

Psychiatric Expert Begins Testimony on Ieng Thirith's Fitness to Stand Trial

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By Mary Kozlovski

A panel of [medical](#) experts appeared at the ECCC on Thursday for a hearing on Ieng Thirith's fitness to stand trial.

On Thursday, August 30, 2012, the Trial Chamber of the Extraordinary Chambers in the Courts of Cambodia (ECCC) on the fitness to stand trial of Case 002 accused Ieng Thirith. Doctors Seena Fazel, Huot Lina, and A. John Campbell appeared as three experts appointed to further evaluate Ieng Thirith's [health](#) condition and fitness to stand trial. Dr. Chak Thida, a psychiatrist who has examined Ieng Thirith, also testified about her reports, which Trial Chamber Judge Silvia Cartwright described as being in "sharp distinction" to findings of the court-appointed experts.

A New Zealand-based geriatrician Professor A. John Campbell, [1] who found that Ieng Thirith has a "moderately severe dementing illness, most probably Alzheimer's disease" [2] in a June 2011 report, was one of the experts who appeared in court on Thursday. In addition to Prof. Campbell, four psychiatric experts were also appointed by the court to examine Ieng Thirith. Two of the experts – Drs. Fazel and Lina – had previously given testimony on Ieng Thirith's status in October.

In November 2011, The Trial Chamber had ruled that Ieng Thirith was unfit to stand trial, severed the charges against her from the Case 002 indictment pursuant to Internal Rule 89ter, [3] stayed proceedings against her, and found they no longer had a basis for detaining her. [4] Trial Chamber judges diverged, however, on the consequences of their finding that Ieng Thirith was unfit to stand trial. Trial Chamber President Nil Nonn, and judges Ya Sokhan and You Ottara believed Ieng Thirith should be hospitalized for further treatment based on the experts' recommendations, pending a review of her competence to stand trial after six months. Judges Silvia Cartwright and Jean-Marc Lavergne said they would order Ieng Thirith's immediate and unconditional release, as her condition was "unlikely to improve" and there was no legal basis to order her hospitalization and treatment. The chamber decided that without an agreement on the issue, the only remedy was to order Ieng Thirith's unconditional release.

The prosecution appealed, requesting that the [Supreme Court](#) Chamber annul the decision to unconditionally release Ieng Thirith and order that she remain in detention and undergo further treatment with a review of her status after six months. [5] In December 2011, the Supreme Court Chamber set aside the Trial Chamber's order to release Ieng Thirith and ruled that she should receive additional treatment as recommended by experts, with a review of her condition after six months to assess her fitness to stand trial. [6] Supreme Court Chamber Judge Chandra Nihal Jayasinghe of [Sri Lanka](#) dissented from the majority's opinion on the issue of Ieng Thirith's detention. [7]

Ieng Thirith was present in the holding cell from where Ieng Sary – Ieng Thirith's husband and co-accused in Case 002 – also observed proceedings.

President Recounts Circumstances Surrounding Ieng Thirith's Fitness to Stand Trial

Trial Chamber President Nil Nonn summarized events related to Ieng Thirith's fitness to stand trial. President Nonn noted that counsel for Ieng Thirith filed a motion in February 21, 2011, related to their client's fitness to stand trial, after which the chamber assigned Professor A. John Campbell to medically assess Ieng Thirith's fitness to stand trial and submit a report to the chamber on his

findings. President Nonn reported that Professor Campbell found that Ieng Thirith suffered from “cognitive impairment” affecting her ability to exercise her fair trial rights.

The chamber also appointed four psychiatric experts in August 2011 – Drs. Huot Lina, Koeut Chhunly, Seena Fazel, and Calvin Fones Soon Leng – to evaluate Ieng Thirith to supplement Professor Campbell’s assessment and report to the chamber on their findings, which were examined at a public hearing. President Nonn explained that the Trial Chamber ruled in November 17, 2011 – after assessing reports from the five doctors – that Ieng Thirith was unfit to stand trial and ordered her immediate release; the release order was appealed by the prosecution, and the Supreme Court Chamber subsequently ruled that Ieng Thirith should undergo further assessment to ascertain if there was any possibility that she could be competent to stand trial.

President Nonn reported that additional treatment – including adjustment of medicines and administering of occupational therapy – was rendered and experts were assigned to reassess her fitness. President Nonn said the doctors reported that the medicine administered, which had previously been dramatically reduced, was stopped all together on April 30, 2012, and Ieng Thirith had been treated for 18 weeks as of late July.[8] President Nonn said an occupational therapist had trained two nurses to administer such therapy to Ieng Thirith for three months beginning on May 28, 2012. The chamber invited three court-appointed experts – Drs. John Campbell, Huot Lina and Seena Fazel – and the treating doctor to provide reports on Ieng Thirith to the chamber in order to assist in its decision.

President Nonn said the court-appointed experts submitted a joint report in English on August 29, 2012, that was circulated to concerned parties, with a Khmer-language version circulated on August 30, 2012. He informed the parties that, during the present hearing, parties may put questions to the experts, who were requested to detail their findings in compliance with the Supreme Court Chamber’s order.

Court-Appointed Experts Identified

The three court-appointed experts have been identified as:

- A. John Campbell – Expert in Geriatric Medicine based at the University of Otago in New Zealand (Previously testified at ECCC in August 2011 and submitted two reports);
- Huot Lina – Psychiatrist. Assistant Professor of Psychiatry at the International University in Phnom Penh. Graduated with a masters’ degree in Psychiatry from Australia (Previously testified with Dr. Seena Fazel at the ECCC in October 2011 after examining Ieng Thirith);[9] and
- Seena Fazel – Senior Research Fellow of Psychiatry and Honorary Consultant in Forensic Psychiatry at the University of Oxford in the United Kingdom (Previously testified with Dr. Huot Lina at the ECCC in October 2011 after examining Ieng Thirith).

Prof. Campbell confirmed to President Nonn that he prepared a supplementary report in January 2012 in compliance with a Trial Chamber request and this week conducted a joint consultation of Ieng Thirith’s cognitive function and physical ability with Drs. Seena Fazel and Huot Lina.

President Nonn inquired as to the background of Dr. Chak Thida, who identified herself as a general psychiatrist, deputy director in charge of mental health affairs at the Khmer-Soviet Friendship Hospital in Phnom Penh, and deputy departmental head at the University of Health, specializing in psychiatry. Dr. Thida said she was born November 23, 1961, and lives in Phnom Penh. In response to a series of questions from President Nonn about her background and expertise, Dr. Thida testified that she studied medicine in the 1980s, worked as the deputy head of the mental health department at the Ministry of Health and was the head of a health clinic. Dr. Thida said that in 1997 she began attending training on psychiatry[10] and she teaches students in mental health. Dr.

Thida testified that in 2006, she began studies in occupational therapy and obtained two degrees from the United States.

Dr. Thida said she had been treating Ieng Thirith since February 2012^[11] in collaboration with Calmette Hospital as she was asked to assess the accused's mental health status, and she became more engaged with Ieng Thirith as a patient when her medicinal regime was transferred from the supervision of Calmette Hospital to the Khmer-Soviet Friendship Hospital.

Chamber Gives Overview of Expert Findings on Ieng Thirith

Trial Chamber Judge Silvia Cartwright summarized several expert reports on the health status of Ieng Thirith. The first was an October 6, 2011, report from Prof. Campbell, which Judge Cartwright described as follows:

Ieng Thirith had a moderately severe dementing illness, most probably Alzheimer's disease, the effects of which may have been exacerbated by her past and current present circumstances. In your report, you [Prof. Campbell] recommended that a gradual reduction be undertaken of her psychotropic medication, and you noted that any improvement in her cognitive function as a result of that reduction in medication should be evident within eight weeks. You went on to say however that it is probable that the reduction in medication will not produce a significant improvement. You noted however that there is a definite possibility that the drug reduction will lead to an improvement in cognitive function, enabling Ieng Thirith to participate in her defense.

In response, Prof. Campbell said he also indicated use of Donepezil as an agent, but that the chances it would result in improvement were "slight."

Next, Judge Cartwright described an October 10, 2011, report from four court-appointed psychiatric experts:^[12]

You said that from the scan data that you had available that you found that Ieng Thirith's condition was consistent with dementia, but as the changes observed may be age-related, the scan data could not confirm a diagnosis of dementia. In your report you noted that in order to be confident of a diagnosis of dementia, other forms of dementia, in particular vascular dementia, must be considered. On balance, you stated that the clinic picture is one of gradual, insidious decline, which is more consistent with Alzheimer's disease than with vascular dementia. And you also noted that as you had insufficient historical data, it was impossible to comment on the progression of the disease. You went on to consider Dr. Campbell's proposal of a trial of Donepezil, saying that you did not disagree with that but noting your limited experience in its use and further noting that the evidence for cognitive improvement following treatment with a medication such as Donepezil suggested that the improvement is small in magnitude and limited to a minority of individuals who take it.

Dr. Fazel agreed with Judge Cartwright that the psychiatrists were "skeptical" that Donepezil treatment would maintain or improve Ieng Thirith's cognitive function.

On the same report, Judge Cartwright asked if a fair summary of the experts' findings was that while certain measures could be helpful for Ieng Thirith's fitness, they were unlikely to improve her cognitive function enough to enable her to sufficiently understand the course of proceedings. Dr. Fazel agreed but emphasized that the diagnosis of dementia was informed by different pieces of evidence collated by the experts. Judge Cartwright sought clarification on an excerpt from a January 6, 2012, report^[13] that noted that treatment with Donepezil commenced on November 8, 2011, but led to Ieng Thirith's admission to hospital from November 12 to 15, as she did not tolerate it

well. Prof. Campbell said experts had advised a starting dose of 5mg of Donepezil but the medication was administered at 10mg, which led to recognized symptoms of nausea and vomiting.

Judge Cartwright then cited the conclusion of the report – which was also based on further clinic assessment and standardized testing – as follows:

Ieng Thirith has moderate to severe cognitive impairment, secondary to a dementing illness most probably Alzheimer's disease, with the likelihood also of a vascular component. Her cognitive functioning was worse on this assessment than in her earlier assessments. The history given by those staff seeing her regularly is consistent with a progression of her dementia rather than that she was feigning a deterioration. The report went on to say that Ieng Thirith has a progressive dementia and it is unlikely that the recommendations given below will lead to an improvement sufficient for her to participate in her own defense.

Judge Cartwright noted that experts recommended a trial of an alternative drug to Donepezil called Rivastigmine and a further assessment after three to four months, which Dr. Fazel confirmed. Judge Cartwright further stated that the report commented on there being "no rehabilitation or structured cognitive stimulation program" currently operating in Cambodia and summarized the report as saying:

[You outlined] a very limited means by which a Singapore occupational therapy program might be provided and that was to be done by training of Cambodian health professionals and supervision of them by a fully trained Singapore-based occupational therapist. You emphasized in your report, however, that such a program should be considered as an adjunct, or additional, to the two recommendations, that was, the reduction, continuing reduction in psychotropic medication and the start of Rivastigmine. So it was an adjunct to that, and you did not expect it to improve her cognitive status. The best that it could achieve was an arrest of the speed of her deterioration.

In response, Dr. Fazel emphasized that the experts believed an effect of the two further treatments would be observed within three months, which would need to lapse before a reassessment was conducted. Judge Cartwright said that in their appeal judgment, the Supreme Court Chamber noted that while it could not make its own medical findings, the literature recommended a six-month trial of Donepezil, and they cited a 2006 study published in *The Lancet*.^[14] Judge Cartwright sought clarification that the experts did not consider a longer trial of Rivastigmine necessary, to which Prof. Campbell responded that any improvement would be evident at three months.

In response to questions from Judge Cartwright, Dr. Fazel said the most recent expert examination of Ieng Thirith was a joint assessment by the three experts that was conducted over two days. Dr. Fazel summarized the recommendations of the August 29, 2012, report as follows:

We felt there was no evidence of any improvement after the introduction of Rivastigmine or the cognitive stimulation program. We felt actually there was a deterioration in cognitive function over the period of this time but definitely no improvement. In some ways, the deterioration was seen quite clearly, in terms of decreasing scores in standardized tests, in various other behavioral symptoms, such as her relationship with staff and other areas of self-care and functioning. The other recommendation we came to was that we did not think there were any other treatments available that would improve the cognitive function of Ieng Thirith, and we therefore had no other medical recommendations to make. This view of ours was unanimous, and we found consistent evidence using a variety of sources to support this view.

Trial Chamber Combs through Physician's Reports

Judge Cartwright received confirmation from Dr. Thida that as treating physician she had prepared psychiatric assessments of Ieng Thirith on February 16, 2011, from October 2011 to April 2012, December 9, 2011, July 12, 2012, and August 14, 2012. Judge Cartwright inquired if it was fair to say that none of Dr. Thida's reports deemed Ieng Thirith to suffer from a deterioration of mental health that would lead to a finding of unfitness to stand trial and that she is "mentally able and not at a stage of dementia." Dr. Thida said she had administered tests and assessed Ieng Thirith – particularly her cognitive function – and observed no sign of mental illness, though she had experienced some memory loss.

Judge Cartwright then examined the detail of specific findings from Dr. Thida, starting with the February 2011 report in which she summarized that although Ieng Thirith was concerned about her physical health, she exhibited no irregular symptoms in her psychological status. Judge Cartwright asked if Dr. Thida had conducted any standardized tests to reach that conclusion, to which Dr. Thida replied that she would first like to describe her approach. Dr. Thida said she was a female psychiatrist and she established a relationship with Ieng Thirith, speaking with her in a friendly manner on their first meeting before conducting a cognitive assessment. The witness said the situation during their first encounter was "better" but was later "degenerative" and she requested permission to meet Ieng Thirith on two or three more occasions. Dr. Thida said that, mentally, people needed to trust and have a good relationship with someone, and if a person was unfamiliar to Ieng Thirith, they might not obtain all of the answers from her. Dr. Thida said she also consulted with people who attended to Ieng Thirith on a daily basis.

*Ieng Thirith in the early 1990s in Pailin, a former Khmer Rouge stronghold.
Photo by Mr. Youk Chhang, Documentation Center of Cambodia.*

Judge Cartwright inquired if Dr. Thida had administered any standardized tests prior to completing her February 16 report, to which Dr. Thida said she did not administer tests during her first meeting with Ieng Thirith, as her purpose was to establish a relationship. "I just wanted her to get to know me, and I wanted to find out about her background, about her personal background. At that time I obtained a lot of information that I also incorporated into my report. And I draw a preliminary conclusion that apparently she did not have any symptoms of dementia," Dr. Thida testified.

Judge Cartwright summarized Dr. Thida's report as follows:

You considered that she was appropriately dressed, answered questions well, that her dysphoric mood had appropriate effect, she suffered from no hallucinations, her speech was normal, meaningful, and coherent. She showed no delusions, no intention to harm herself, she recognized people who are close to her, such as the female guards, and she knew, she was well oriented to time and place. You considered her memory good but that her concentration and attention are a bit poor and that led you to the overall summary that she showed no symptom of irregularity in her psychological status.

Dr. Thida confirmed this summary. Judge Cartwright then described Dr. Thida's October 2011 to April 2012 report as concluding overall that Ieng Thirith does not have any symptoms of mental illness, while stating in its body that Ieng Thirith is "polite and friendly" but speaks loudly to staff and once or twice a day slams the metal door with her "crutch" when she wants to go outside. The witness confirmed this, adding that the information cited from the report's body was obtained from ECCC detention facility staff. Judge Cartwright, noting that Dr. Thida's report described Ieng Thirith as having good judgment and insight, asked if the aforementioned behavior was consistent with that assessment.

Dr. Thida said Ieng Thirith hitting the door with the walking stick was not habitual, as such behavior only began when she learned she was about to be released – staff also noticed that she wanted to leave the facility – and was not observed “later on.” Dr. Thida testified:

When I met her one day, she dressed properly and she told me that she would be taken away by 2 o’clock on that day. And I asked her where she got the new clothes and watch, ... and she said that she was given these new clothes and watch and she wanted to go to the market in order to get new clothes and other items.

Citing Dr. Thida’s December 9, 2011, report, Judge Cartwright noted that Ieng Thirith told the witness she bought clothes in anticipation of leaving the facility and that Dr. Thida stated she did not gather informant history as part of her assessments. Judge Cartwright asked if the doctor’s diagnosis at this stage was that Ieng Thirith had no signs of mental illness. Dr. Thida confirmed this comment and noted that Ieng Thirith had been detained for a long time and the prospect of release excited her. Judge Cartwright asked Dr. Thida if she conducted standardized tests for the two aforementioned reports. Dr. Thida explained that she had administered tests to assess Ieng Thirith’s level of comprehension and memory and retention. In a somewhat unclear statement, Dr. Thida said she administered another memory test but not “directly” because she believed Ieng Thirith might have been reluctant to cooperate.

Judge Cartwright turned to Dr. Thida’s July 12, 2012, report that Dr. Thida began with “a friendly conversation” before administering the Mini-Mental State Examination (MMSE),^[15] on which a score of 24 was reached. Judge Cartwright summarized that based on the report, her examinations, and discussions with nurses and Ieng Thirith’s daily physician, Dr. Thida found Ieng Thirith was in a state of “physical recovery” and commented, as summarized by the judge, “She has no symptoms of dementia but she may forget a bit, which corresponds to her age and she may be in a pre-dementia state, but not in a state of severity.”

Dr. Thida confirmed that this was a fair summary of her report. At this point, Judge Cartwright noted the August 29, 2012, report from the court-appointed experts stated that in Dr. Thida’s two most recent reports, the MMSE score of 24 out of 30 was inconsistent with eight other examinations over 2011 and 2012 in which Ieng Thirith attained no score above 18. In response, Dr. Thida said she was not aware of previous tests administered to Ieng Thirith but that score was the result of the test she administered. Dr. Thida said she observed that Ieng Thirith had recovered physically, following treatment of blood pressure and urinary problems, which increased her overall score to 24.

Judge Cartwright inquired if it was fair to infer from Dr. Thida’s comments about establishing a friendly relationship with patients like Ieng Thirith – along with being a woman and speaking the same language – that she considered her assessment more accurate because Ieng Thirith would be “more relaxed” than in a “test” situation. Dr. Thida agreed and noted this was also her practice with other patients. When Judge Cartwright asked if Dr. Thida accepted that three of the other tests – conducted by staff as part of their usual care of Ieng Thirith – were administered in fairly relaxed circumstances, Dr. Thida said she had not reviewed those reports.

Judge Cartwright cited the court-appointed experts’ August 29, 2012, report as stating in relation to the MMSE administered by Dr. Thida that she did not appear to have administered the test correctly, with a number of less demanding questions asked. Judge Cartwright further noted that the experts said if the test were re-administered using the standardized version, Ieng Thirith would have scored 15. The judge asked Dr. Thida if she wish to comment.

In a lengthy response, Dr. Thida said that if they administered the “direct test” to the patient they might not obtain accurate results. Dr. Thida then described a test administered by Prof. Campbell about six months ago for which Dr. Thida was present:

Prof. Campbell handed Mrs. Thirith a pen and asked her whether or not she recognized it as a pen or she could use the pen to write anything. And at that time she said she did not know it, she did not know how to use it either. And when the question was asked concerning her working relationship, she refused to respond to the question. Five minutes later, since I was sitting nearby to Ms. Ieng Thirith, I held the same pen and I handed this same pen to her. I told her that before, "I saw you use the pen to write good French language, I did not know whether or not you spoke or wrote English language." And then she took the pen from me and then she wrote it down that: "I go to school."

Dr. Thida stated that Prof. Campbell then asked Ieng Thirith to draw a picture as part of the MMSE and she protested that she did not know how to draw. She recounted that after she chatted to Ieng Thirith and asked her to draw something, Ieng Thirith said she could not draw a "good picture" because she did not have a ruler to make a straight line. "That was because of the relationship I established with her," Dr. Thida said.



In response to a question from Judge Cartwright on her August 14, 2012, report, Dr. Thida said she did not administer the MMSE on that date. Judge Cartwright noted the report was "almost identical" to the July report and asked if Dr. Thida considered Ieng Thirith's mental health to be almost exactly the same on August 14 as in July. Dr. Thida said the assessment was incorporated with her previous assessment, with some questions to test Ieng Thirith's memory and observations of her physical fitness.

In response to question from Judge Cartwright, Dr. Thida said her reports were filed in accordance with their practice of treating people with mental health problems. Judge Cartwright honed in on an observation in the doctor's final report that she saw no symptoms of hallucination in Ieng Thirith. Judge Cartwright noted a section of the court-appointed experts' report in which they related being told by Dr. Thida that Ieng Thirith believed someone was sleeping in her mosquito net above her, but Dr. Thida thought it was likely a spider and therefore she did not attribute it to delusional thinking. When asked to comment, Dr. Thida noted that Ieng Thirith once said she saw an object moving on her mosquito net, which she identified as a spider, and pointed to a spider in a corner of the wall.

After an inquiry from Judge Cartwright about the frequency of examinations, Dr. Thida said they had completed 11 reports but treatments were more frequent. "We also talked to the guards who reported that she did not sleep very well and she became very angry and shouted, and we along with other treating doctors would then come to assist and examine her condition immediately," Dr. Thida testified.

Judge Cartwright sought clarification on a section of the August 14 report that said Ieng Thirith's nurse told Dr. Thida that Ieng Thirith continued to rant, but not as extremely as before. Dr. Thida said she obtained additional information from nurses and doctors who examined Ieng Thirith's

condition daily. Judge Cartwright asked if the witness saw Ieng Thirith ranting or shouting at staff or hitting the door of her cell. Dr. Thida said she had never seen or experienced such behavior and had "good communication" with Ieng Thirith. Dr. Thida said examinations of Ieng Thirith usually took place monthly, for one to two hours depending on the circumstances. Judge Cartwright noted Dr. Thida's reports consistently stated that she saw no signs of dementia or delusion, no hallucinations and no apparent risk of self-harm. Dr. Thida confirmed this was correct during the entire period she assessed Ieng Thirith.

"Indirect Tests" Probed by Trial Chamber

Judge Cartwright inquired if Dr. Thida administered the MMSE on other occasions besides the test in July, to which Dr. Thida responded that "indirect tests" were administered because if original tests were used they would never receive results due to a lack of cooperation from Ieng Thirith. Dr. Thida confirmed that she only administered the full MMSE on Ieng Thirith on July 12. Dr. Thida said that because Cambodians have a low educational background, using the English test in the book was difficult. Dr. Thida said they had to be flexible and "modify" the test slightly but remained "faithful" to the original.

That does not apply to every patient, because some patients have higher background in education, and for that we do not need to modify the test a lot, but for the people with low background of education, then we have to modify greatly to make sure that it can be administered.

Judge Cartwright noted that Ieng Thirith was "highly educated" and inquired as to why a modified test was used with her, to which Dr. Thida stated that she felt the test would be administered differently to patients who are highly educated but not relevant to court proceedings.

Judge Cartwright requested that Dr. Thida guide her through the different sections of the test she administered in July. Starting with the section entitled "Orientation," Judge Cartwright asked if Dr. Thida followed the MMSE guidelines in scoring Ieng Thirith. Dr. Thida said she did, but noted in the report that Ieng Thirith did not recall the exact date and only the fact that it was the rainy season. On the topic of "Registration," Judge Cartwright summarized that Dr. Thida gave Ieng Thirith a score of three points on a test where she was asked to name objects in her room. Dr. Thida agreed and noted that she asked Ieng Thirith to identify a glass, fruit, and socks.

Judge Cartwright then asked how Dr. Thida assessed "Attention and Calculation." Dr. Thida said she followed the "original test," in which Ieng Thirith scored four points. Ieng Thirith was asked to subtract seven from 100 and to subtract five minutes from the time on her watch, Dr. Thida said. Judge Cartwright read from the August 29 report in which the court-appointed experts understood Dr. Thida to say that Ieng Thirith could correctly read the time, but they countered that this was not indicative of orientation in time, which should be assessed by asking specific questions about "day, date, month, season, and year" without any assistance. In response, Dr. Thida said Ieng Thirith was not only asked to look at her watch but to subtract five minutes from the time, which she did consistently well.

Judge Cartwright turned to the "Recall" section, noting that the doctor seemed to have asked Ieng Thirith which items she pointed to earlier in the test and asking if Ieng Thirith performed well. Dr. Thida said Ieng Thirith could only recall two of the items, missing the socks. Finally, Judge Cartwright turned to the "Language" section, in which Ieng Thirith was asked to name items, draw figures, respond to directions such as "close your eyes," write the name of the doctor, and participate in a physical test involving a piece of paper. In response to Judge Cartwright, Dr. Thida confirmed that Ieng Thirith performed well on this part of the test: she closed her eyes, wrote Dr. Thida's name, and drew well despite having no ruler.

Judge Cartwright sought clarification on an earlier comment from Dr. Thida, asking if the fact that Ieng Thirith's status as a suspect at the ECCC influenced the way in which she administered the

MMSE. Dr. Thida explained that she believed if Ieng Thirith knew the test was assessing her memory she would not cooperate to the best of her capacity and that she did not explain the test to Ieng Thirith prior to administering it.

Trial Chamber Scrutinizes Witness Credentials

Noting Dr. Thida's testimony that she studied medicine in Phnom Penh in the 1980s, Judge Cartwright posed a series of questions about Dr. Thida's educational background. Dr. Thida testified that after the fall of the Khmer Rouge, she attended secondary school from 1979 to 1980 and was permitted to skip a grade because she was a good student. She was allowed to study medicine, which she did from 1981 until 1983. Dr. Thida said she was not educated during the Khmer Rouge period and was a student in "Grade 3" prior to the Khmer Rouge taking power in 1975.

Dr. Thida said she did not study in the United States, but participated in a part-time training program on psychotherapy for two weeks a month over three years from 2007 to 2009 from Minnesota, where lecturers from Australia and the U.S. came to Cambodia and trainees received a certificate upon completion. Dr. Thida testified that mental health qualifications entail the study of psychiatry and psychotherapy and confirmed that she studied psychiatry during the three-year course, which included a subject on dementia and Alzheimer's disease. Dr. Thida further testified that she studied medicine for six years to obtain her medical degree^[16] and she had treated people that she believed suffered from dementia or Alzheimer's disease. There are many patients at the Khmer-Soviet Friendship Hospital, Dr. Thida concluded.

Turning to Dr. Thida's knowledge of scientific literature, Judge Cartwright asked if Dr. Thida could note any recent literature she had studied on dementing illnesses, in particular Alzheimer's disease. Dr. Thida said the doctors studied many publications and journals, including those on neurology, and she reviewed scientific literature almost every day because she also taught students. Judge Cartwright asked the doctor if she knew of the tenth edition of the World Health Organization's *Diagnostic Guidelines of the International Classification of Diseases* (ICD-10) to which the court-appointed experts had referred the Trial Chamber. Dr. Thida said that since 1998 when she started studying psychology, the ICD-10 and DSM-4 (Diagnostic and Statistical Manual of Mental Disorders) were fundamental guidelines.

Defense Counsel for Ieng Thirith Examine Chak Thida



After the bench handed the defense the floor, National Co-Lawyer for Ieng Thirith Phat Pouv Seang began his questioning by asking Dr. Thida about how she

established a "good relationship" with her patients, what the term meant, and on what sources she based her reports. Dr. Thida replied that upon arriving at the detention facility she would inform Ieng Thirith of the purpose for the meeting, they would chat, and she would ask Ieng Thirith about her life and wellbeing in the facility. Ieng Thirith would complain sometimes of pain in her knees and show her swollen leg. Dr. Thida said she was informed of Ieng Thirith banging on the door with her walking stick, along with other information, by treating doctors and nurses. Dr. Thida testified that she had no regular schedule for visiting Ieng Thirith but she may increase her visits from monthly to once a week or fortnight if Ieng Thirith was having problems and that Ieng Thirith never refused to see her. "Instead if I have not visited her in sometime, then she would ask why I was not around," Dr. Thida testified.

Mr. Pouv Seang asked if Dr. Thida had noted any change since first examining Ieng Thirith in February 2011. Dr. Thida said last year there were reports of Ieng Thirith yelling at staff members but she had recently undergone a physical recovery and such behavior had reduced substantially. Mr. Pouv Seang inquired if Dr. Thida had noticed an odor of urine in Ieng Thirith's room from Ieng Thirith urinating in her bed. Dr. Thida said she never noted this problem when she examined Ieng Thirith, but she read and heard that such an incident only just occurred when foreign experts came to the facility. Dr. Thida confirmed to Mr. Pouv Seang that the last time she saw Ieng Thirith was in her cell on August 14 and that she did not notice the odor of urine.

Nothing from one of Dr. Thida's reports that Ieng Thirith addresses her by name, Mr. Pouv Seang asked how she introduced herself. Dr. Thida said that she initially had to name herself but on other occasions she did not have to, because Ieng Thirith was familiar with her. When Mr. Pouv Seang commented that this was "strange" because Ieng Thirith sometimes did not recognize her husband or her counsel, International Senior Assistant Co-Prosecutor Tarik Abdulhak objected to Mr. Pouv Seang testifying from his personal experience. President Nonn reminded Mr. Pouv Seang that he should be putting questions to the witness.

Turning to the MMSE, Mr. Pouv Seang inquired if Dr. Thida informed Ieng Thirith of the purpose of modifying the test. Dr. Thida said the question was repetitive, stating that she did not inform Ieng Thirith that the test was being administered. Dr. Thida also stated that she did not obtain any other expert reports while preparing her reports. When asked by Mr. Pouv Seang if she ever heard that Ieng Thirith refused to see her counsel and then went to bed, Dr. Thida replied that she heard this report from the nurse and said she sometimes had to wait until Ieng Thirith had a bath, for example, before meeting with her.

International Co-Lawyer for Ieng Thirith Diana Ellis sought clarification on when Dr. Thida first began full-time study of psychiatry. Dr. Thida said that when she was the head of a health center in 1997, she attended a two-week training session and worked at a rehabilitation center until 1998, before later attending the aforementioned three-year course. Dr. Thida confirmed that she had engaged in psychiatry, psychotherapy, and psychology.

Ms. Ellis asked if Dr. Thida had worked as a doctor at Calmette Hospital at any point. The witness said she was working at the Khmer-Soviet Friendship Hospital when the president of Calmette Hospital requested that she participate in assessing Ieng Thirith's mental health status as they had no psychiatric specialists, and she voluntarily joined the group to treat the accused. Ms. Ellis inquired if Dr. Thida was aware of a March 2009 letter addressed to the Trial Chamber on concerns about Ieng Thirith's behavior in the detention facility. Dr. Thida replied that she only took on the case in February 2011. In response to Ms. Ellis, Dr. Thida said she had never seen a November 22, 2009, report by Professor Ka Sunbaunat and Professor Philip Brinded^[17] and had not been told anything about it.



Ms. Ellis asked if, at the time, Dr. Thida was aware she was treating somebody thought to have 'mild cognitive impairment', to which the witness responded that she was told to assess Ieng Thirith's behavior, which was described to her as strange. When asked about CT scans performed on Ieng Thirith, Dr. Thida said she had seen the scans and knew there were signs of brain atrophy but they were deemed mild.

After Dr. Thida confirmed that she was present with Prof. Campbell during a meeting with Ieng Thirith on August 25, 2011, Ms. Ellis asked if the purpose of Dr. Thida's presence was to allow Prof. Campbell to be there while Ieng Thirith's memory was tested by a familiar doctor. Dr. Thida said she took part in the assessment during which Prof. Campbell and Ieng Thirith sat face-to-face at a table and she sat in the background.[18] Dr. Thida said she was later asked to administer the test while Prof. Campbell and others sat in the background. In response to queries from Ms. Ellis, Dr. Thida confirmed that she participated in a teleconference with Prof. Campbell and other doctors prior to the examination to discuss reducing Ieng Thirith's anti-psychotic medication, which the patient had taken for years including before her detention. Ms. Ellis inquired if, during that discussion, Prof. Campbell said the anti-psychotic drugs possibly exacerbated Ieng Thirith's underlying cognitive impairment and Dr. Thida was anxious to ensure that if symptoms resulted from the reduction that a suitable prescription be supplied. Dr. Thida confirmed both statements.

Ms. Ellis asked why Dr. Thida was concerned that Ieng Thirith should maintain medication for psychotic symptoms if she did not believe her to be mentally ill. Dr. Thida said that the dose administered was believed to be low-level and should be maintained if possible, but they eventually agreed that adjustments should be made. Dr. Thida said doctors in Bangkok had prescribed the medication to Ieng Thirith and she might have been mentally affected by her detention, experiencing stress or anxiety.

Citing previous expert reports, Ms. Ellis asked if Dr. Thida ever discussed with her colleagues how they came to a "wrong conclusion" on Ieng Thirith's health status in her opinion, noting that Drs. Huot Lina and Koet Chhunly worked at the Khmer-Soviet Friendship Hospital. Dr. Thida said she was not involved in the conclusions of other experts. Ms. Ellis said a doctor from Calmette Hospital – in an October 9, 2011, report – and the head of the detention facility noted that Ieng Thirith's memory had worsened over 2011. When asked if she discussed other peoples' experiences with them, Dr. Thida said they might have had a different opinion at that time.[19] When asked to explain how her finding that Ieng Thirith is suffering from no mental illness or dementia differed so much from that of her colleagues, Dr. Thida said the assessment was based not just on her data but supported by that of treating doctors and people who cared for Ieng Thirith.

Referring to Dr. Thida's testimony that Ieng Thirith may have been more responsive to her as a female doctor, Ms. Ellis asked if Dr. Thida was aware that her female guards have encountered difficulties with her behavior. Dr. Thida said Ieng Thirith felt more comfortable with a female doctor and would ask them to wait while she was bathing but would not allow access in that situation to a male doctor.

Turning to Dr. Thida's testimony that Ieng Thirith began speaking loudly to staff and striking the door when she learned she was about to be released, Ms. Ellis inquired when Ieng Thirith learned this matter. Dr. Thida testified that the court was then considering if Ieng Thirith would be released or remain in detention and staff at the detention facility said she would like to leave. When asked if she ever heard of Ieng Thirith packing her clothes and saying she wanted to go to the market, Dr. Thida said she heard of this once and noted that she once saw Ieng Thirith dressed neatly and she told Dr. Thida that she was waiting for someone to pick her up to leave together. Ms. Ellis questioned whether such behavior ever indicated to Dr. Thida that Ieng Thirith lacked understanding of her situation and surroundings. Dr. Thida said Ieng Thirith might have been experiencing "intensifying stress," and while she did not know where Ieng Thirith obtained information about being released, she believed anyone would be excited upon hearing such news.

Ms. Ellis inquired why Dr. Thida thought when Ieng Thirith said she thought "someone" was sleeping above her in her mosquito net that Dr. Thida thought it must be a spider. Dr. Thida recounted another incident in which Ieng Thirith said children were making noise and disturbing her and pointed to the window where some nurses were talking to each other outside of the room. When Ms. Ellis sought the location of paper on which Ieng Thirith drew a figure and wrote a name, Dr. Thida said she did not keep them.

Ms. Ellis questioned whether the doctor was trained to modify a test such as the MMSE. Dr. Thida said she had studied the tests but applied it in professional practice, explaining that some patients did not understand the test instructions and the tests had to be modified slightly.

Finally, Ms. Ellis inquired if Dr. Thida felt that she should reassess her views on Ieng Thirith's health status given the expert evidence and observations, Dr. Thida asserted that she had never received an assessment from doctors or nurses that Ieng Thirith was suffering from dementia.

Prosecution Questions Chak Thida

National Assistant Co-Prosecutor Song Chorvoin began questioning of Dr. Thida by the prosecution by asking about her educational background. In response to a series of questions, Dr. Thida said she considered herself clever at mathematics and computing, and at the time she sat for the high school exit exam there were not many students who did so and she was ranked first out of 300 students. Dr. Thida stated that she had practiced her profession since 1998 and learned on the job and she currently teaches university students in the department of psychology.



Ms. Chorvoin inquired about the details of establishing of a relationship with patients. Dr. Thida responded that this process involved studying a patient's behavior from the outset and noted that a proper result was often achieved once trust developed. She said they had to introduce themselves warmly at the beginning of a conversation, identify themselves, their specialization, and their purpose for being there, before delving into the patient's welfare and later summarizing the discussion at the conclusion. In response to Ms. Chorvoin, Dr. Thida said Ieng Thirith called her "Thida" and never addressed her by her surname.

Turning to Dr. Thida's prior testimony, Ms. Chorvoin asked if the doctor stood by the score of 24 out of 30 on the test she administered. Dr. Thida said she stood by both the test and result. Ms. Chorvoin inquired as to whether Ieng Thirith's actions in yelling at staff and using her crutch to hit the door resulted from age or illness. Dr. Thida said these events could have been caused by stress due to prolonged detention or by the fact that she wanted to get out of the detention facility. Ms. Chorvoin asked if Ieng Thirith could dress herself properly, to which Dr. Thida said Ieng Thirith was a "very neat lady," never did up her blouse buttons incorrectly, and liked to comb her hair when Dr. Thida visited. Dr. Thida further noted in response to the prosecution that she never noticed Ieng Thirith having problems with going to the toilet. As Ms. Chorvoin began to ask questions what Ieng Thirith told Dr. Thida of her past, President Nonn reminded the prosecution to refrain from asking repetitive questions. Dr. Thida said that generally Ieng Thirith could only recall the names of two of her children and she talked about her grandchildren who visited her.

When Ms. Chorvoin asked about Ieng Thirith's consumption of media, Dr. Thida said that Ieng Thirith once read to her a document that appeared to be in the form of news in accurate French, which she then folded with other pages into her purse. Dr. Thida recalled that Ieng Thirith watched television and read newspapers.

In response to a final question from Ms. Chorvoin about the modification of MMSEs, Dr. Thida said that they respected the principles of giving scores for given questions.[\[20\]](#)

Rather than asking additional questions at this time, International Senior Assistant Co-Prosecutor Tarik Abdulhak requested that Dr. Thida be supplied with copies of various expert reports on Ieng Thirith's health status with a view to possibly seeking additional comment from her during the proceedings.

Civil Party Lawyers Briefly Question Chak Thida

National Civil Party Lead Co-Lawyer Pich Ang commenced his examination by asking Dr. Thida if she consulted with other doctors before making modifications to tests she administered. Dr. Thida responded that the modification involved making adjustments to the test to make it flexible enough to suit the circumstances and that tests had to be administered in consultation with other doctors. She said their approach to modifying the test had been "substantiated by foreign doctors" who said such flexibility was acceptable, provided the faithfulness of the test was maintained. Dr. Thida further testified that the results of such tests administered to Cambodian patients were "very good" and that in some cases the original tests could be administered.^[21] When Mr. Ang inquired how results from the tests administered to Ieng Thirith were communicated to other doctors, Dr. Thida said that normally after results were obtained, the doctors would discuss them among the group. For example, they would discuss, when another doctor examining Ieng Thirith asked her the same questions, if the result would be the same, Dr. Thida said.

At this point, President Nonn adjourned the day's proceedings, which are set to continue on Friday, August 31, 2012, at 9 a.m. with a second hearing on the fitness to stand trial of accused Ieng Thirith.

[1] Dr. A. John Campbell is one of the experts on whose behalf Dr. Seena Fazel is testifying on Thursday, August 30, and Friday, August 31, 2012 at the ECCC.

[2] A June report by Dr. A. John Campbell on Ieng Thirith can be found at:http://www.eccc.gov.kh/sites/default/files/documents/courtdoc/E62_3_6_EN.PDF. Transcripts of preliminary hearings in August on fitness to stand trial can be found at:<http://www.eccc.gov.kh/en/document/court/transcript-preliminary-hearing-fitness-stand-trial-29-august-2011>; <http://www.eccc.gov.kh/en/document/court/transcript-preliminary-hearing-fitness-stand-trial-30-august-2011>; <http://www.eccc.gov.kh/en/document/court/transcript-preliminary-hearing-fitness-stand-trial-31-august-2011>;

[3] ECCC Internal Rule 89^{ter} on *Severance* – adopted February 23, 2011 – reads: "When the interest of justice so requires, the Trial Chamber may at any stage order the separation of proceedings in relation to one or several accused and concerning part or the entirety of the charges contained in an Indictment. The cases as separated shall be tried and adjudicated in such order as the Trial Chamber deems appropriate." ECCC Internal Rules (Rev. 8) may be found at:<http://www.eccc.gov.kh/en/document/legal/internal-rules-rev8>.

[4] The Trial Chamber's decision can be found at:http://www.eccc.gov.kh/sites/default/files/documents/courtdoc/E138_EN.PDF.

[5] The prosecution's immediate appeal against the Trial Chamber's decision to order the release of Ieng Thirith can be found at:http://www.eccc.gov.kh/sites/default/files/documents/courtdoc/E138_1_1_EN-1.PDF. The prosecution's supplementary submissions on their appeal can be found at:http://www.eccc.gov.kh/sites/default/files/documents/courtdoc/E138_1_4_EN-1.PDF.

[6] The Supreme Court Chamber's decision can be found at:http://www.eccc.gov.kh/sites/default/files/documents/courtdoc/E138_1_7_EN-1.PDF.

[7] The dissenting opinion of Supreme Court Chamber Judge Chandra Nihal Jayasinghe can be found at: http://www.eccc.gov.kh/sites/default/files/documents/courtdoc/E138_1_7.1_EN.PDF.

[8] Judge Cartwright later mentioned that experts recommended Ieng Thirith be administered with another medicine, specifically Rivastigmine. It was unclear if the administration of this medicine to Ieng Thirith also stopped on April 30, 2012.

[9] In the Trial Chamber's "Decision on Ieng Thirith's fitness to stand trial" (November 17, 2011), Dr. Huot Lina is said to practice at the Khmer-Soviet Friendship Hospital, along with Dr. Koet Chhunly.

[10] Dr. Thida appeared to testify that she was trained in psychiatry from 1997 to 2011. The English translation was unclear.

[11] The year seemed to have been mistranslated into English as Dr. Thida repeatedly testified later that she began treating Ieng Thirith in February 2011.

[12] Drs. Seena Fazel and Huot Lina were two of the court-appointed psychiatric experts.

[13] Judge Cartwright noted that the Trial Chamber requested experts to reassess Ieng Thirith and report on whether there was further treatment that might improve her condition, possibly enabling her to be fit to stand trial. This request was made after the Supreme Court Chamber's appeal judgment.

[14] Judge Cartwright read the article title as follows: "Donepezil in patients with severe Alzheimer's disease: double-blind, parallel group, placebo-controlled study."

[15] In the Trial Chamber's "Decision on Ieng Thirith's fitness to stand trial" (November 17, 2011), the MMSE is described as "a common test for assessing cognitive impairment."

[16] The dates are not entirely clear, as the English translation of Dr. Thida's testimony said she studied medicine from 1981 to 1983.

[17] Ms. Ellis said that Profs. Ka and Brinded diagnosed Ieng Thirith with mild cognitive impairment and some paranoid thinking in 2009.

[18] This appeared to be the same examination with Prof. Campbell referred to by Dr. Thida earlier in her testimony.

[19] When Dr. Thida was responding to this question, the English translation was unclear.

[20] When Dr. Thida was responding to this question, the English translation was unclear.

[21] Dr. Thida mentioned referring to *Clinical Psychiatry* 2nd edition at this point in her testimony.