



**អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា**

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

**ឯកសារដើម**  
**ORIGINAL/ORIGINAL**  
ថ្ងៃ ខែ ឆ្នាំ (Date): 31-Jul-2013, 10:54  
CMS/CFO: Uch Arun

**Request for Correction**

**Case :** 002/19-09-2007-ECCC/TC

To Document No(s):	ERN(s):	Request Date:	Correction Type:
E291/2	00939771-00939781	30 July 2013	<input checked="" type="checkbox"/> Change to Original <input type="checkbox"/> Change to Translation <input type="checkbox"/> Reclassification

**Reason for changes:**  
there was typo mistakes

**Details:**  
changed to FN 16 and 43 at ERN00939775,00939779.

**Filing Party:** Nuon Chea Defence Team

**Signature:**

**Approved by Greffier (for originals):**

**Signature:**

**Approved by ITU (for translations):**

**Signature:**

whom Philip Short relied repeatedly as his only direct source in relation to the existence of a policy to execute former Lon Nol soldiers – has testified as follows:

No, because they have raised white flags already. There were clear instructions not to touch them. During war, on the battlefield, that was different. Now they had surrendered to us, and we need not touch them, just welcome them and greet them, and respond to the questions which they asked us. He said that [they were] “Cambodians, like us”; Don’t touch them at all. Those were the words of Pol Pot.<sup>16</sup> (emphasis added)

Similar testimony was repeated by this witness, and by numerous others, during their appearances before this Chamber.<sup>17</sup> Indeed, the former RAK soldiers who participated in the evacuation of Phnom Penh have consistently testified that Khmer Republic soldiers were unharmed once they surrendered on or around 17 April 1975.<sup>18</sup>

11. The CIJs and the Co-Prosecutors have identified a small selection of documentary evidence in support of their claim that a policy to execute former soldiers and officials of the Lon Nol regime existed. Several of these documents were described by the Co-Prosecutors during their document presentation hearing and subsequently debunked by the Defence.<sup>19</sup> Other documents cited by the CIJs similarly fail to withstand scrutiny. The CIJs cite a series of newspaper articles describing US intelligence which in turn purport to describe orders intercepted from the Khmer Rouge concerning former soldiers and officials of the Khmer Republic.<sup>20</sup> The authors of the second-hand hearsay (the newspaper articles) have not testified, neither the first-hand hearsay (the intelligence report) nor the original source (the Khmer-language ‘order’) is before the Chamber, and there is no evidence at all of who gave that ‘order’ or who received it. A telegram copied to Nuon Chea dated 2 April 1976 – almost a year after the alleged events at Tuol Po Chrey – makes a single oblique reference to ‘former soldiers’ as enemies without any

<sup>16</sup> Document No. **E-3/24**, Written Record of Interview of Rochoem Ton alias Phy Phuon, 5 December 2007, p. 5.

<sup>17</sup> See e.g., Document No. **E-1/98.1**, ‘Transcript of Trial Proceedings’, 30 July 2012 (‘Phy Phuon Testimony’), p. 88:2-10; Document No. **E-1/193.1**, ‘Transcript of Trial Proceedings’, 20 May 2013 (‘Ieng Phan Testimony’), pp. 36:9-43:9, 65:20-71:20; Document No. **E-1/129.1**, ‘Transcript of Trial Proceedings’, 3 October 2012 (‘Meas Voeun Testimony’), p. 97:1-12; Document No. **E-1/139.1**, ‘Transcript of Trial Proceedings’, 25 October 2012 (‘Kung Kim Testimony’), pp. 50:18-5:13; Document No. **E-1/177.1**, ‘Transcript of Trial Proceedings’, 8 April 2013 (‘Chhaom Se Testimony’), pp. 64:14-65:1.

<sup>18</sup> See fn 4617, *supra*.

<sup>19</sup> Document Presentation Response Hearing, pp. 53:22-75:5.

<sup>20</sup> Closing Order, fn. 712 (citing relevant sources).

regime, he explained: ‘No, I didn’t see this. These people were taken away only to be received by other people and then I would be allowed to return home.’<sup>36</sup> When confronted with his prior statement that he had witnessed the execution of 100 evacuee families of former Lon Nol officials and soldiers, he revealed that he had not seen the executions and did not know whether they had occurred.<sup>37</sup> The extent of his first-hand knowledge that they had occurred was that he heard someone counting ‘one, two, three’.<sup>38</sup>

20. The other witnesses listed on Annex A who have appeared before the Chamber have repeatedly made similar concessions on cross-examination. Hun Chhunly explained that although he heard that military officers were transported away and later killed he saw neither part of that sequence.<sup>39</sup> Pechuy Chipse testified that Lon Nol soldiers were taken to Kampong Kdei and then executed, but that he witnessed neither the evacuation to Kampong Kdei nor the alleged executions.<sup>40</sup> Kim Vandy stated that he saw the dead bodies of Lon Nol soldiers which ‘could be the casualty of the fighting because the bodies were already swollen and there were flies.’<sup>41</sup> Sum Chea testified that he had no direct evidence of any killings.<sup>42</sup> Kung Kim, Meas Voeun and Ieng Phan all directly contradicted the Co-Prosecutors’ allegation, explaining that Lon Nol soldiers who surrendered in battle whowere left unharmed.<sup>43</sup> The Co-Prosecutors concede that Ung Chhat and Lim Sat contradicted numerous elements of their prior statements during cross-examination, and indeed neither one witnessed any executions.<sup>44</sup> Every other witness listed on Annex A who has appeared before the Chamber has similarly testified only that they heard or presumed that Lon Nol soldiers or officials had been killed. None witnessed any executions first-hand.

### C. The Targeting Witnesses Must be Cross-Examined

21. In light of the foregoing, the Defence requests the Chamber to summons all of the Targeting Witnesses to appear before the Chamber. The evidence given by these witnesses is of central importance to the allegation that a policy of executed Lon Nol

<sup>36</sup> Document No. **E-1/216.1**, ‘Transcript of Trial Proceedings’, 2 July 2013, p. 77:14-21.

<sup>37</sup> Document No. **E-1/216.1**, ‘Transcript of Trial Proceedings’, 2 July 2013, pp. 82:12-83:18.

<sup>38</sup> Document No. **E-1/216.1**, ‘Transcript of Trial Proceedings’, 2 July 2013, pp. 87:11-88:15.

<sup>39</sup> Document No. **E-1/150.1**, ‘Transcript of Trial Proceedings’, 7 December 2012, pp.56:19-57:18.

<sup>40</sup> Document No. **E-1/144.1**, ‘Transcript of Trial Proceedings’, 14 November 2013, pp. 25:22-27:11, 30:8-16.

<sup>41</sup> Document No. **E-1/148.1**, ‘Transcript of Trial Proceedings’, 5 December 2012, pp. 101:23-102:8.

<sup>42</sup> Document No. **E-1/140.1**, ‘Transcript of Trial Proceedings’, 5 November 2012, p. 113:11-22.

<sup>43</sup> See fn 4617, *supra*.

<sup>44</sup> Document **E-291**, ‘Urgent Request to Summons Key Witnesses in Respect of Tuol Po Chrey’, 17 June 2013, paras 9-14; Document No. **E-1/207.1**, ‘Transcript of Trial Proceedings’, 13 June 2013, pp. 70:15-71:14.