



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

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

ឯកសារដើម
ORIGINAL/ORIGINAL
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CMS/CFO: Sann Rada

TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

24 February 2016

Trial Day 372

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

The Accused: NUON Chea
KHIEU Samphan

Lawyers for the Accused:
SON Arun
Anta GUISSSE
KONG Sam Onn

Trial Chamber Greffiers/Legal Officers:
Evelyn CAMPOS SANCHEZ
EM Hoy

Lawyers for the Civil Parties:
Marie GUIRAUD
HONG Kimsuon
LOR Chunthy
PICH Ang
SIN Soworn
TY Srinna
VEN Pov

For the Office of the Co-Prosecutors:
Dale LYSAK
SENG Bunkheang
SONG Chorvoin

For Court Management Section:
SOUR Sotheavy
UCH Arun

List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
Judge FENZ	English
The GREFFIER	Khmer
Ms. GUIRAUD	French
Ms. GUISSE	French
Judge LAVERGNE	French
Mr. LYSAK	English
The President (NIL Nonn)	Khmer
Mr. PICH Ang	Khmer
Mr. SON Arun	Khmer

1

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

2 (Court opens at 0906H)

3 MR. PRESIDENT:

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

5 Today, the Chamber continues to hear the key document

6 presentation by the Lead Co-Lawyers for civil parties, as well as

7 the defence team for Khieu Samphan regarding the three targeted

8 groups; namely, the Cham, the Vietnamese, and the former

9 officials of the Khmer Republic regime.

10 Yesterday, the greffier received a request from the International

11 Deputy Co-Prosecutor for an additional time in relation to the

12 key document presentation on the treatment of the former

13 officials of the Khmer Republic regime, and we will make a ruling

14 on this before we hand the floor to the Lead Co-Lawyers for civil

15 parties and the defence team for Khieu Samphan.

16 Mr. Em Hoy, please report the attendance of the parties and other

17 individuals to today's proceedings.

18 [09.09.11]

19 THE GREFFIER:

20 Mr. President, for today's proceedings, all parties to this case

21 are present, except the defence counsel for Nuon Chea -- that is,

22 Counsel Victor Koppe, who is absent without reasons.

23 Mr. Nuon Chea is present in the holding cell downstairs. He has

24 waived his right to be present in the courtroom. The waiver has

25 been delivered to the greffier.

2

1 Thank you.

2 [09.10.02]

3 MR. PRESIDENT:

4 Thank you. The Chamber now decides on the request by Nuon Chea.

5 The Chamber has received a waiver from Nuon Chea, dated 24

6 February 2016, which states that, due to his health, headache,

7 back pain, he cannot sit or concentrate for long. And in order to

8 effectively participate in future hearings, he requests to waive

9 his right to participate in and be present at the 24 February

10 2016 hearing.

11 He affirms that his counsel has advised him about the

12 consequences of this waiver, that it cannot in any account be

13 construed as a waiver of his rights to be tried fairly or to

14 challenge evidence presented to or admitted by this Court at any

15 time during this trial.

16 [09.11.00]

17 Having seen the medical report of Nuon Chea by the duty doctor

18 for the Accused at ECCC, dated 24 February 2016, which notes that

19 Nuon Chea has chronic back pain and it becomes severe when he

20 sits for long and recommends that the Chamber grant him his

21 request so that he can follow the proceedings remotely from the

22 holding cell downstairs. Based on the above information and

23 pursuant to Rule 81.5 of the ECCC Internal Rules, the Chamber

24 grants Nuon Chea his request to follow today's proceedings

25 remotely from the holding cell downstairs via audio-visual means.

3

1 The Chamber instructs the AV Unit personnel to link the
2 proceedings to the room downstairs so that Nuon Chea can follow.
3 This applies to the whole day.
4 And before we proceed, the Chamber would like to inform the
5 parties that, yesterday afternoon, we received a request from the
6 International Co-Prosecutor for additional time to present some
7 key documents in relation to the treatment of the former
8 officials of the Khmer Republic regime. In order to clarify the
9 matter, in particular, the nature of the -- the nature and the
10 arguments of the request, I'd like to hand the floor to the
11 International Co-Prosecutor to provide grounds for the request.
12 You may proceed.
13 [09.12.48]
14 MR. LYSAK:
15 Thank you, Mr. President. Good morning, Your Honours, counsel.
16 I'll be brief.
17 We apologize if we weren't clear yesterday what we were
18 suggesting.
19 The time that was allocated to us was sufficient for us to cover
20 the Cham and Vietnamese, which are two very big topics. The Lon
21 Nol is an additional topic, and we realized when Mr. Smith
22 addressed you yesterday that we weren't going to have time
23 yesterday to also cover the Lon Nol.
24 So this is at your discretion. This is something we could do at
25 another time. It's something we could do by a written Rule 92

4

1 submission, but we're not intending here to repeat matters that
2 have been presented before.

3 [09.13.39]

4 The focus of the presentation, if we do it today, and it would be
5 relatively short, 30 minutes to maybe 40 minutes, is to more --
6 to focus on the issue that has arisen in this trial about the Lon
7 Nol policy, and particularly in relation to the testimony that
8 there was an instruction -- alleged instruction some point two
9 months after April 1975 not to harm certain ranks of Lon Nol
10 military people.

11 So our presentation is focused on documents that relate to that
12 issue.

13 Now, it's, again, something we can do other times -- another
14 time. We know there is a schedule here today, so if there are --
15 if it would disrupt the plans to not finish at noon today, it's
16 something we can do at another time. But there are documents we
17 think are important on that issue that, at some point, we would
18 like to present helpful to Your Honours and I think helpful to
19 the Defence, too.

20 It's important, I think, for the Defence to also understand the
21 documents and evidence that we believe are particularly important
22 on this issue.

23 So that was the basis for our request, but we are at your
24 discretion.

25 [09.15.22]

5

1 MR. PRESIDENT:

2 Any observations from other parties regarding the request for
3 additional time for key documents on the treatment of the former
4 officials <> of the Khmer Republic regime?

5 I'd like to now hand the floor to the Lead Co-Lawyers for civil
6 parties if you wish to make observations regarding this request.

7 MR. PICH ANG:

8 Good morning, Mr. President. Good morning, Your Honours.

9 The Lead Co-Lawyers do not have any objection to the request by
10 the Co-Prosecutors, and for our part, we only need a short time
11 to conclude our presentation.

12 Thank you.

13 MR. PRESIDENT:

14 And the defence team for Nuon Chea, do you wish to make any
15 observations?

16 [09.16.32]

17 MR. SON ARUN:

18 Good morning, Mr. President. Good morning, Your Honours and
19 everyone.

20 We, the defence team of Nuon Chea, do not have any observation to
21 make.

22 MR. PRESIDENT:

23 And what about the defence team for Khieu Samphan?

24 MS. GUISSSE:

25 I apologize, Mr. President, but I did not get the translation of

6

1 what my colleague, Son Arun, said.

2 Well, as <regards the position of> the Khieu Samphan team, we
3 objected <on the> principle of revoking the <question of policies
4 regarding> the Khmer Republic <and you made several decisions
5 overruling our objections. In such circumstances, subject to the
6 explanations that the Co-Prosecutor just gave, we will not object
7 to those decisions, knowing that it will be a limited point.>

8 In any case, we're simply asking to have the possibility, when it
9 will be our turn to respond, to also be given extra time if<, we
10 indeed need it,> to provide <specific answers>.

11 [09.17.44]

12 MR. PRESIDENT:

13 The Chamber now decides to grant the request by the International
14 Co-Prosecutor for an additional 40 minutes for key document
15 presentation in relation to the treatment of the former soldiers
16 of the Khmer Republic regime after 1975.

17 You may proceed.

18 MR. PICH ANG:

19 Mr. President, do you wish to hand the floor to the Co-Prosecutor
20 or to the Lead Co-Lawyers to conclude my remaining part?

21 MR. PRESIDENT:

22 If that is the case, you may proceed so that you may conclude
23 your part and then the Co-Prosecutor can proceed.

24 So you have the floor first, Lead Co-Lawyer.

25 [09.18.44]

7

1 MR. PICH ANG:

2 Again, good morning, Mr. President, Your Honours, everyone in and
3 around the courtroom.

4 I will continue where I left off yesterday in relation to the
5 information by the civil party applicants. I have six additional
6 civil party applicants to cover. <I hope to conclude my
7 presentation in ten minutes or so.>

8 The information I'd like to present is in relation to the
9 <interview between the OCIJ investigator and> Dou Yang Aun --
10 that is, document E3/5587. The ERN in Khmer is at 00416802 to 03,
11 in English at 00426466 to 68, French at 00455405. And I'd like to
12 make the following quote:

13 [09.20.14]

14 Question: "Please clarify the event when your siblings and
15 parents were taken to be executed."

16 Answer: "On the night of 17 April 1975, all my family members
17 were evacuated. We were prohibited from taking belongings along
18 with us. We were told that we would return to them when it became
19 quiet, being afraid of Lon Nol aerial bombardments. One day I
20 went to build a dam and my parents were at home, and the elder
21 siblings went to the mobile units. When I returned home, I saw
22 the house became quiet. The neighbours, who were also Vietnamese,
23 told me that my parents and siblings were taken to be executed,
24 and they took me to hide."

25 Question: "Why did the Vietnamese who told you this news were not

1 taken to be executed?"

2 Answer: "When I arrived in Vietnam, the neighbours told me that
3 my family was accused of being Viet Cong soldiers, so they were
4 taken to be killed. My family was not linked to Viet Cong.

5 The neighbours also told me that my parents and siblings were
6 transported in ox carts by Khmer people who were Base People to
7 Kuoy village, Da commune, Kampong Leaeng district, under the
8 order of Ta Aok and Ta Peang. Ta Peang was a person in charge of
9 Kampong Leaeng district level. The persons in charge had held the
10 list of people for ages, so they knew who was who."

11 [09.22.22]

12 Question: "Please describe the events when you went to Vietnam."

13 Answer: "We were told not to work on the day after, and they did
14 not tell us any reason. On that day, people from all the
15 villagers who were Vietnamese came to attend a meeting at the
16 commune located in Khear mountain, with the participation of
17 commune chief called Ta Ben, Ta Aok, Ta Meang and Ta Mat; they
18 announced that we were taken by Vietnam back to the country. The
19 commune chief also said that the upper echelon also agreed with
20 this. The meetings were also held in the other communes with the
21 participation of the district leadership. At dawn, at 4 a.m., the
22 people walked to the riverbank at Kampong Hau in Kampong Leaeng
23 district. The people who walked at back told me when we met on
24 the ferry that the people at back were robbed of their
25 belongings. I saw there were approximately 7-8 ferries, roughly

1 200 people being transported in each ferry, so the people who
2 were placed in the lower floor were suffocated to death along the
3 way. On the ferries, there were Khmer Rouge in black clothes with
4 a cap, and they were armed. When arriving in K'am Samnar, the
5 people were told to walk up the island at the border. There I saw
6 a Vietnamese official named Nguyen Gia Dang alias Ti Kam; he told
7 me that we were exchanged with salt."

8 [09.24.30]

9 "My father and uncles mentioned the name of this person, and they
10 knew the person named Ti Kam because he controlled all Vietnamese
11 in Cambodia. On that island, the elderly told me that person was
12 Ti Kam. I did not know the level of the Vietnamese officials who
13 came to receive us, but they dressed as civilians."

14 During the - Question: "During the meeting to depart for Vietnam,
15 did the people have choices, or did they have to follow the
16 order?"

17 Answer: "No one dared to protest."

18 [09.25.14]

19 Question: "How was the selection at K'am Samnar done?"

20 Answer: "The people had to queue to enter the checkpoint one by
21 one with the presence of only Vietnamese officials. If the
22 Vietnamese did not accept them, the Khmer Rouge waiting outside
23 would receive them. There were Khmer spouses who were not allowed
24 to go with their family. The Khmer Rouge had already made a
25 selection at Khear mountain by putting Khmer people in one place

10

1 and Vietnamese people in another place. Those at Khear mountain
2 who managed to arrive at K'am Samnar were mistakenly identified
3 or disguised themselves with their family in order to go to
4 Vietnam together."

5 [09.26.16]

6 Question: "As for the inspecting officials, did the Vietnamese
7 side or Khmer side have stricter laws not allowing Khmer spouses
8 to go?"

9 Answer: "I saw that the Vietnamese officials were stricter; I did
10 not know what the agreement they had between the Khmer Rouge and
11 Vietnam."

12 And a bit further down, at question/answer number 10, and I
13 quote:

14 Question: "When you were at K'am Samnar, how did they test the
15 language?"

16 Answer: "During the inspection, the Vietnamese officials looked
17 at complexion and the language, and if one looked like Khmers, he
18 needed to have relatives who came with them to guarantee that the
19 person was their nephew or child before he was allowed to
20 proceed. Their relatives or the people who went there did not
21 come to receive them. At K'am Samnar, Khmer Rouge soldiers did
22 not check the language or the race because they had prepared the
23 list or had already known those people at Khear Mountain."

24 And there are written records of other civil parties who had a
25 similar account regarding the journey to Vietnam -- that is,

11

1 similar to this Le Yang Sour -- that is, E3/5626.

2 And this document also has another document ID -- that is,

3 E3/4574.

4 [09.28.10]

5 MR. PRESIDENT:

6 Hold on, Pich Ang.

7 And Judge Lavergne, you have the floor.

8 JUDGE LAVERGNE:

9 Yes, just a request for clarification in relation to the document
10 that you just read out.

11 First of all, I'd like to clarify that this is, indeed, a WRI,
12 not a civil party application. And also, I note in the list of
13 documents that you provided to us ahead of time that the person
14 involved, apparently, is deceased. So can you confirm that?

15 [09.28.48]

16 MR. PICH ANG:

17 Yes, Judge Lavergne, that is the written record of interview of
18 civil party with investigators of the Office of the
19 Co-Investigating Judges. And the civil party, Dou Yang Aun, is
20 deceased.

21 I hope the information is clear now for you, Your Honour.

22 And another information provided by a civil party in his written
23 record of interview of civil party Troeng Yang Yong, who is also
24 deceased -- that is, document E3/5588. Since the information is
25 similar, I will skip this part.

12

1 Now I move on to another civil party applicant, and I will brief
2 on that. This is in relation to the killing of the Vietnamese in
3 Prey Veng, as well as the anti-Vietnamese war and purge
4 propaganda.

5 I refer to the civil party application of Madam Chhay Eat -- that
6 is, document E3/6088.

7 She spoke about the events that happened to her husband, Chea
8 Choeun, when it happened in 1976 and '77 in Svay Chrum <commune,
9 Me Sang> district in Prey Veng province. And the relevant ERN in
10 Khmer is at 00503242; English, at <01137799>; and French -- I
11 apologize, there is no French ERN. However, the translation
12 request has been made.

13 [09.31.17]

14 The information is part of the document on the list that I sent
15 to Your Honours and to the concerned parties, and allow me to
16 quote:

17 "In July 1976, Sun Vath, a commander of the platoon at Trea
18 village, captured and guarded my husband (as prisoner), with Ta
19 Tun and some other people whose names I have forgotten. Sun Vath,
20 the commander of the platoon at Trea village, told my husband
21 (Chea Choeun) to live separately from me. When the two of us met
22 each other, we did not dare to speak or communicate with one
23 another. Comrade Sun Vath made my husband work excessively such
24 as pulling out and transplanting rice seedlings, ploughing or
25 harrowing soil, carry earth, and making fertilizer without rest

13

1 and enough food to eat.

2 "In May 1977, my husband (Chea Choeun) was killed by the Khmer
3 Rouge. At first, Sun Vath, the commander of the platoon at Trea
4 village, accused him of being an enemy and a Vietnamese agent,
5 though he knew nothing about that kind of thing."

6 [09.32.40]

7 "<> Sun Vath accused my husband of being an enemy and a
8 Vietnamese agent, and he had my husband join the meeting at Svay
9 Chrum pagoda, Svay Chrum village, Svay Chrum commune, Me Sang
10 district, Prey Veng province, with others whose names I have
11 forgotten. When he arrived, the soldiers in black clad arrested
12 him and interrogated him. He was beaten 50 times with a whip for
13 each time he was questioned. They said that if he confessed, they
14 would allow him to return home. Because the torture was severe,
15 beyond his ability to endure, he confessed that he was a
16 Vietnamese agent, even though he was not involved in that at all.
17 In the same month -- that is, in May 1977, those black-clad
18 soldiers, who were armed with guns, received orders from Sun
19 Vath, the platoon commander at Trea village, to walk my husband
20 from Chres Kbot cooperative in Chres village, Chres commune, Me
21 Sang district, Prey Veng province to Cheung Chap hill in Sampoar
22 village, Prey Totueng commune, Me Sang district, Prey Veng
23 province. They led him there to be beaten to death. My husband
24 disappeared since that time. That was what Ta Tun told me. He is
25 now deceased."

14

1 [09.34.20]

2 Another civil party whose civil application is E3/6049, the civil
3 party's name is Yoeng Yang, and the Khmer ERN is 00500852 through
4 53; English ERN is 01137773. There is no French ERN, but we have
5 requested the translation into French. Let me quote as follows:

6 "In June 1976, Ol Yeung, who was my father, was taken by Mao
7 Pech, chairperson of Dom village cooperative, to Tuol Prey Angkor
8 security office, which was situated in Thlok village, Pean Rong
9 commune, Prey Veang district, Prey Veng province. Before he was
10 arrested by Mao Pech, my father was sent by him to work in a
11 craft factory in Dom village with other elderly people. He was
12 made to make some baskets, trays, shallow baskets, rakes,
13 ploughs, and shoveling baskets, without getting time to rest."

14 [09.36.20]

15 "Suddenly, in June 1976, my father was called to Tuol Prey Angkor
16 security office, around 4 p.m. in the afternoon. He was then
17 arrested and accused of being a Vietnamese. In fact, my father
18 was a pure Khmer person. From the day that my father was taken to
19 Tuol Prey Angkor security office in Thlok village, Pean Rong
20 commune to be educated, I have had no news about him."

21 Another civil party, Sum Soth, has also relevant information, and
22 let me quote the relevant ERN number: in Khmer, 00501122 through
23 23; English ERN is 01137782; French, 01155136 -- quote:

24 [09.37.45]

25 "Hong Hen, who was my husband when the Khmer Rouge took power,

15

1 was forced by Ta Eap Oeung and Ta Koeng to work excessively
2 without rest. Moreover, in November 1976, my husband, Hong Hen,
3 was accused by Eap Oeung and Ta Koeng of having a Khmer body with
4 a Vietnamese head, and they said that my husband wanted to rebel,
5 though he was actually innocent. Eap Oeung and Ta Koeng sent him
6 to Wat Phniet pagoda, Phniet village, Svay Chrum commune, Me Sang
7 district, Prey Veng province. Those who were accused were
8 gathered and not permitted to contact their siblings or children.
9 If they happened to see each other, they were to act as though
10 they did not know each other. Eap Oeung and Ta Koeng forced my
11 husband to work very hard. He was tasked with pulling,
12 transplanting the rice seedlings, carrying heavy loads,
13 ploughing, threshing, raising land with the others whom they had
14 gathered, including Ta Saom, Ta Yean, and others (whose names I
15 have forgotten). Each person has to work at maximum capacity to
16 show that they had refashioned themselves."

17 [09.39.20]

18 "In February 1977, my husband, Hong Hen, was sent by Eap Oeung
19 and Ta Koeng to Svay Chrum detention office, Svay Chrum village,
20 Svay Chrum commune, Me Sang district, Prey Veng province, <at
21 night>.

22 The Khmer Rouge violently interrogated him using a security
23 officer which name -- whose name I have -- I do not know -- I did
24 not know of Svay Chrum detention office. They asked him if he was
25 a secret agent for the Vietnamese and who was working with him.

16

1 But he rejected the accusations, saying that he was not a secret
2 agent and he did not know what they were talking about. After
3 that, they sent him to carry earth. Then he was interrogated
4 again at night time. They interrogated him until he gave his
5 confession. If he hadn't confessed, they would <not> have stopped
6 hitting him. Since he was unable to withstand such harsh torture,
7 he eventually gave false answers, saying he had conspired with
8 those who had been executed earlier. The Khmer Rouge then he sent
9 him to carry earth with the others whom they had gathered, like
10 Ta Saom, Ta Yean, and others (whose names I have forgotten) for
11 many months. Then the Khmer Rouge sent him to make sewage at the
12 Choeur Teal in Kbal Kvek village, Svay Chrum commune, Me Sang
13 district, Prey Veng province."

14 [09.40.46]

15 "In June 1978, he returned home, but after only a few days, he
16 was sent to the Production Force at <Tnaot> village. Ta Nean
17 called him to go to get the clothes at Wat Chy Phoch pagoda, <in
18 Chi Phoch village, Chi Phoch commune,> Me Sang district, Prey
19 Veng province. On that day, my husband, Ta Saom, and Ta Yean,
20 left in the morning with the other gathered people, whose name I
21 have not known, and they have disappeared since that time.

22 "According to the villagers from Chy Phoch (whose name I have
23 forgotten), they gathered the people who were to gather up and
24 who -- whom the Khmer Rouge had asked to go Wat Chy Phoch pagoda,
25 <in Chi Phoch village, Chi Phoch commune,> Me Sang district, Prey

17

1 Veng province were all killed at a hill which was located to the
2 north of Wat Chy Phoch pagoda."

3 [09.41.48]

4 I will have two more civil party applications, which are very
5 short. The first one is civil party application of Phen San,

6 E3/6053; ERN in Khmer is 00501100 through 01; English, ERN is
7 01137778 through 79. There is no French ERN, but we have

8 requested the translation into French. Let me quote as follows:

9 "December 1976: Ta Pring, Ta Vong and Sin Vath accused my husband
10 of being a Vietnamese agent. My husband did not know anything
11 about this, but was taken to the gathered group at Svay Chrum
12 security office, Me Sang district, Prey Veng province. When he
13 was there he was forced by the Khmer Rouge to do really excessive
14 work. My husband said that he tried to work very hard, trying to
15 suppress his anger, never having the courage to complain or be
16 lazy, because he wanted to be restored. He was prepared to make
17 sacrifices for the Revolution. No matter how hard he worked, he
18 could not manage to be free from the conviction."

19 [09.43.25]

20 "January 1977: The Khmer Rouge sent my husband to a meeting in
21 Wat Svay Chrum pagoda in Svay Chrum village, Svay Chrum commune,
22 Me Sang district, <Prey Veng province>. However, actually, when
23 he arrived there, the Khmer Rouge, whose name I do not know,
24 captured and violently interrogated him. They hit him with a
25 bamboo club, or a whip (interrogating him at night time) and they

18

1 did not permit him to scream. When he cried out, they hit him
2 again. The Khmer Rouge asked him if he was really the Vietnamese
3 agent. Whatever they asked, he had to answer accordingly without
4 diverting from the questions at all. He could not endure the
5 beating with the bamboo club and the whip and so he just made up
6 his answers. He said he was from the Vietnamese line, though he
7 was actually not."

8 [09.44.22]

9 Let me now move to the last civil party application. This is the
10 civil party Kung Von, document E3/5937A. This is a supplementary
11 information of this civil party, and I will quote from the page
12 -- from the page at Khmer ERN 00585239; English is 01137902
13 through 03; there is no French ERN, but we have requested a
14 translation into French. Let me quote as follows:

15 "When the Khmer Rouge evacuated them from Kaoh Kou" -- and the
16 English translation was written as "Puos Ko", but actually, it is
17 "Kaoh Kou"<; thus, the English translation should be corrected
18 with this regards. Kaoh Kou is a village in Prey Kokir commune,
19 Chantrea district, Svay Rieng province.> -- "they kept killing
20 people, especially those who tried to flee with the Vietnamese to
21 Vietnam."

22 Let me quote again -- let me start again:

23 "When the Khmer Rouge evacuated them from Kaoh Kou village, they
24 kept killing people, especially those who tried to flee with the
25 Vietnamese to Vietnam. If these people were arrested, they were

1 killed.

2 "In <October or> November 1978, the Khmer Rouge transferred all
3 the people from Svay Rieng to Pursat and Battambang provinces.

4 The procession started from Chrey to Neak Leung. Then, the people
5 were loaded into the ferries and taken to Chbar Ampov <in Phnom
6 Penh>. From there, they went them to Prey Svay by train.

7 Upon arrival at Cham Ror-A, Phnum Kravanh district, Pursat
8 province, the Base People came to collect them <>. Everyone from
9 Svay Rieng was assigned to harvest rice. Then the Khmer Rouge
10 soldiers accused them of being the enemies with the Khmer body
11 and Vietnamese head.

12 After they did the harvesting, they told them to stand in rows
13 and they tied their hands up, then they walked them into the
14 forest and killed them."

15 [0946.57]

16 She, the civil party, witnessed the killings.

17 "Most of the people who were taken to be killed were males. Then
18 they killed their wives and children."

19 I am now concluded the presentation of the civil party
20 application. And Mr. President, my international colleague
21 requests to address the Chamber for a few minutes.

22 MS. GUIRAUD:

23 Mr. President, may I have a minute<, if you would allow me,>

24 because I forgot to inform the party and the Chamber of something
25 <that I consider> important.

20

1 I wanted to point out that the contents of all the documents that
2 we <> presented <> yesterday and today, the contents of all the
3 civil party applications and <supplements to the> civil <party
4 applications were> cross-checked ahead of this hearing. Such
5 cross-checking was <either> done by the lawyers who <met with
6 their clients to> cross-check the contents of the information
7 <or> by members of our <section> who also cross-checked the
8 contents of the information provided with <those> civil parties
9 who, of course, were still alive.

10 [09.48.14]

11 I thank you, Mr. President, for giving me the additional time to
12 explain to you the methodology that we used in obtaining these
13 documents.

14 MR. PRESIDENT:

15 So the floor is now given to the International Deputy
16 Co-Prosecutor to present the key documents -- the last batch of
17 the key documents in relation to the treatment of the three
18 targeted groups.

19 You may now proceed.

20 [09.48.50]

21 MR. LYSAK:

22 Thank you, Mr. President, Your Honours, for the opportunity to
23 present on this last group, this last targeted group.

24 There are three groups of documents I'm going to discuss in this
25 presentation.

21

1 The first -- again, this is a presentation designed to provide
2 you with documents that would be relevant to the assertion we've
3 heard that two months, three months, some point after 17 April,
4 there was a meeting at which there was an instruction not to harm
5 Lon Nol people of certain rank. So I want to start with documents
6 from the period before that, the period of April to May 1975, a
7 very important period, and documents that show what the policy or
8 orders were in April and May 1975 relating to Lon Nol officers
9 and officials, evidence that shows that such persons were, in
10 fact, being gathered and killed pursuant to orders from the very
11 top leaders.

12 [09.50.04]

13 And I want to start, very briefly, with evidence relating to the
14 gathering of Lon Nol officers and officials in Phnom Penh on the
15 17th of April 1975, evidence showing that this was deliberate and
16 organized.

17 Jon Swain, the British journalist, his journal, document E3/51 --
18 E3/51; English, ERN S0003278; Khmer, S00644709 through 710;
19 French, 00597835; this is a journal entry for 4 p.m. on the 17th
20 of April -- quote -- and he's describing the scene at the
21 Ministry of Information, a place that Jon Swain and Sydney
22 Schanberg went at -- in the afternoon on the 17th of April. This
23 is how he described what was taking place -- quote:

24 [09.51.18]

25 "There were 50 prisoners lined up in front of the building. They

1 included Lon Non, Marshal Lon Nol's younger brother. There were
2 several generals, and Hou Hang Sin, director of the cabinet of
3 Long Boret.

4 "At the information ministry, a man in black about 35, and
5 clearly a leader, bawled through a bullhorn at the prisoners,
6 dividing them into three groups: military, political, and
7 ordinary civilians.

8 "The Khmer Rouge training their guns on them were tough,
9 strong-looking, in jungle green, Mao hats and the inevitable Ho
10 Chi Minh sandals. Each one was a walking arsenal." End of quote.
11 And also from Sydney Schanberg, he wrote an article, E3/3987, and
12 the source of that article, Your Honours, came from his diary,
13 E236/1/4/3.1. Let me repeat that, E236/1/4/3.1. The diary, which
14 I will quote from, is the original source. I raise this issue --
15 this was admitted during Sydney Schanberg's testimony, but based
16 on my checking, it doesn't appear to have an E3 number. I mention
17 that because those of us who were there know this diary was
18 admitted by the Chamber. We would suggest that the Court may wish
19 to assign an E3 number to it so it's clear that this is an
20 admitted document, if that hasn't taken place. To my knowledge, I
21 haven't found an E3 number for it.

22 [09.53.27]

23 The reference from Schanberg's diary is at Khmer, 00963956 to 57;
24 English, 00898278; French, 00955419; and this is again in
25 relation to the Ministry of Information gathering on the 17th of

1 April -- quote:

2 "The military leader, who appeared to be no more than 35, agreed
3 to talk to foreign newsmen. As the conversation continued, Lon
4 Non slips forward and quietly asks a French newsman to ask in the
5 insurgent leader if the prisoners here today, or other Cambodian
6 officials, can leave the country if they wish to. A few moments
7 later, the newsman gets a chance to ask the question. The
8 military leader laughs softly. 'It will depend on the
9 government', he says. 'They will make the regulations'. He says
10 he is only a military leader, adding that some of the top
11 political and governmental leaders are not far from the city, but
12 that they had let the military enter first to organize things."

13 End of quote.

14 [09.55.04]

15 Your Honours, I will just briefly reference, as we've talked
16 about these before, there is also evidence, of course, of what
17 took place at the French embassy, evidence that shows that the
18 Khmer Rouge were targeting and seeking to arrest officials who
19 had taken refuge in the embassy. E3/2694 is the telegram from the
20 French consul on the 18th of April 1975 identifying some of the
21 people who were -- officials who were in the embassy.

22 E3/2700 is a telegram from French consul, Jean Dyrac, on the 20th
23 of April 1975 indicating that they were going to have to leave --
24 let these -- have these people taken out of the embassy.

25 And what is of particulate note in this telegram -- E3/2700 --

24

1 Dyrac writes -- quote:

2 "Following my intervention this morning, the City Committee" --

3 this is referring to the Khmer Rouge -- "authorized the Cambodian

4 nationals who had taken refuge in our embassy to leave it freely,

5 with the exception of figures from the former regime who will

6 join another group." End of quote.

7 And Your Honours are aware of the subsequent admissions of

8 executions by Ieng Sary at document E3/604. I will not cover that

9 again.

10 [09.56.51]

11 Because the issue has arisen as to whether Ta Mok had given

12 different instructions to the Southwest Zone, I want to provide

13 you with a witness statement. This is document E319/23.3.42. Your

14 Honours have admitted this. This was admitted at the start of Sao

15 Van's testimony on the 1st of February 2016. This is a statement

16 from a witness who was a commander of a special platoon in

17 Division 1 of the Southwest army. The reference is at answers 29

18 to answer 37, and he is describing -- he was at Pochentong

19 Airport on the 17th of April 1975, as was Ta Mok. And this is

20 what the witness says took place at Pochentong Airport on 17

21 April, starting at answer number 30 -- quote:

22 "At around 9 a.m., Ta Mok, Sou Met and Meas Muth arrived at

23 Pochentong Airport. Ta Mok ordered all of the Lon Nol soldiers

24 and all of the pilots to board CMC trucks. Their weapons were

25 confiscated. They were sent to the west, having been told that

25

1 they were being sent to welcome Angkar." End of quote.

2 The witness goes on to testify that the Lon Nol soldiers and
3 pilots were taken away by a special unit under the direct command
4 of Ta Mok -- this is at answer 33 -- that there were around 30 or
5 40 people per truck. Each truck was packed full. Answer 37.

6 [09.58.53]

7 And at answers 34 to 35, he gives the following testimony:

8 Question: "Did you hear from the soldiers who transported those
9 people about what happened to the people?"

10 Answer: "Ta Mok himself said that those people were taken to be
11 smashed."

12 Question: "When did Ta Mok say that?"

13 Answer: "Ta Mok said that after those Lon Nol soldiers were
14 trucked away." End of quote.

15 And another piece of -- another document that tells us what was
16 going on with Southwest Zone military following 17 April 1975,
17 this comes from Henri Locard's book, "Prisoner of the Khmer
18 Rouge". This is document E3/2419, E3/2419; English, 00293762
19 through 63. There are no translations of this excerpt presently
20 available, but will be requested.

21 This is what Henri Locard wrote -- quote:

22 [10.00.14]

23 "On 20 April 1975, during a big rally at Veal Renh, the Khmer
24 Rouge leaders asked all Lon Nol soldiers present to enrol with
25 Angkar to recover territories allegedly taken by Vietnam. They

1 first had to be trained.

2 "Some gave their names although they were not members of the
3 army, and the -- or the military police, or even the ordinary
4 police. They filled a first contingent of about 20 trucks and,
5 according to witnesses, a second trip was made with 20 more
6 trucks.

7 "All were taken to the top of the Elephant Range at Bokor hill
8 station on 1,000 metre cliff overlooking the coast with its
9 casino. In actual fact, from that fatal 20th of April 1975,
10 during about a whole week, thousands of soldiers, with their
11 families, were slaughtered. They were first stripped of their
12 clothes and jewellery. There were heaps of clothes and a mound of
13 jewellery that formed a real stupa. Women received strokes of
14 rattan on the pubis under the very eyes of their husbands. The
15 victims were knocked senseless and thrown down from the top of
16 the cliff. Some children survived and tried to take refuge in
17 nearby villages. But the Khmer Rouge pursued them and executed
18 them all." End of quote.

19 [10.01.56]

20 Some documents, Your Honours, now showing who was responsible,
21 who was ordering and directing the killings of Lon Nol officials
22 and soldiers during this period:

23 First, there were some May 1975 news reports that described radio
24 communications that had been intercepted from the Khmer Rouge
25 leaders. E3/3393 is a Los Angeles Times article dated the 4th of

1 May 1975, and it is reporting on a Newsweek press release that
2 they heard about intercepted Khmer Rouge radio communications on
3 the killings of Khmer Republic officials and officers. I quote:
4 "The disclosures were said to have come from interceptions of
5 Khmer Rouge communications by U.S. intelligence. The first
6 victims of the bloodbath were said to be officers of the
7 Cambodian army and some government officials. All officers down
8 to the rank of second lieutenant were to be killed, along with
9 their wives, the intercepts were said to indicate."

10 [10.03.29]

11 "Newsweek quoted one official as saying, 'I am not speculating. I
12 am not dealing in third-hand reports. I am telling you what is
13 being said by the Cambodian -- Cambodians themselves in their own
14 communications'." End of quote.

15 E3/3364 is a Washington Post article two days later, the 6th of
16 May, relevant. It simply provided -- indicates that the White
17 House had provided confirmation about these intercepts.

18 And then, six days later, on the 12th of May 1975, the Washington
19 Post wrote a further article. This is document E3/3370, which
20 states -- quote:

21 "Not long after the Communists captured Phnom Penh and
22 consolidated their hold on Cambodia, they issued the following
23 secret instructions: 'Eliminate all high-ranking military
24 officials, government officials. Do this secretly. Also get
25 provincial officers who owe the Communist Party a blood debt.'

28

1 These are the words translated into English that were broadcast
2 over the Khmer Rouge communications network. U.S. Intelligence
3 intercepted the radio transmission and sent a translation to the
4 State Department by secret cable. We have obtained a copy of the
5 secret cable.

6 [10.05.08]

7 Other radio reports from the field indicate that the blood
8 reprisals have started. One unit, relaying orders from the
9 Communist high command, called for the execution of all military
10 officers from lieutenant to colonel, with their wives and their
11 children." End of quote.

12 There's evidence confirming this, Your Honours, document E389. I
13 will just reference. It's an interview of Ieng Sary by Steve
14 Heder that you're well familiar with at Khmer, 00062461; English,
15 00417606; French, 00332688. In a response to a question about a
16 decision of the Party leaders to extend executions beyond the
17 seven super-traitors, Ieng Sary made this admission -- quote:
18 "That decision was not made in advance. It was decided
19 afterwards, as far as I know, after 17 April, around the 20th, as
20 far as I know, meaning they decided to do whatever was required
21 to keep that group from being able to rise up and oppose the
22 revolution." End of quote.

23 [10.06.50]

24 Another Steve Heder interview, his interview of Ouk Bunchhoeun,
25 document E3/387, E3/387; Khmer, 00379486; English, 00350205; and

1 French, 00441418 -- quote:

2 "In April 1975, Pol Pot issued another secret policy; that was,
3 wiping out all elements in the Lon Nol regime. With respect to
4 civilian local administrators, they would be purged from
5 sub-district level to upper echelon. Regarding soldiers, they
6 would be swept clean from second lieutenants up to generals." End
7 of quote.

8 And a third interview of Mat Ly, who we talked about yesterday,
9 E3/390, English, ERN 00436867 through 868; Khmer, 00392094
10 through 95; French, 00479807 through 808 -- quote:

11 "Domestic policy: Starting from this, it was imperative to dig
12 the trunks out by the roots, dig out both trunks and roots, the
13 city people. They researched those people and, if they had even
14 been first lieutenants, second lieutenants or had worked in the
15 courts, they were killed. To be able to kill them, they
16 designated them all as enemies." End of quote.

17 [10.09.00]

18 Your Honours, the second group of documents I want to reference
19 are evidence -- is evidence related to Sector 13 and the
20 Southwest Zone. Sao Van has given evidence of an instruction from
21 the Sector 13 secretary. This is evidence that shows what was
22 going on -- actually going on in that sector and the Southwest
23 Zone.

24 First, starting with Sao Van's own district, Tram Kak, in
25 addition to the evidence you've heard in this courtroom, of

30

1 course, about what took place at Wat Champa and other locations,
2 an excerpt from Meng Try Ea's book, "The Chain of Terror". This
3 is a document E3/2120; also, E3/2121.

4 There are two different E3 numbers for this document. You need to
5 know that because the lengthier Khmer translation is in the
6 second one, but not the first -- not the first one.

7 [10.10.15]

8 Meng-Try Ea writes -- first of all, has an entire chapter in
9 which he talks about arrests, that the majority of those arrested
10 in mid-75 and '76 were Lon Nol soldiers and policemen. He goes on
11 to give some examples, which I will be referencing, starting
12 with, at English, ERN 00416383; Khmer, 01098794. There's no
13 French translation. Meng-Try Ea writes:

14 "Former Popel sub-district cadre Teng" -- he's referring here to
15 Popel commune, which was one of the communes in Tram Kak.

16 "Former Popel sub-district cadre Teng stated that, in mid-1975,
17 his sub-district chief organized the village and team chiefs to
18 obtain personal histories of the people in Popel. He explained
19 that in compiling histories, cadres obtained detailed information
20 on names, duties, spouses, children and occupations. 'After the
21 personal histories were done, Chun sent the reports to the
22 district committee and after that, those in Popel who had been
23 Lon Nol soldiers or policemen began regularly disappearing." End
24 of quote.

25 This -- the reference to Chun was to the Popel district -- Popel

31

1 commune chief who, incidentally, was the husband of Yeay Boeun,
2 who we heard in this courtroom. Yeay Boeun, of course, gave
3 testimony describing the same process.

4 [10.12.12]

5 Second from Tram Kak, a written record of interview from a
6 deceased witness, Iep Duch. This witness was the former youth
7 chairman of the district and a member of the Krang Ta Chan
8 Committee. This is interview E3/4627; English, 00223476 to 77;
9 Khmer, 00163493; French, 00651259 to 60.

10 Question: "Were the 17 April group arrested by the militia and
11 sent to Krang Ta Chan?"

12 Answer: "I don't know what level decided the plan. When they
13 arrived here, they had them make biographies, and anyone whose
14 biographies said they had been a soldier would disappear. Those
15 biographies were kept at the base level, but they, upper level,
16 decided what level had to be removed. The upper level that I'm
17 talking about sounded like and seemed to be nationwide, meaning
18 Centre level." End of quote.

19 Your Honour, some evidence from two other districts that were
20 also part of Sector 13 where this alleged --

21 [10.13.54]

22 MR. PRESIDENT:

23 Thank you, <the International> Deputy Co-Prosecutor.

24 Let we have a short break and resume at 10.30 to continue our
25 proceedings.

1 (Court recesses from 1014H to 1032H)

2 MR. PRESIDENT:

3 Please be seated. The Chamber is now back in session.

4 And I would like to give the floor to the International Deputy

5 Co-Prosecutor to present the key documents. You may now proceed.

6 MR. LYSAK:

7 Thank you, Mr. President. I was in the second group of documents.

8 This is documents -- evidence of -- relating to Sector 13 and the

9 Southwest Zone, showing that before, around the same time and

10 after the meeting alleged by Sao Van that, in fact, killings of

11 Lon Nol personnel continued and took place.

12 [10.33.13]

13 I want to turn to Angkor Chey district. This was another district

14 in Sector 13. It's the district where this alleged meeting took

15 place.

16 And document E319/19.3.125 is a statement from a person who was a

17 member of the commune committee in Angkor Chey district in Sector

18 13. At answers 10 through answer 17, answers 10 through answer

19 17, he describes how, one or two weeks after the fall of the Lon

20 Nol regime, pursuant to orders from the upper echelon, former Lon

21 Nol soldiers, and I quote, "holding ranks of Second Lieutenant

22 and higher", were called to a meeting, taken away and killed.

23 [10.34.20]

24 Another district in Sector 13 was Kiri Vong district. At document

25 E319/13.3.20 was a statement from a witness who was a chief of a

1 10 household unit in Lon Nol regime. And this is at answers 15
2 through answer 25 and answers 37 through answer 44 of the
3 statement.

4 He describes being part of a group of 180 Lon Nol soldiers as
5 well as 10 and 50 household unit chiefs who, in October of 1975,
6 were gathered at a pagoda in Kiri Vong by Yeay Baur. Yeay Baur,
7 who, at that time, was a member of the Kiri Vong district
8 committee.

9 He describes how this group of 180 Lon Nol soldiers and officials
10 were taken to the forest and killed. He was fortunate enough to
11 escape.

12 Yeay Baur, I will remind you, was the sister of Yeay Bouen, and
13 she was the person who became the district chief in Kien Svay
14 district, the district that Sao Van went to after Tram Kak.

15 [10.35.55]

16 Also from Kirk Vong district, document E3/9598, E3/9598, answers
17 14 through answer 15. This witness describes a meeting chaired by
18 Kiri Vong district secretary Ta Tith, who was the brother-in-law
19 of Ta Mok. This was a meeting in late 1976 or early 1977.

20 At answers 14 to 15, he states, quote:

21 "I attended a meeting chaired by Ta Tith at Wat Prey Rumdeng, and
22 Ta Tith declared Uy Sim, a former Lon Nol official, as a traitor.

23 At that meeting, Uy Sim was shackled and ordered to walk around
24 to identify those who had served in the Lon Nol administration. I
25 have never seen Uy Sim again. He must have been taken to be

1 killed. Ta Tith declared that he was Angkar's enemy."
2 And some references from some other districts that were also part
3 of the Southwest Zone, Batheay district in Sector 33 of the
4 Southwest Zone. And I'm writing -- reading here from Meng-Try
5 Ea's book, E3/2120 or 2121 -- and 2121.
6 Meng-Try Ea did extensive -- this is a book about Southwest Zone
7 security offices. And at English, 00416382; Khmer, 01098793; no
8 French translation; Meng-Try writes the following about Batheay
9 district, quote:
10 [10.38.03]
11 "Chhin, Batheay district chief from 1970 to '75, saw lists of
12 prisoners held at the district re-education centre. He explained
13 that those on the execution lists were listed by name and duty.
14 He observed that in early 1976, there were many more Lon Nol
15 soldiers and policemen than in other categories." End of quote.
16 On the same ERN pages, Meng-Try also writes about Prey Kabbas
17 district in Sector 33 of the Southwest Zone, quote:
18 "In mid-1975, Toy, chief of Kampeaeng sub-district, received the
19 district party's plan to seek out, arrest and send Lon Nol
20 soldiers to the upper echelon. After obtaining their personal
21 histories, Toy ordered the arrest of many, and sent reports on
22 them to the Prey Kabbas district committee."
23 [10.39.15]
24 And I'll note here, remind, Your Honours, that the chief of Prey
25 Kabbas district was Ta Mok's younger brother, Chong.

35

1 Last district that I will discuss from the Southwest Zone is Kien
2 Svay district, the very district that Sao Van and Yeay Baur, who
3 we talked about earlier, were assigned to in 1976.

4 E3/4659, E3/4659 is an interview of a Base Person from Kien Svay
5 district conducted by SOAS, and this is what that witness stated
6 took place after the Southwest -- after Baur and the Southwest
7 cadres came, quote:

8 "The Southwest Zoners replaced the East Zoners. The East Zoners
9 liberated this area, the troops of Chan Chakrey, who was later
10 arrested. Baur often came to inspect. She was fat, dark and
11 short, a good speaker, and vicious. If she pointed somebody out,
12 they were dead. The security office was established when Baur and
13 Thlang came."

14 This is a person who's identified as the security -- head of the
15 security office. Continuing:

16 [10.40.51]

17 "The Southwest Zoners began looking for teachers and others. The
18 chairmen of work units and cooperatives would make reports to
19 Thlang, and then they would be arrested. My brother-in-law, Nou
20 Yan, then about 50 plus, was arrested in Chheu Teal sub-district
21 at Ruessei Srok. He had worked as a minor functionary at public
22 works, and was accused by people in the village of being a
23 Major."

24 And I also refer, Your Honours, to a DC-Cam statement, E3/5637,
25 from another witness from Kien Svay district who also discusses

1 an incident in which information about prisoner arrests, accused
2 of being a Second Lieutenant.

3 Concluding with my third group of documents, on which I'll be
4 very brief, the third group of documents is evidence as to --
5 documentary evidence confirming that arrests and executions of
6 Lon Nol officers continued after May or June 1975, that is, after
7 the time of the meeting alleged by Sao Van.

8 [10.42.18]

9 There are three groups of documents I will briefly refer, Your
10 Honours, to, E3/832, E3/832. A document you're familiar with.
11 It's a list dated the 4th of June 1975, identifying 17 traitors
12 that the Party had examined and decided are to be smashed. It is
13 from Comrade Pin, who was the chairman or secretary of Division
14 703.

15 What I want to note about this document today is who the people
16 are. Of the 17 traitors on this list that the Party decided to
17 smash in June 1975, it includes one Colonel, five Lieutenant
18 Colonels, three Majors, one Captain, five First Lieutenants and
19 one Second Lieutenant. These are all people of ranks between
20 Second Lieutenant and Colonel, the group that Sao Van said were
21 not to be harmed.

22 S-21 records. Again, I will just briefly reference these. I've
23 used some of these in Court.

24 Document E3/1539, is a list of 162 Lon Nol soldiers, officials
25 and family members who were executed or died of sickness at S-21

37

1 between the 22nd and 30th of March 1976. And what I want to note
2 specifically for, Your Honours, today is that this list includes
3 four Colonels, 11 Lieutenant Colonels, five Majors, six Captains,
4 17 First Lieutenants and 14 Second Lieutenants, again clearly
5 proving that Lon Nol soldiers with these ranks were still being
6 arrested and killed following the meeting described by Sao Van.

7 [10.44.43]

8 Another S-21 document just to refer you to, E3/3973, E3/3973.

9 This is an S-21 execution log, and if you -- on pages Khmer,
10 0006642 through 6646; English, 00837571 through 581; French,
11 00875960 through 976.

12 This part of this execution log contains a list of 206 Lon Nol
13 military detained and executed at S-21. The same document also
14 has a list of 60 former civil servants of the old regime who were
15 executed.

16 Last, Your Honours, I will just make brief reference to the fact
17 that there are also records from Tram Kak district, Sao Van's
18 district, showing that in 1977, there were major arrests and
19 killings of Lon Nol officers.

20 [10.46.13]

21 I won't repeat this because this is something I have already done
22 a presentation to you. I'll simply remind you that one of those
23 documents, E3/2048, is a report from the very commune that Sao
24 Van came from, Cheang Tong commune, which refers to the, I quote,
25 "successive instructions from Angkar to purge enemy officers."

38

1 And I will conclude by referring you to research by Henri Locard
2 and Meng-Try Ea, both of whom reviewed the surviving Tram Kak and
3 Tram Kak -- sorry, the surviving Kraing Ta Chan and Tram Kak
4 records and found that half of the prisoners sent to Kraing Ta
5 Chan were former Lon Nol soldiers and policemen.
6 The references for you, Henri Locard's report titled, "Tram Kak
7 District in the Grip of the Khmer Rouge", document D -- I don't
8 have the E3 number, but I have the previous number --
9 D313/1.2.16,
10 and the Khmer ERN, 00739044; English, 00217700 through 701;
11 French, 00743759 through 760. And the same conclusion from
12 Meng-Try Ea, who reviewed those records in his book, "Chain of
13 Terror", E3/2120, and the reference I have for you is English,
14 00416399.
15 Your Honours, that concludes our presentation on the policy
16 targeting Lon Nol. I thank you for the time.
17 [10.48.39]
18 MR. PRESIDENT:
19 Thank you.
20 Now the Chamber gives the floor to the Defence Counsel for Khieu
21 Samphan. You may now proceed, Counsel.
22 MS. GUISSSE:
23 Thank you, Mr. President. Good morning, everyone.
24 <We are also going to> engage in this fastidious exercise of
25 reviewing a number of documents.

39

1 Let me point out that it was very difficult and complicated for
2 the Khieu Samphan team to choose these documents because we
3 didn't know the final decision or position of the Chamber
4 regarding the appearance <or not> of certain <> witnesses <and,
5 importantly, experts>. I'm thinking <especially here> of
6 2-TCE-92, <2-TCE-87> and 2-TCE-99.

7 [10.49.42]

8 And it is obvious <to us> that some documents <are entirely>
9 useful and understandable <only in so far as> we <have discussed
10 their content with those who are familiar with or have> studied
11 <it>.

12 In any case, on the Cham segment, <there are two documents> that
13 I would like to present to the Chamber and to the parties. <The
14 first> is an extract of a radio broadcast of Democratic Kampuchea
15 of 23rd of October 1975, document E3/272.

16 This document exists only in English, and the ERN is 00167520. It
17 is a broadcast, <one that I readily deem to be propaganda>, but
18 it is important to note that, in such propaganda, they are
19 referring to Muslims.

20 [10.50.47]

21 The title of the broadcast is in <English: "Muslims guaranteed
22 full democratic liberties">, and this radio broadcast is relevant
23 in that it shows that, <at that time>, the 23rd of October 1975,
24 it was important to present the group of Cham Muslims as part of
25 the revolution and <in particular,> as persons participating in

40

1 the revolutionary effort <and that was the purpose of the radio
2 broadcast which was produced for> the country.

3 I also refer you to another document, the excerpt of a transcript
4 in <Case> 002/01, and that is why I'm referring you to it today.

5 It is document E1/192.1.

6 It is an excerpt of <a questioning> of <the expert> Short, and it
7 was at about 9.37 <on the day>. He was being questioned at the
8 time by my colleague, Koppe, and he refers to the issue of the
9 Vietnamese and the Cham in general terms. And the excerpt begins
10 at 9.37.

11 I will focus on the last part of expert Short's answer. And the
12 question put to him by Mr. Koppe was as follows:

13 [10.52.20]

14 "To follow up on your answer on Monday, you, for now, said the
15 word begins with G, that is, genocide. I will not put any legal
16 questions to you on that subject, of course. And I'm speaking to
17 the Chamber because I want the Chamber to clarify whether or not
18 a genocide was committed. <On page 446 in your book>, ERN
19 00396662, you state that the Khmer Rouge did not try to
20 exterminate an ethnic or religious group or national group,
21 whether we're talking of the Vietnamese, the Cham, <fellow Khmer
22 Rouge> or others. <You are> categorical in saying that, in your
23 opinion, there was no such policy. <Without using> the word that
24 begins with G, can you explain what you mean?"

25 And expert Short's answer was as follows:

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1 "It is very difficult to answer the question without using that
2 term. I will quote George Orwell, 'there are times when the first
3 duty of <an honest> person is to say <that two plus two equals
4 four>; the definition of <a word, if it is modified so as to fit
5 a legal definition,> can be very dangerous because the word may
6 not <necessarily retain its meaning>.

7 <Which leads us to a turbulent and unknown zone>, and it is
8 <therefore> difficult. I am convinced that there was no attempt
9 to exterminate any ethnic group, regardless of what it was.

10 [10.53.51]

11 "The situation in Cambodia is completely different from that of
12 Rwanda <or Nazi Germany>. In that case, we know that there was an
13 attempt to exterminate the Jews <for who they were; they were
14 Jews and by that token they had to be exterminated.>

15 "As for the Tutsis, they <had to be> exterminated because they
16 were Tutsi. That did not happen in Democratic Kampuchea. The Cham
17 are often referred to as an example to prove that that was the
18 case, that there was <> an attempt to exterminate them. <However,
19 for> the Cham, the problem was that they <had their own deeply
20 rooted culture that differed from the Khmer's as well as from
21 other's in Cambodia.>

22 "<According to Pol Pot and the policies of Democratic Kampuchea,
23 everyone had to be made> equal. Those who stood out endured more
24 pressure to become equal to the others.> As for the Cham, they
25 were dispersed across the country <as part of a brutal repression

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1 of their> rebellion<, but that cannot be equated with a
2 deliberate attempt to exterminate a specific group>. End of
3 quote.

4 [10.54.57]

5 That was the position of Mr. Short testifying in the First Trial
6 segment. Let me now talk about the segment on the Vietnamese. And
7 here I'll continue saying what expert Short said, and it's
8 document E3/9, an excerpt of the book, "Pol Pot: The Anatomy of a
9 Nightmare". The ERN in French, which is of relevance to us, is
10 00639721 up to 25; and in English it is, 00396406, and the
11 excerpts that <> interest <> me continue up to 09. Unfortunately,
12 there is no Khmer translation of the document.

13 In the first extract, which is of relevance to me, expert Short
14 talks of the historic conflict between Cambodia and Vietnam, and
15 it is important to note that he confirms what we have heard
16 before this Chamber on several occasions in witness testimonies,
17 and I'll refer you to <the witness> Prum Sarat at the hearing of
18 <E1/383.1>, the <27th> of January 2016, in which he explains that
19 he had heard of problems with Vietnam dating back to the time of
20 his <grandfather>, at 09.24.24. It was also referred to by <the
21 witness> Meas Voeun at the Hearing of <3rd February 2016, at
22 10.07.07. I just wanted to put the excerpt that I am going to
23 read into perspective as regards this trial.>

24 ERN in French, 00639722; and expert Short refers to what happened
25 with the Vietnamese under the Lon Nol regime and this is what he

1 states at the end of the page.

2 "When they discovered that cannon fodder wasn't sufficient
3 defence against the hereditary enemy, Lon Nol targeted civilians.
4 A curfew was imposed only to Vietnamese and, for their security,
5 entire families were housed in makeshift camps. Contrary to
6 previous protests against the coup d'état in which no <Vietnamese
7 lost neither their possessions nor their lives, nor were>
8 wounded, this time we were facing a real pogrom."

9 And it continues giving an example as regards what happened <on>
10 bodies <that were found next to Neak Loeang> and the events of
11 the <> 10th April during the Lon Nol regime.
12 This is just to <recall> that <> the Vietnamese <problem, or any
13 difficulties that could have been encountered with Vietnam> were
14 not created by the Democratic Kampuchea government, <and> that
15 these <were issues, concerning atrocities and abuses> committed
16 against the Vietnamese <as part of problems that had existed well
17 before> the Khmer Rouge period."

18 [10.58.49]

19 This issue also comes up again in an article by Henri Locard,
20 <from> "The Cambodia Daily", <dated> 15th of April 2014, <It is>
21 document E3/7283 <-- the> ERN in English is, 00993774 and it
22 continues on the next page; ERN in Khmer, <01114245>; and ERN in
23 French -- particularly as regards the part of relevance to me --
24 unfortunately there's no French version.

25 It is an article that was written in English and was translated

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1 <only> into Khmer. In this article, Henri Locard revisits the
2 issue of Vietnamese under the Lon Nol regime, and he also talks
3 about, <and I mention this so we don't have to> return to this
4 later, he also <mentions> the Cham.

5 And this part is quoted in English, 00993774. <They are the two
6 last> paragraphs on the page.

7 [11.00.08]

8 "As for the Vietnamese, they were the least unfortunate of all
9 Cambodian residents since some 300,000 Vietnamese citizens who
10 had been spared the Lon Nol pogroms in 1970 were required to
11 leave the country. Not only did most of them take the opportunity
12 to run away from the hated regime, but Sino-Khmer or Khmers with
13 some <> snippets of Vietnamese language also desperately tried to
14 go through the border. We must not forget either that 'genocide'
15 is a politically charged term in this country and has been used,
16 since January 1979, for political expediency.

17 "As to the Chams, indeed they were victimized more than other
18 groups, but this was not because of their ethnicity but because
19 they rebelled en masse in Kroch Chhmar District in Kampong Cham
20 Province, for instance, and refused to abstain from performing
21 their daily prayers. All religions were banned except the worship
22 of Angkar, with its rituals and vast meetings." End of quote.

23 And Henri Locard continues in this article with the fact that
24 when we compare the massacres that <could have taken place> with
25 regard to the other inhabitants, he cannot conclude that there

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1 was a specific desire to exterminate the Cham.

2 [11.02.12]

3 And now I'd like to get back to another excerpt from Philip
4 Short's book, E3/9, in which he speaks about the repatriation of
5 about 150,000 Vietnamese people between 1973 and 1976.

6 And this excerpt, which is at French ERN, 00639840; English ERN,
7 00396506; is interesting because it refers to an incident that
8 was discussed <> by Witness Prum Sarat at the hearing of 27th
9 January last, document E1/383.1, as of 11.10.04 in the morning,
10 when he was answering a question that was put to him by Judge
11 Lavergne. And this is the excerpt that I would like to quote.
12 Here, the witness -- the expert witness is speaking about the
13 relations between Vietnam and Cambodia and he says:

14 [11.03.35]

15 "At the beginning of the month of August, Le Duan <reciprocated>
16 the <Cambodians' courtesy by traveling> to Phnom Penh <for a
17 visit which> the Vietnamese <party> paper 'Nhan Dan' <described
18 as> cordial. A few days, Nguyen Van Linh announced to Nuon Chea
19 that the Vietnamese units had evacuated Wai Island and were
20 getting ready to release 600 Cambodian prisoners <that they had
21 imprisoned>." End of quote.

22 And I will stop here for a moment in order to tell you that it is
23 this incident that Prum Sarat described during the Hearing of 27
24 January that I was talking about <earlier. Let me continue.>

25 <"Subsequent exchanges of> messages contained <vibrant

1 declarations of militant> solidarity and <indestructible>
2 friendship<.>
3 <Liaison> offices were established in the border provinces and
4 the <armed clashes> stopped <almost completely>. The repatriation
5 of Vietnamese families from Cambodia continued <regardless. It is
6 estimated> that between April and December 150,000 Vietnamese
7 went back to Vietnam whereas thousands of Cambodian refugees who
8 had fled the <advancing> Khmer Rouge were travelling in the
9 <opposite> direction." End of quote.

10 So this is an excerpt that is important in <terms of background
11 knowledge as a pointer to> the back-and-forth <shifts there may
12 have been in> relations between Vietnamese and Cambodians to
13 confirm that there were indeed Cambodian soldiers who had been
14 <imprisoned> and at one point-in-time, at the very beginning at
15 least when the Khmer Rouge seized power, in Phnom Penh in any
16 case, after 17 April 1975, there were negotiations that continued
17 over several months and <> this is something that I would like to
18 focus on a little bit later.

19 [11.05.28]

20 Another document that I would like to focus on is an excerpt from
21 an article by Francois Ponchaud, document E3/4589, at ERN French,
22 00283070; Khmer ERN, <00323746>; and English 00323699.

23 And what's interesting here is that this is an article that is
24 dated 10 January 1976, with all of the caution, of course, that
25 we must <exercise> with regard to statements made by refugees, in

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1 this article <>, Francois Ponchaud describes what he heard from
2 certain refugees at the border <>.

3 And in this excerpt which ends at ERN 70 in French, page 17 in
4 the French version, in this excerpt he speaks about the presence
5 of Vietnamese <again> in certain regions of Cambodia at that
6 date<,> and he is asking if they are still present, and this is
7 what Ponchaud writes.

8 [11.07.06]

9 "On the contrary, it seems that the Vietnamese from Cambodia had
10 the possibility of going back to their original country as of the
11 beginning of June. In Chamkar Leu, a Vietcong officer"<, Giai
12 Phong, of the National Liberation Front of South Vietnam, he
13 says> in this version -- <> came on 3rd June to tell the
14 population that the three peoples of Vietnam, Cambodia and Laos
15 were brothers and that if the Vietnamese wanted to go back to
16 their country, they could.

17 Several people from Phnom Penh therefore pretended to be
18 Vietnamese and <> left as of 6 June for Vietnam, and on the way
19 they met many, many Vietcong cadres who had settled in Cambodia
20 for several years who were going home to Vietnam with their
21 families and all of their possessions. These cadres were
22 repatriated by truck whereas <they> had to travel by foot."

23 And I would like to stop for a little while.

24 JUDGE FENZ:

25 <Sorry counsel, slower, slower, I think the translators will get

1 a heart-attack if you go at that speed.>

2 [11.08.16]

3 MS. GUISSÉ:

4 Indeed, I'm sorry <that was wrong of me>, I'll try to go a bit
5 slower <>.

6 Now, in this excerpt the question that was dealt with several
7 times during this Hearing <> about the negotiations of the
8 <return> of certain cadres who were present in Cambodia still is
9 discussed, and Ponchaud continues on the same page.

10 "At the same period, a doctor from Battambang was authorized to
11 go to Saigon. Around July, a Vietnamese delegation came to seek
12 out Vietnamese nationals in Takhmau region and <took> 500 to
13 1,000 of them on each trip. And <it was even more significant in>
14 the region of Banan, one witness added. Around the end of
15 October, 600 Vietnamese from the Battambang region were
16 repatriated to Vietnam aboard three boats that <left> Mongkol
17 Borei and sailed via Phnom Penh but were not able to make a
18 stopover in Phnom Penh.

19 "On November 8," -- this is a witness speaking -- "when the paddy
20 was almost ready for harvest, the authorities forced us, the
21 Vietnamese in Krouch Chhmar, to leave Cambodia and go to Vietnam.
22 Only six or seven families were given permission to delay their
23 departure." End of quote.

24 [11.09.57]

25 So, here again, these refugee accounts, such as related by

1 Ponchaud, seem to indicate that there were indeed agreements
2 between the Vietnamese government and the Cambodian government to
3 repatriate Vietnamese nationals. And the mention of one
4 Vietnamese delegation that came to look for Vietnamese nationals
5 is something that's interesting <to> note here.

6 And let's continue <> chronologically, and here I'm going to
7 speak about an excerpt from the book by Philip Short, E3/9, and
8 this time at French ERN, 00639952; English, 00396587 to the
9 following page.

10 And here we have seen that, chronologically speaking, there was a
11 moment when both states were still negotiating <the return of>
12 nationals <on both sides. Again, we see a willingness to engage
13 in dialogue.> And here we're coming close to 1977, 1978, and then
14 in this excerpt Philip Short is speaking about the presence of
15 training camps for Khmer refugees <housed by Vietnamese>.

16 [11.11.46]

17 And it starts at French ERN 00639951, the two last sentences of
18 the document.

19 "At the beginning of the summer of 1978, the two main players in
20 the drama that was unfolding, Vietnam and China, had overcome all
21 of their hesitations and were getting ready <once and for all for
22 the inevitable outcome>. The Vietnamese built training camps for
23 Khmer refugees in former U.S. military bases in the south of
24 Vietnam. Le Duan and Le Duc Tho met for the first time people who
25 were liable to lead the future Khmer resistance.

1 Son Ngok Minh, who had lead the Cambodian party at the beginning
2 of the 1950's, succumbed to apoplexia in 1972, but some of his
3 collaborators had remained in North Vietnam where they had been
4 joined by Khmer Rouge cadres who had fled after 1975.

5 [11.12.54]

6 All of them were subordinate figures. Pen Sovan had worked for
7 the FUNK radio station at the beginning of the 1970s before
8 holding a position as a commander in the Vietnamese army. Bou
9 Thang was a former Issarak fighter for the northeast. Hun Sen, a
10 young Khmer Rouge commander, had defected in the summer of 1977,
11 but they were the only available elements to create the core of a
12 future post-Khmer Rouge regime.

13 An intensive indoctrination program was started, and in April
14 they were able to constitute the first battalion of the future
15 rebel army." End of quote.

16 <Here, again, the context is important.> I know the Chamber made
17 a distinction between the treatment of specific groups and armed
18 conflict, but <from the Defence's perspective of the case>, it's
19 <> very difficult for us to make this distinction. And it is
20 important to know, based on what we <have been able to> hear from
21 certain witnesses regarding <waves of> arrests or accusations of
22 desertion or rebellion, <how to place things within their context
23 and to be aware of what> happened on the Vietnamese side as well
24 as on the Vietnamese border which, indeed, had an impact on what
25 was happening within Cambodia.

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1 [11.14.22]

2 Another document that allows me to discuss as well these
3 uprisings and these rebellions and these defections from the
4 Khmer Rouge regime, <is> an article from "The Washington Post".

5 <This article is from the> 10th August 1978, document E3/7265,
6 which only exists in English and in Khmer, English ERN,
7 therefore, 00166105; Khmer ERN, 01081608 to 1610.

8 I'm not going to read the totality of the article but simply an
9 excerpt, in particular, the introduction. In English therefore.

10 "Vietnam, which is engaged in a bitter border war with Cambodia
11 is reporting that a rash of insurrection has erupted across that
12 country over the past several weeks. Many of the alleged revolts
13 are said to have been carried out by regular army units. Analysts
14 in Washington say they have no way of confirming the reports put
15 out by Vietnamese media and are suspicious that Hanoi is
16 orchestrating a Cambodian revolutionary movement to bring
17 pressure on Phnom Penh to settle the violent disputes."

18 [11.16.11]

19 <I am skipping> a few paragraphs and I'm going to move onto the
20 second column in the English.

21 "The reports of the insurrection, always attributed to Cambodian
22 defectors or prisoners of war, have been coming out two or three
23 times a week since mid-June. At that time, a statement reputedly
24 made by a former Cambodian battalion commander said that
25 revolutionary forces have established a base to fight against

1 Phnom Penh. The base was said to be in Cambodia's military zone
2 203, which intelligence sources believe is near Memot, a
3 Cambodian town about six miles from the Vietnamese border. Since
4 then, uprisings are said to have taken place at scores of towns
5 and villages in Cambodia. Most of them are in the eastern part of
6 the country, places such as Snuol, Neak Loeang and Svay Rieng.
7 They have also included other parts of Cambodia, such as
8 Battambang Province in the far west and Kampong Thom in the
9 north.

10 [11.17.40]

11 One former Cambodian soldier told of civilians, including civil
12 servants, plantation workers and peasants turning on cruel cadres
13 and exterminating them with bombs and clubs."

14 And this was regarding the contextual elements. And to conclude,
15 this <is> what the article states <in its conclusion, in> the
16 last paragraph.

17 "The analysts believe that Hanoi is prepared to turn the pressure
18 of the rebel movement up or down depending on Phnom Penh's
19 willingness to negotiate their quarrel." End of quote.

20 So, here again, an important contextual element regarding <> the
21 <mounting pressure from> what <could have happened> within
22 Cambodia in the East Zone and, <also>, the <mounting pressure
23 from> the discussions <or as a result of the> the end of the
24 discussions between the Vietnamese and the Cambodians <> which
25 <culminated in what happened> at the end of 1978 <and eventually

1 <resulted in the arrival of the> Vietnamese <> in January 1979.
2 [11.19.07]
3 I'd like to refer you to a document E3/7310, which is a series of
4 articles<; "SWB, Far Eastern Relations">, dated 5 December 1978,
5 <wherein reference is made to> the creation of the United Front
6 for the National Salvation of Cambodia <>. And this <was> created
7 <partly> by Cambodian refugees with the objective of overthrowing
8 the Phnom Penh regime<. Here> you can see, <let's call it, their>
9 official presentation of this party <to the world> with a report;
10 <I'd> like to refer you to document at ERN in English, S00013294,
11 the first page of the document; Khmer ERN, S01137152; and this is
12 how the movement presented <itself, I will quote> the first
13 paragraph <> in English because there is no French translation.
14 "An event of great historic importance took place recently in
15 Cambodia. In an area of the liberated zone of Cambodia, a
16 congress of representative for the foundation of the Cambodian
17 National Front for National Salvation was solemnly held and was
18 crowned with success.
19 Participating in the congress were more than 200 representatives
20 of all strata of the Cambodian patriotic population. Workers,
21 peasants, petite bourgeois, intellectuals, Buddhist monks and
22 nuns, young people, women, Cambodian ethnic minorities and
23 patriotic insurgents who had abandoned the Pol Pot-Ieng Sary
24 administration and army." End of quote.
25 [11.21.16]

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1 And I'd like to refer you as well to another article which is
2 part of this compilation of different articles regarding that
3 period. I'd like to refer you therefore to an article from the
4 Phnom Penh Home Service. It's at ERN in English, S0013305; and
5 Khmer ERN -- I'll have to check that again because I don't think
6 I have the right reference here. In any case, the article is
7 entitled in English "Cambodia Alleges Vietnam Planting Spies
8 Among Refugees".

9 And here, once again, we have a contextual element that
10 demonstrates that, <naturally throughout '78, but really
11 culminating> at the end of 1978, there was discussion of
12 <defections, revolts, an army,> and <> groups <> opposing <> the
13 Phnom Penh regime.

14 [11.22.34]

15 Now I'd like to refer you to document E3/7315, which is also a
16 series of articles and broadcasts from <"SWB, Far Eastern
17 Relations" and therefore> 25 October 1978<. Here again> on the
18 first page of the document in particular S01137156 in Khmer, and
19 in English S00013209 to the following pages<,> where <reference
20 is made to> different articles <referring to> the presence of
21 armed divisions, Vietnamese armed divisions in particular, and
22 here the first page of the document <, whose ERNs I provided
23 earlier, that> gives an example <> in an article of 24 October
24 1978, from "The Bangkok Post" <> -- and I will quote in English.
25 "Six Vietnamese divisions, fully manned, at 60,000 and fully

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1 equipped, have occupied Cambodian territory along the one length
2 of the eastern border according to intelligence reports reaching
3 Thai military authorities. Cambodian resistance forces backed by
4 the Vietnamese, have occupied Kampong Cham, Ratanakiri, Snuol,
5 and other strategic places east of the Mekong River, the report
6 said."

7 Two paragraphs further and the text continues:

8 "The attempt to overthrow the Pol Pot government 'from inside' is
9 building up towards the dry season which starts in two months. It
10 is believed that the Cambodian resistance forces supplied with
11 arms and ammunition by train from southern Vietnam could make the
12 coup effective and quick." End of quote.

13 [11.24.50]

14 This is an example, as many others in this document <in its
15 entirety>, of articles discussing the advances of internal
16 rebellious movements in Democratic Kampuchea that was supported
17 by Vietnam.

18 Another point that I would like to discuss regarding the
19 Vietnamese is an excerpt from document E3/3995, which is an
20 article from Steve Heder; ERN -- and the excerpt that I'm
21 interested in, in particular, is Steve Heder's analysis of the
22 expression, "a Khmer body with a Vietnamese head", which was
23 discussed many times during the proceedings here, and this is
24 document E3/3995, at ERN in French, 00802832; Khmer ERN, 00844612
25 and to the following page; and English ERN, 00773767.

1 [11.26.20]

2 And I'd like to specify that this article is entitled, "Racism,
3 Marxism, Cataloguing and Genocide in the Pol Pot Regime from Ben
4 Kiernan", and this article is a critique of Ben Kiernan's book
5 and this is what is stated at the reference that I provided to
6 you by Steve Heder.

7 "In his attempt to argue otherwise, Kiernan highlights the fact
8 that many of the East Zone victims were stigmatized with the
9 epithet "Kloun Khmer Kbal Yuon", which he translates as "Khmer
10 bodies with Vietnamese minds", and which he suggests racialized
11 those killed. This phrase, which might also be translated <as>
12 "Khmer <body> with <a> Vietnamese head", has also been used
13 historically to conjure up images of Khmer political structures
14 under Vietnamese leadership.

15 "Kiernan's argument that the phrase was used to suppress 'the
16 Khmer majority on the racial grounds that they were not really
17 Khmer' is at best incomplete. Instead, the phrase suggests <that>
18 political leadership and political orientation were considered
19 more important than any biologically determined physical
20 characteristics. Being physically or racially Khmer was no
21 protection: treason to the class and national cause was political
22 and could not be committed by anyone, regardless of skin <colour,
23 eye-shape or hair texture>, who was suspected of refusal to
24 accept and be loyal to the correct political line of the
25 'proletarian vanguard' leadership." End of quote.

1 [11.28.17]

2 So this critique is important because when we speak about
3 genocide -- and this was often pointed out by the Prosecution --
4 we're speaking about race. Steve Heder provides a different
5 context and reminds us that the issue was not race, but the
6 <problem> was <a political issue> and a political <opposition>.
7 And this is an element, a critique, that we find also in Henri
8 Locard's <work since, since> in the document E3/7280, a document
9 that, unfortunately, only exists in French, ERN 00995818; it's an
10 article that is entitled "A <Short-sighted> Vision of Cambodia,"
11 which was published in "Le Monde" daily on 28 April 1978.
12 And as Steve Heder, Henri Locard criticize Ben Kiernan's
13 arguments and he says the following and I'm going to try to
14 <speaking particularly slowly now as we do not have a written
15 translation of this passage>, so ERN 00995818, the last paragraph
16 in the French version.

17 "It is obviously impossible to verify the multiple evidence that
18 Kiernan proposes to support his arguments. I have, among many
19 others, noted three <revealing> manipulations of the facts <>;
20 that were <aimed at incorporating> the <reality of the> Khmer
21 Rouge universe within the narrow context of the <actions taken, a
22 priori, by the author>. 1) Despite his findings, Kiernan does
23 not manage to prove that the ethnic minorities were particularly
24 targeted by the repression. If the strong Vietnamese minority was
25 expelled and therefore spared, the anti-Vietnamese feelings

1 <which were widespread> within the Khmer population existed
2 <well> before the Khmer Rouge and, unfortunately, are still
3 widespread today. Never, contrary to the assertions by Hanoi that
4 Kiernan <re-examined, there wasn't any attempt by the leaders of
5 Democratic Kampuchea <> to reconquer former Cochinchina. The
6 Cham, <(essentially a non-racial religious minority of Muslim
7 faith>, a Khmer can become Cham by marriage<) certainly> died in
8 higher numbers than the rest of the population because certain
9 villages along the Mekong <had the guts to rebel en masse and
10 were less willing than others to cease practising> their
11 religion; however, there were fewer deaths among them; 33.7
12 percent against <almost> 25 percent <for the entire> population<,
13 and according to Sliwinski>, than among the Catholics, 48.6
14 percent,<a category which Kiernan makes no reference to>; and
15 these are figures that should be compared to the number of people
16 who disappeared from Phnom Penh; 41.9 percent." End of quote.

17 [11.31.45]

18 Beyond the issue of figures, which I cannot discuss in depth
19 because it's very, very difficult to bring up elements without
20 having the author of the article being present here <to> explain
21 <all of> his sources. <However what's> interesting to see here is
22 that in the <academic> discussions <that we are aware of and
23 those of> historians, we see that Henri Locard is pointing to the
24 fact<, which had been pointed out earlier> by Stephen Heder<,
25 that in the case of Democratic Kampuchea,> we cannot speak <of a>

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1 will to commit racial genocide or <of a will> to exterminate
2 <people> on <racial grounds, but that the events,> as he
3 resituates them in Democratic Kampuchea correspond <> to
4 political repression.

5 Another contextual element <on another score and this is
6 something that stems from> -- Mr. President, I see it is 11.30. I
7 only have a few documents to present and I may need 15 to 20
8 minutes. I do not know whether you would like us to take the
9 break now and then I will slow down and complete my presentation
10 after lunch <or would you prefer that I finish now?>

11 [11.33.09]

12 MR. PRESIDENT:

13 It is now time for our lunch break. We take a break now and
14 resumed at 1.30 this afternoon.

15 Security personnel, you are instructed to take Khieu Samphan to
16 the waiting room downstairs and have him returned to attend the
17 proceedings this afternoon before 1.30.

18 The Court is now in recess.

19 (Court recesses from 1133H to 1332H)

20 MR. PRESIDENT:

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

22 I'd like to hand the floor once again to the defence team for
23 Khieu Samphan to continue with their key document presentation.

24 You may proceed.

25 [13.32.46]

1 MS. GUISSÉ:

2 Thank you, Mr. President.

3 When we broke off for lunch, I was trying to present two
4 documents, documents that refer to the negotiations with the
5 Vietnamese in <1976>. First document, E3/221, which is the
6 <minutes> of a meeting titled "A Study of the Reaction of the
7 Vietnamese during the Fifth Meeting in the Morning of the 14th of
8 May 1976."

9 This document is an overview of ongoing negotiations with <the>
10 Vietnamese regarding border problems. <In it, reference> is made
11 <at length> to the Brevier maritime line, as well as <to>
12 problems relating to <territorial> boundaries. What is important
13 to note in this document is the fact that, a priori, the members
14 who attended the meeting <all> agreed that it was important to
15 pursue the negotiations and I will refer to a passage and the ERN
16 is as follows and it is in French, 00386180 and another passage
17 on the next page; and in Khmer, it is 00000815 and it continues
18 on the next page; and the ERN in English, is 00182697 and it
19 continues on the following page.

20 [13.34.54]

21 The extract that I'm reading on the first page is a message by
22 Comrade Nuon, who's talking about these negotiations, and he
23 explains how <they> were conducted and the composition of the
24 delegation<. This> is what he says.

25 "Regardless of the results, we'll <definitively> maintain the

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1 <same> Party position; we'll maintain the same atmosphere, the
2 same solidarity, and the same friendship, but if the situation of
3 negotiations doesn't change, the atmosphere could become tense.
4 We <could> find the means to pacify the situation by concluding
5 the negotiations on a status quo. <Phan Hien> is not an
6 intelligent politician; he is a negotiator who <avails> of the
7 law, but the law of capitalists. He is negotiating with us as if
8 he were negotiating with Americans. He perhaps <may> not
9 understand friendship and solidarity. He wants to <dominate> us
10 in the negotiations."

11 [13.36.18]

12 And he concludes by saying that the members of his delegation are
13 certainly divided. "We should ally with those who <could> cause
14 disorder in their ranks. To conclude, the negotiations today were
15 not <too> tense<. It was simply the> expression of <our
16 respective positions>."

17 And on the next page, it is also important to note the message of
18 Comrade Khieu -- that is Son Sen, who also refers to these
19 negotiations, but he also talks of the military situation and he
20 says, and it is the third paragraph of his speech.

21 "Therefore, as I see it, <the second, third, and fourth demands
22 would not be met>. We can maintain the same atmosphere, but each
23 side knows its <respective> stance. If the negotiations <were to
24 be> prolonged, that <could> lead to tension. I agree with Comrade
25 Nuon that we should find a way to proceed with the negotiations.

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1 <As for the problem of Vietnamese firing at our boats, that is
2 not of great importance>. On the international stage, Vietnam
3 still needs us, so <it is not of great importance>. We should
4 find some way to end the negotiations and maintain the atmosphere
5 <>."

6 [13.37.53]

7 And he continues, in the next paragraph, referring to
8 international issues and noting -- I quote: "Vietnam and Thailand
9 have taken control of all our waters." <He mentioned, I should
10 have read the very beginning of the paragraph. "Our> maritime
11 opening up looks like a shell. <> Vietnam and Thailand have taken
12 control of <all of our waters.">

13 <In any case, the ends of the page as follows:>

14 "Vietnam does not gain anything if they have a dispute with
15 China. Again, <that would further complicate matters>. In the
16 present situation, if they <came to> take our islands, <that
17 would also be more> difficult. They threaten us, but <that is not
18 legal>. We'll <calm the situation, we will not insult anyone
19 because we want> to maintain the same atmosphere." I find this
20 <contextual element extremely> important. <>

21 <If we> consider that this is <indeed the minutes> of a meeting
22 in which reference is made to those negotiations<,> There appears
23 to be a <desire, in principle,> among the persons attending that
24 meeting that negotiations with Vietnam should continue.

25 <> Son Sen <indeed> says that even though the Vietnamese opened

1 fire on Cambodian boats, the negotiations should be continued
2 <despite everything>.

3 [13.39.28]

4 I am <presenting this> document <in relation to> what the
5 witnesses<,who> appeared before this Chamber and testified <>
6 regarding their work in maritime zones and the instructions they
7 received from Son Sen and <their> hierarchy.

8 Another point I would like to make, and I refer to ERN 00386187
9 in French, this is still with regard to the issue <of>
10 negotiations and the manner in which those negotiations were
11 conducted and I'll end by referring to the last page in the
12 documents with the message of Comrade Secretary Pol Pot who
13 states, and I quote: "So we're <> keeping <a low profile. We
14 will> go watch <his> movie. <He is talking about the Vietnamese
15 representative. He has no reason to attack us> because we <still
16 have our honest smiles> and have never <insulted> them. If they
17 <attack>, they gain nothing; they <would> only <suffer losses>."
18 End of quote.

19 [13.40.50]

20 And here again <even when the> comrade secretary <> ends by
21 <charting> the way forward<,> we are still <within the realms of
22 a desire to negotiate>. The date is important because we are
23 dealing with the position of <the state,> the government<,> well,
24 at the very least the> Council of Ministers <that day> or rather
25 the <Standing Committee,> on that day and it refers to the need

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1 to continue discussing and negotiating. And we cannot say that
2 <within these documents> there is a policy to attack the
3 Vietnamese, in general terms, whether we are talking of
4 combatants or civilians <>.

5 Another point I'd like to make <in passing> is that it is
6 important to note that on the first page of this document, the
7 presence of Comrade Hem, alias Khieu Samphan is referred to, but
8 he does not speak at any time during that meeting.

9 [13.41.56]

10 Another point which echoes what is said in this document is a
11 meeting of the Council of Ministers of the 31st of May 1976,
12 document E3/794, in which -- and the ERN in French is 00611618;
13 and the ERN in Khmer is 00000786; and in English, it's 00182676.
14 And here, it's <the> comrade secretary presenting a report in
15 which he explains the position and says the following regarding
16 border problems, last paragraph in French.

17 "As regards the border problems, there is no solution according
18 to experiences we've had in the world in certain places. You need
19 hundreds of years to find solutions. In our case, we will
20 continue resolving the problems. During negotiations, the Party
21 underscored three wishes: First of all, if we didn't succeed to
22 find solutions, we'll have to maintain the status quo. Secondly,
23 the situation is better than it was in the past, to a certain
24 extent, and thirdly, we must try to achieve minimum results now
25 our first and second wishes have been achieved." End of quote.

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1 And this is 31st of May 1976 and it confirms the resolve to
2 continue negotiating.

3 [13.43.55]

4 <Still on the topic of what was said regarding Vietnam, at a
5 certain time> we have <a> policy of the CPK that likens the enemy
6 to anything other than <> state <enemies> if there are
7 difficulties. And it is a February 1978 "Revolutionary Flag,"
8 document E3/744; ERN in French, 00538944, ERN in Khmer,
9 <00064440>, ERN in English, 00464063.

10 And the position is that, in this document, it is obvious that
11 they are still referring to Vietnam as a state and that if there
12 are any disputes, they are defined as being with the Vietnamese
13 state and not with Vietnamese <as a race>, and it is stated in
14 the ERN document I've referred to and it is an analysis done in
15 the "Revolutionary Flag."

16 <It is stated, in a paragraph, "Secondly, the Political> Defeat
17 of the Vietnamese"

18 I <shall> skip the first paragraph and I talk about what is
19 considered as the dead end in which Vietnam <may> have found
20 itself during that period. "Indeed, it found itself> in a total
21 dead end. <There was another political defeat suffered by Vietnam
22 which had set up an organisation or a party or a movement alleged
23 to have been brought to Vietnam in that> the Vietnamese people
24 clearly <saw> that their aggressive policies have led their
25 country and the <Vietnamese people> into <ghastly

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1 impoverishment>."

2 [13.46.07]

3 And the second point is that:

4 "As for another goal of <the> policy <of Vietnam that> set up <an
5 organization>, or a party, or a movement <that would have been>
6 brought <from Vietnam> to be <implemented> or <proclaimed in the
7 regions that they would have succeeded in invading. That plan was
8 a complete failure.> " End of quote.

9 This is important because we <clearly see, at least in> this

10 "Revolutionary Flag" <that a distinction is made between>

11 Vietnamese policy in general and the Vietnamese people who<,
12 according to> this document<, clearly realized that the> policy
13 to invade Cambodia <was> not reasonable. That is important.

14 And in the last paragraph of this document, in French, further
15 clarification is provided to this -- to the <fact> that <with
16 regard to Vietnam, the> problems <were> with Vietnam as a country
17 and not with <the Vietnamese people as a race>. Last paragraph:

18 "We have been able to persevere and, <solidly defend and hoist
19 high and clear> the flag of independence and autonomy and the
20 need to be masters of our own destiny. To raise high the flag of
21 independence, sovereignty, and territorial integrity and to hoist
22 high the flag of Cambodia's popular <and national> honour."

23 [13.47.42]

24 And what follows is important. The metaphor of the flag is not

25 <innocuous> because <he who says flag, says country. And we

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1 proceed> to say that: "We have to hit hard <> the flag of <our
2 invaders, of the expansionists and the territory swallows>.
3 We have to hit hard <> the flag of the Indochina Federation of
4 <Vietnam>; we have to hit hard <> the flag of <fear of the large
5 countries and of collaboration with our enemies>; and we have to
6 hit hard <> the flag of <Vietnam's> ideology of <major powers.
7 Vietnam's> flag of one party, one country, and one people <must>
8 also be <> hit hard <> in the most humiliating manner
9 <possible>." End of quote.

10 [13.48.31]

11 And here again, <clearly,> this echoes what I said earlier. We
12 have here a policy <well if not a policy then> a leitmotif in
13 what is said. The problem <is> a Vietnamese state that wants to
14 annex territory, the problem is that of a Vietnamese state which
15 wants to <swallow up territory or attack the integrity of the
16 territory but> there's no talk of Vietnamese as individuals <or>
17 as civilians. <That is an extremely> important point, bearing in
18 mind that this "Revolutionary Flag" dates back to February 1978.
19 To conclude my presentation of the series of documents <which
20 we'd like to bring to light, a while ago, I referred to a number
21 of problems on the border between Vietnam and Cambodia and the
22 various movements that were referred to in the press; liberation
23 movements, rebellious <movements>, whether we are talking of the
24 situation within the country or <at the border>.

25 [13.49.44]

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1 We have two other articles of newspapers relating to that subject
2 and they are related to the former soldiers of the Khmer
3 Republic, because these articles refer to movements of <> rebels
4 or attempts made by certain persons to return to Cambodia in
5 order to bring down the government of Democratic Kampuchea and
6 such movements are spearheaded by <former> soldiers of the Khmer
7 Republic.

8 I <am referring here> to document E3/7314 and it is an article of
9 the newspaper "Libération" of June 1976, and in this regard, the
10 date, again, is important and this time, we're not talking of
11 movements on the Vietnamese border, but on the <Thai> border. And
12 reference is made, <ERN in> French, I believe that the document's
13 only in French and the ERN is S00005779 in which reference is
14 made to MOLINAK and it is on the second column of that article in
15 French.

16 The journalist referred to several groups explaining that there
17 may have been people in the jungle who presented themselves as
18 members of resistance movements <to> the Khmer Rouge who were,
19 rather, mercenaries looking for money and the journalist states
20 the following:

21 [13.51.44]

22 "Apart from those groups for whom resistance appears particularly
23 to be an additional means to make a bit of money, there is a
24 whole series of groups, depending on one politician or the other
25 or one general or the other of the former regime, who find in the

1 resistance a common means to make some money and to regain their
2 lost prestige. These groups are very weak, numerically, and <are
3 practically> inactive. They are also divided and have personal
4 ambitions and suffer from the corrupt regime of which they are
5 derivatives.

6 "It was announced in Paris in April, the creation of <an assembly
7 of> some of these groups under the banner of MOLINAK, the
8 Movement for the National Liberation of the Khmer, and they
9 <rally behind> two strongmen of the regime, In Tam and Son Ngoc
10 Thanh who are now living in exile in France. <It is in> the Thai
11 border town <of Aranyaprathet that the leaders of this group,
12 Danh Sang,> former minister of Lon Nol <and a former Khmer Serei
13 leader> San Sambo <> set up their headquarters <>.

14 [13.53.07]

15 "As for <the rumours concerning> pockets of resistance <made up
16 of the remnants of Lon Nol's army> on the Cardamom Mountains <(in
17 the south west of Cambodia)>, these are to be crosschecked even
18 though it is unlikely that such groups would be able to <go
19 underground in that mountainous region that was difficult to
20 access>.

21 <According to estimates made in Bangkok, all of these groups
22 would not number more than 1500 men.> There is only <one> group
23 that is <truly> active and it <goes by the name of the
24 "Liberation Front"> in the north of Cambodia<. The group consists
25 of 200 well trained and well-armed men who, setting off from

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1 their base situated in the Thai province of Burinam, at times,
2 manage to penetrate rather deeply into Cambodian territory.> This
3 group, composed of former soldiers and officers of Lon Nol, are
4 directly organized and equipped by special services of the Thai
5 army for whom they provide various intelligence services."
6 So, <again, in terms of context,> when we're talking of enemies
7 or spies, we have <an> article <from> 1976 which refers to this
8 MOLINAK movement <and movements along> the border between
9 Thailand and Cambodia <as well as the> intelligence elements
10 <coming from the> Thai state.
11 This information is echoed again in the "Bangkok Post" and, <it
12 even precedes that article because it is from April 1976>. That
13 is document E3/7316. And the title of the article is in English
14 because I believe it only exists in English and the article is
15 titled "Anti-communist Resistance Mounts in Northwest Cambodia."
16 This is what is stated at the beginning of the article.
17 "Anti-communist resistance is spreading in northwestern Cambodia
18 and there have been pitched battles between Khmer Rouge units and
19 anti-communist guerillas, a resistance leader told 'Agence
20 France-Presse'.
21 "The leader, a former officer in the Khmer Republican Army when
22 Marshall Lon Nol ruled Cambodia, said his organization the
23 Liberation Front for Northern Cambodia, had small groups of 20 to
24 30 men scattered between the Thai frontier and the Tonle Sap
25 Great Lake.

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1 According to the leader, the Liberation Front for Northern
2 Cambodia has 200 well-armed and well-trained men in guerrilla
3 units which have communications equipment. They are constantly on
4 the move, he said, in the northwest forest Zone.

5 "The front is at present conducting negotiations with other
6 resistance groups operating in Western Cambodia known as MOLINAK,
7 the leader said. MOLINAK has <a> network in Paris and contacts in
8 several western countries, he said.

9 "A small 'liberated zone' has already been established to the
10 south of the border town of Poipet, across from Thailand,
11 according to the resistance leader. It consists of about 100
12 square kilometres in the heart of the jungle, he said." End of
13 quote.

14 [13.57.14]

15 And the rest of the article deals with what is said and what
16 happens in that zone, so this is another important element. In
17 April 1976, there <are incursions, in any case there are
18 certainly> allegations of incursions <and we have> people
19 presenting themselves as members of rebellions or rebellious
20 movements. <In any case we have movements whose objective was to
21 attack the established regime in the> Northwest Zone and they are
22 <engaging in> incursions in <this> Northwest Zone.

23 So this is a very important <contextual> point as regards
24 incidents that may have occurred and the manner in which people
25 viewed attacks in Phnom Penh.

1 [13.57.57]

2 And lastly, <a> last point, which echoes what happens in that
3 border zone with Thailand, document E3/7290, and it is the first
4 page. It is an article by a researcher at the University of Yale,
5 so it's <an academic> work <from a university>. But what is
6 important to note is that -- the ERN in French, 01172718; and the
7 ERN in Khmer is, <> 01152710; and the ERN in English is,
8 00993809; this scholar refers to the problem of the border
9 disputes with Thailand and it is <the> last paragraph of the page
10 in French.

11 "This border dispute was partly due to competing claims by
12 Thailand and Cambodia concerning that border zone. It <was>
13 believed that it is also the <result> of the <operations by> the
14 <guerilla> forces of the right wing in Cambodia which <secretly
15 benefited from the> support of Thai forces and <were authorised
16 to use the Thai border areas as sanctuaries. These forces,
17 generally referred to as <the> Khmer Serei <were> composed of
18 former <members of Lon Nol's government. One> of them belonged to
19 the former Cambodian Prime Minister, In Tam, whose base was on
20 the border of Prachinburi and Battambang provinces." End of
21 quote.

22 [13.59.50]

23 This was a last point <to speak about> these conflicts and
24 incursions from the Thai border. This ends my <documents>
25 presentation on this segment and, of course, we will revisit them

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1 as part of our responses <on Friday> to any questions asked.

2 MR. PRESIDENT:

3 Thank you. The hearing today has come to an end and the Chamber
4 will resume its hearings tomorrow on Friday, 26 February 2016 at 9
5 a.m.

6 The Chamber will continue to conduct the key document
7 presentation hearings in relation to the treatment of the
8 targeted groups, Cham, Vietnamese, and former officials of the
9 Khmer Republic <regime>.

10 In particular, the Chamber will hear the responses and also any
11 other observation of <the Co-Prosecutors and the Civil Party
12 Co-Lead Lawyers to the key document presentation by the defence
13 team for Khieu Samphan. The Chamber will also hear the response
14 and observation of the defence team for Khieu Samphan to the
15 presentation of key documents by the Co-Prosecutors and the Civil
16 Party Co-Lead Lawyers>.

17 And tomorrow, the Chamber will not conduct its hearing to allow
18 parties to get ready for responses and observation on the
19 documents presented by parties. Please be informed and be on
20 time.

21 Security personnel are instructed to bring the Accused, Khieu
22 Samphan and Nuon Chea, back to the detention of the ECCC and have
23 them returned into the courtroom on Friday, 26 February 2016,
24 before 9 a.m.

25 The Court is now adjourned.

1 (Court adjourns at 1401H)

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