



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

ព្រះរាជាណាចក្រកម្ពុជា  
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង  
Trial Chamber  
Chambre de première instance

**ឯកសារដើម**  
**ORIGINAL/ORIGINAL**  
ថ្ងៃ ខែ ឆ្នាំ (Date): 19-Jan-2016, 11:15  
CMS/CFO: Sann Rada

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

5 January 2016  
Trial Day 351

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

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I N D E X

2-TCW-1000

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**List of Speakers:**

Language used unless specified otherwise in the transcript

Speaker	Language
Mr. BOYLE	English
Judge FENZ	English
The GREFFIER	Khmer
Ms. GUIRAUD	French
Mr. KONG Sam Onn	Khmer
Mr. KOPPE	English
Mr. KOUMJIAN	English
Judge LAVERGNE	French
The President (NIL Nonn)	Khmer
Mr. PICH Ang	Khmer
Mr. THANG Phal (2-TCW-848)	Khmer
Mr. SENG Leang	Khmer
2-TCW-1000	Khmer

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

2 (Court opens at 0905H)

3 MR. PRESIDENT:

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

5 Today we proceed with the hearing and the proceedings in Case

6 002/02. And today we will conclude the testimony of Witness,

7 2-TCW-1000, who will be questioned by the two defence teams.

8 We also have a reserve witness today, that is, 2-TCW-848.

9 And before we proceed to hear the testimony of today's witness

10 and for the following witnesses; Judge Ya Sokhan, who is a

11 National Judge, is absent for personal matters. And after the

12 bench deliberated this morning, we decide to appoint the Reserve

13 Judge Thou Mony in Ya Sokhan's place for today's proceedings

14 until such time Judge Ya Sokhan is able to return to the bench.

15 This decision is based on Rule 74 -- 79.4 of the ECCC Internal

16 Rules.

17 Ms. Chea Sivhoang, please report the attendance of the Parties

18 and other individuals at today's proceedings.

19 [09.08.12]

20 THE GREFFIER:

21 Good morning, Mr. President. For today's proceedings, all Parties

22 to this case are present except Ms. Anta Guisse, the

23 International Counsel for Khieu Samphan, and Mr. Calvin Saunders,

24 the stand-by counsel for Khieu Samphan's defence, are absent for

25 personal reasons.

2

1 Mr. Nuon Chea is present in the holding cell downstairs. He has  
2 waived his rights to be present in the courtroom. The waiver has  
3 been delivered to the greffier.

4 The witness who is to conclude his testimony today, that is,  
5 2-TCW-1000, has Mr. Moeurn Sovann as his duty counsel. He is  
6 ready to be called by the bench.

7 We also have a reserve witness today, namely, 2-TCW-848. The  
8 witness confirms to his ability he has no relationship by blood  
9 or by law to any of the two accused, that is, Nuon Chea and Khieu  
10 Samphan, or to any of the civil parties admitted in this case.

11 The witness took an oath before the Iron Club statue this  
12 morning. Thank you.

13 [09.09.30]

14 MR. PRESIDENT:

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

17 The Chamber has received a waiver from Nuon Chea, dated 5 January  
18 2016, which states that due to his health, headache, back pain he  
19 cannot sit or concentrate for long, and in order to effectively  
20 participate in future hearings, he requests to waive his rights  
21 to participate in and be present at 5 January 2016 hearing.

22 He affirms that his counsel has advised him about the  
23 consequences of this waiver, that it cannot in any account be  
24 construed as a waiver of his rights to be tried fairly or to  
25 challenge evidence presented to or admitted by this Court at any

1 time during this trial.

2 Having seen the medical report of Nuon Chea by the duty doctor  
3 for the accused at the ECCC, dated 5 January 2016, which notes  
4 that Nuon Chea has severe back pain when he sits for long and  
5 recommends that the Chamber grant him his request so that he can  
6 follow the proceedings remotely from the holding cell downstairs.  
7 Based on the above information and pursuant to Rule 81.5 of the  
8 ECCC Internal Rules, the Chamber grants Nuon Chea his request to  
9 follow today's proceedings remotely from the holding cell  
10 downstairs via audio-visual means.

11 The Chamber instructs the AV Unit personnel to link the  
12 proceedings to the room downstairs so that Nuon Chea can follow.  
13 This applies to the whole day.

14 [09.11.26]

15 And before I invite the witness and his counsel into the  
16 courtroom, the Chamber would like to inform the Parties that, in  
17 relation to the request by Nuon Chea's Defence and the  
18 Co-Prosecutors for statements and witnesses pursuant to Rule 87.3  
19 and 87.4 for the Vietnamese target group, that is, in relation to  
20 those documents, the floor will be given to the parties tomorrow,  
21 not today.

22 And second, the Chamber will now issue its ruling -- oral ruling  
23 on Khieu Samphan's Defence request to admit four documents for  
24 questioning Witness 2-TCW-1000.

25 [09.12.44]

4

1 The Chamber is seized of a Khieu Samphan's Defence request dated  
2 23rd December 2015, to admit four written records of interview  
3 prior to the Defence questioning of 2-TCW-1000, that is, in  
4 relation to document E319/23.2. No responses were received by the  
5 deadline of 31st December 2015, fixed by the Chamber.

6 The Chamber finds that the request is timely, as the written  
7 records of interview were not available prior to the start of the  
8 Case 002/02 trial. They were taken by the Office of the  
9 Co-Investigating Judges and, therefore, met the prima facie  
10 standards of reliability and authenticity.

11 Based on the Defence submissions, the Chamber further considers  
12 the written records of interview relevant to Case 002/02 and may  
13 be conducive to ascertaining the truth. The Chamber therefore  
14 admits all four requested documents.

15 Court officer, please usher Witness 2-TWC-1000 and his counsel,  
16 Moeurn Sovann, into the courtroom.

17 (Witness enters the courtroom)

18 [09.16.00]

19 MR. PRESIDENT:

20 The Chamber would like to give the floor to the defence teams to  
21 put questions to this witness. First the floor is given to the  
22 defence team for Nuon Chea.

23 You may proceed, Counsel.

24 QUESTIONING BY MR. KOPPE:

25 Thank you, Mr. President. Good morning, Your Honours. Good

5

1 morning, Counsel. Happy New Year to everyone in the courtroom.

2 Q. Good morning, Mr. Witness. I have a few questions for you this  
3 morning. I have quite some follow-up questions in relation to  
4 your earlier testimony.

5 And I would like to start with you in 1972 or 1973 when you said  
6 you joined the revolution. Was it 1973? Is my understanding  
7 correct?

8 2-TCW-1000:

9 A. I joined the revolution on the 2nd May 1972, in the Kampot  
10 area.

11 [09.17.20]

12 Q. I apologize. It was '72. Can you describe for me what you did  
13 in the years leading up to 17 April '75? What was your role in  
14 Kampot during those years? What did you do, exactly?

15 A. Thank you for asking me the question, and I will tell you the  
16 truth. I have nothing to hide in relation to my duties at the  
17 time. I was, at that time, a messenger in a platoon.

18 Q. And who was your commanding officer in the platoon?

19 A. Correction. In fact, in my battalion, my military commander  
20 was Ta Man, and I was his personal messenger.

21 Q. And how long did you stay his personal messenger; until when?

22 A. I began working as his personal messenger between 1972 to  
23 1973. Subsequently, Angkar sent me to the zone.

24 [09.19.24]

25 Q. What did you mean with that, sent you to "the zone"? You were



6

1 in Kampot, so were you not already in a zone?

2 A. In 1972, I got in Kampot area and, in 1973, my battalion was  
3 sent by Angkar to an area called Dokom Cheu (phonetic). And  
4 subsequently, we advanced to Phnom Penh.

5 Q. You said you were a messenger until '73. What did you do after  
6 '73?

7 A. After 1973 and into 1974, I was with the artillery unit.

8 Q. What were your functions within the artillery unit? What did  
9 you do?

10 A. Thank you for asking me the question. And to tell you the  
11 truth, I did not do anything while I was in the artillery unit. I  
12 was simply a combatant.

13 Q. What; were you involved in armed conflict? Were you involved  
14 in battles with the Lon Nol forces while being a member of the  
15 artillery unit?

16 A. Of course, it was a war period and we fought against the Lon  
17 Nol soldiers.

18 Q. How big was your unit? How many men were in your artillery  
19 unit?

20 [09.22.08]

21 A. In the battalion, there was one, the company, and there were  
22 other armed units with the DK 75 or DK 80 and 60 millimetres. And  
23 I was with the artillery unit with the 81 millimetres cannon.

24 Q. But within the unit, were you a mere combatant, or were you  
25 also commanding people below you?

7

1 A. I received orders from the upper superiors, and I was merely a  
2 combatant receiving orders in a chain of command from the unit's  
3 chief up to the chief of the company.

4 Q. And were you in this artillery unit until 17 April '75, when  
5 Phnom Penh was liberated?

6 A. I was with the artillery unit until 1975, when Phnom Penh was  
7 liberated. I was then assigned to go to work in Kampong Som.

8 Q. And in those years that you were a member of the artillery  
9 unit until the liberation, you, yourself, were never giving any  
10 orders to people below you. You only received orders. Is that  
11 correct?

12 [09.24.43]

13 A. Yes, thank you.

14 Q. And is my understanding correct that, after 17 April '75, you  
15 were always in the position of a combatant and there were never  
16 any combatants below you in rank? Is that correct?

17 A. Yes, thank you.

18 Q. You just mentioned a particular form of artillery that was  
19 used by you and your fellow combatants. Have you ever handled a  
20 machine gun with 12.7 millimetre guns or bullets -- or  
21 ammunition, rather? Twelve point seven; does that sound familiar?

22 A. Yes. Of course, I heard of the 12.7 cannon. However, usually  
23 these machine gun was equipped on a ship, and not used on land.  
24 For the infantry, they use various types of machine guns, that  
25 is, the 17 or the 18 millimetres guns. And the 12.7 millimetre

8

1 was used only on vessel or ship.

2 Q. Did you, yourself, ever use 12.7 millimetre machine guns? Were  
3 you, yourself, a specialist in using those machine guns, or were  
4 those other people in the artillery units that were using those?

5 A. When I was attached to the artillery unit, I used to engage in  
6 firing the 17 or the 18 millimetre machine guns. They were  
7 Chinese made. And as part of the artillery unit, we were  
8 constantly on mobile.

9 [09.27.45]

10 Q. I will get back to the 12.7 millimetres later. But my question  
11 is, were you, yourself, ever using the 12.7 machine gun?

12 A. I used to fire the 12.7 millimetre machine gun.

13 Q. Fine. I will come back to that later, Mr. Witness. Now, 17  
14 April '75, when Phnom Penh fell, were you stationed in the  
15 Southwest Zone at the time, in Kampot?

16 A. In fact, for 1975, the machine guns have been gathered for  
17 various deployments by the navy.

18 Q. But my question was, where were you on 17 April '75, and in  
19 the weeks after 17 April '75? Where were you?

20 [09.29.36]

21 A. In 1975, I was assigned to work in Kampong Som.

22 Q. When, exactly, did you arrive in Kampong Som?

23 A. I cannot recall the date. However, I was in Kampong Som about  
24 three days after the liberation.

25 Q. And were you still a member of that same artillery unit?

1 A. When I was assigned to work in Kampong Som, I was actually  
2 detached from the artillery unit and I was integrated into an  
3 infantry unit in Kampong Som.

4 Q. Within the next, let's say, four weeks after 17 April '75,  
5 after your arrival in Kampong Som, did you go to one of the  
6 islands belonging to Cambodia at the time?

7 A. In 1975, Angkar sent me to station in an island called Kaoh  
8 Tang Island.

9 Q. And when, exactly, did you go to Kaoh Tang Island?

10 A. I cannot recall it. It happened long time ago. I cannot recall  
11 the date when I arrived at Kaoh Tang.

12 Q. Was it within a few weeks after 17 April '75? Is that correct?

13 A. Yes, that is correct.

14 Q. Now, can you remember something that happened on Kaoh Tang  
15 Island on or around the 7th of May 1975?

16 [09.32.54]

17 A. There was an incident in 1975. At the time, the Mayaguez was  
18 seized, and it was pulled to Tang Island. There was an intensive  
19 fighting in 1975.

20 Q. What, exactly, happened with this ship, the Mayaguez? Can you  
21 explain to us what you remember what happened with this ship; to  
22 whom belonged this ship; what happened after the ship was  
23 arrested? Can you tell us a little more?

24 A. I cannot recall exactly of the date when the Mayaguez was  
25 captured. What I knew is that the Mayaguez belonged to America,

10

1 and there were American crews on the Mayaguez.

2 I went up onto the Mayaguez and I noticed there were American  
3 crews.

4 [09.34.20]

5 Q. So when you were stationed at Kaoh Tang Island, the Mayaguez  
6 ship was stopped and the people on board were arrested? Is that  
7 correct?

8 A. That is true. After the capture of the Mayaguez, people or  
9 crew members on the Mayaguez were removed and sent to Kampong  
10 Som. There was an intensive fighting on the island at that time.

11 Q. Fighting between which forces?

12 A. The intensive fighting happened between American soldiers and  
13 our soldiers. There was fighting between the infantry and the  
14 naval soldiers. After the intensive fighting, American people got  
15 onto the airplane and left the place. And there was also, aerial  
16 fighting as well at that time.

17 Q. Do you remember which group -- which part of the revolutionary  
18 forces captured the ship?

19 Which group was it that capture the Mayaguez?

20 A. I am telling the truth to the Chamber that, in 1975, the  
21 infantry had no ships and boats. And there was an order to send  
22 boats and ships to capture the Mayaguez at that time.

23 [09.37.10]

24 Q. But do you remember which group it was that captured the  
25 Mayaguez boat's men? Who was it that arrested those people?

11

1 A. I did not know which group did capture the Mayaguez. The order  
2 came from the division to capture the Mayaguez. People on the  
3 island noticed the presence of the Mayaguez and at that time, we,  
4 people on the island, reported to the superior or upper echelon.  
5 And that order came back to us to go and capture the Mayaguez.  
6 The boats or ships that we used were seized during the time that  
7 we want -- we won the fighting with the American soldiers last  
8 time. And in fact, there was an order from the division. The  
9 order came to us, and we went to capture the ship, or Mayaguez.

10 [09.38.40]

11 Q. You speak about "we", but was it another group that actually  
12 captured the American ship? Was it some group called the PCF  
13 group?

14 A. No. PCF was not used at that time, since PCF was a slow boat.  
15 Actually, we used the minesweeper to arrest the Mayaguez since  
16 minesweeper was fast enough. And at that time, there were two  
17 minesweepers.

18 Q. In your statement to the investigators of the Co-Investigating  
19 Judge, E3/9092, English ERN, 00978569; and Khmer, 00955497; no  
20 French; you said that the PCF group captured the Mayaguez. At  
21 that time, they did not use the small vessels to capture it  
22 because the navy did not yet have the smaller ships. Is that  
23 correct?

24 A. I may have forgotten about that point when I was interviewed  
25 at that time. I did not mean to change my statements. There were

12

1 six PCF ships at that time, but PCF ships were too slow to chase  
2 and capture the ship of Mayaguez.

3 Actually, we did use the PCF to chase and capture the Mayaguez,  
4 but since PCF were too slow, we then decided to use minesweepers  
5 instead. I may have forgotten that point when I was interviewed  
6 at that time.

7 [09.41.20]

8 Q. But when you say "we", you don't mean your unit itself;  
9 correct? You mean the division that you were part of. Is my  
10 understanding correct, that whenever you speak about "we", it  
11 doesn't mean your unit itself? Correct?

12 A. I cannot get what you said, Counsel. Could you repeat it?

13 Q. Of course. No problem. Sometimes -- and maybe that is a  
14 language issue, Mr. Witness; I'm not sure -- you speak about  
15 "we". "We" captured the Mayaguez ship.

16 But when you say "we", it doesn't mean that your artillery unit  
17 did it, but rather, other members of the revolutionary forces of  
18 the Southwest Zone. Is that correct?

19 A. I am not quite sure what you said, so I am a bit confused with  
20 what you said.

21 [09.42.59]

22 MR. PRESIDENT:

23 You have the floor now, Judge Fenz.

24 JUDGE FENZ:

25 Let's try our luck with an open question. If you say "we", whom

13

1 do you mean?

2 2-TCW-1000:

3 The word "we" is meant -- is not meant to refer to any specific  
4 individual or specific unit or division. We, refers to -- I mean  
5 to the general meaning of "we". It means that unless we receive  
6 an order, we could perform the task. Otherwise, we were not  
7 allowed to perform the task. I had a general meaning when I used  
8 the word "we".

9 JUDGE FENZ:

10 I still don't understand who "we" is. Sorry. I'm trying to  
11 clarify the point. If you say, "we received orders", who do you  
12 mean?

13 [09.44.29]

14 2-TCW-1000:

15 We who were the subordinates were under the leadership of the  
16 front of the Democratic Kampuchea. I did not have the intention  
17 to refer to any specific individual.

18 Unless there was an order, the tasks could be performed, and  
19 usually the order came through specific individual or persons.

20 The tasks were not able to perform unless there were orders  
21 referred to specific individual or units.

22 [09.45.40]

23 BY MR. KOPPE:

24 Q. Let me read to you a little excerpt -- small excerpt, Mr.

25 Witness, from your statement, which was, by the way, not to the



14

1 investigators of the OCIJ, but rather, to DC-Cam. That's, again,  
2 E3/9092. Again, the same ERNs. I will read the whole excerpt:

3 "Were you in the training when they, Khmer Rouge, capture the  
4 Mayaguez ship?"

5 You answered: "It happened before I studied technical skills.  
6 After the fall of Phnom Penh, I was sent to join the navy forces  
7 and, one week later, they capture the Mayaguez."

8 Question: "Why did they capture the Mayaguez?"

9 And then you answer: "I did not know, but we were like the wild  
10 bandits because we captured it illegally."

11 Question; literally: "Were we did it illegally?"

12 Answer: "We captured it illegally. That ship was travelling in  
13 the international water about 10 kilometres off the coast of Kaoh  
14 Poulo Wai Island."

15 Question: "Which group went to capture the Mayaguez?"

16 [09.47.10]

17 And then you answer: "The PCF squadron group did it. At the time,  
18 they did not use the small vessels to capture it because the navy  
19 did not yet have the smaller ships."

20 Question: "Did you join them to capture it?"

21 "No, I did not. I was on Kaoh Tang Island."

22 "What happened after that?"

23 And then you answer: "After they had captured it, they assigned  
24 my group to board the ship to guard it. Not long after that,  
25 there were aircrafts coming to bomb us, so I left the ship and

15

1 went back to the island." End of -- end of quote.

2 [09.47.55]

3 Now, Mr. Witness, you referred to different groups. Sometimes you  
4 refer to your own unit, and sometimes you refer to other units.

5 Is what I read to you something that you said to DC-Cam? Do you  
6 remember saying this?

7 2-TCW-1000:

8 A. Yes, that is true. The statements I made to DC-Cam, it was my  
9 true statements to DC-Cam.

10 Q. So it was your unit that was tasked with guarding the ship on  
11 Kaoh Tang Island. Is that correct?

12 [09.48.58]

13 A. Yes, that is true. My unit was tasked with guarding the ships,  
14 and my unit was ordered to arrest people on the ship in order to  
15 send them to Kampong Som. I may have forgotten some points, and I  
16 may not have been detailed on some points I made.

17 Q. So the crew of the Mayaguez ship was sent to Kampong Som. Your  
18 unit was tasked with guarding the ship. Can you explain to us  
19 what happened next?

20 A. At that time, crew members on the Mayaguez were arrested and  
21 sent to Kampong Som in the dark. And at about 10.00 p.m. we were  
22 told to leave the Mayaguez to our location since we were told  
23 that the situation was intensive. And the American troops,  
24 particularly the fighting airplanes, were coming to attack us.  
25 And as I said, the American crew members had been arrested and

16

1 sent on land, and we were told at 10.00 p.m. to come back to our  
2 island.

3 [09.51.07]

4 Q. So you were on Kaoh Tang Island when American aircrafts or  
5 helicopters came. Is that correct?

6 A. Yes, that is correct.

7 Q. Do you remember what happened when those American helicopters  
8 approached Kaoh Tang Island?

9 A. The next morning, the aircrafts or helicopters landed and  
10 there was fighting. At that time, fires was shot at each other.  
11 There were only two aircrafts or helicopters landing at that  
12 time, and that two aircrafts or helicopters were about to land,  
13 but we fired at those aircrafts and -- or helicopter. One  
14 aircraft or helicopter was shot, and it fell to the ground.  
15 And after that incident, there was an intensive bombing on the  
16 island and to counter-attack the aerial.

17 And at that time as well, the fighting ship were firing at our  
18 island, and there was intensive fighting, as I said. That  
19 happened until 7.00 p.m.

20 [09.53.30]

21 Q. And who was it that shot down one or two of those American  
22 helicopters?

23 MR. PRESIDENT:

24 Please hold on, Mr. Witness.

25 You have the floor now, Lead Co-Lawyer for civil parties, Pich

1 Ang.

2 MR. PICH ANG:

3 Thank you, Mr. President. Thank you. Good morning, Your Honours,  
4 Parties, civil parties, everyone in and around the courtroom.

5 I observe that Counsel Koppe put many questions relating to  
6 American ship. I am not sure whether the questions are within the  
7 scope of our trial, so Mr. President, please instruct Counsel for  
8 Mr. Nuon Chea whether the questions he has put are relevant to  
9 the facts before us.

10 [09.54.48]

11 MR. KOPPE:

12 To respond, Mr. President, well, timewise, it certainly does fall  
13 within the scope. The Mayaguez incident is on around the 7th of  
14 May 1975.

15 The reason why I'm focusing on this particular incident is of  
16 general interest on the one hand, but also to try to establish  
17 what, exactly, his position was within the revolutionary forces.

18 I'm just trying to see if his earlier statement to DC-Cam is  
19 consistent, so I'm trying to figure out exactly what his role is.  
20 Mainly, I'm trying to establish when he speaks about "we" whether  
21 he means the royal "we", we of the revolutionary forces, or his  
22 particular unit.

23 So that's why I'm focusing on this incident which, again, falls,  
24 at least from a chronology perspective, within the scope of the  
25 trial.

18

1 (Judges deliberate)

2 [09.58.06]

3 JUDGE FENZ:

4 Counsel, before we make a decision, is testing the credibility  
5 your only reason to focus on ---

6 MR. KOPPE:

7 No.

8 JUDGE FENZ:

9 -- this incident? Well, then, perhaps you want to tell us.

10 MR. KOPPE:

11 The real reason? Yes, I'd be happy to, Judge Fenz.

12 Let me quote to you an excerpt from Elizabeth Becker's book.

13 That's, Mr. President, E3/20, English ERN, 00237902; French,  
14 00638463; Khmer, 00232262.

15 She describes in her book a cable from the United States Embassy  
16 in Bangkok. And let me read to you the whole excerpt so that you  
17 know, hopefully, what I'm trying to establish.

18 [09.59.15]

19 So she writes as follows:

20 "When the fighting was over, 38 American servicemen lost their  
21 lives to save 39 crew members of the Mayaguez, and most of them  
22 died after the crew members had been released. Those dead  
23 veterans were counted as the last American casualties in the U.S.  
24 war in Indo-China."

25 And now it comes:

19

1 "Washington declared a victory. The U.S. Embassy in Bangkok,  
2 however, saw the crisis in a considerably different light. 'Local  
3 Cambodian commanders apparently have considerable autonomy and  
4 have freely exercised their authority, sometimes to the national  
5 embarrassment', the Embassy wrote in a classified cable  
6 referring, in part, to the Mayaguez incident."

7 Now, if you put the Mayaguez incident in a bigger context, it is  
8 obvious that whatever happened in that region of Cambodia on  
9 those islands was done in a substantial autonomous manner, and  
10 I'm trying to establish what this witness knows about the  
11 commanding chain up -- the commanding chain up and whether his  
12 Southwest Zone forces were, in fact, acting independently and  
13 autonomously. And in that light, we should see also the other two  
14 incidents that he describes.

15 Also, through the Mayaguez incident, I can have him maybe focus  
16 more in chronology when it comes to those two events. So that is  
17 the reason the -- okay. Yes.

18 (Judges deliberate)

19 [10.02.02]

20 MR. PRESIDENT:

21 Counsel, you may proceed by using that reference to put questions  
22 to this witness.

23 BY MR. KOPPE:

24 Q. So let me get back to my question. Can you tell us exactly  
25 what happened when those American helicopters arrived and who it

20

1 was, which unit it was that shot those helicopters down?

2 2-TCW-1000:

3 A. Thank you, and I'm going to tell you the truth. During the  
4 intensive fighting, my unit was on the island, and I refer to my  
5 battalion. It's the battalion 410, and there were only about 100  
6 of us there on the island.

7 The fighting actually became intensified on the island. There was  
8 an engagement by helicopters and by ships. And I, myself,  
9 actually shot down a helicopter. I was severely wounded in the  
10 fighting, and I, myself, was with a 12.7 millimetre machine gun.  
11 And I used that gun to shoot at the helicopter and, of course,  
12 that helicopter was shot down.

13 [10.04.03]

14 Q. And you used that 12.7 millimetre gun which we discussed  
15 earlier, that machine gun which was not on a ship, because you  
16 said in the beginning that that machine gun was only on ships,  
17 installed on ships. But you used it on the island to shoot down  
18 those helicopters. Correct?

19 A. Yes, that is correct.

20 Q. Now, I'm trying to now establish who was it that gave you the  
21 orders to shoot back at those helicopters. Who was it? How did  
22 the command -- the chain of command go? Who gave you the orders  
23 to do what, exactly?

24 [10.05.12]

25 A. During the fighting in a battlefield, the orders within the

21

1 military rank, we focus only on eliminating the enemy by that  
2 time, so there was no order during the heat of the battlefield.  
3 Our focus was to kill the enemy, and we were autonomous. And we  
4 had to defeat our opponent.

5 Q. What do you mean when you said, "we were autonomous"?

6 A. At that time, the situation was rather tense and we knew that  
7 we were about to be attacked, so we had to prepare ourself and,  
8 of course, during the heat of the battle, we only focus on  
9 fighting back.

10 And you had to remember that that was in 1975, that is, the  
11 country had just been liberated. And of course our spirit was to  
12 engage in the battlefield and be self-mastery. Of course, if we  
13 were not self-mastery then we would be defeated by our enemy. And  
14 that is the spirit for all the soldiers within their respective  
15 units.

16 [10.07.27]

17 Q. I can understand that very well, Mr. Witness, but surely the  
18 capture of the Mayaguez and the guarding of the Mayaguez wasn't  
19 done in an immediate war situation.

20 Who ordered the capture of the Mayaguez? Who ordered the guarding  
21 of the Mayaguez? Can you tell us how that went?

22 A. The order for the capture of the Mayaguez came from the  
23 division to the regiment, then down to the battalion and to the  
24 soldiers on the ground. None of the battalion or regiment was  
25 autonomous. The order had to come from the upper echelon, that



22

1 is, from the division, for the capture of that ship.  
2 And at that time, there was no proper regulations for the  
3 soldiers on the ground, and we had to be vigilant and all ships,  
4 all boats within the territorial waters of Cambodia had to be  
5 capture. And that was the order from the upper echelon, and we at  
6 the lower chain of command had to implement those orders. And  
7 that was our role, to capture those ships or boats.

8 [10.09.17]

9 Q. And now I have arrived exactly at the point where I wanted to  
10 arrive, Mr. Witness. You have described the situation as follows.  
11 You were a member of an artillery unit on a remote island, and  
12 other forces captured the Mayaguez.

13 How do you know that the order to capture and guard the Mayaguez  
14 and to arrest the crew members came from the upper echelon? How  
15 did you know?

16 MR. PRESIDENT:

17 Judge Lavergne, you have the floor.

18 JUDGE LAVERGNE:

19 I am asking myself if the question put by Counsel Koppe shouldn't  
20 be rephrased. I believe I heard that this witness had been  
21 detached from an artillery unit, so he was no longer depending on  
22 the artillery unit when he was on the island, unless I'm  
23 mistaken. So I don't know why you're referring to this artillery  
24 unit in particular.

25 [10.10.39]

1 MR. KOPPE:

2 I presume he was still a member of the artillery unit, having the  
3 control of a 12.7 millimetre machine gun with which he  
4 singlehandedly gunned down that helicopter. So, I presume he was  
5 still within the artillery unit. But I will -- I will happy --  
6 I'm happy to ask.

7 JUDGE LAVERGNE:

8 Counsel Koppe, I believe that the witness was quite clear about  
9 this. He explained that the 12.7 millimetre machine guns had been  
10 grouped together to be given to the navy, and he said himself  
11 that he was no longer part of the artillery and that he had been  
12 detached from his unit to be assigned to that island.

13 [10.11.14]

14 BY MR. KOPPE:

15 Well, to be honest, Judge Lavergne, I don't think there was a  
16 navy yet in May '75. I think the Division 164 wasn't formed until  
17 end of '75. I presumed this witness was still a member of his  
18 artillery unit or at least part of the Southwest Zone force. But  
19 again, I'm happy to ask it. I'm happy to ask.

20 Q. Mr. Witness, were you -- when you were stationed at Kaoh Tang  
21 Island, were you a member of the same Southwest Zone forces, and  
22 were you still a member of an artillery unit or of a different  
23 unit?

24 2-TCW-1000:

25 A. After I left the Southwest Zone, I was assigned to Kampong

24

1 Som. And later on, Division 164 was formed and it was part of the  
2 West Zone. By that time, I was no longer with the Southwest Zone,  
3 but I was with the West Zone. And that's what happened.

4 And by that time, I was no longer involved with the artillery  
5 unit. And when the attack was -- when the attack occurred, I was  
6 part of the infantry unit. And these machine guns, namely 12.7  
7 and 12.8, was not with the artillery unit.

8 And usually, we had to follow the instructions from Angkar. And  
9 if we had to maintain the machine guns that we had earlier, for  
10 example, the 12.7, we were to be responsible for the maintenance  
11 and for holding of that machine gun.

12 [10.13.39]

13 Q. Very well. Going back to the 7th of May, you were not any more  
14 a member of the Southwest Zone forces, but the West Zone forces.  
15 You were not any more a member of an artillery unit, but of  
16 another unit within the West Zone forces.

17 Now, my question is, how did you know that the commander of the  
18 Kaoh Tang forces belonging to the West Zone, had, in fact,  
19 receive an order from the upper echelon? How did you know that at  
20 the time?

21 A. I was certain because I was a member and a combatant in the  
22 respective unit, and we knew the cadres within the area either at  
23 the battalion or regimental levels. I knew cadres within the  
24 battalions or the regiments or even with the division levels.

25 [10.15.00]

25

1 I knew those cadres. I even knew their names, and which unit or  
2 battalion or regiment they were attached to. For that reason, I  
3 knew the orders came from the upper echelon to capture that ship.  
4 And the unit was assigned to capture the ship and a separate unit  
5 would be deployed to hold that ship.

6 As I said, my unit was sent to station in Tang Island. And then  
7 we would be responsible for various duties, namely, our unit was  
8 tasked to guard the Tang Island and, for that reason, I knew that  
9 the orders came through the chain of the military command. Or you  
10 can say I knew all those from the battalion up to the regimental  
11 or to the divisional level.

12 [10.16.12]

13 And the Division 164 actually had seven regiments, and I also  
14 knew cadres within those seven regiments. And as a rule of thumb,  
15 combatants in a unit had to know their cadres or their superiors  
16 within the respective unit. And of course, there's usually a  
17 communication within the regimental level. For example, we had to  
18 know who was the commander for regimental -- for Regiment 61 or  
19 Regiment 62, for example, Nhan, was military commander for  
20 Regiment 61, etc.

21 So I knew most of those commanders. And as I said, most of the  
22 combatants knew their superiors or cadres.

23 And I thank you for asking these questions, and allow me to  
24 clarify this point. Of course, as a soldier, we need to know our  
25 superiors or commanders. And of course, as a subordinate, you had

26

1 to know your commander because, usually, the words came from your  
2 commander or your superiors.

3 [10.17.42]

4 MR. PRESIDENT:

5 Thank you. The time is appropriate for a short break. We'll take  
6 a break now, and return at 10.35.

7 Court officer, please assist the witness at the waiting room  
8 reserved for witnesses and civil parties and invite him as well  
9 as his duty counsel back into the courtroom at 10.35.

10 (Court recesses from 1018H to 1037H)

11 MR. PRESIDENT:

12 Please be seated. The Court is now back in session. And the floor  
13 is once again given to the Defence Counsel for the accused. You  
14 have the floor now.

15 BY MR. KOPPE:

16 Thank you, Mr. President.

17 Q. Mr. Witness, I'm returning to the incident with the American  
18 ship. And again, I'm asking you questions about this incident  
19 because we know for a fact that this is something that really  
20 happened.

21 Let me focus on one particular aspect. I will ask you to explain  
22 to me the chain of command.

23 Who was it, which person was it, that ordered the arrest of the  
24 crew of the Mayaguez? Who gave the order to whom?

25 2-TCW-1000:

27

1 A. I was a former combatant or soldier on the island. At the  
2 time, I received an order from the upper echelon in a meeting.  
3 The order was for soldiers to comply or respect the upper  
4 echelon. Whenever the order or circular was issued, that order or  
5 circular had to be adhered to. And the -- we had to respect the  
6 hierarchical order.

7 [10.39.47]

8 MR. PRESIDENT:

9 Mr. Witness, please listen carefully to the question and please  
10 give your response specifically to the question asked. You may --  
11 please not go beyond the question asked by counsel.

12 Please put the question again, Counsel.

13 BY MR. KOPPE:

14 Thank you very much, Mr. President.

15 Q. Mr. Witness, I'm not asking you to talk in general terms. I'm  
16 asking you one specific incident.

17 Who ordered the arrest of the crew of the USS Mayaguez? Who was  
18 it that gave the order to whom, and how do you know?

19 [10.40.40]

20 2-TCW-1000:

21 A. The order came from Ta Muth in charge of the division. And he  
22 gave the order to members of the navy to go and arrest the ship  
23 or vessel. When the order came down to the battalion, then the  
24 battalion would relay that order to its subordinates.

25 Q. Again, Mr. Witness, you order only in generic terms. Meas Muth

1 was the highest commander.

2 How do you know, while you were stationed at Kaoh Tang, that Meas

3 Muth gave an order to whomever? How do you know? Did you hear it?

4 Did you see it? Did people talk about it?

5 Tell me exactly how you know that he was the one who gave that

6 order.

7 [10.41.55]

8 A. Back then, the Mayaguez was captured. And at that time, the

9 naval soldiers told that the Mayaguez was captured. Actually, the

10 naval soldiers listened to the order, and the order must have

11 been from the division. Otherwise, the naval soldiers did not

12 dare to seize and capture the vessel.

13 During that time, no one wanted the war again, and I believe that

14 the order may have been from the battalion or the upper echelon.

15 And there was a discussion that unless there was an order, the

16 tasks could be performed. No one did not dare to perform any

17 tasks unless there was an order.

18 Q. Mr. Witness, isn't it true that you have no idea who gave the

19 order in May 1975, to stop the Mayaguez? That you make a general

20 conclusion that it must have been Meas Muth, and that it must

21 have been going through the chain of -- the normal chain of

22 command but, in fact, you don't know?

23 [10.43.41]

24 A. Upon our -- based on our experience and study, as long as we

25 received any instructions and orders from the division, we could

1 perform the task and duty. I could make an objective conclusion  
2 that there must have been an order from the division, otherwise,  
3 we were not able to perform the task.

4 Q. I think that is enough, Mr. Witness. Let me now move in time  
5 to '76, when Division 164, the navy, existed. Would you be able  
6 to give us an estimate as to how many members there were, how  
7 many combatants and how many non-combatants there were in  
8 Division 164, in approximately October 1976?

9 A. I do not know about that matter. This matter had something to  
10 do with the senior cadres, about the soldiers or the fighting  
11 troops. There were soldiers who were ready to be on attacks, and  
12 I -- as I said, I do not know that kind of thing you described. I  
13 was aware only what happened in my unit.

14 Q. Let me be -- let me go a little down in the hierarchy. Do you  
15 know how many combatants and non-combatants there were in  
16 Regiment 62, respectively Regiment 140, of which you were a  
17 member?

18 [10.46.09]

19 A. There were four battalions within my regiment. They were  
20 guards on the island. Regiment 62 were those who were combatants  
21 stationed on the island. We were not stationed on land.

22 Q. If I were to tell you that Regiment 62, in or around 27th of  
23 October 1976, consisted of about 1,062 combatant forces, would  
24 that be accurate?

25 Do you recall while being a member of Regiment 62 that there were



30

1 about 1,060 other combatants?

2 A. I cannot tell you the exact numbers of combatants. One  
3 regiment consisted of 400 members.

4 JUDGE FENZ:

5 Counsel, with questions that specific, I think a reference would  
6 help for the record.

7 BY MR. KOPPE:

8 Yes, of course. I'm referring to E319/23.3.45.1. It is a document  
9 which is titled, "The daily list of forces 27th October '76". It  
10 is about Division 164, apparently done by Meas Muth himself.

11 And in this document, one can read that Division 164 consisted of  
12 a total number of 8,611 members, and his own regiment, including  
13 non-combatant forces, about 1,700 something.

14 [10.48.43]

15 Q. I will ask a question that I think I know the answer to. Do  
16 you know all 1,062 combatant forces of your regiment, Regiment  
17 62, at the time?

18 A. Yes, the -- it is the exact number.

19 Q. But my question was, do you -- did you know them all? Did you  
20 know them all by name? Did you know who they were? Did you know  
21 who the platoon commanders were or the group commanders or the  
22 sub-group commanders or the squad commanders? Did you know at the  
23 time?

24 A. I was a part of Regiment 62. I knew only one some senior  
25 cadres, and Yeang was my commander. Frankly speaking, I knew only

31

1 commanders of battalions and regiment. And as for members of  
2 regiment, I cannot -- I do not know all of them.

3 So as I said, there were different commanders of battalions and  
4 there was a commander of regiment whom I knew.

5 [10.50.30]

6 Q. Can you describe to us which instructions or commands have you  
7 ever witnessed yourself?

8 Have you ever seen the superior to your unit officer give or  
9 receive an instruction from his superior, and that superior  
10 receiving an instruction from his superior? Have you ever  
11 witnessed that for yourself?

12 A. I was a combatant or soldier. I, in fact, have received an  
13 order or orders from the upper echelon. Upper echelon, here I am  
14 referring to the battalion. So usually, a battalion was not able  
15 to perform the tasks independently. We were invited to the  
16 training sessions and we were informed that unless there were  
17 instructions from the upper echelon, we could perform the tasks.  
18 As I said, I received an order or instruction from battalion and  
19 perhaps a battalion may have received an order from the regiment.

20 Q. Fine. Let's now move to the two incidents that you described  
21 in the testimony a month -- a few weeks ago. The first incident  
22 that you described presumably happened in late '76 or early '77,  
23 the killing by soldiers of a Vietnamese couple with an infant.  
24 And you said that they were killed by soldiers from Regiment 62  
25 on Kaoh Pulo Wai Island. Now, can you tell us who these soldiers

1 were? What were their names?

2 [10.53.06]

3 A. I did not recall the names at the time. I was part of a  
4 battalion, and we were in different -- we were under different  
5 regiments. At the time, I was stationed close to that place. Most  
6 of them may have died already.

7 Q. I can understand that you don't know the names from those  
8 soldiers, but do you know who their commanding officers were and  
9 do you know who were the commanding officers of those commanding  
10 officers?

11 A. Yoeun was a commander of that battalion. Yoeun. Han (phonetic)  
12 was the head of the special units -- the so-called special unit.  
13 The special unit would perform a certain tasks.

14 And I was part of a company. And at the time, the company was  
15 under the battalion.

16 [10.54.50]

17 Q. Again, Mr. Witness, you're giving very general answers. My  
18 question was, within Regiment 62, which consisted of about 1,500  
19 members, do you know specifically the direct commanding officers  
20 of those soldiers that killed that Vietnamese couple?

21 A. We adhered to the law or orders. The order came down -- came  
22 down, and we implemented the orders. And the order came through  
23 hierarchical order. We did not perform the tasks on our own  
24 initiative. Unless there was an order or instruction, we  
25 performed the task. And if we did not receive the order, we sent

1 those people on land.

2 Q. Again, Mr. Witness, you described an incident that had taken  
3 place on Kaoh Pulo Wai, an island, and that the killing was done  
4 by soldiers from Regiment 62.

5 Now, my question is whether you can tell us whether these  
6 soldiers did this by themselves without any instructions or were  
7 they instructed to do this and, and if yes, by whom?

8 [10.56.57]

9 A. The battalion had received an order or instruction from the  
10 regiment, and after receiving the order, the battalion would  
11 relay that order to the special unit.

12 Q. Fine. But who within the battalion had ordered -- had received  
13 an order from whom within the regiment? Who was giving whom an  
14 order, and how do you know? Did you hear it, did you see it? Can  
15 you tell us, please?

16 A. Since we were trained to adhere to the order, we had to adhere  
17 to the order. Yoeun gave the order through the soldiers. Yoeun  
18 was the commander of the battalion, and he was the one who  
19 relayed the instruction or order to the special units to perform  
20 that specific tasks. So he was the one who gave direct order.  
21 Whenever the soldiers are required -- were required to perform  
22 specific tasks, they would be invited into the meetings about the  
23 task to be performed.

24 [10.58.50]

25 Q. I'm going to interrupt you again, Mr. Witness. The incident --

1 the first incident that you described took place on an island  
2 very far from the main coast. Maybe, I would estimate, six or  
3 seven hours in a boat.

4 Who and how did the order -- was the order conveyed? Who gave the  
5 order to have that family killed? Tell us exactly how it went.

6 Did you hear this? Did you witness the commander? What happened  
7 on that very specific day?

8 A. During that time, the order came through via the telegram. And  
9 it went through the channels command or hierarchy order. And that  
10 task was performed immediately after receiving that order.

11 Q. And were you in a position to read that telegram?

12 A. No.

13 [11.00.22]

14 Q. Was it even possible to receive telegrams on Kaoh Pulo Wai  
15 Island?

16 A. The messengers were in charge of receiving the telegrams.  
17 Afterwards, they conveyed the order in the telegrams to  
18 commanders. I sometimes went to the messengers' office.

19 Q. Where was the office on Kaoh Pulo Wai Island? It was a very  
20 remote island. Where was the office? Can you describe that for  
21 me?

22 A. At the time, it was part of Company 53. The headquarters of  
23 the battalion was about 500 metres away from the Company 53, so  
24 our headquarters was close to one another.

25 The island was not so big, and there were around four companies

1 three kilometres in length and a kilometre long, and four -- two  
2 kilometres wide. So the offices or headquarters were close to one  
3 another.

4 Q. Do you know when Vietnam recaptured Kaoh Poulo Wai?

5 [11.02.45]

6 A. That happened in 1975. However, I cannot recall the month or  
7 the day. And my battalion was there, and we were attacked by the  
8 Vietnamese. And the Vietnamese captured the island in 1975.

9 Here, I refer to the Poulo Wai Island. A battalion -- soldiers in  
10 one battalion were captured by the Vietnamese troops, and they  
11 were transferred to Trol Island.

12 Q. Unless I'm mistaken, but the incident that -- the first  
13 incident that you described happened in early '76 -- or late '76,  
14 early '77. Was this incident on Kaoh Poulo Wai Island that you  
15 describe?

16 A. What I described is the incident that the Vietnamese troops  
17 captured Poulo Wai Island, and that happened in late 1976 or  
18 early 1977. By that time, I was hospitalized at Tang Island, and  
19 I heard about the capture of that island by the Vietnamese troops  
20 in late 1975. Many soldiers lost their lives, and some were --  
21 some soldiers were captured by the Vietnamese.

22 [11.04.54]

23 Q. I'm confused, Mr. Witness. You described two incidents in your  
24 last testimony, a Vietnamese couple with an infant about one year  
25 old was travelling on a boat and they were killed by soldiers

1 from Regiment 62 on Kaoh Poulo Wai. Their bodies were chopped in  
2 half and subsequently buried on -- under coconut trees. This  
3 incident, did that take place on Kaoh Poulo Wai Island?

4 A. Yes, that is correct. It happened on Poulo Wai Island.

5 Q. But you also said that Vietnam recaptured Kaoh Poulo Island  
6 already in '75. Is that correct?

7 A. Yes, that is correct.

8 Q. So it could not have happened in, as you said, late '76 or  
9 early '77. Is that correct?

10 A. Allow me to clarify. Before the killing of those Vietnamese,  
11 the Vietnamese troops did not yet capture the island, and I  
12 recall that when the Vietnamese troops actually captured the  
13 island and, later on, it was returned to Kampuchea, my unit was  
14 assigned to station on that island, that is, Kaoh Poulo Wai  
15 Island, so by that time, I was reassigned from Tang Island to  
16 Poulo Wai Island after the Vietnamese troops had withdrawn from  
17 that island.

18 And the killing of the Vietnamese family, that is, the father,  
19 the mother and the child took place when my unit was reassigned  
20 to station on that island.

21 [11.07.48]

22 Q. Let me read something to you from a book from an American  
23 journalist.

24 Mr. President, that is again E3/20, Elizabeth Becker. English,  
25 page 00237902 and 03; Khmer, 00232263; and French, 00638464. It

1 says as follows:

2 "Cambodians apologized for the island's incidents, saying the  
3 local commanders had a poor sense of geography. Vietnam then  
4 recaptured Paolo Wai."

5 My question -- my first question is, do you know if it's correct  
6 that local commanders had a poor sense of geography when it come  
7 to -- when it came to islands in -- at the coast of Cambodia?

8 MR. KOUMJIAN:

9 I apologize. I just would request the ERN. I didn't get the ERN  
10 from the Becker book, or the page number. If I could have that.

11 Thank you.

12 [11.09.18]

13 BY MR. KOPPE:

14 Page 198.

15 Q. There's two questions, Mr. Witness. Is it correct what this  
16 author seems to suggest, that the local commanders had a poor  
17 sense of geography, or at least that's what the official  
18 documents said?

19 A. I cannot answer that question.

20 Q. And the recapturing of Poulo Wai, '75? Is that what you said?

21 MR. KOUMJIAN:

22 It might be a bit confusing, but I understood the island was  
23 captured by the Vietnamese in '75 and then evacuated by the  
24 Vietnamese in '75.

25 MR. KOPPE:



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1 The problem, Mr. President, is that I'm rushing through my  
2 questions because I'm actually already over time. I'm just trying  
3 to establish when, exactly, the incident happened that he  
4 described in his previous testimony and when, according to his  
5 experience or his memory, the Vietnamese had left the island.  
6 That is what I'm trying to get at.

7 [11.11.20]

8 2-TCW-1000:

9 A. I cannot recall that. A month after the incident involving the  
10 Americans, then the Vietnamese troops engaged in fighting to  
11 capture Poulo Wai Island. And about a fortnight after, all  
12 Kampuchean soldiers were arrested by the Vietnamese.  
13 And three months later, the Vietnamese returned the island to  
14 Kampuchea, and that was the time that my unit was assigned to  
15 station on that island.

16 MR. KOPPE:

17 Q. And when, exactly, did this incident that you described take  
18 place? Was it after the recapturing by the DK forces?

19 [11.12.12]

20 A. At that time, there was no longer fighting. The 300 soldiers  
21 from my battalion who were captured by the Vietnamese were sent  
22 to Trol Island, and after the negotiations taking place between  
23 the upper echelon with the Vietnamese authority, those soldiers  
24 were returned.

25 And initially, I was stationed in Thas Island and, later on, I

39

1 was assigned to station in that island.

2 MR. KOPPE:

3 Mr. President, is it all right with the Chamber if I now hand the  
4 floor to the Khieu Samphan defence team and, when they still have  
5 time left, that I will use again the time available to all the  
6 Defence? Because I still have many questions to this witness, but  
7 the Khieu Samphan team also needs its time.

8 MR. PRESIDENT:

9 Yes, you may do that.

10 And I'd like now to hand the floor to the defence team for Khieu  
11 Samphan.

12 [11.13.42]

13 QUESTIONING BY MR. KONG SAM ONN:

14 Thank you, Mr. President. Good morning, ■■■■■. My name is  
15 Kong Sam Onn, National Counsel for Khieu Samphan, and I have some  
16 questions to put to you. My first line of questions in relation  
17 to your duties on Poulo Wai Island.

18 Q. You have testified that you were wounded during the fighting  
19 with the Americans on Tang Island, and a fortnight later, there  
20 was a separate fighting on Poulo Wai Island with the Vietnamese  
21 troops and that three months after the fighting with the  
22 Vietnamese troops, the Vietnamese authority returned to --  
23 returned the island to the authority of the Kampuchea. Am I  
24 correct in stating these events?

25 [11.14.49]

40

1 2-TCW-1000:

2 A. Yes, that is correct.

3 MR. PRESIDENT:

4 Counsel, please, you are reminded once again not to use the  
5 actual name of this witness and please refer to his pseudonym,  
6 that is, 2-TCW-1000.

7 BY MR. KONG SAM ONN:

8 Thank you, Mr. President, for reminding me.

9 Q. Mr. Witness, when you were assigned to station on Poulo Wai  
10 Island, who was your superior commander?

11 2-TCW-1000:

12 A. Ta Samnang was my commander. And before that, it was Yoeun.  
13 However, Yoeun was replaced by Ta Samnang, who was the commander  
14 of my battalion.

15 Q. How long were you -- how long did you stay on Poulo Wai  
16 Island?

17 A. After the fighting with the Americans and the Vietnamese  
18 troops in 1975 and also, it was in 1975 when I was assigned to be  
19 stationed in that island. And I remained on that island until  
20 1977, when I was assigned to the navy.

21 Q. Can you be more specific? Which part of 1977, you remained on  
22 the island?

23 [11.17.10]

24 A. In about mid-1977, that is, around April or May when I was  
25 assigned to the navy. That is, after I was removed from Poulo Wai

1 Island to the navy.

2 Q. For you and for your unit, what were your daily duties at the  
3 time?

4 A. In 1975, when I was on Poulo Wai Island, after they did not  
5 have confidence in me, I tried to refashion myself in order to  
6 gain trust from Angkar. And I tried to refashion myself and,  
7 later on, I gained the trust and I was reassigned to the navy.

8 Q. Thank you. Mr. President, and I'd like to give document  
9 E319/223.3.12 (sic) to the witness.

10 [11.18.54]

11 MR. PRESIDENT:

12 Yes, you may proceed.

13 BY MR. KONG SAM ONN:

14 Q. Mr. Witness, please refer to the documents that I give to you.  
15 However, do not reveal the name of this witness. Do you know the  
16 person whose name I highlight on the document?

17 2-TCW-1000:

18 A. No, I do not know the names of those people on this document.

19 Q. Mr. Witness, can you read the names on the document? And if  
20 you have difficulty in reading the names, you may ask your duty  
21 counsel to do it for you.

22 A. I do not know this person, [REDACTED] [REDACTED].

23 Q. Mr. Witness, please do not read out the name. In fact the name  
24 that you pronounce is not correct, and Duty Counsel, please  
25 assist your client.

1 A. I do not know this person.

2 Q. Thank you. In the statement of this witness, he states about  
3 the presence of the Vietnamese troops on the Poulo Wai Island.

4 And in question-answer number 10 -- and allow me to read it, Mr.  
5 President:

6 "My unit was in charge of defending the treasury in Kampong Som.  
7 My unit was Battalion 450, which consisted of about 500  
8 personnel."

9 [11.22.31]

10 And in question-answer number 11, the person states:

11 "Battalion 450 was called the special unit. Later, my special  
12 unit was divided to stand guard at the port, and more than 200  
13 personnel were sent to defend Kaoh Poulo Wai Island because, at  
14 that time, the Vietnamese had control of the island. Back then,  
15 my position was Deputy Chairman of Company 4, Battalion 450,  
16 Division 164."

17 And Mr. Witness, you testified about soldiers being sent to Poulo  
18 Wai Island to recapture the island from the Vietnamese. Were you  
19 a member of those soldiers who were sent from Kampong Som, or  
20 were you sent from elsewhere?

21 [11.23.44]

22 MR. PRESIDENT:

23 Witness, please hold on.

24 And the International Co-Prosecutor, you have the floor.

25 MR. KOUMJIAN:

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1 Your Honour, I'm just afraid the record -- the question will  
2 confuse the record.

3 What I heard the witness say is that Vietnam captured the island  
4 shortly after the Khmer Rouge took Phnom Penh and then withdrew a  
5 few months later. There wasn't -- he didn't say anything about  
6 Khmer Rouge retaking the island, so that may be confusing.  
7 He said the Vietnamese withdrew a few months after capturing the  
8 island.

9 MR. KONG SAM ONN:

10 Thank you, Mr. President. Due to these confusing situations, I'd  
11 like to put those series of questions to the witness for  
12 clarification.

13 [11.24.44]

14 MR. PRESIDENT:

15 Yes, you may proceed, however, please try to refresh your  
16 question and repeat the last part.

17 BY MR. KONG SAM ONN:

18 Thank you. Mr. Witness, can you respond to my last question?

19 2-TCW-1000:

20 A. Yes, that's what happened because I, myself, was involved in  
21 the activities. I left an island and the Vietnamese troops  
22 actually vacated Poulo Wai Island and then we were assigned to --  
23 stationed in that island.

24 And in the statement you read, you refer to another battalion,  
25 that is, Battalion 450 which was not my battalion and there were

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1 various battalions who were sent to various islands including the  
2 Tang Island and the other two islands.

3 [11.26.00]

4 So I, myself, was not -- did not leave Kampong Som to go to that  
5 island. As I stated, three months after the Vietnamese vacated  
6 the island, we were assigned to station in that island.

7 And then the soldiers who were captured by the Vietnamese were  
8 returned and then they were sent first to Kampong Som and then  
9 they were sent back to their respective units on the island.

10 Q. I'd like to ask you more questions about the timeline. You  
11 stated that the Vietnamese vacated the island for three months  
12 before your unit was assigned to stationed on that island.

13 However, previously you said that the Vietnamese troops actually  
14 took control of the island for a period of three months.

15 Could you clarify whether the Vietnamese troops remained on the  
16 island for three months or whether they vacated and three months  
17 later your unit was assigned to station on that Poulo Wai Island;  
18 which is correct?

19 A. I left Tang Island and then the station in Poulo Wai Island. I  
20 was sent to Poulo Wai Island immediately after the withdrawal by  
21 the Vietnamese troops.

22 [11.27.52]

23 Q. So this does not mean that your unit was sent there three  
24 months after the withdrawal by the Vietnamese troops?

25 A. No, it was not three months after the withdrawal of the

1 Vietnamese troops. The Vietnamese troops took control of the  
2 island for three months; then they vacated the island and my unit  
3 was immediately assigned to be -- to stationed on that island.

4 Q. And upon your arrival in Poulo Wai Islands, did you see any  
5 Vietnamese troops or Vietnamese civilians remained on the island?

6 A. No, no, I did not see any Vietnamese upon my arrival; however,  
7 there were houses that they built and the houses remains there.

8 [11.29.04]

9 Q. I'd like to ask you about the arrest of the Vietnamese. In  
10 fact you spoke about the arrest of the Vietnamese and you spoke  
11 about different measures taken again the arrest of the Vietnamese  
12 civilians and Vietnamese soldiers.

13 My question to you is the following: Were there instructions in  
14 regards to the arrest of Vietnamese civilians and Vietnamese  
15 soldiers who trespassed the territorial waters of Kampuchea, in  
16 particular, in the area where you stationed?

17 A. We were assigned to guard the territorial waters and the Tang  
18 Islands, the Poulo Wai Chas and Poulo Wai Thmei Islands. Our  
19 duties were to guard the areas and we would arrest anyone who  
20 trespassed the area. That was our duty.

21 Q. I will refer to this matter later and I'd like to put you  
22 another question -- put to you another question. Mr. President,  
23 I'd like to give a document to the witness so that the witness  
24 can refer to the name of the person who made a statement.

25 MR. PRESIDENT:



1 Yes, you can do so.

2 [11.31.20]

3 BY MR. KONG SAM ONN:

4 Q. The document E319/23.3.21. Mr. Witness, please refer to this  
5 document and do not read out the name of the person. And Duty  
6 Counsel, please assist your client.

7 2-TCW-1000:

8 A. I do not know this person.

9 Q. Thank you. This witness spoke about the fighting between the  
10 forces of Democratic Kampuchea and the Vietnamese troops at  
11 Krachak Seh and Poulo Wai Islands. Do you recall these incidents,  
12 particularly the incident that took place at Krachak Seh Island?

13 [11.32.51]

14 A. Allow me to respond and I'm going to tell you the truth. In  
15 1975, Angkar issued me an instruction to go to Krachak Seh Island  
16 and that was after the liberation of Phnom Penh. In fact Krachak  
17 Seh Island belonged to Vietnam and it was known as Poulo Pan Song  
18 and it belonged to the Vietnamese.

19 When I was there, I saw Vietnamese residing on that island and I  
20 made that report; then I was assigned to -- to go to Tang Island.

21 Q. In your capacity, did you ever engage in any military fighting  
22 on Krachak Seh Island with the Vietnamese troops?

23 A. No, there was no fighting incident on Krachak Seh Island.

24 However, I was sent there to see what happened and I saw the

25 Vietnamese there and I returned. There was no military engagement

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1 on the island and the island was situated rather far from Poulo  
2 Wai Island and it would -- it took us three to five hours on a  
3 boat to reach that island.

4 MR. PRESIDENT:

5 The International Lead Co-Lawyer for civil parties, you have the  
6 floor.

7 [11.34.56]

8 MS. GUIRAUD:

9 Mr. President, if I took proper note of the document shown to the  
10 witness, that document has not been admitted into evidence as  
11 part of the motion filed by the Khieu Samphan defence team.

12 Document E319/23.3.21 which was cited by our colleague and handed  
13 to the witness is a new document that has been disclosed,  
14 included in the motion that the Khieu Samphan team presented and  
15 that had to be discussed this morning.

16 (Judge deliberates)

17 [11.36.17]

18 MR. PRESIDENT:

19 The Chamber issued our oral... oral ruling on the request by the  
20 defence team to use these four documents from Case 003. It means  
21 that the document is allowed to be used by the defence team to  
22 put questions to this 2-TCW-1000. For that reason, we actually  
23 issued our oral ruling before the floor is given to the defence  
24 team and we issued that oral ruling already.

25 As for the other request by the Co-Prosecutors and the defence

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1 team for Nuon Chea, we defer it to a later stage.

2 And, of course, the four documents requested by the defence team  
3 for Khieu Samphan were granted by the Chamber and there were no  
4 objections raised by the Parties -- any other Parties.

5 It is now appropriate for a short -- for a lunch break. We take a  
6 break now and resumed at 1.30 this afternoon.

7 Court Officer, please assist the witness during the lunch break  
8 at the waiting room reserved for witnesses and civil parties and  
9 invite him also as his duty counsel back into the courtroom at  
10 1.30 this afternoon.

11 Security personnel, you are instructed to take Khieu Samphan to  
12 the waiting room downstairs and have him returned to attends the  
13 proceedings this afternoon before 1.30.

14 The Court is now in recess.

15 (Court recesses from 1138H to 1333H)

16 MR. PRESIDENT:

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

18 And the Chamber gives the floor to the Defence Counsel for Mr.  
19 Khieu Samphan, to resume his questioning. You may now have the  
20 floor.

21 BY MR. KONG SAM ONN:

22 Q. Thank you, Mr. President. Mr. Witness, before the lunch break  
23 we were discussing about the fighting between Khmer Rouge and the  
24 Vietnamese troops on Poulo Wai Island.

25 I have a few further questions, particularly concerning the

1 instructions from your upper echelon. Were you or were combatants  
2 instructed to make trouble with the Vietnamese troops or when you  
3 were part of the naval forces?

4 [13.35.04]

5 2-TCW-1000:

6 A. After the liberation in 1975, the soldiers were obliged to  
7 protect the territory of borders at sea. We were not educated or  
8 instructed to attack the Vietnamese troops. We were told to  
9 defend the maritime territory instead and we were told that we  
10 needed to protect the Vietnamese from entering into the maritime  
11 territory of Cambodia.

12 Q. Thank you. Concerning the travelling of Vietnamese boats or  
13 other foreign ships into maritime territory of Cambodia, were you  
14 instructed to go and chase and capture Vietnamese ships at that  
15 time?

16 A. Concerning the maritime border which we needed to protect when  
17 the Vietnamese fishing boats came into maritime territory of  
18 Cambodia, those fishing ships were -- had no guns or weapons.

19 Q. My question, rather, concerns the fishing boats of Vietnam.  
20 Were they equipped with weapons?

21 [13.37.29]

22 A. In that year when Vietnamese ships entered the maritime  
23 territory of Cambodia some of those fishing boats were equipped  
24 with weapons, but some did not have weapons and I noticed that  
25 some fishing boats had one or two M16 weapons.

1 Q. How did you know about that?

2 A. I learned this through the tasks that we had performed. When  
3 the Thai or Vietnamese fishing boats came into maritime territory  
4 of Cambodia we needed to capture those ships and if those ships  
5 were equipped with weapons we needed to attack and fire at them.

6 [13.38.47]

7 Q. Thank you. I would like to read WRI, E319/23.3.21, question 21  
8 -- answer 21, rather.

9 "For us the first important matter was the defence of the  
10 country. The second matter was the construction of the country.  
11 The instructions to defend the country meant we had to stay on  
12 the island permanently and not abandoning the island under any  
13 circumstances. When we saw warships entering our territorial  
14 waters we had to report to the division so that they could  
15 intervene. As the commander on the island, I was responsible for  
16 making decision to counter small motorboats with 20 horsepower to  
17 400 horsepower engines. My boat was armed with both DK 82  
18 millimetre guns and 30 millimetre merchant guns. The Vietnamese  
19 motorboats which entered our territorial waters were armed with  
20 B40 rockets and so on. Sometimes 10 boats or more than 10  
21 motorboats entered our territorial waters and some ships among  
22 them was responsible for protecting their fishing boats."

23 Mr. Witness, listening to the extract of WRI of a witness, what  
24 is your reaction to that extract of WRI?

25 [13.40.52]

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1 A. Yes. I was aware of that. However, we were responsible for a  
2 different task at that time. My regiment which was stationed on  
3 Poulo Wai island never encountered such an incident. Actually,  
4 the other regiment used to encounter such incident. And, as I  
5 said, we were in different regiments and we were faced -- we  
6 faced with different challenges and different situations at that  
7 time.

8 Q. Thank you. Concerning your testimony you gave on 16 December,  
9 you stated at around 10.39.04 that:

10 "In 1977, I once or twice saw the incident. Later on there were  
11 no incidents happening at the harbour and most of the time there  
12 were trucks coming to take those people to Kampong Som."

13 And then there was a further question to your answer in document  
14 E319/23.3.46, question and answer 10. You stated that, "There  
15 were thousands of people arrested and people were sent through Ou  
16 Chheu Teal port four or five times a month."

17 I want to ask you about the arrest of Vietnamese people on the  
18 boats. So how many people -- Vietnamese people, were arrested on  
19 boat and how many times did you witness those arrests?

20 [13.44.05]

21 A. It is true that I witnessed the arrests as I have made mention  
22 already. I did not tell lies to the Court. This actually happened  
23 at that time and people -- Vietnamese people were sent to Ou  
24 Chheu Teal harbour or port and afterwards they were transported  
25 to Kampong Som or Treas (phonetic) or Chamkar Doung.

1 People were arrested, sir, on a monthly basis in 1978 which was  
2 an intensive year of arrest.

3 Q. Thank you, Mr. Witness. You appeared to provided inconsistent  
4 statements. One statement is that there were two or three arrests  
5 a month and there was another statement you made mention that  
6 thousands of people were arrested four or five times a month. So  
7 which version is correct?

8 A. Let me clarify this point. In fact, at the time I was  
9 stationed at Ou Chheu Teal port and two or three times the arrest  
10 and transportation of Vietnamese people happened. It was a true  
11 incident at that time. People -- Vietnamese people had been  
12 arrested and they were sent through Ou Chheu Teal port at that  
13 time before they were transported to Kampong Som.

14 [13.46.19]

15 Q. Thank you. Can you specify the exact date when you said you  
16 were stationed at that port and you were tasked to fish? And you  
17 also said that you were injured during the fighting with American  
18 troops on Tang island and at the time you received treatments.  
19 And how long were you being treated at that time and how long  
20 after your recovery that you were reinstated in your unit?

21 A. During the fighting on the island I got injury on my hip and I  
22 was hospitalized for half a month and afterwards I came back to  
23 work in my unit.

24 Q. Thank you. After you were attached at Ou Chheu Teal port --  
25 can you tell the Court when did you arrive at Ou Chheu Teal port?

1 A. It was in 1977. Perhaps it was in April or May 1977, when I  
2 arrived at Ou Chheu Teal port, but I cannot guarantee the exact  
3 month or year that I arrived at Ou Chheu Teal port, the place  
4 where I was trained as well.

5 [13.48.36]

6 Q. Can you tell the Court how long you stayed at Ou Chheu Teal  
7 port?

8 A. I was trained at Ou Chheu Teal port for one month and the  
9 following month I was sent to study technical skills at Rong  
10 Island. Upon my arrival at Rong Island and after my training on  
11 Rong Island, I went to Damnak Sdech and also I was stationed at  
12 Sokha Hotel. I was on a mobile basis and at that time, as I was a  
13 messenger, I went this and there transporting supplies to ports.

14 Q. Thank you. In the hearing on 16 December last year, at time  
15 mark 10.57.55, you testified before the Chamber that:

16 "Those who had no weapons were sent to Ou Chheu Teal port so that  
17 they could be put in division's office. However, in 1976, when I  
18 was not yet part of Division 140, it was a time that these people  
19 were sent to Ou Chheu Teal."

20 So concerning the arrest of Vietnamese and they were sent to Ou  
21 Chheu Teal port, did this happen during a time that you were  
22 trained at Ou Chheu Teal port?

23 A. The training was already concluded and at that time I was part  
24 of the messengers unit in the division. I was tasked with driving  
25 vehicles, transporting military equipment to ports. And I worked



1 in that messenger unit until the entry of Vietnamese in 1979.

2 [13.51.51]

3 Q. So does this mean that you witnessed the transfer of  
4 Vietnamese people through Ou Chheu Teal port frequently; is that  
5 true?

6 A. Yes. In 1977 and '78, I no longer saw the transfers of  
7 Vietnamese people but before that -- before those years,  
8 Vietnamese troops -- Vietnamese people were sent to Ou Chheu Teal  
9 port and later on in 1977, 1978 or afterwards when it was time  
10 that the Vietnamese troops came into the country, there were no  
11 further transfers.

12 Q. Document -- in document E319/23.3.66, question and answer  
13 number 66, you stated:

14 "Sometimes Khmer Rouge soldiers stationed at the islands captured  
15 boats and sent them to Ream instead of Kampong Som port. I would  
16 like to clarify that Chinese experts provided training to the  
17 Khmer Rouge and navy at Ou Chheu Teal port so ordinary ships were  
18 not allowed to anchor there. The port at Ream was an  
19 international port where general ships could anchor."

20 [13.53.50]

21 So this is a WRI of a witness. So I want to know your reaction  
22 concerning the training which was provided by Chinese first at  
23 that place and ordinary ships were not allowed to anchor there.  
24 So what is your reaction to this statement?

25 A. Concerning this matter, Ream port was a place where people,

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1 including Thai people and Vietnamese people, were sent to that  
2 Ream port. Ou Chheu Teal was also the same case. I witnessed that  
3 Thai or Vietnamese people were sent to Ream or Ou Chheu Teal and  
4 torture also happened on -- at the port.

5 [13.54.59]

6 Q. But my question is different. I want to know your reaction to  
7 that statement that that witness stated that ordinary ships were  
8 not allowed to anchor there since that Ream port was the place  
9 where Khmer Rouge soldiers were trained by Chinese experts. So I  
10 want to know your reaction about that statement.

11 THE PRESIDENT:

12 Please hold on, Mr. Witness.

13 You have the floor now, International Co-Prosecutor.

14 MR. KOUMJIAN:

15 Your Honours, Mr. President. It could be a translation issue  
16 because I think Counsel is speaking quite quickly. But the way it  
17 was translated his question reversed what the witness, in that  
18 statement he is quoting from, said. Perhaps he could read again  
19 to the witness what it is, but he said that the Chinese were at  
20 Ou Chheu Teal and he said in fact that just that Ream was an  
21 international port.

22 Not the additional information that Counsel had on the question.

23 I forget now. I couldn't quote this question but it was different  
24 than what I was reading in the answer.

25 [13.56.26]

1 BY MR. KONG SAM ONN:

2 Q. Yes, I can summarize what I had read. Ou Chheu Teal port was  
3 the place where Khmer Rouge soldiers were trained, particularly  
4 the naval soldiers were trained, and Ream was an international  
5 port. So what is your reaction to the statement I have just  
6 quoted?

7 A. I have no objection to that statement. Ou Chheu Teal port was  
8 not considered an international port. It was an ordinary port and  
9 no Chinese experts were working or living at Damnak Sdech  
10 (phonetic) port. Chinese people were staying or living in Sokha  
11 Hotel.

12 And once again, there were no Chinese at Ream or Ou Chhou Teal  
13 ports. Warships did not anchor there. And, as I said, I did not  
14 disagree to the statement of that witness.

15 [13.58.01]

16 Q. Thank you. In relation to the fate of the arrestees, I want to  
17 ask you about a statement you provided to the Lead Co-Lawyers.  
18 You stated that a few people were killed. Did you receive the  
19 order to kill those few people, including the Vietnamese? Who did  
20 you receive the order from to kill those few Vietnamese people?

21 A. I told the Court already that as a combatant or soldier under  
22 the leadership of our upper echelon, I did not dare to violate  
23 rules or regulations unless there was an order from my battalion  
24 from regiment and unless we receive an order through a  
25 hierarchical order we could perform the tasks.

1 Q. Could you tell the Court exactly who gave the order? What was  
2 his name or her name and what was his or her role and function at  
3 the time?

4 A. I want to clarify this point to the Court that the order came  
5 from the upper echelon and it went down to the battalion and  
6 afterwards soldiers had to perform the task to kill a few people  
7 right away. Bong Samnang, for example, was a commander of a  
8 battalion when he issued an order -- soldiers under him had to  
9 execute the order.

10 [14.00.38]

11 Q. Thank you. Samnang -- was Samnang your direct commander of a  
12 battalion?

13 A. Yes. Samnang or Bong Samnang was the commander of my  
14 battalion. It is true.

15 Q. Did he issue the order to you to kill the arrestee on the  
16 island when there were not many of them; is that true?

17 A. I myself did not carry out the execution but my unit did the  
18 killings. And, as I said, when we received the order from him we  
19 had to execute it. We had to execute the order. When we arrested  
20 a few of them we had to kill them on the spot on the island.  
21 Thank you.

22 Q. And Samnang, who was your former superior, do you know whether  
23 he is still living and if so, where?

24 A. We departed from one another since 1977, when I was assigned  
25 to work on a ship and I have never seen him since. So I cannot

1 tell you whether he is still living or not.

2 [14.02.41]

3 Q. Can you tell the Chamber under what circumstances Samnang  
4 issued an order to your group to smash those who were arrested on  
5 the island when the number was small?

6 A. Based on the instructions the battalion received from the  
7 regiment --

8 Q. Mr. Witness, what I want to know is the circumstances or the  
9 circumstances that you received such instructions, whether the  
10 instructions were conveyed through a meeting and, if so, where  
11 and when?

12 A. At that time there were such instructions which were conveyed  
13 through meetings. For a small group of people who were arrested,  
14 the instruction was to execute them. And that was the clear  
15 instructions that we received, for the small number of arrestees  
16 we had to execute them and there was no need to bring them on  
17 shore.

18 [14.04.42]

19 Q. Yes, we understand that. However, what we want to know as  
20 under which circumstance the orders were relayed and if the  
21 orders were relayed during a meeting or meetings where those  
22 meetings were held and who participated in those meetings.

23 A. At that time the orders were very strict. We could only  
24 implement the orders when the orders were relayed during meetings  
25 and if we failed to implement an order, for example, an execution

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1 order, then we ourselves would be executed. If we were to receive  
2 orders through meetings, those orders had to be implement and  
3 usually those orders were conveyed through meetings at the  
4 battalion level or at the regimental level.

5 Q. Mr. Witness, I would like to get further clarification from  
6 you. When you said that orders were relayed to you through  
7 meetings to execute a small number of arrestees, can you tell us  
8 whether those meetings were held per group or per the entire  
9 battalion?

10 [14.06.30]

11 A. The meetings were convened at the battalion level and we were  
12 informed that instructions that were relayed to us were from the  
13 regimental level. That was clear to us and that's what we learned  
14 in the meetings.

15 Q. Did you participate in any meeting chaired by the regimental  
16 level on this particular issue?

17 A. No, I did not. I never attended their meetings at the  
18 regimental level. Usually I attended meetings within my unit.

19 Q. What about the meetings held at the divisional level; did you  
20 ever attend meetings at those levels on the issues that we are  
21 discussing now?

22 A. In my capacity as a combatant I never attended a meeting at  
23 the divisional level. I did not even attend any meetings held at  
24 the regimental level.

25 [14.08.22]

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1 Q. You stated in your interview that Vietnamese were hereditary  
2 enemies of Kampuchea. How did you learn that? Did you learn it  
3 through your training or through your education?

4 A. Allow me to clarify this issue once and for all. On the issue  
5 of the Vietnamese as hereditary enemies, in fact I learned of  
6 this information through study sessions which lasted for a day or  
7 two and we were told that Kampuchea and Vietnam were hereditary  
8 enemies. And I can recall that very clearly.

9 Q. Yes, thank you. However, my point is as to when and where did  
10 you learn about this through your study sessions? Please respond  
11 briefly as I am running out of time.

12 A. It was one of those study sessions held at the island. We  
13 received the study plan and then it was conveyed to us on an  
14 island.

15 Q. Which island are you referring to?

16 A. It was Poulo Wai island.

17 Q. Is it Potti Wai or Poulo Wai? Through your statements you  
18 mentioned the island of Potti Wai and on some other instances you  
19 mentioned Poulo Wai. Is it one and the same or are they two  
20 different islands?

21 [14.10.58]

22 A. I refer to one and same island. Sometimes it is known as Potti  
23 Wai, Poulo Wai or Poulo Vay or sometimes they refer to old and  
24 new Poulo Wai Island when in fact they are referring to the same  
25 island.

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1 Q. When you refer to the study sessions on Poulo Wai Island are  
2 you referring to the time that you were assigned to stationed  
3 there after the withdrawal of the Vietnamese troops from the  
4 island?

5 A. I have already stated that we were assigned to a station on  
6 the island after the withdrawal of the Vietnamese troops.

7 Q. Were there any further clashes after that between the  
8 Vietnamese and the Kampuchean troops; that is, after you were  
9 given information that Kampuchea and Vietnam were hereditary  
10 enemies through your study sessions?

11 [14.12.27]

12 A. There were no further clashes during that year, although we  
13 learned in the study sessions that Kampuchea and Vietnam were  
14 hereditary enemies. Of course there were clashes on land but not  
15 on the island.

16 Q. Who can you recall -- do you recall who was your superior? Who  
17 actually gave you a lecture that Kampuchea and Vietnam were  
18 hereditary enemies?

19 A. On the issue of hereditary enemies through my understanding,  
20 the information was given to us at the battalion. But it is my  
21 understanding that this information was conveyed from the  
22 division level and it was given in the study sessions throughout  
23 the country.

24 Q. My question to you is who was the person who actually conveyed  
25 this information whether the person was your superior or



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1 commander and what is his name if that is the case?

2 [14.14.05]

3 A. It was my battalion commander who relayed such information to  
4 us that Vietnamese were our number one hereditary enemies.

5 Q. Who?

6 A. It was Samnang.

7 Q. Did you attend such study sessions personally or did you hear  
8 it from other soldiers?

9 A. I personally attended to the study sessions and I received  
10 such instruction from my commander.

11 Q. My question to you is that whether Samnang, who was your  
12 superior commander, actually gave instructions to you or whether  
13 he appointed another cadre to provide instructions to you.

14 A. I received trainings -- these political, educational trainings  
15 at my battalion -- from representatives of the regiment. So there  
16 were representatives from the regiment who came to relate  
17 information at our battalion study sessions.

18 [14.16.24]

19 Q. My question to you is in relation to the time you spent on  
20 Poulo Wai Island. How long did you spend on that island? And also  
21 on the study sessions that you attended on the island that when  
22 you learned the instructions that Vietnamese were our -- were  
23 Kampuchean hereditary enemies, did you attend these study  
24 sessions at the beginning of your stay on the island or whether  
25 it was towards the end of your stay on the island?

1 A. I was on Potti Wai Island after my engagement with the  
2 American soldiers and I remained there until 1977, that is, until  
3 about April or May of 1977, when I was reassigned to work on a  
4 ship.

5 Q. The second part of my previous question is about when you  
6 attended the study sessions where information about Vietnamese as  
7 hereditary enemies. When was that study session held?

8 A. It was in early 1977, when that study session was organized  
9 for my unit.

10 Q. Could you please repeat again the real or the actual position  
11 of Samnang? Maybe I did not get it from your previous response.

12 A. Bong Samnang was the political commissar. He was in charge of  
13 politics and disseminated information, political information to  
14 us.

15 [14.19.00]

16 Q. He was a political commissar and which level was he attached  
17 to? Was it at the battalion or regimental level?

18 A. Samnang was a commander of a battalion and that was his role.

19 Q. Did you attend any other similar trainings at the upper level,  
20 for example, at the regimental level or at the divisional level?

21 A. I did not attend any study session at any higher level than  
22 the battalion level.

23 Q. I'd like now to refer to a conflict with the Americans. This  
24 morning at around 9.35 minutes you stated that crew of the  
25 Mayaguez were arrested and then they were rescued by American

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1 troops. In one of your WRI, that is, E3/9092, at ERN in Khmer,  
2 00955499; French, 00980438; English, 00978570; and allow me to  
3 quote -- you stated that, "We let him go. However, when they  
4 boarded their ship they attacked us by war plane."

5 Could you please tell the Chamber which statement is correct?

6 [14.22.19]

7 A. The American crew was returned from the inland and they were  
8 sent to board the ship. Then the ship -- the Mayaguez ship  
9 departed. After the departure of that ship the island was  
10 attacked and bombarded by warplanes and it became so intensified  
11 and it lasted until seven o'clock in the evening. And after that  
12 the Americans completely withdrew themselves from the territorial  
13 waters and the air space of Kampuchea.

14 Q. Did the Kampuchean authority release the crew of the Mayaguez  
15 ship and then there was an attack by the Americans' planes or  
16 were the crew not yet released when the attack occurred?

17 A. We allowed them to leave and the attack came after the  
18 Mayaguez ship departed.

19 Q. I have some smaller questions in relation to your study  
20 sessions. Did you attend any study session besides those that you  
21 stated in the Court? For instance, did you attend any other study  
22 sessions at the divisional level?

23 [14.24.47]

24 A. Later on I did not attend any study sessions at any other  
25 level because by that time the situation became calm and there

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1 were no further study sessions.

2 Q. You mentioned earlier that Meas Muth was commander of Division  
3 164 and my question to you is the following; do you know who was  
4 in charge of the entire army of Kampuchea?

5 A. After the war ended in 1975, and with the announcement of the  
6 Communist Party of Kampuchea -- and I would like to mention the  
7 following facts. The Communist Party of Kampuchea was announced  
8 after the war ended in 1975. By that time I only learned of names  
9 of those at the leadership level. The names that I heard of  
10 included Khieu Samphan. I learned of Khieu Samphan's name before  
11 the war ended in '75, and after the war ended in 1975 I learned  
12 of Pol Pot's name who was the leader. And Meas Muth was the  
13 commander in charge of the division in Kampong Som and I learned  
14 of this information in 1975. I recall that information clearly  
15 and of course I remember it until 1993 when we went to Samlout.  
16 [14.27.27]

17 Q. My question to you is who was the commander-in-chief of the  
18 arm of the entire army in Kampuchea? I do not refer to the  
19 administrative leader of the regime. Do you know who was the  
20 military commander-in-chief at the time?

21 A. I cannot recall that. I cannot recall who was the military  
22 commander-in-chief or who was in charge of politics.

23 Q. Does the name Son Sen ring a bell to you?

24 A. I know the name, but I never saw the person and I did not  
25 receive any information whether he was the commander-in-chief or

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1 not or maybe I cannot recall it well.

2 Q. Did you ever meet him?

3 A. No, I did not.

4 [14.29.11]

5 Q. In document E319/23.3.12, at question and answer 25, the

6 witness speaks about instructions from Son Sen. He said that:

7 "In late '77, I attended a meeting in Phnom Penh for the work of

8 Division 164. I heard Meas Muth made a report about the

9 Vietnamese boats which entered the Kampuchean maritime waters and

10 Son Sen said if those Vietnamese were refugees going to Thailand

11 they should not be arrested and that we should allow them to

12 trespass."

13 Did you ever hear such an instruction that Vietnamese refugees

14 should not be arrested?

15 A. No, I did not hear any instruction of not arresting those

16 people. I only heard of instructions to arrest them.

17 Q. One of my last questions to you is the following. Did you know

18 about the establishment of the Armed Forces of Democratic of

19 Kampuchea; that is, after the administrative structure of

20 Kampuchea regime or Democratic Kampuchea regime was organized?

21 [14.31.22]

22 A. No, I did not. I was a combatant so I did not have that

23 knowledge.

24 MR. KONG SAM ONN:

25 Thank you, Mr. Witness, and Mr. President. I don't have any

1 further questions for this witness.

2 THE PRESIDENT:

3 Thank you. As we still have some time left I would like to hand  
4 the floor again to the Defence Counsel for Nuon Chea, since you  
5 still have some further questions to put to this witness.

6 You may proceed, Counsel.

7 QUESTIONING BY MR. KOPPE:

8 Thank you, Mr. President.

9 Q. Let me turn to your direct commander, Bong Samnang. Was he the  
10 one who was always your commander when you were stationed at  
11 Paulo Wai?

12 2-TCW-1000:

13 A. Samnang was my commander.

14 Q. Was he also the commander when you were fighting the American  
15 forces at Kaoh Tang?

16 [14.32.50]

17 A. In 1975, when I participated in the attack at Tang Island  
18 there were two battalions were under a regiment and one company  
19 was stationed at Paulo Wai, another company was on another  
20 island. And Samnang did not join me in the fighting. However, at  
21 the time -- and there was a member under Samnang that member  
22 participated in the fighting. His name was Bong Neth (phonetic) .

23 Q. But when you were at Paulo Wai, Bong Samnang was always your  
24 direct commander; is that correct?

25 A. Yes, that is correct. He is -- he was my direct commander.

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1 Q. Now, is my understanding correct that only in two instances  
2 did you see a killing of an alleged Vietnamese person? One  
3 incident that we discussed this morning which took place on Paulo  
4 Wai itself and a second -- a second incident was on sea, on open  
5 sea; is that correct?

6 [14.34.39]

7 A. Yes, that is true and correct.

8 Q. And is the second incident that you had described earlier when  
9 a soldier threw a baby into the sea, was that at the open sea  
10 between the island Kaoh Paulo Wai and the mainland, somewhere in  
11 between those two places?

12 A. At that time I was sent to work on the land near the port  
13 where I saw the incident during which a baby who was crying so  
14 loudly was thrown into the sea.

15 Q. But it was not at sea when this incident happened or was it on  
16 the shore? Where exactly did this happen?

17 A. The baby was thrown into the sea.

18 Q. But it was thrown into the sea from a ship that had just come  
19 from the island or was it very close to the shore?

20 [14.36.38]

21 A. I witnessed that incident. The baby was thrown into the sea  
22 from the Vietnamese boat or ship. The soldier went up onto the  
23 ship or boat of the Vietnamese people and at that time the baby  
24 was crying so loudly and they threw the baby into the sea.

25 Q. So it was done by forces from Paulo Wai on open sea; is that

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1 correct?

2 A. Yes, that is true. That was carried out by a battalion under  
3 Regiment 62 and they did throw the baby into the sea and I  
4 witnessed that.

5 Q. Just to be sure, these were the only two incidents that you  
6 saw? And is my conclusion correct that both incidents were done  
7 ultimately under the supervision possibly of Bong Samnang; is  
8 that correct?

9 [14.38.16]

10 A. We, the subordinates, had to respect the superiors and I did  
11 not know whether my immediate superior respected the other higher  
12 categories. So when there was an order we had to carry it out.

13 Q. But when this incident happened when you saw this soldier  
14 throwing this child into the sea, was this a spontaneous action  
15 from him or did he confer first with Bong Samnang?

16 A. Bong Samnang was the commander of battalion and it was his  
17 decision that allowed the subordinates to carry out that action  
18 of throwing the baby into the sea.

19 Q. Well, let me read something else to you from someone who is  
20 also a member of Division 164.

21 Mr. President, it's E3/9113, English ERN, 00974222; and Khmer,  
22 00926399; and he's being asked a question about what to do when  
23 boats were spotted. And he says the following:

24 "We were instructed not to arrest the civilians. We could arrest  
25 them for detailed investigation to check whether they were really



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1 refugees or not. If they wanted to leave safely we could let them  
2 go and we were sometimes willing to send food supplies to them.  
3 They headed to the west by boat, but we asked them not to come  
4 into these areas again. However, such people would not return.  
5 Each small boat carried around eight persons. The travelling was  
6 adventurous. Having seen them travelling on small boats, we  
7 pitied them very much."

8 And then a question: "Regarding the intelligence agents coming to  
9 our island, was there any instruction from the division?"

10 Answer: "We were instructed to arrest them and send them to  
11 S-21".

12 [14.41.09]

13 Now, Mr. Witness, this seems to be a witness who is giving a  
14 different description as to what to do when people were spotted  
15 in boats. If they were refugees then most of them would be  
16 allowed to pass on. If there was a suspicion that they were not  
17 refugees they were questioned and then sent for further  
18 interrogation. So that seems to be contrary to the instructions  
19 or orders from Bong Samnang. Can you please respond to that?

20 A. I do not know how to respond. To comply with the rules and  
21 regulations of Kampuchean revolution, no release after the  
22 arrests. If people were arrested they were sent for interrogation  
23 and confession would be broadcasted on the radio, over the radio,  
24 and I did not know whether such matters happened in other  
25 regiments. For the tasks that we did in my Regiment 62, it

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1 happened like I described.

2 [14.42.57]

3 Q. You described your unit or the people involved in the Mayaguez  
4 incident as, "wild bandits". Was your unit the leadership of Bong  
5 Samnang, including yourself, a group of wild bandits?

6 A. Let me address the matter you asked. It is an important matter  
7 I need to address.

8 I was one of a combatants under Division 164, and I was also  
9 under Regiment 62 or 622. We were not wild bandits. We had three  
10 chains of command from 1972 to 1975, and afterwards, after 1975.  
11 And also until the fall of -- the dismantle of Khmer Rouge.

12 Q. But what did you mean when you said when the Mayaguez was  
13 captured, "We were like the wild bandits because we captured it  
14 illegally"? What does it mean when you say that your group were  
15 wild bandits?

16 [14.45.02]

17 A. Let me make it clear. I used the term "wild bandits" and the  
18 phrase without legal basis in that time because -- it was because  
19 that during the time there was war. And when we spotted any ships  
20 or boats we needed to capture, regardless the boat or ship  
21 belongs to Thailand or America at the time. So we -- I compared  
22 soldiers at that time to be like wild bandits since that they  
23 were not aware of, you know, international sea borders or they  
24 were not aware of laws and regulations at sea.

25 THE PRESIDENT:

1 You have gone over time, Counsel. So you can conclude your  
2 questioning now, Counsel.

3 [14.46.20]

4 BY MR. KOPPE:

5 I still have many questions, Mr. President, but I will end with a  
6 final question.

7 Q. The two incidents that you described where alleged Vietnamese  
8 were killed, were those actions from the same wild bandits who  
9 arrested the Mayaguez? Was it a group of wild bandits who did  
10 that?

11 2-TCW-1000:

12 A. In that year, Regiment 62 was responsible for the capture. So  
13 no other regiments were there to carry out the seizure or  
14 capture. Regiment 62, together with a few other battalions, 10 of  
15 them perhaps, carried out -- carried it out. So no other  
16 regiments besides Regiment 62 did the capture.

17 MR. KOPPE:

18 Like I said, Mr. President, I have many more questions but I  
19 don't have time anymore, unfortunately.

20 [14.48.00]

21 THE PRESIDENT:

22 Thank you, Mr. Witness. The hearing of your testimony as a  
23 witness has now come to an end and your testimony will contribute  
24 to the truth. You may now be excused. You may return to your  
25 residence or to any places you wish to go. I wish you good luck,

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1 good health and prosperity in your life.

2 Court Officer, please work with WESU to send this witness back to  
3 his residence or to any destination he wishes to go.

4 Thank you as well, Mr. Moeurn Sovan, the duty counsel, for  
5 accompanying the witness. You may also be excused.

6 The Chamber will continue to hear 2-TCW-848, but now it is time  
7 for a short break. The Chamber will take a short break from now  
8 until 10 past 3.00.

9 You have the floor, International Co-Prosecutor.

10 [14.49.23]

11 MR. KOUMJAN:

12 Thank you very much, Your Honour. I just was hoping to clarify a  
13 couple quick scheduling matters so that we have the right lawyers  
14 in Court.

15 Tomorrow, I know we are going to discuss the issue of the request  
16 for additional witnesses of the Vietnamese. Would it be possible  
17 sometime today for the Chamber to indicate whether that will be  
18 in the morning or perhaps after the witness finishes tomorrow?

19 And also, it would be very helpful so we have the right lawyer in  
20 Court to know whether you will have a reserve witness tomorrow or  
21 Friday present in Court. Thank you very much.

22 [14.50.09]

23 THE PRESIDENT:

24 Thank you. The Chamber informed already this morning that first  
25 thing in the morning tomorrow before we resume the questioning of

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1 the witness we start with the hearing of submission and responses  
2 of Parties first, so first thing in the morning.

3 The Court is now in recess.

4 (Court recesses from 1450H to 1513H)

5 THE PRESIDENT:

6 Please be seated. The Court is now back in session. We now hear  
7 testimony of another witness, that is, 2-TCW-848.

8 Court Officer, please usher Witness 2-TCW-848 into the courtroom.

9 (Witness enters courtroom)

10 [15.15.06]

11 QUESTIONING BY THE PRESIDENT:

12 Good afternoon, Mr. Witness. What is your name?

13 MR. THANG PHAL:

14 A. My name is Thang Phal.

15 Q. Thank you, Mr. Thang Phal. Have you been interviewed by  
16 investigators of the Office of the Co-Investigating Judges?

17 A. I have never been here, Mr. President.

18 Q. I meant not before this Chamber, but with investigators. Have  
19 you been interviewed by investigators of the Office of the  
20 Co-Investigating Judges of this Court?

21 A. I was interviewed.

22 [15.16.19]

23 Q. How many times?

24 A. I was interviewed twice.

25 Q. I have looked at the WRIs of your interviews with the

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1 investigators and the name appear on the WRIs is Theng Huy. Could  
2 you please clarify whether Theng Huy is the same?

3 A. When I was interviewed for the first time, I did not work yet  
4 and I was known as Huy. But in 1984 I worked for the agriculture  
5 section and I changed to Phal, Thang Phal.

6 Q. However, the written record of your interview was not made in  
7 1984. It was made actually in 2008. Why do you use the word  
8 "Theng Huy" in that written record of yours, and now you mention  
9 that your name is Thang Phal?

10 A. I was interviewed at Svay Antor, that is for the first  
11 interview, and I was an ordinary civilian. And my father is Theng  
12 and my name is Huy. That's what I told them.

13 [15.18.22]

14 Q. Then what is your actual official name, in particular the name  
15 that is -- that appears on your identification card?

16 A. Currently I work -- I am a civil servant and my ID card  
17 carries the name of Thang Phal.

18 Q. Thank you, Mr. Thang Phal. And do you recall your date of  
19 birth?

20 A. Yes. I was born in 1951, on the 11th of November of 1950  
21 (sic).

22 Q. Thank you. And where were you born?

23 A. I was born in Pou Chentam village, Svay Antor commune, Prey  
24 Veang district.

25 Q. And where is your current address?

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1 A. I came to work in Prey Veng province, so I relocated myself to  
2 Village 7 in Prey Veng province.

3 Q. So are you living in Lot Number 7 in Prey Veng provincial  
4 town?

5 A. Yes, I lived in Lot Number 7.

6 [15.20.30]

7 Q. What is your occupation?

8 A. Currently, I am a temporary civil servant at the Department of  
9 Agriculture. I am a contractor at the Department of Agriculture.

10 Q. What is your father's name?

11 A. My father is Theng and my real mother passed away, and my  
12 stepmother is Sann.

13 Q. What is the name of your real mother?

14 A. My real mother's name is Kim.

15 Q. What is the name of your wife and how many children do you  
16 have?

17 A. My wife is Reth Uk. We have three children, two daughters and  
18 one son.

19 Q. Thank you, Mr. Thang Phal. The greffier made an oral report  
20 this morning that you are not related by blood or by law to any  
21 of the two Accused, that is Nuon Chea and Khieu Samphan, or to  
22 any of the civil parties admitted in this case. Is this  
23 information accurate?

24 [15.22.10]

25 A. Yes, that is accurate. I am not related to any of them.

1 Q. Thank you. And have you taken an oath before the Iron Club  
2 Statue before your appearance?

3 A. Yes, I took an oath before the Iron Club Statue.

4 Q. Thank you. And we would like now to inform you of your rights  
5 and obligations as a witness.

6 Mr. Thang Phal, as a witness in the proceedings before the  
7 Chamber, you may refuse to respond to any question or to make any  
8 comment which may incriminate you. That is your right against  
9 self-incrimination. As for your obligations, as a witness in the  
10 proceedings before the Chamber you must respond to any questions  
11 by the Bench or relevant Parties except where your response or  
12 comment to those questions may incriminate you.

13 As the Chamber has just informed you of your rights as a witness,  
14 you must tell the truth that you have known, heard, seen,  
15 remembered, experienced or observed directly about an event or  
16 occurrence relevant to the questions by the Bench or Parties pose  
17 to you.

18 And you have stated that you were interviewed twice by the OCIJ  
19 investigators. Have you reviewed or read the written records of  
20 your interviews that you provided to the investigators in order  
21 to refresh your memory?

22 [15.24.20]

23 A. I have read the statements and they reflect the statements  
24 that I made.

25 MR. PRESIDENT:



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1 Thank you. Pursuant to Rule 91 bis of ECCC Internal Rules, the  
2 Chamber gives the floor first to the Co-Prosecutors. The combined  
3 time for the Co-Prosecutors and the Lead Co-Lawyers for civil  
4 parties is two sessions. You may proceed, Co-Prosecutor.

5 QUESTIONING BY MR. SENG LEANG:

6 Thank you, Mr. President. Allow me to say good afternoon to, Your  
7 Honours, and everyone in and around the courtroom. Good  
8 afternoon, Mr. Witness. My name is Seng Leang. I am a National  
9 Deputy Co-Prosecutor. I have some questions to put to you, and my  
10 questions relate to some historical background and the  
11 administrative structure. And after that my international  
12 colleague will put further questions to you in relation to the  
13 treatment of the Vietnamese.

14 Q. Mr. Witness, can you tell the Chamber where you lived and do  
15 (sic) before 1975?

16 [15.26.02]

17 A. Before 1975, I lived in Pou Chentam village, Svay Antor  
18 commune, Prey Veang district, Prey Veng province.

19 Q. When did the Khmer Rouge enter and take control of your  
20 village?

21 A. The Khmer Rouge took control in 1975. However, it was a small  
22 scale and there were quite a number of Vietnamese troops in the  
23 area.

24 Q. Were you living in that village at the time?

25 A. Yes, I remained living in that village.

1 Q. You said that some Khmer Rouge troops took control of the  
2 village. Can you be a bit more specific?

3 [15.27.31]

4 A. The Khmer Rouge troops were less than the Vietnamese troops.  
5 For example, there were about 70 Vietnamese troops, 70 per cent,  
6 while the Khmer Rouge troops were only 30 per cent.

7 Q. Was the village administration under the control of the Khmer  
8 Rouge?

9 A. At that time there were still experts. I refer to the  
10 Vietnamese experts who administered the area.

11 Q. You referred to the Vietnamese troops and Vietnamese experts.  
12 How long did they remain in your village?

13 A. I did not know when they actually left the village.

14 Q. There is a WRI of a villager, Ieng On, that is from your  
15 village, that is document E3/9355 (sic), ERN of English is,  
16 00231661; French is, 00226264; Khmer ERN is, 00225361. This  
17 villager stated that in Pou Chentam village the Khmer Rouge took  
18 control in 1972 or 1973. What is your reaction to this statement?

19 A. Yes, Ieng On is correct. The Khmer Rouge took control of the  
20 village in 1972 or '73.

21 Q. And what were you doing at that time?

22 [15.30.24]

23 A. I was simply a villager. I did not have any position. I was  
24 accused of a son of a capitalist.

25 Q. When the Khmer Rouge came to control your village, did they

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1 assign their own people to engage in the administration of the  
2 village?

3 A. In relation to the administration of the village, the village  
4 chief maintained his position.

5 Q. And from 1975 onwards, who was your village chief?

6 A. By 1975, the village chief was replaced by someone from  
7 outside. Seng and Horn were people from the outside who came to  
8 control the village.

9 Q. Amongst the two, Seng and Horn, which one was the actual chief  
10 of the village?

11 A. Horn was the village chief.

12 [15.32.28]

13 Q. What about Seng?

14 A. Seng was his deputy.

15 Q. Besides the unit chief, did you know any of the militia men?

16 A. I do not know the militia men and I did not dare to ask about  
17 the presence of militia men.

18 Q. I, a while ago, made mention of a person by the name Ieng On  
19 who was from Pou Chentam as well. Did you know this person?

20 A. Yes.

21 Q. How did you know this person?

22 A. We were friends when we were young and we went to the same  
23 school.

24 Q. What did Ieng On do in Pol Pot's time?

25 A. He was simply an ordinary citizen back then. We were

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1 colleagues going around digging the canals and working the  
2 fields.

3 Q. Did you know another person by the name Eng besides Ieng On?

4 A. Sorry, Counsel. Could you repeat the name again? What is the  
5 name?

6 [15.34.43]

7 Q. The name is Eng.

8 A. I do not know this person by the name Eng.

9 Q. Based on the WRI of Ieng On, document E3/9352, ERN in Khmer,  
10 00225355; English, 00231660; and French, 00226263; in the WRI,  
11 Ieng On made mention that Eng was the militia man in Pou Chentam,  
12 and the younger brother of Eng, named En, who is living now, and  
13 is about 55 years -- is about 50 years old, or over 50 years old.  
14 And in the same document, in the same page and ERN numbers, Ieng  
15 On said -- ERN in Khmer, 00225356; English ERN, 00231661; French,  
16 00226264; On stated that, "I was a militia man for a period of  
17 two months."

18 Does this refresh your memory, Witness?

19 [15.37.33]

20 A. I recall it now. Eng actually was a militia man in the  
21 village.

22 Q. What about Ieng On? What was his role and function at the  
23 time?

24 A. I did not pay attention to that matter, and it happened long  
25 time ago, about 30 years already. I cannot recall it.

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1 Q. Besides Eng and Ieng On, do you another person by the name of  
2 Try or Ta Try?

3 A. He is quite old -- he was quite old, and he passed away a long  
4 time ago.

5 Q. What did this person do in Pol Pot's time?

6 MR. PRESIDENT:

7 Please observe the microphone before you answer, Mr. Witness.

8 MR. THANG PHAL:

9 A. As I said, I was working in the field digging the soil,  
10 carrying the earth and working the field, so I did not focus on  
11 who did what at the time.

12 [15.39.18]

13 BY MR. SENG LEANG:

14 Q. In the same WRI of Ieng On, in the same ERN in Khmer with the  
15 ending in Khmer 55, Ieng On stated that Ta Try was the owner of  
16 the horse cart -- of a horse cart.

17 Does this refresh your memory, Mr. Witness?

18 A. I knew at the time Ta Try was the driver of the horse cart,  
19 and I did not know his specific function at the time, and I was  
20 working in the field.

21 Q. Now I am asking you about the village administration. Do you  
22 know the name of the Svay Antor village chief?

23 A. Mut was the commune chief, and Chhem -- there was another  
24 person by the name Chhem.

25 [15.40.58]

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1 Q. You made mention of the names Mut and Chhem. Who were they?

2 A. Mut was part of the commune committee in Pol Pot's regime, and  
3 Chhem was part of the committee as well.

4 Q. Could you clarify for the Court who was the chief and who was  
5 the deputy of that commune?

6 A. Chhem was first the chief of the commune, and Mut was the  
7 deputy.

8 Q. Do you know another person by the name Moeun (phonetic)?

9 A. Yes, I do.

10 Q. Who was he and what was his function at the time?

11 A. Back then, he was a group chief. I -- what I knew is that he  
12 was a group chief in charge of leading the force to transplant  
13 the rice plants.

14 Q. Was he a group chief or the cooperative chief?

15 MR. PRESIDENT:

16 Please observe the microphone, Mr. Witness, before you speak.

17 MR. THANG PHAL:

18 A. I didn't know for sure at the time. I can say he was a group  
19 chief at the time, and group chief was widely known as the  
20 cooperative chief as well.

21 [15.43.31]

22 BY MR. SENG LEANG:

23 Q. Do you know the name of the militia chief in the commune at  
24 the time?

25 A. Ngoy was the militia chief, and he was also considered the

1 security chief.

2 Q. Thank you. What about the district committee? Who were part of  
3 the district committee?

4 A. I recall -- I actually recall that the person who was part of  
5 the committee and, to my recollection, Ta Changkaum Prambei was  
6 the --- part of the committee.

7 Q. I still have a few other questions to ask you. After 1975,  
8 when you were living in Pou Chentam, what were you assigned to  
9 do?

10 [15.45.20]

11 A. After 1975, I was simply an ordinary citizen.

12 Q. What did you do, specifically, as an ordinary citizen at the  
13 time?

14 A. After 1975, I was assigned to dig a canal, build the  
15 embankment -- first I was assigned to build the embankment at  
16 various places. I rarely stayed in the commune at the time.

17 Q. Were you required to perform the tasks, or did you voluntarily  
18 go to work?

19 A. We were forced under the Khmer Rouge leadership. No one had  
20 the wish to say whether we like the job or not.

21 Q. Can you tell the court how many people were living in your  
22 village and commune, and do you know how many Vietnamese were  
23 living within your village and commune at the time?

24 A. To my knowledge, there were married Vietnamese living in the  
25 village and commune. There were only three families of Vietnamese

1 people.

2 MR. PRESIDENT:

3 Please turn on your microphone, Counsel.

4 [15.47.36]

5 BY MR. SENG LEANG:

6 Q. I want you to tell the census or the statistic of people --

7 Vietnamese people living in your village and commune. Do you

8 recall how many Vietnamese people were living in your village and

9 commune?

10 MR. THANG PHAL:

11 A. I cannot tell you the specific number of Vietnamese people

12 living in my village.

13 MR. SENG LEANG:

14 Thank you, Mr. President. I would like to cede the floor for my

15 international colleague. I have no further questions.

16 MR. PRESIDENT:

17 You have the floor now, International Deputy Co-Prosecutor.

18 [15.48.28]

19 QUESTIONING BY MR. BOYLE:

20 Thank you, Mr. President. Good afternoon, Your Honours. Good

21 afternoon, Counsel.

22 Q. Good afternoon, Witness. My name is Andrew Boyle. I'm going to

23 ask you a few questions on behalf of the Office of the

24 Co-Prosecutors.

25 I have one brief follow-up question. You mentioned that there



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1 were some Vietnamese advisors and soldiers in your area, and that  
2 you weren't sure when they left.

3 Can you tell us, in relation to when Seng and Horn were appointed  
4 as the deputy and the chief of your village, were the Vietnamese  
5 advisors -- had they left by the time that Seng and Horn were  
6 appointed the deputy and the chief of your village?

7 [15.49.33]

8 MR. THANG PHAL:

9 A. I do not get your question, Counsel. Could you repeat it,  
10 please?

11 Q. Absolutely. No problem.

12 You mentioned earlier that there were some Vietnamese advisors in  
13 your village or in your district and that you weren't sure  
14 exactly when they left. And I'm wondering if you're able to say  
15 if they had left by the time that Horn was appointed the chief of  
16 your village.

17 A. In fact, at the beginning, Seng and Horn were not the deputy  
18 and the chief in the village.

19 Q. I understand. And I believe you said that they were appointed  
20 the chief and the deputy in 1975. And I'm wondering if you're  
21 able to tell us in relation to that event if the Vietnamese  
22 advisors that you had mentioned had left the village already at  
23 the time that they became the -- at the time that Horn became the  
24 village chief. Had the Vietnamese advisors left at that point?

25 [15.51.11]

1 A. When they were appointed chief and deputy chief of the  
2 village, the Vietnamese had already left the area.

3 Q. Thank you very much.

4 You mentioned that there were three couples in your village where  
5 -- that were of mixed Khmer-Vietnamese. Are you able to name the  
6 three individuals in those couples that were Vietnamese, the  
7 three people in your village who were Vietnamese?

8 A. Yes, I can tell you the Vietnamese couples. Lach Ny had the  
9 Vietnamese wife, and the second family, Oeung, had the Vietnamese  
10 husband, Chuy. And I cannot tell you the name of Lach Ny's wife.  
11 And Ngang was the husband (sic) of Tech.

12 Q. You mentioned that you weren't able to identify the name of  
13 the Vietnamese wife of Lach Ny. If I say the name Sum San, does  
14 that refresh your memory?

15 A. As I said, I did not focus on the specific name of those  
16 couples. Frankly speaking, I only knew clearly the names of the  
17 husbands.

18 [15.53.52]

19 MR. BOYLE:

20 Mr. President, with your permission, I would like to give to the  
21 witness the first page of a DC-Cam document, that is, E3/7562.  
22 That's the DC-Cam statement of 2-TCCP-869 in order to ascertain  
23 if -- if the witness knows the individual whose name is listed  
24 there.

25 MR. PRESIDENT:

1 Yes, you can proceed.

2 (Short pause)

3 [15.55.33]

4 BY MR. BOYLE:

5 Q. Mr. -- Mr. Witness, without saying the person's name that you  
6 see written there, can you please tell us whether you recognize  
7 that name?

8 MR. THANG PHAL:

9 A. I have never known this person or this -- I do not recognize  
10 this name.

11 (Short pause)

12 [15.56.28]

13 MR. BOYLE:

14 I'm going to try with another individual. This is the -- Mr.  
15 President, with your permission, this is the first page of  
16 document E3/7594; that's a DC- Cam statement of 2-TCW-957, and  
17 I'd like to ascertain if the individual who's named here if -- if  
18 the witness knows that individual.

19 MR. PRESIDENT:

20 Yes, you can do so.

21 (Short pause)

22 [15.57.50]

23 MR. THANG PHAL:

24 A. I cannot recognize this person what is the name.

25 Q. Thank you, Mr. Witness

1 Mr. President, I'm going to try to proceed regardless of the  
2 witness's inability to identify these individuals, but I do want  
3 to note for the record that in the witness's -- one of the  
4 witness's written records of interview, that's E3/5244, English  
5 ERN, 00233299; Khmer, 00224794; and French, 00231948; he  
6 identifies by name each of these individuals who I have tried to  
7 have him identify and using only their pseudonyms. So I want to  
8 put that on the record and I'm -- I'm going to proceed hopefully  
9 without having to -- without having to use their names.  
10 So just, Mr. Witness, to recap the individuals that you  
11 identified, could you tell us again the -- to the extent that you  
12 remember, the three individuals of Vietnamese ethnicity and their  
13 spouses' names from Pou Chentam village?

14 [15.59.57]

15 A. Regarding the three Vietnamese couples, there was an  
16 individual by the name Ngoy (phonetic), Ta Chuy, whose wife's  
17 name was Oeung, and Ngoy's (phonetic) wife's name Tech. For Lach  
18 Ny, I cannot tell you the name of his wife.

19 Q. And the people that you named who were -- who were Vietnamese,  
20 how did you know that these people were Vietnamese?

21 A. Tech was a citizen in the old regime and she married the  
22 Vietnamese man and Ny was also a Cambodian citizen and married to  
23 a Vietnamese wife and Oeung married the Vietnamese husband after  
24 1975, and the three couples were living in Pou Chentam village.

25 Q. Thank you, Mr. Witness. That wasn't quite what I was asking

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1 and I ask that you pay closer attention to what my questions  
2 concern just because we have very limited time.

3 My -- my question was: The individuals that you named that were  
4 -- that were Vietnamese, that is, the wife of Lach Ny, whose name  
5 you don't remember; Ngang, is how I heard you pronounce the name,  
6 and Chuy; how did you know that they were Vietnamese?

7 [16.02.43]

8 A. The husband of the female Tech came to conduct a business in  
9 the country and then they got married. Chuy was in the same case  
10 he came to do the business and afterward married the wife. Ny was  
11 a -- an ordinary citizen in the -- at the time and he married a  
12 Vietnamese woman who was a waitress in a restaurant.

13 Q. I'm going to try a somewhat more pointed question. Did you  
14 know that they were Vietnamese, for example, because they spoke  
15 differently from Khmer people or because they had different  
16 traditions from Khmer people or they looked different from Khmer  
17 people; how did you know that these three people were Vietnamese  
18 or of Vietnamese ethnicity?

19 A. Let me enlighten the matter. I can recognize and tell that  
20 Tech was the Vietnamese since she spoke Khmer with accent. The  
21 same applies to Chuy and Ngoy (phonetic). I cannot tell you for  
22 sure how I can -- could recognize the wife of Lach Ny who was  
23 Vietnamese, but I knew that she was a Vietnamese.

24 [16.05.00]

25 Q. Would you or others in your village make assumptions about who

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1 was Vietnamese based on how people looked; their facial features  
2 or the colour of their skin or anything like that?

3 A. I could recognize that they were Vietnamese since they did not  
4 speak Khmer very well and, clearly, they spoke with accent. I  
5 knew for sure that they were Vietnamese since they came to do  
6 business in the country. They were vendors and, later on, they  
7 fell in love with the woman or the man and they got married at  
8 the end.

9 MR. PRESIDENT:

10 Thank you, International Deputy Co-Prosecutor. Thank you, Mr.  
11 Witness. It is now time for the adjournment. The hearing will  
12 resume tomorrow, Wednesday, 6 of January 2016, at 9 a.m.  
13 Tomorrow the Chamber will continue hearing the witness, Thang  
14 Phal, to its conclusion and there is a reserve witness,  
15 2-TCW-904, to testified about the treatment of the target group,  
16 that is, Cham people. And in -- first thing in the morning, the  
17 Chamber will start to hear the submission of Parties and the  
18 responses of the Defence.

19 [16.06.56]

20 There was request to admit some documents as evidence into Case  
21 002/02 so please be informed and be on time.

22 Thank you, Mr. Thang Phal. The hearing of your testimony as a  
23 witness has not come to an end yet. You are, therefore, invited  
24 to be here once again before the Chamber at 9 a.m.

25 Court officers, please help work with the WESU unit to send Mr.

1 Thang Phal to the place where he is staying at the moment and  
2 please invite him back into the witness stand to testify at 9  
3 a.m. However, since we are hearing submission and responses of  
4 party first thing in the morning, Court Officer, please find a  
5 proper room for the witness during the morning and afterwards the  
6 Chamber will order to bring in the witness after the submission  
7 of Parties and the responses.

8 Court -- security personnel are instructed to bring the accused  
9 back to ECCC detention facility.

10 The Court is now adjourned.

11 (Court adjourns at 1608H)

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