Thank you.

2 JUDGE CARTWRIGHT:

3 Thank you, President.

4 The Chamber will allow the four days for civil parties – 27th,
5 29th, and 30 May, and 4 June – and the civil parties can be
6 allocated as the Lead Co-Lawyers choose. An additional half-day
7 will be allocated on the 5th of June for the expert. The Civil
8 Party Lead Co-Lawyers need to be clear that no extensions will be
9 granted and that, should the Chamber decide to – after hearing
10 submissions, to allow the other parties the opportunity to
11 question the civil parties, you will simply have to readjust your
12 schedule of civil parties.

13 [15.53.13]

14 Is that clear now? You look as if – you look as if you didn't
15 understand me.

16 You get four days for the civil parties. You get half a day for
17 the expert. Regardless of whether the Trial Chamber decides,
18 after hearing submissions, to allow the parties to question the
19 civil parties, that is the total time allocated; no more time
20 will be granted.

21 Is that understood now?

22 MS. SIMONNEAU-FORT:

23 Yes, we have understood perfectly well. And thank you very much
24 for this extra half-day.

25 Now, regarding the questioning, we had indeed calculated the

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1 civil party time depending on the examination, so I don't think
2 there will be a problem.

3 Thank you.

4 MR. PRESIDENT:

5 Thank you.

6 We would like now to give the floor to the Lead Co-Lawyers to
7 make their oral submission as well as the reasons to support your
8 submission. You may proceed.

9 [15.54.46]

10 MR. PICH ANG:

11 Once again, good afternoon, Your Honours.

12 In our email communication that was sent by the legal officer,
13 Roger Phillips, there are two issues that were highlighted in
14 that email: the first issue is related to the fact that the Lead
15 Co-Lawyers made a request to the Trial Chamber whether the
16 Prosecution and the counsels for the Accused will be given the
17 floor to put questions to the civil parties who will be testified
18 regarding the harms done; and the second point is that the civil
19 - the Lead Co-Lawyers for civil parties would like the Trial
20 Chamber to hear the statement of harm or damages by the civil
21 parties and that they should leave the courtroom before other
22 parties are allowed to make comments to the harms or damages
23 expressed by the civil parties.

24 [15.56.06]

25 To respond to the first point, we wish not to make any longer

1 comments. And maybe my colleague, Ms. Simonneau-Fort, might shed
2 light on that. However, I am of the view that it is up to the
3 Court to decide whether other parties will be allowed to question
4 the civil parties.

5 And Ms. Élisabeth will add further comments to the first point.
6 As for the second point that was in the email, regarding
7 statement of harm, my oral submission is that that will be the
8 opportunity accorded to the civil parties to raise the issues of
9 their harm, and not only in the case of 002/01, but they should
10 also raise of what they lost under the entire Khmer Rouge regime.
11 That would be the time that they should be allowed to speak out
12 about the loss or harms they received or suffered under the Khmer
13 Rouge regime so that everybody, including the United Nations,
14 could hear of their statements and try to prevent such crimes
15 from happening in the future.

16 [15.57.47]

17 As for the harms suffered by the civil parties, the statement of
18 harm would be the opportunity for them to be clear about their
19 loss, in particular in Case 002/01, which is also an opportunity
20 for them to make a support of their application and their request
21 for reparation and the severity of the crimes committed.

22 And another point that I'd like to raise, Your Honours, coming
23 out from the statement of harm, is for the purpose of national
24 reconciliation. When the civil party is allowed to make such a
25 statement, it would have them relive their psychological

1 suffering, and this is also the purpose that this Court is trying
2 to find justice for those civil parties.

3 [15.58.58]

4 At the - at the same time when they made a statement of harm and
5 the statement about their losses, we, in fact, made our previous
6 request to the Chamber that before a party can make a comment on
7 what will be stated by the civil - by a civil party concerning
8 the harm, the civil party shall be excused from the courtroom so
9 that they cannot hear comments made by civil parties (sic), as
10 those comments might affect their psychological status, and that
11 does not help in anyway the feeling of the civil parties, and
12 that might have an adverse effect on the psychological state of
13 that civil party. Of course, the Accused or the defence counsel
14 may make observation of the statement by the civil parties-

15 [16.00.14]

16 MR. PRESIDENT:

17 Lead Co-Lawyer for civil parties, you should make your brief
18 request and the reasons briefly to the point, as you only have 10
19 minutes to make your request, and then other parties will be
20 given the time to make comments to your request. So you have to
21 state clearly of your request: what your requests are and why -
22 the reasons for those requests. You need to make those reasons
23 for the request so that other parties can hear of the grounds and
24 that they may either support or object to your reasons for the
25 request. And your 10-minute time allocation is almost gone. And,

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1 of course, then you would need time for your international
2 counterpart. And if you keep repeating and raising the same issue
3 again and again, it's a waste of time.

4 [16.01.12]

5 MR. PICH ANG:

6 Thank you, Mr. President. I may need only one more minute,
7 please.

8 And to be brief, in order not to do things that affect the civil
9 parties, may we humbly ask that any psychological impact that may
10 have cost from the parties during the proceedings should be
11 avoided and that civil parties should be brought away from this
12 courtroom before such impact be made. My humble request is just
13 to make sure civil party would not suffer more psychological harm
14 unnecessarily.

15 Thank you, Mr. President.

16 MS. SIMONNEAU-FORT:

17 Thank you, President. I will endeavour to reply very briefly to
18 the email that we received this afternoon in response to the
19 proposal that we have forwarded.

20 [16.02.34]

21 I believe that a distinction must be made between the previous
22 hearings, when civil parties were being heard on the facts and
23 were being examined by the parties on the facts alleged,
24 following which the civil parties were unable to make statements
25 on their suffering and victims impact. Parties were enabled to

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1 make comments once those civil parties had left the hearings.
2 We must make a distinction with the civil parties to be heard as
3 of next week. Next week and the following week, the civil parties
4 who were going to be heard will speak about their suffering and
5 victims impact, as required by your Honourable Chamber. It is
6 very clear for the Civil Party Lead Lawyers that questions – the
7 right of questioning must be given to the Co-Prosecutors and the
8 parties. We intend to hear some four civil parties per day and we
9 have estimated some 30 to 40 minutes – 45 minutes to be allocated
10 for the civil party lawyer during cross-examination. This is
11 important for the Trial Chamber to know, because I believe that
12 there's some misunderstanding between those two sets of civil
13 parties.

14 [16.03.56]

15 When a party is allocated time for questioning, it is not
16 necessary for the defence teams to avail themselves of time for
17 commenting. This is inappropriate and not justified in this
18 particular case. They will be accorded normal questioning time.
19 What we suggest is very straightforward: it is that each civil
20 party be heard, that the civil party lawyer ask the civil party
21 questions, and that time for examinations be given to the
22 Co-Prosecutors and the other defence parties, to the scale of 30
23 minutes respectively. We believe that we must respect those
24 confines. There's no need to calculate additional time, since the
25 civil parties are going to be questioned on victims impact by all

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1 parties and there will be no need for further questioning.

2 This, Your Honours, is the official position of the Civil Party
3 Lead Lawyers today. Thank you.

4 MR. PRESIDENT:

5 Thank you, Counsel.

6 International Co-Prosecutors, would you wish to say anything on
7 this, you may proceed.

8 [16.05.23]

9 MR. RAYNOR:

10 Mr. President, thank you very much. I have 10 submissions or
11 observations that the Prosecution wish to make.

12 The first is that the Prosecution's position is that we submit
13 that civil parties should be questioned on all issues of
14 relevance to the case.

15 The second submission is this: that the civil parties that we
16 will now hear from are actual victims and they give direct
17 evidence about their suffering. It is our submission that it is
18 inevitable - when a civil party comes to Court and starts talking
19 about their suffering, there will be reference to individual
20 crime sites. We submit that these two pieces of evidence - the
21 suffering, on the one hand, and the crime site, on the other -
22 are inextricably linked and cannot be separated. If I can give
23 the example of a civil party coming into Court and saying words
24 to this effect, "My suffering arises from the following crimes at
25 the following locations", and thereby gives direct evidence going

1 to relevant issues in the case.

2 [16.06.50]

3 My third submission is this: that to the extent that the Trial
4 Chamber may be proposing to model its approach on the approach
5 adopted in Case 001 in the Duch Trial, it is our submission that
6 that was a very different scenario. Most of the civil parties in
7 the Duch Trial were relatives of the victims and could not,
8 therefore, give direct evidence of crimes.

9 Our fourth submission is this: that civil parties proposing to
10 testify will, in many cases, themselves be victims of the forced
11 movements. In other words, it is inevitable, we submit, that they
12 will give evidence going to the heart of this important trial
13 issue.

14 Fifthly, it is the Prosecution's submission that - if the Trial
15 Chamber entertains either the Prosecution or the Defence simply
16 being able to make comments on suffering, that that would not
17 conform with existing practice.

18 [16.08.05]

19 The sixth submission is this - and this is a fair-trial matter we
20 wish to raise in the context of the Defence: if, during the
21 testimony of a civil party, that civil party, whilst being spoken
22 to about suffering, provides probative and relevant evidence
23 going to issues in the case, it is only fair that the Defence
24 should be able to challenge such evidence. And if that is so,
25 equality would demand equal rights for the Prosecution and the

1 Defence.

2 The seventh submission is that I hope I read accurately in an
3 email this morning that the Trial Chamber was proposing that
4 civil parties would be asked to provide a list of questions to be
5 asked of the Accused. We submit that it is inevitable that those
6 questions will contain relevant, admissible evidence upon which
7 the parties should be given full rights of examination.

8 The eighth submission is that the Trial Chamber had already
9 decided the parties should question civil parties, and time
10 allocations have been made, and I anticipate that both the
11 Prosecution and the Defence have been proceeding on the basis
12 that full examination would take place.

13 [16.09.42]

14 The ninth submission relates to the duty of the Court to
15 ascertain the truth. And that being the mandate of the Court, we
16 would urge the Court to treat these civil party witnesses in the
17 same way as previous civil party witnesses.

18 The 10th and final submission is that the prosecutors wish to
19 give the Trial Chamber the assurance that civil party witnesses
20 will be dealt with sensitively and that the Prosecution would
21 only seek to ask questions going to broader issues if the need
22 really arises.

23 Thank you.

24 MR. PRESIDENT:

25 Thank you.

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1 Counsels for the Accused, would you wish to also make any
2 observation regarding this request?

3 Starting from counsels for Mr. Nuon Chea first.

4 [16.10.47]

5 MR. KOPPE:

6 Thank you, Mr. President.

7 I don't think I would ever be saying this in a court of law, but

8 I think I agree with all 10 submissions from the Prosecution.

9 And the 10th submission would be a mutatis mutandis situation. Of
10 course, we will also approach the civil parties sensitively.

11 So, we fully concur with the submissions of the Prosecution.

12 MR. PRESIDENT:

13 Thank you, Counsel.

14 Counsel for Mr. Khieu Samphan, you may now proceed.

15 MR. VERCKEN:

16 Thank you, Mr. President. I am shocked by the principle that

17 consists in having people come, who rightfully or wrongfully

18 present themselves as victims, without them being questioned on

19 facts beforehand.

20 [16.11.48]

21 Bringing people here for them to speak only about their harm

22 suffered, without them explaining the reasons and the experience

23 that lead to this harm, seems unusual to me and incongruous in

24 such a trial. Maybe it corresponds to the image that certain

25 people might have of reconciliation - national reconciliation,

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1 but I believe - I feel that this necessity of reconciliation for
2 Cambodia with itself is not that important in relation to the
3 trial itself. So, for me, speaking - people who will only speak
4 about their harm does not correspond, in my eyes, to the
5 definition of what a trial should be.

6 So, these people are going to come and they will speak about
7 their - the harm they suffered; fine, okay. And we know that it's
8 difficult to distinguish the origin, the factual aspects of this
9 harm from the harm itself, because this week, on Thursday, we're
10 going to be hearing a witness who will speak to us again because
11 when he expressed himself on the harm he suffered, well, he
12 brought up new facts. So, in the end, the proper conduct of next
13 week's hearing is in the hands of my civil party colleagues,
14 following this issue of principle that I spoke about.

15 [16.13.38]

16 I seem - it seems to me that it is normal, in - if these people
17 come next week, that aspects linked to harm slide to some things
18 that are supposedly factual. Well, we will manage as we can,
19 faced with the situation, in order to try to examine them and to
20 see on what the harm they describe really rests on.

21 I believe that this is the least worth solution; but since we
22 don't have anything else to deal with, I don't have that much
23 more to add right now.

24 MR. PRESIDENT:

25 Thank you.

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1 Now, Lead Co-Lawyer for the civil parties, you may now proceed.

2 MS. SIMONNEAU-FORT:

3 In response to what my honourable friend has just said, I also
4 share the Co-Prosecutor's concerns.

5 I simply do have one observation. This hearing may appear rather
6 astonishing for those from a civil law background and to have the
7 civil parties talk about impact.

8 If there has been expansion of discussion on the facts in the
9 indictment, then we would have to allocate up to one day for each
10 civil party. If we're going to address the totality of facts,
11 we're obviously going to have to set aside much more time than
12 the four days for the civil parties to talk about victims impact
13 exclusively.

14 Those are my comments.

15 (Judges deliberate)

16 [16.19.05]

17 MR. PRESIDENT:

18 The Chamber has heard a request made by Lead Co-Lawyers for the
19 civil parties and at the same time we have also heard
20 observations made by parties to the proceedings regarding the
21 request - the request regarding the expression of statement of
22 harms by civil parties during the proceedings and also the
23 observations that other parties may have regarding the statement
24 of harm.

25 The Chamber is grateful, indeed, to all the observations made and

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1 submissions made, and the Chamber will rule upon this in due
2 course, and the Chamber will make sure that parties are well
3 informed of our decision in due course so that they are prepared
4 for the following week's hearings.

5 For today's session, the Chamber will adjourn the session, and
6 the next session will be resumed on Tuesday, at 9 a.m.

7 For tomorrow's sessions and after tomorrow's sessions, the
8 Chamber will be hearing testimony of two types of witnesses.

9 [16.20.54]

10 First, we will hear witness TCW-548 proposed by Co-Prosecutors
11 and counsels for Mr. Khieu Samphan. We will hear this witness for
12 a whole day: half morning of 21st and half morning of 22nd.

13 And we also will be hearing TCW-277.

14 In the afternoon of 22nd, the Chamber will be hearing TCCP-89
15 (sic) through video-conference from France. Counsels for Mr.
16 Khieu Samphan will be allocated the time to put questions to
17 these two witnesses through video-conference before the other
18 parties.

19 The Court is adjourned.

20 (Court adjourns at 1622H)

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