

**BEFORE THE TRIAL CHAMBER
EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA**

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**CIVIL PARTY LEAD CO-LAWYERS' RULE 80 WITNESS, EXPERT AND CIVIL
PARTY LISTS FOR CASE 002/02 WITH CONFIDENTIAL ANNEXES**

Filed by:

Lead Co-Lawyers for Civil Parties

PICH Ang
Elisabeth SIMONNEAU-FORT

Co-Lawyers for Civil Parties

CHET Vanly
HONG Kim Suon
KIM Mengkhy
KONG Phallack
KONG Pisey
LOR Chunthy
MOCH Sovannary

Before:

Trial Chamber

Judge NIL Nonn, President
Judge Silvia CARTWRIGHT
Judge YA Sokhan
Judge Jean-Marc LAVERGNE
Judge YOU Ottara

Distribution to:

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Beini YE

William SMITH

The Accused

KHIEU Samphan
NUON Chea

Co-Lawyers for the Defence

SON Arun
Victor KOPPE

KONG Sam Onn
Anta GUISSÉ
Arthur VERCKEN

I. INTRODUCTION

1. Herewith, the Civil Parties present the Trial Chamber with revised lists of witnesses, experts and civil parties proposed to provide oral testimony on topics within the scope of Case 002/02. These proposed lists have been carefully formulated in accordance with the Trial Chamber's directives to provide it with highly probative evidence in as efficient and comprehensive manner as possible. The Civil Parties' proposals focus primarily on the key civil party evidence that will most effectively assist the Chamber in ascertaining the truth in Case 002/02.

II. PROCEDURAL BACKGROUND

2. On 17 January 2011, the Trial Chamber filed the "Order to File Material in Preparation for Trial."¹ Pursuant to that Order, the Civil Parties submitted their lists of proposed witnesses, civil parties and experts in relation to the totality of Case 002 on 14 and 23 February 2011.²
3. On 4 April 2014, the Trial Chamber severed the proceedings in Case 002 for the second time and determined the scope of Case 002/02.³ On 8 April 2014, the Trial Chamber filed the "Order to File Updated Material in Preparation for Trial in Case 002/02."⁴

III. DISCUSSION

A. Overview

¹ Order to File Material in Preparation for Trial, Trial Chamber, Case No. 002/19-09-2007-ECCC/TC, **E9**, 17 January 2011.

² Civil Party Lead Co-Lawyers' Rule 80 Witness, Expert And Civil Party Lists, Including Confidential Annexes 1, 2a, 2b, 3a, 3b, And 4, Lead Co-Lawyers for the Civil Parties, Case No. 002/1 9-09-2007-ECCC/TC, **E9/4/3**, 14 February 2011; and Civil Party Lead Co-Lawyers' Rule 80 Summaries And Expert Qualifications With Points Of The Indictment, Including Confidential Annexes, Lead Co-Lawyers for the Civil Parties, Case No. 002/1 9-09-2007-ECCC/TC, , **E9/8**, 23 February 2011.

³ Decision on Additional Severance of Case 002 and Scope of Case 002/02, Trial Chamber, Case No. 002/1 9-09-2007-ECCC/TC, , **E301/9/1**, 4 April 2014.

⁴ Order To File Updated Material In Preparation For Trial in Case 002/02, Trial Chamber, Case No. 002/1 9-09-2007-ECCC/TC, **E305**,8 April 2014.

4. Pursuant to Rule 80(2) and 80(3) of the Internal Rules, and following the Trial Chamber's order,⁵ the Civil Parties respectfully submit four confidential annexes containing the updated lists of witnesses, civil parties and experts who they propose be called by the Trial Chamber to give testimony related to the criminal allegations within the scope of Case 002/02⁶ and the impact of the crimes suffered under the Democratic Kampuchea (DK) regime. Annex I lists the witnesses, civil parties and experts who do not seek protective measures, and/or withdrawal of their protective measures. Annex II lists the witnesses, civil parties and experts who seek protective measures and annex III is an updated list of the summaries of the witnesses, civil parties and experts who do not seek protective measures.
5. Additionally, the Civil Parties submit in Annex IV the order of the segments according to which they propose the witnesses, civil parties and experts to be heard in Case 002/02. This order has been developed to facilitate the most coherent, efficient and expedient hearing of civil party and expert evidence.

B. Annexes I, II and III

6. Annexes I and II provide detailed information for the 2 witnesses, 69 civil parties and 2 experts proposed by Civil Parties. The Annexes include, to the extent that this information is available, the full name, gender, date and place of birth, current address and/or contact details, Trial Chamber pseudonym, the relevant document reference number(s), details about protective measures, the expected language of the testimony, and the estimated duration of the testimony and, where relevant, the type of oath to be taken for each individual included in these annexes. Annex II contains the details of proposed civil parties, and experts respectively, for whom protective measures are requested or granted.

⁵ *Ibid.*

⁶ See Annex: List of paragraphs and portions of the Closing Order relevant to Case 002/02, Trial Chamber, Case No. 002/1 9-09-2007-ECCC/TC, E301/9/1.1, 4 April 2014.

7. Annex III contains the surname and given names, the Trial Chamber pseudonym, a summary of the proposed testimony and the points of the indictment for the individuals included in this annex.

C. Annex IV

8. The Civil Parties in Annex IV to this submission divide the proposed civil parties in the same order as presented by the Co-Prosecutors. Therefore in the interest of justice, particularly the clarity and efficiency of the trial proceedings, the Civil Parties assessed the proposed individuals in accordance with the key issues and criminal allegations on which these individuals are able to provide testimony and they appear in this Annex IV in accordance with the primary segment or site for which they can provide crime base evidence. Some civil parties may also testify on other issues, which are in many cases noted in the relevant summary.

D. Selection Considerations

9. The witnesses, civil parties and experts included in the Civil Parties' lists were selected on the basis of a thorough analysis of their evidence. All proposed civil parties are direct victims of criminal allegations within the scope of Case 002/02. The testimony of these 69 civil parties, chosen from among the 3,867 civil parties admitted to Case 002/02, will substantially assist the Trial Chamber in ascertaining the truth concerning the allegations to be tried in Case 002/02, particularly in establishing the crime-base evidence and assisting the Chamber to assess the gravity of the alleged crimes and the harm endured by civil parties.
10. With respect to the selection of civil parties to provide testimony related to the allegation of forced marriage and rape within the context of forced marriage, Civil Parties have previously estimated that the presentation of this evidence would take approximately five hearing days and would include the hearing of at least one witness or civil party from each of the zones of DK.⁷ In their original Rule 80 lists, the Civil Parties proposed 12 civil parties, 1 witness and 1 expert to testify on these topics.⁸ In

⁷ Civil Parties' Submission on the Scope of Case 002/02, E301/5, 31 January 2014, para. 13.

⁸ *Supra* at footnote 2.

- their revised lists presented herewith, the Civil Parties again propose 12 civil parties, 1 witness and 1 expert whose testimony is estimated to require 7 hearing days. These proposed civil party, witness and expert evidence has been meticulously selected to ensure the broad geographic representation required by the nationwide character of the allegations of forced marriage (all 7 zones as well as 3 of the 4 autonomous sectors⁹ of the DK era) and a thorough canvassing of the relevant evidence to prove the allegations of forced marriage and rape in the context of forced marriage, as well as provide the requisite linkage evidence to the Accused.
11. Unfortunately, in the process of preparing the attached annexes, the Civil Parties have learned that a large number of the previously proposed civil parties have passed away or are in such a poor health that they are prevented from testifying. Consequently, the Civil Parties propose 20 civil parties, witnesses and experts that were not included in their original Rule 80 list of witnesses, civil parties and experts filed in April 2011¹⁰ to testify on the topics that fall within the scope of Case 002/02.
12. With respect to the civil parties, witnesses and experts proposed to testify primarily on forced marriage, 8 are newly proposed. These new proposals are the consequence of the deteriorating health of a number of the originally proposed civil parties as well as the fact that new information has become available as a consequence of English language translations and summaries of documents that were not available at the time that the original lists were prepared and which have facilitated the identification of evidence which will better contribute to the ascertainment of the truth in these proceedings.
13. The Civil Parties have taken great care to propose a reasonable number of carefully selected civil parties, witnesses and experts to provide key testimony on each segment taking into account the factual allegations and crimes charged. Therefore, the Civil

⁹ Though there is civil party evidence on forced marriage in the one sector omitted (Kampong Som Autonomous Sector), the Civil Parties have elected not to propose a civil party to testify on this sector, in the interest of proposing a reasonable number of civil parties so that trial proceedings may move forward efficiently. Should the Trial Chamber feel that oral testimony on this sector is necessary, the Civil Parties are prepared to propose civil parties to provide such testimony.

¹⁰ *Supra* at footnote 2.

Parties respectfully request the Trial Chamber to call all of their proposed civil parties, witnesses and experts during the course of the evidentiary hearing in Case 002//02. Alternatively, and in the event that the Trial Chamber determines not to call all of these individuals, the Civil Parties respectfully request the opportunity to propose a reduced list of civil parties, witnesses and experts from the annexes to this motion in accordance with parameters set by the Chamber.

14. Furthermore, in the event that a proposed civil party, witness or an expert included in the annexes is unable to testify, the Civil Parties reserve the right to propose a substitute.

E. Victim Impact

15. Regarding the proposal of civil parties to be heard specifically during the hearings on the impact of the crimes, the Civil Parties do not include these proposals in the current annexes. Rather, in accordance with the practice set out by the Trial Chamber in Case 002/01,¹¹ the Civil Parties are prepared to provide these selections to the Chamber once it has provided indications on the duration, timing and parameters for these hearings.

IV. REQUEST

16. **WHEREFORE**, the Civil Parties respectfully request that the Trial Chamber:

- (1) **CALL** each of the civil parties and experts proposed by Civil Parties and identified in Annexes I and II to testify in the course of the Case 002/02 trial proceedings pursuant to Rule 84 (2); or
- (2) **PERMIT** the Civil Parties to propose a reduced list of civil parties and experts from the annexes to this motion in accordance with parameters set by the Trial Chamber, should the Chamber determine it cannot hear each of these individuals in the course of the Case 002/02 proceedings; and

¹¹ Trial Chamber Memorandum Further Information Regarding Trial Scheduling, 7 February 2013, **E236/5**.

- (3) **ORDER** the Witness & Expert Support Unit to assess and provide recommendations to the Trial Chamber on all requests for protective measures sought by civil parties proposed to testify in Annex X to this motion pursuant to Article 33 (new) of the Law on the Establishment of the Extraordinary Chambers in the Courts of Cambodia and Internal Rule 29.

Respectfully submitted,

Date	Name	Place	Signature
9 May 2014	PICH ANG Lead Co-Lawyer	Phnom Penh	
	Elisabeth SIMONNEAU-FORT Lead Co-Lawyer	Montpellier	