



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

10 January 2012
Trial Day 12

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

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I N D E X

THE ACCUSED, MR. NUON CHEA

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MR. ANG UDOM	Khmer
JUDGE CARTWRIGHT	English
MR. CHAN DARARASMEY	Khmer
MR. DE WILDE D'ESTMAEL	French
MR. KARNAVAS	English
MR. KLAN FIT (TCCP-185)	Khmer
MR. KONG SAM ONN	Khmer
JUDGE LAVERGNE	French
MR. LYSAK	English
MR. NEKUIE	French
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. NUON CHEA	Khmer
MR. PESTMAN	English
MR. PICH ANG	Khmer
MR. ROMAM YUN (TCCP-123)	Khmer
MS. SIMONNEAU-FORT	French
MR. SMITH	English
MR. SON ARUN	Khmer

1

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

2 (Court opens at 0906H)

3 MR. PRESIDENT:

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

5 We continue hearing evidence concerning Case File 002.

6 [09.08.02]

7 By late December 2011, the last session was on -- the session
8 when the accused person Nuon Chea was being questioned with
9 regard to the first segment of the relevant facts, including the
10 historical background of the Communist Party of Kampuchea, the
11 session has not yet been concluded. That is why the Chamber is
12 going to question Mr. Nuon Chea this morning.

13 Security personnels are now instructed to bring the accused
14 person Nuon Chea to the dock.

15 (The accused Nuon Chea is taken to the dock)

16 [09.09.13]

17 MR. PESTMAN:

18 Your Honours, may I take this opportunity, while my client is
19 preparing for his testimony, to make some brief remarks, to raise
20 one issue?

21 MR. PRESIDENT:

22 Counsel for Nuon Chea, you may now proceed.

23 MR. PESTMAN:

24 Thank you very much, Your Honours. Good morning. I would like to
25 raise one issue.

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1 Yesterday, I received the usual press clippings which are
2 distributed within this Court, and in one of the articles
3 mentioned in these press clippings, Prime Minister Hun Sen was
4 quoted, during a press conference which took place last week, in
5 Vietnam. At this press conference, he allegedly said, according
6 to one of the journalists present at this conference, that Nuon
7 Chea's statements in court, in December, had been "deceitful".
8 That's the word he used, according to the journalist. And
9 moreover he called Nuon Chea, our client, a "killer" and a
10 "perpetrator of genocide".
11 This is a very clear statement about the guilt of Nuon Chea by a
12 high government official in Cambodia, and as such it constitutes
13 a clear violation of our client's rights to a fair trial and,
14 more specifically, our client's right to be presumed innocent
15 until found guilty by a court. It's not up to the Prime Minister
16 to decide whether my client is guilty; it's up to you, the Judges
17 in this court.
18 [09.11.30]
19 There's a famous case at the European Court for Human Rights, the
20 case of *Allenet de Ribemont* against France, which has interesting
21 points in common with this particular issue, and I encourage the
22 Court to have a look at that -- at that decision of the Court.
23 The Court -- the European Court said that the remarks made by a
24 public official in that case about the guilt of the Accused
25 "encouraged the public to believe that the Accused was guilty"

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1 and that they pre-judged the assessment of the facts by the
2 judicial authorities, the court that had to decide upon the issue
3 or the guilt of that particular accused.

4 [09.12.30]

5 Remarks like this, made by a high public official, put undue
6 pressure on this Court, on any court, to convict, and with it
7 they undermine the independence of the Judges in the Court.
8 And certainly, in this country, which has a notoriously weak
9 judiciary, these remarks -- and it is our strong position --
10 require a very strong response by this Court.

11 And we request you to officially condemn these statements which
12 prejudice our client and violate his rights to a fair trial, and
13 ask the Prime Minister to refrain from such remarks in the
14 future. It's up to you, and it's very important that Your Honours
15 defend the integrity of this Court, at least what is left of it.

16 Thank you.

17 (Short pause)

18 [09.14.40]

19 MR. PRESIDENT:

20 Before we proceed to the Co-Prosecutors to put questions to the
21 accused person Nuon Chea, the Chamber would like to rule on the
22 objection by counsel for Nuon Chea concerning the application of
23 the electronic file that was challenged during the last session
24 of the hearings in December 2011.

25 [09.15.28]

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1 The Trial Chamber notes the defence objection requesting that a
2 copy of the "Revolutionary Flag" not be admitted into evidence,
3 as it lacks authenticity. This document is document D243/2.1.12.

4 The Trial Chamber notes that, apart from the fact that the
5 document is a copy of -- a copy, the defence has not further
6 specified its claim.

7 Pursuant to Rule 87.1, the Trial Chamber has a broad discretion
8 when documents are placed before the Chamber. The Chamber is not
9 satisfied that the document fails within one of the categories of
10 Rule 87.3. The document is relevant and susceptible to
11 confirmation and, therefore, may be placed before the Chamber,
12 pursuant to Rule 87.1.

13 Therefore, the Trial Chamber accepts the document.

14 The Trial Chamber stresses that the objections raised by the
15 defence are a matter of which will be concerted -- or conceded by
16 the Trial Chamber at the end of the trial, when considering the
17 entire body of the evidence.

18 [09.17.29]

19 We would like now to proceed to the - to the prosecutors. But we
20 note that Nuon Chea would like to have some observation.

21 NUON CHEA:

22 Mr. President, my health is deteriorating. May I request that,
23 first, the hearing should continue only in the morning session
24 where I can be questioned? May I be excused from the afternoon
25 session because I feel too tired to attend the afternoon session

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1 as well? I am afraid that if my health does not allow me to do
2 so, if I try to do that, it will affect my heart and my brain.
3 So, may it please the Court, I ask that I be excused from
4 attending the session -- or to have the hearing on me in the
5 afternoon.

6 [09.18.34]

7 MR. PRESIDENT:

8 Thank you, Mr. Nuon Chea, for indicating this clear position
9 regarding your participation in answering the questions by the
10 parties in the session. And with regard to your health condition,
11 the Chamber will take it for consideration and that we will
12 ensure that you have enough energy and healthy enough to
13 participate in the future trial sessions.

14 The Co-Prosecutor, you may now proceed.

15 MR. SMITH:

16 Good morning, Your Honours. Good morning, Counsel.

17 Your Honours, in relation to today, we were informed on Friday
18 that witnesses 185 and 123 would be heard this morning, and I'm
19 just wondering whether--

20 [09.19.35]

21 MR. PRESIDENT:

22 Could you please hold on and please be seated for a moment?

23 Just now, Judge Lavergne has observed that the translation of the
24 decision that I have - I have just read, with regard to the
25 defence objection, is needing clarification, so I would like to

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1 give the floor to Judge Lavergne to make it clear in the French
2 rendition.

3 JUDGE LAVERGNE:

4 Thank you, Mr. President. Just to be clear about the meaning of
5 the decision that was handed down orally by the Chamber, the
6 Chamber was responding to an objection raised by the defence,
7 relating to the use in this Chamber of an issue of "Revolutionary
8 Flag". And under Rule 87.1, this evidence may be used in the
9 Chamber, and its evidentiary value would be reviewed at a later
10 stage. So the thrust of this decision is that we can consider
11 that this piece of evidence has been put to the Chamber in a
12 valid fashion.

13 MR. PRESIDENT

14 Thank you, Judge Lavergne, for this clarification.

15 (Judges deliberate)

16 [09.22.58]

17 Judge Cartwright, you may now proceed.

18 JUDGE CARTWRIGHT:

19 Yes, Mr. Smith, just dealing with your comments a few moments
20 ago, I anticipate that you were going to ask that we reverse the
21 order again; no? Right.

22 [09.23.14]

23 Well, just by way of explanation, it appears that at least one of
24 the civil parties is feeling a little unwell this morning, due to
25 the travel that they have undertaken. And that, combined with the

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1 comments that Nuon Chea has just made about being better in the
2 mornings, suggests to the Trial Chamber that it would be better
3 to have this order. And I hope -- I'm sure you're able to
4 accommodate that. So that is the reasoning behind the unexpected
5 change. Thank you.

6 MR. SMITH:

7 Thank you, Your Honours. And I was just wondering whether you
8 would be able to say when you expect witness 185 and 123 to be
9 heard.

10 And perhaps just one further point, in relation to the counsel
11 for Nuon Chea's statement in relation to the Prime Minister's
12 remarks. The prosecution has the utmost faith with this Trial
13 Chamber that no statement made by any member of the public or
14 public official will interfere with your duty as independent
15 judges to make a finding on the evidence, and not on allegations
16 in newspapers or any other place. Thank you.

17 (Judges deliberate)

18 [09.25.23]

19 MR. PRESIDENT:

20 Mr. Nuon Chea, you may proceed.

21 MR. NUON CHEA:

22 May I just confirm, with regard to the "Revolutionary Flag"?
23 This "Flag", which is shown to me now, has been typed, but in the
24 reality, the "Revolutionary Flag" that was produced during that
25 period of time was written by hand, or handwriting - handwritten,

8

1 rather, and later on reprinted from that handwritings, but this
2 document in front of me is the typed version. So there is a great
3 discrepancy between the two versions, the version that was
4 handwritten and the one that was typed. So I can see that right
5 in front of me is the version that has been typed rather than the
6 one that was handwritten.

7 [09.26.51]

8 At that time, I did not think there was a typewriter, and that's
9 why the flag was handwritten and later on reproduced into 20 or
10 30 copies to be distributed for readers. So I can see that this
11 document is not really the original source of the "Revolutionary
12 Flag." That's all from me, Your Honours.

13 MR. PRESIDENT:

14 Counsel for Nuon Chea, you may now proceed.

15 MR. SON ARUN:

16 Good Morning, Mr. President, Your Honours, and the Court.

17 [09.27.47]

18 I am of the opinion that, indeed, it is the discretion of the
19 Court to rule whether the document is admissible -- accepted or
20 not. But I would like to add on top of what Nuon Chea has just
21 indicated.

22 As far as the Court procedure's concerned, here we have
23 Co-Judges, the Judges who are also Cambodians, and that the
24 document that produced before the Court shall be accepted -
25 admissible. Because I have already had this experience working

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1 with the Court for the last 20 years or so: the document that has
2 been copied for the Court would not be accepted unless the
3 original version of the document be produced.

4 I would like to ask a question whether these procedures is
5 already now changed or reversed from that at the National Court,
6 because, before the National Court, documents without its
7 original source would not be accepted before the Chamber, but
8 here, I can -- it is my understanding that the document -- the
9 copies of the document without original source have already been
10 accepted. I would like to really object such application or
11 admission of the document before this Court, Your Honours, with
12 all due respect.

13 [09.29.34]

14 MR. PRESIDENT:

15 Thank you, Counsel, for expressing your position.

16 We have not heard your clear position so far, until this morning,
17 with regard to the application of the documents, whether the
18 documents are consider put before the Chamber and whether this
19 practice is the same as the practice at the national level, with
20 regard to the application or admission of documents.

21 [09.30.06]

22 So far as I remember, on the day when Mr. Nuon Chea challenged
23 the document firstly, we indicated that documents, electronic
24 documents in particular, that are filed before the Chamber, the
25 documents themselves are about half a million pages altogether by

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1 way of estimation. So the Chamber would like to also see how,
2 indeed, we can use these electronic applications of documents and
3 the hard copy of the documents.

4 We have already dealt with the issues from Case 001, and now we
5 are proceeding to Case 002, and the documents that we -- that
6 have been put before the Chamber are mainly those that have been
7 electronically put. That's why you, perhaps, feel that the
8 document that's shown before you electronically lack its original
9 source, or perhaps there will not be the original source that you
10 can see now because the hard copy of the original document could
11 have been kept somewhere in the safe archives of the court. So
12 the document, now, before every one of us here, is the electronic
13 version; the hard copy or the original version of it could have
14 been stored and kept at another location of the court.

15 [09.32.10]

16 At international courts or tribunals, such practice are very
17 common when the courts use electronic means for the communication
18 of documents to parties and for the purpose of the proceedings.
19 The Chamber has already ruled on this, and this decision cannot
20 be reversed.

21 The Co-Prosecutor, you may now proceed with the questioning
22 session to Nuon Chea.

23 QUESTIONING BY MR. LYSAK RESUMES:

24 Thank you, Mr. President. Good morning, Mr. Nuon Chea.

25 Perhaps it would be appropriate to start by trying to clarify

11

1 some background issues regarding "Revolutionary Flag", raised by
2 the statement that you just made.

3 [09.33.32]

4 Q. Is it correct that the Party first started publishing
5 "Revolutionary Flag" following the First Party Congress, in 1960?
6 Is that correct?

7 MR. NUON CHEA:

8 A. Mr. President, no, it is not, because the "Revolutionary Flag"
9 was done before the Geneva Accords because after -- my apology,
10 after the Geneva Convention - rather, the Geneva Accords, the
11 situation became very chaotic. There were people who confessed,
12 there were people who surrendered or who ran away from the
13 battlefields, and so, during that time, the Standing Committee
14 had to come up with the method to calm down the Party members.
15 And that was the reason why the "Revolutionary Flags" were
16 created.

17 But as I have said, during that time, we had nothing but to write
18 on papers and to publish those writings and distribute them to
19 everyone to read. The document was to be studied in order to
20 build confidence amongst the nationalists and among the
21 revolutionary. So we had, again, nothing to do but to come up
22 with this "Revolutionary Flag". So this is the rationale behind
23 the "Revolutionary Flags".

24 And after we had these "Revolutionary Flags," that is after the
25 liberation, there were printing house, we had the "Red Flag."

12

1 [09.36.34]

2 The contents of the "Red Flag" and the "Revolutionary Flag" were
3 similar. For the "Red Flag" we had five flags, but for the
4 "Revolutionary Flag" there was only one.

5 This is what I want you to be informed, Mr. President, and that's
6 all from me.

7 Q. Thank you. Let me just follow up on a few of those things to
8 make sure we're clear.

9 [09.37.11]

10 You're stating that "Revolutionary Flag" was published starting
11 in the 1950s, after the Geneva Accords, and it continued through
12 the Democratic Kampuchea period or at least until the Democratic
13 Kampuchea period; is that correct?

14 A. The "Revolutionary Flag" was published before the Democratic
15 Kampuchea. At the time, the name was not -- the name of the
16 country was not the Democratic Kampuchea.

17 Q. In the period prior to April 1975, was the publication
18 handwritten during that period?

19 A. Before the 17 April 1975, as I remember, there were - there
20 were "Revolutionary Flags," but they were created secretly. As I
21 have said, after the Geneva Accords, the spiritual situations, as
22 I say again, again if I am permitted to say so, became very
23 chaotic and fragile. That is why we had to do whatever we can in
24 order to make the situation became -- become normal again.

25 Q. What I'm asking, Mr. Nuon Chea, is whether there was a period

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1 where this publication was handwritten and then a period where it
2 was published in a typed format.

3 [09.39.27]

4 You just indicated that, after 17 April 1975, there was a
5 printing house that published "Revolutionary Flag".

6 So my question is: During the period there was a printing house,
7 is it correct that the document was published as a typed
8 document?

9 A. When there was a printing house, there were also "Red Flags."
10 We postponed publishing the "Revolutionary Flags" at that time or
11 we changed that to the "Red Flags." The flag was in red, as I
12 remember.

13 Q. My question is: During the period there was a printing house,
14 were these documents published as typed documents rather than
15 handwritten documents?

16 A. The "Flags" were no longer handwritten; they were printed.

17 Q. So it was in the period prior to 17 April 1975 that these
18 documents were handwritten; is that correct?

19 [09.41.27]

20 A. It was prior to 1975. After the liberation, we were not able
21 to prepare that. We had to look for someone who was skilful in
22 printing documents. It was many years ago; I don't really
23 remember.

24 MR. PRESIDENT:

25 Yes, Counsel Son Arun?

14

1 MR. SON ARUN:

2 Mr. President, as I listen to the Co-Prosecutors, I'm not sure
3 whether Mr. Co-Prosecutor is mistaken. He's going backward and
4 forward.

5 [09.42.35]

6 I think Mr. Nuon Chea indicated already that the "Revolutionary
7 Flags" were written -- were handwritten prior to 1975. Those
8 "Revolutionary Flags" were handwritten, and there were not many
9 copies. But after 1975, there were "Red Flags", and those "Red
10 Flags" were typed.

11 So I'm making this clear because this is what I just indicated,
12 that he was examined by the doctor this morning, and it was found
13 that his blood pressure is 16.5. So I'm just asking that the
14 Co-Prosecutors ask Mr. Nuon Chea straight to the point and do not
15 backward and forwards.

16 MR. PRESIDENT:

17 Thank you, Counsel. However, I would like to remind Mr. Son Arun
18 that you should use proper words, and I do not think you should
19 use any derogatory words to address to other parties. I have
20 reminded every parties before about using words, and as of now we
21 have noted that counsel still use words that are not proper. It
22 is not a legal point that you should use a bad word to address to
23 other parties.

24 [09.44.25]

25 Mr. Co-Prosecutor may continue his questioning. The counsel is

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1 not objecting to your question, he's only indicating his
2 position, he's only confirming the point regarding to the
3 question you asked earlier.

4 BY MR. LYSAK:

5 Q. Turning to another issue that you've raised, which is the
6 number of flags on the cover of the publication, you've indicated
7 that there were five flags on the cover of "Revolutionary Flag",
8 that there was another publication called -- that you called "Red
9 Flag" that had one flag.

10 Am I also correct that there was a publication called
11 "Revolutionary Youth" that had two flags on the cover? Is that
12 correct?

13 MR. NUON CHEA:

14 Mr. President, the Co-Prosecutor asked the same question. Do you
15 permit me to answer the same question?

16 [09.46.08]

17 MR. PRESIDENT:

18 That's because you don't answer the question clearly. I want you
19 to listen to the question carefully and answer the question
20 clearly. This is a principle of questioning in the Court. When it
21 comes to-- Rather, the Chamber is mindful of any questions that
22 are repetitive or useless.

23 So you are instructed to answer the question now.

24 MR. NUON CHEA:

25 A. Mr. President, when there was a printing house, we no longer

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1 published the "Revolutionary Flag;" we published the "Red Flag"
2 to replace the "Revolutionary Flag." This is my short answer.

3 BY MR. LYSAK:

4 Q. My question, Mr. Nuon Chea, is: Was there also a publication
5 called "Revolutionary Youth" that had two flags on the cover?

6 MR. NUON CHEA:

7 A. Mr. President, I do not remember that.

8 Q. Mr. Nuon Chea, another issue of "Revolutionary Flag" that was
9 previously shown to you and put before the Chamber by Judge
10 Cartwright, which is the December 1976 to January 1977 special
11 issue, which is Case File Number D243/2.1.9 -- And, Mr.

12 President, if we could have permission to put the cover page of
13 that on to the screen for everybody. And I also have a hard copy
14 for Mr. Nuon Chea, if we could give that to him.

15 MR. PESTMAN:

16 Excuse me, can we ask for assistance because we have no screen?
17 We cannot see the "Revolutionary Flag" on the screen.

18 [09.49.22]

19 MR. PRESIDENT:

20 May the Co-Prosecutor show the document that you intend to show
21 on the screen so that the parties and the Chamber can examine it?

22 (Short pause)

23 [09.50.13]

24 MR. PESTMAN:

25 I'm sorry, I still have not -- I haven't got the document on my

17

1 screen. I can see the other people have it, but we haven't got it
2 on our screen.

3 MR. LYSAK:

4 It looks like it's just come on the screen, Mr. President.

5 MR. PESTMAN:

6 Oh, it's on the other screen.

7 Thank you very much.

8 [09.50.45]

9 BY MR. LYSAK:

10 Q. The document that we are showing to you, which was put --
11 submitted to you by Judge Cartwright and put for the Court last
12 month, has five flags on the cover, Mr. Nuon Chea.

13 Is this the couch standard cover page for the "Revolutionary
14 Flag" publication that you indicated has five flags on the cover?

15 MR. NUON CHEA:

16 A. Mr. President, if I'm not mistaken, this "Revolutionary Flag"
17 was also published in red; not in black.

18 [09.52.00]

19 Q. Yes. You understand, Mr. Nuon Chea, this is a black and white
20 photocopy. You're -- you're indicating that the original versions
21 of these documents, the flags were red; is that correct?

22 A. Mr. President, the "Revolutionary Flag" was published in red.
23 The flags are in red; that is why they are called "Red Flags".

24 Q. And it was published as a booklet, like a book that would then
25 be opened up and read, not like -- so that, if you look at the

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1 later pages of this document, you'll see that they were -- what
2 we have done is copy the individual pages, but the actual
3 publication itself, as I think you indicated before the break,
4 was published as a -- as a booklet; is that correct?

5 A. Mr. President, allow me to answer this question. The
6 "Revolutionary Flags" were published in booklets.

7 [09.53.41]

8 Q. And could you also look at the very last page of this
9 document, Mr. Nuon Chea? And if we could show the last page of
10 the Khmer original on the screen, which is Khmer ERN 00063058.

11 MR. PRESIDENT:

12 Court officer, you are instructed to assist Mr. Nuon Chea so that
13 he could see the last page that the Co-Prosecutor intends Mr.
14 Nuon Chea to see and read.

15 (Short pause)

16 [09.55.38]

17 MR. NUON CHEA:

18 These printing letters are very small, but the letters published
19 in the "Revolutionary Flag" were bigger. I'm talking about the
20 letters. These letters are so small. As I remember, these are not
21 the original letters.

22 BY MR. LYSAK:

23 Q. Mr. Nuon Chea, the page I'm asking about doesn't have any --
24 any letters on it; it's the back page of the publication and it
25 has a -- All it has on it is a small picture of a single flag

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1 with a hammer and sickle. Do you see that page? It's Khmer ERN
2 00063058.

3 [09.56.57]

4 My question, Mr. Nuon Chea -- That page is now on the screen
5 also. My question is: Did the "Revolutionary Flag" booklet
6 typically have on the very back cover a picture of a single flag
7 like that, with a sickle and hammer? Is that correct?

8 MR. NUON CHEA:

9 A. Mr. President, it was a long time ago, and I don't remember
10 it.

11 Q. Thank you. I'm going to now turn to some questions relating to
12 the First Party Congress.

13 You have indicated, I believe, in your opening statement, that
14 there were three matters that were decided at the September 1960
15 Party Congress: first, the strategic and tactical lines of the
16 Party; second, the Party Statute; and, third, the appointment of
17 the leadership committees.

18 So I would like to ask you, first, some questions relating to the
19 appointment of the leadership committees at the First Party
20 Congress.

21 [09.58.40]

22 Again, in the opening statement you made back in November, you
23 indicated that Tou Samouth had been appointed Party Secretary and
24 you were appointed Deputy Secretary at the 1960 Congress. And you
25 added - quote: "Pol Pot and other comrades" - end of quote --

20

1 were appointed members of the Standing and Central Committee.

2 So my first question for you is whether you could please identify
3 for the Chamber the other comrades who were appointed to the
4 Standing and Central Committee at the 1960 Congress.

5 A. Mr. President, I am afraid I cannot really fully understand
6 the question of the Co-Prosecutor in detail, but I can actually,
7 if I'm allowed to, describe this a bit.

8 MR. PRESIDENT:

9 Indeed, you are allowed to do that.

10 MR. NUON CHEA:

11 Mr. President, in 1959, Sieu Heng, the Secretary of the Party,
12 joined Lol Nol because at that time there was a need to crack
13 down all the forces, and that Sieu Heng had financial difficulty
14 in his family and that the Party had no secretary.

15 [10.00.59]

16 Back then, there were -- Tou Samouth, Saloth Sar, Mey Mann and I,
17 myself, Nuon Chea, were the people who came together and decided
18 that our Party, in 1962, had to defect from the Communist Party
19 of Indochinese controlled by the Party.

20 It has been a very long story, and I'm afraid that we do not
21 really have time to do that -- to elaborate further on this.

22 Back then, there were Cambodia, Laos, and Vietnam who were in the
23 Indochinese Party led by the Vietnamese. Later on, the Party was
24 divided into three parties: the Communist Party of Vietnam, Lao
25 Dong, and Communist Party of Kampuchea and the Laos Party, or the

1 Revolutionary Party of Laos.

2 [10.02.39]

3 Indeed, although the parties were divided into separate - or
4 separately, still we were under the supervision of Vietnam. Tou
5 Samouth, Saloth Sar alias Pol Pot and I, myself, along with Mey
6 Mann -- Mey Mann has already passed away -- discussed among
7 ourselves how to free ourselves from Vietnamese domination,
8 because Vietnam was managing everything back then. Even the
9 circulars, directives were all issued by people at Hanoi from the
10 North.

11 [10.03.51]

12 After such discussion, we divided our tasks, roles and
13 responsibilities, as Tou Samouth was the most senior person and
14 that he was not given any title yet. Indeed, when I joined the
15 revolution in 1951, I did not really know that he was given any
16 title as yet, but I could see that he was not having any actual
17 title. So we agreed that Tou Samouth would be appointed as the
18 President and I would be in charge of managing, or supervising,
19 and controlling the situation at the rural areas, when Pol Pot
20 and Mey Mann would control situation in Phnom Penh, so that we
21 could really devise the strategic and tactical lines, as I
22 already indicated earlier on.

23 [10.05.12]

24 After some consideration, we noted that, at the rural areas, the
25 oppression was severe.

22

1 Exploitation was widespread. The interest rate was too extreme--

2 MR. PRESIDENT:

3 Mr. Nuon Chea, could you please be reminded that this information
4 has already been indicated by you, and the Co-Prosecutor, so far
5 as we know, did not really ask you to go back all the way to that
6 part. The Co-Prosecutor only would like to know whether the
7 congress -- who were the other cadres appointed for the Central
8 and Standing Committees, apart from Pol Pot. That is the
9 question. Could you please be straight to that point?

10 [10.06.39]

11 MR. NUON CHEA:

12 I think if as short as the President is asking me now, I would be
13 straightforward as I can. I actually do not remember the names of
14 those people, but I remember cadres for the Standing and the
15 Central Committee, in which Tou Samouth was the Secretary, and
16 Nuon Chea as the Deputy Secretary in charge of education and
17 communication with the Vietnam -- Party of Vietnam, and, three,
18 Saloth Sar was in charge of intellectuals, and Mey Mann was--
19 I am afraid that I have to really tell the detail of the internal
20 affairs of the Party. Mey Mann, at that time, had to quit the
21 Party because he was married and he could not really stay longer,
22 or stay put with the Party. There were only three people, three
23 of us who would continue our work. So there were only three.

24 [10.08.05]

25 And the three of us made contacts with former cadres. And indeed

1 I already talked about this. We convinced the cadres from the
2 East, from the Southwest, and the Northwest, and those from the
3 North, as well, to join us. And I think this point has already
4 been made clear.

5 MR. PRESIDENT:

6 Thank you. The Co-Prosecutor may now proceed to another question.
7 In order to expedite the questioning sessions, because there are
8 still a lot of facts to be discussed and there will be several
9 other hearing sessions, we would like the Prosecutor to make sure
10 that the questions are very short and straightforward to the
11 point.

12 [10.09.19]

13 The translation team, or interpreters, are advised that any
14 rendition of the question must be precise as well. Otherwise, the
15 question that have already been clear could be mis-rendered and
16 that the people who -- expected to answer the questions may
17 elaborate on the short questions rather than answering straight
18 to the point. So please be reminded about this. We would like to
19 try our best to avoid taking too much time on each question.

20 Thank you.

21 The Prosecutor may now proceed.

22 [10.10.08]

23 BY MR.LYSAK:

24 Q. Thank you, Mr. President. Was Mr. Ieng Sary appointed an
25 alternate or full rights member of the Standing Committee at this

1 1960 Congress?

2 MR. NUON CHEA:

3 A. Mr. Ieng Sary was in the Standing Committee. I think I
4 recollect it. Son Sen was also in the Standing Committee. Apart
5 from them, So Phim was the secretary of zone and Ta Mok, who
6 later on constituted -- make up a Standing -- a Central
7 Committee, rather.

8 Q. Were So Phim and Ta Mok appointed to the Standing Committee at
9 the 1960 Congress?

10 A. So Phim was appointed before Ta Mok was appointed. It was only
11 in 1963 when Ta Mok was appointed to the Committee.

12 [10.11.57]

13 Q. Can you recall any other persons who were appointed to the
14 Central Committee at the 1960 Congress?

15 Let me give you a few names to see if that refreshes your memory.

16 Mr. Keo Meas; was he appointed a member of the Central Committee
17 at the 1960 Congress?

18 A. At the outset, Keo Meas was in the Central Committee as well.
19 Later on, however, Keo Meas was too open in -- among the mass, so
20 he could not be trusted in dealing with secret or confidential
21 matters of the Party. That's why he was asked to quit from the
22 Committee.

23 Q. When was he asked to quit from the Central Committee?

24 A. I do not recollect the date, but it was about one year after
25 that.

1 Q. Was Vorn Vet appointed to the Central Committee at the 1960
2 Congress?

3 A. So far as I recollect, yes, he was. He was appointed to the
4 Central Committee in 1960.

5 Q. What about a cadre from the Koh Kong region named Prasith,
6 whose revolutionary alias was Chong? Was he present and appointed
7 to the Central Committee in 1960?

8 A. These people were at the Zone Committee's level, they were not
9 yet appointed to the Central Committee level.

10 Q. To help you refresh your recollection and help us to identify
11 some of these people, Mr. Nuon Chea, I'd like to show you now a
12 photograph that's in the case file as D313/1.2.237, which has an
13 ERN Number P00416593.

14 [10.15.56]

15 Mr. President, if I could put that onto the screen so that
16 witness -- so that mister -- the Accused can see that?

17 MR. PRESIDENT:

18 Indeed, the Chamber allows the document to be projected on the
19 screen.

20 MR. ANG UDOM:

21 Mr. President, Mr. Ieng Sary's health condition is not very good.
22 Can he be allowed to consult with the on-duty medical
23 practitioner?

24 [10.16.54]

25 MR. PRESIDENT:

1 Security personnel is now instructed to bring Nuon Chea to the
2 medical unit -- Mr. Ieng Sary, rather.

3 (The accused Ieng Sary exits courtroom)

4 [10.17.]

5 MR. NUON CHEA:

6 I think that there were Koy Thuon, Ney Sarann that I remember.

7 Apart from these, I think I can also identify another person who
8 has a new name as well, but -- No, I am sorry, I cannot really
9 see the picture very clearly to identify him.

10 BY MR. LYSAK:

11 Q. Mr. Nuon Chea, why don't we go through this picture in order
12 so the record is clear? Starting with the top row - I correct,
13 the person on the very far right, that is Saloth Sar, alias Pol
14 Pot?

15 A. Do you refer to the person who is sitting on the chair or
16 remain standing?

17 Q. I am asking about the people standing in the top row. The
18 person on the far right, that is Pol Pot; correct?

19 [10.19.37]

20 A. I think it's not him.

21 Q. Do you recognize yourself in this photograph?

22 A. Mr. President, even my photo, I do not even remember me in the
23 photo.

24 Q. Mr. Nuon Chea, again, on the top row, the person who is four
25 persons in from the left standing next to Koy Thuon, is that not

1 you?

2 A. I think the person in the photo is not me. But there is a
3 person who was a professor who looks really like me.

4 [10.21.22]

5 Q. And now you have indicated that you did -- do recognize Koy
6 Thuon in this photo. Am I correct that he is the person standing
7 third from the left? Is that correct?

8 A. Yes, he is Koy Thuon.

9 Q. And the person who is standing, who is second from the left,
10 is that Ta Mok?

11 A. I think back then Ta Mok was younger, and I do not remember
12 whether it is him.

13 Q. Let me ask you about the person standing who is third from the
14 right, with the glasses. Is that Son Sen?

15 A. I think it is not the photo of Son Sen.

16 Q. Do you see So Phim in this photograph? Is he the gentleman who
17 is sitting - sitting in the middle of the photograph?

18 A. I don't find him in the photo.

19 Q. Do you recognize the location at which this photograph was
20 taken?

21 A. No, I don't.

22 [10.24.03]

23 Q. Let me show you another photograph that was taken from a
24 little further back, where you can see the entire building, to
25 see if that helps you to identify this location.

28

1 Mr. President, I'd like to show photograph D313/1.2.236, which is
2 ERN P 00416592 at this time.

3 MR. PRESIDENT:

4 Court officer is now instructed to put the document on the
5 screen.

6 (Short pause)

7 [10.25.28]

8 BY MR. LYSAK:

9 Q. Mr. Nuon Chea, do you recognize this location? Specifically,
10 was this one of the Party offices that was located in the Chinit
11 -- near the Chinit River in the early 1970s?

12 MR. NUON CHEA:

13 A. I am afraid I do not remember.

14 Q. Let me ask you about the posters that appear on the stage, in
15 this photograph.

16 Am I correct that the two persons in the posters to the left of
17 the flag on the stage -- Is that Marx and Engels?

18 [10.26.32]

19 A. Yes, I do remember them. I remember the man with beard.

20 Q. And the two persons in the photo to the right of the flag on
21 the stage, am I correct that that is Lenin and Stalin? Is that
22 correct?

23 A. I do not find them in this photo.

24 Q. Do you not see the photos on the right side?

25 MR. PESTMAN:

1 Your Honours, I can see that the photo is not completely on the
2 screen.

3 MR. NUON CHEA:

4 A. Indeed, on the other screen, I could see Stalin and another
5 person. But I remember Stalin because I can see his moustache and
6 beard -- sorry, not beard, moustache, Stalin.

7 BY MR. LYSAK:

8 Q. Can you tell us why there were photographs of Marx, Engels,
9 Lenin, and Stalin on the stage, at this meeting?

10 [10.28.14]

11 A. It is really a common tradition of Communist parties all
12 across the world to exercise this setting and to use this setting
13 for any meeting.

14 Q. Were Stalin and Lenin considered role models for your
15 revolution?

16 A. We studied based on the Marxist-Leninist principles. But in
17 reality, in our practice, we were flexible enough not to fully
18 follow all the principles set by those people.

19 Q. Am I correct that the person who is standing and speaking on
20 the stage, in this photograph, is Pol Pot?

21 A. I have been trying very hard to look at the photo, but since
22 he was rather young back then, perhaps I cannot really recognize
23 whether he actually is in this photo.

24 Q. Do you recognize yourself sitting on the stage, to the right
25 of Pol Pot, in this photograph? Just to clarify, to the right

1 side of the photo.

2 A. I don't recognize him. It was a long time ago.

3 Q. One last question, looking at this photograph: Do you
4 recognize whether this meeting was a Party Congress or a meeting
5 of the Central Committee?

6 A. Mr. President, no, I do not remember that.

7 Q. You've identified So Phim as one of the people who was
8 appointed to the Standing Committee in 1960.

9 [10.31.39]

10 When did you first meet So Phim?

11 A. Mr. President, I first met So Phim in the East.

12 Q. Do you recall when that was?

13 A. Mr. President, no, I do not recall that. It was many years
14 already.

15 Q. Did you and So Phim receive political training together in
16 Vietnam, in 1953 or 1954?

17 A. Mr. President, no, we never.

18 Q. Were you the one who recruited So Phim to rebuild the Party in
19 the East Zone?

20 A. Mr. President, it was not me who appointed him. It was the
21 Central Committee who appointed him.

22 Q. Did you recruit him to the Party or the Central Committee, Mr.
23 Nuon Chea?

24 A. Mr. President, I did not appoint So Phim to work in the Party,
25 and I did not appoint him to be the zone secretary.

1 [10.33.44]

2 He was a senior revolutionary. He worked – he worked even before
3 me.

4 Q. Could you describe for the Chamber your relationship with So
5 Phim, Mr. Nuon Chea?

6 A. Mr. President, I can't – I can briefly describe that.

7 [10.34.28]

8 Let me go back to an earlier date, if I am permitted. After the
9 Geneva Accords, So Phim or other major leaders were looked by the
10 enemies. So Phim came to work as a carpenter and he was intended
11 to communicate with Pol Pot, not with me.

12 MR. ANG UDOM:

13 (No interpretation)

14 MR. PRESIDENT:

15 Yes, Counsel Ang Udom?

16 MR. ANG UDOM:

17 Your Honours, after the doctor has already examined Mr. Ieng
18 Sary, he is now seeking your leave to participate the proceedings
19 from the holding cell downstairs for this morning sessions from
20 now on. Thank you, Mr. President.

21 MR. PRESIDENT:

22 The Chamber grants the request by Ieng Sary's counsel who waives
23 his rights to be present in the courtroom and to follow the
24 proceedings from the holding cell downstairs, but the Chamber
25 directs the counsels to submit the written waiver to the Chamber,

32

1 and the waiver must be signed by the accused Ieng Sary.

2 [10.36.55]

3 After the medical examination, security guards are instructed to
4 bring the accused Ieng Sary to the holding cell downstairs for
5 him to follow remotely -- follow the proceedings remotely, and to
6 check that the equipments are functional so that the Accused can
7 fully participate the proceedings.

8 Mr. Co-Prosecutor, you may proceed. Can you continue, Mr.
9 Accused?

10 Well, it is now an appropriate time to ask to adjourn. The
11 Chamber announce a 20-minute break, and we will resume after that
12 with the hearing of evidence. The Court is now adjourned.

13 (Court recesses from 1038H to 1058H)

14 (The accused Nuon Chea is taken to the dock)

15 [11.03.10]

16 MR. PRESIDENT:

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

18 We would like to hand over to the prosecutor to put further
19 questions to the accused person Nuon Chea.

20 BY MR. LYSAK:

21 Thank you, Mr. President.

22 Q. Mr. Nuon Chea, we were discussing the First Party Congress
23 held in 1960.

24 Can you tell us how many representatives of the Party attended
25 the first congress that was held in 1960?

1 MR. NUON CHEA:

2 A. At that time, in 1960, the situation was still confidential
3 and secret, so only the head of the zones or the chairmen of the
4 zones were invited to attend the meeting. There were about six to
5 seven people only. These people were representing their zones
6 respectively.

7 [11.05.22]

8 Q. Previously, Mr. Nuon Chea, when you had your discussion with
9 Khem Ngun, you indicated that there were a total of 10 to 15
10 representatives who were present.

11 And I would also note that, in the September 1977 "Revolutionary
12 Flag", there is a statement that there were -- quote -- "14
13 peasant representatives in charge of work in different rural
14 areas, and seven representatives of the cities, 21 delegates in
15 all". For the record, I am citing to document D243/2.1.12,
16 English ENR 00486226, French ERN 00492811, and Khmer ERN 00063135
17 to 63136.

18 Does that refresh your recollection that there were closer to 20
19 total representatives who came to the First Congress?

20 [11.06.55]

21 A. I don't remember.

22 Q. In any event, you agree that it was a relatively small number
23 of representatives that were invited to the first congress; is
24 that correct?

25 A. May I ask that the question is repeated? Because I don't

1 understand it.

2 MR. PRESIDENT:

3 Could International Co-Prosecutor put the question again?

4 BY MR. LYSAK:

5 Q. Am I correct that it was a relatively small number of people
6 who were invited to the First Congress? Whether it was seven or
7 20, it was a small number only that were invited; correct?

8 MR. NUON CHEA:

9 A. May I ask a question back? What kind of meeting are you
10 referring to, please? I would just like to ask to the President
11 whether it was the meeting or the congress.

12 [11.08.39]

13 Q. Mr. Nuon Chea, we are talking about the congress that was held
14 in September 1960.

15 A. The congress of 1960 was joined about six to seven people
16 only.

17 Q. Where was the congress held?

18 A. It was held at the train station, at a house belong to a
19 person whose name I don't remember. He has passed away already.

20 Q. Was that Ok Sakun?

21 A. Yes, it's correct.

22 Q. That was the same Ok Sakun who later became the Democratic
23 Kampuchea representative to UNESCO in Paris; is that correct?

24 A. I don't remember all this.

25 Q. Do you know if that was the same Ok Sakun that Khieu Samphan

1 identified in his comments, last month, as the person who
2 convinced him to join the Marxist Circle in Paris? Is it the same
3 person?

4 A. That one I cannot also remember.

5 [11.11.11]

6 Q. How long was the Congress?

7 A. It was taking place for about three days - no, not "about",
8 for three days.

9 Q. And is it correct that all the representatives stayed and
10 slept at Ok Sakun's house for that entire three days and three
11 night period? Is that correct?

12 A. Yes, it is.

13 Q. You've told us the people that you recall that were appointed
14 to the Standing and Central Committees at the congress.

15 Can you tell us the procedure by which people were appointed to
16 the Central and Standing Committee at the Congress? Was there
17 voting or -- How was it that people were appointed to the
18 committees?

19 A. So far as I remember, the zone would nominate them -- ask them
20 to attend the congress. The congress then eventually appointed
21 them.

22 Q. Was the procedure for appointing people the same collective
23 decision process that you described to us last month?

24 A. The appointment would be collectively. Only when it is - it
25 was approved by collective that any appointment would take place.

36

1 [11.13.48]

2 Q. Now I'd like to ask you about some of the Party lines that
3 were approved at that first congress.

4 In your opening statement, you indicated that one of the matters
5 that was discussed and decided at the 1960 Congress was an
6 analysis of the true nature of Kampuchean society and how to
7 eliminate feudalism.

8 At this point, I'd like to show you a statement from the
9 September 1977 "Revolutionary Flag" discussing that analysis of
10 Kampuchean society by the 1960 Congress. Your Honours, if we may
11 have permission to put up on the screen, this is document
12 D243/2.1.12 at English ERN 486229, French ERN 492814 and Khmer
13 ERN 63139.

14 MR. PRESIDENT:

15 The document is now allowed to be put up on the screen.

16 (Short pause)

17 [11.16.18]

18 MR. NUON CHEA:

19 I think I cannot really see anything on the screen.

20 MR. PRESIDENT:

21 Indeed, you could not see anything on the screen, since it was
22 not yet up on the screen. Court Officer, could you please make
23 sure that the document is now up on his screen, on Nuon Chea's
24 screen?

25 BY MR. LYSAK:

1 Q. Mr. Nuon Chea, there's two quotes from this "Revolutionary
2 Flag" that I will read to you and ask you about. The first one is
3 on the screen now, marked number 10, which is the statement that
4 - quote -- "85% of the population, the peasants, were in
5 contradiction with the exploiting class that exploited them
6 directly, the landowners".

7 [11.17.21]

8 And then the second quote that I want to show, also from the
9 September '77 "Revolutionary Flag", which is quote number 11,
10 which appears at page English ERN 486230, French ERN 492816 and
11 Khmer ERN 63140. The quote that I want to ask you about states as
12 follows:

13 "[...] this contradiction was a life and death contradiction. This
14 was a profound contradiction in Kampuchean society, one which
15 impacted 85% of the population. It was for this reason that the
16 First Party Congress defined this contradiction as an
17 antagonistic contradiction."

18 The question I have for you, Mr. Nuon Chea, is whether you can
19 explain to the Chamber what was meant by the terms "life and
20 death contradiction" and "antagonistic contradiction"?

21 [11.18.50]

22 MR. NUON CHEA:

23 Mr. President, could I ask that the original document be
24 presented to me so that I can explain on them? Otherwise, I
25 cannot really tell you anything since I am myself ambivalent as

1 to which document has been referred to.

2 (Judges deliberate)

3 [11.20.10]

4 MR. PRESIDENT:

5 Court Officer is now instructed to approach Nuon Chea and arrange
6 the presentation of the documents that has been highlighted so
7 that he could see them clearly, the portion that have been
8 highlighted in rectangular. Only when you read the first part on
9 the previous page and the second part on the next page that you
10 can understand the full text.

11 (Short Pause)

12 [11.21.54]

13 MR. LYSAK:

14 Mr. President, the Khmer ERN page that he should be shown is
15 00063140.

16 MR. NUON CHEA:

17 It's not really acceptable for me to elaborate on this document
18 being shown to me. I need the original document. Because you
19 indicated that the original documents are kept here. Can they be
20 brought to me so that I can assure that they belong to me or not?
21 Other than that, I'm afraid I cannot accept it.

22 (Judges deliberate)

23 [11.24.27]

24 MR. LYSAK:

25 Mr. President, I think we -- on the last day of the session,

1 before we gave our hard copy of that document to Mr. Nuon Chea, I
2 think that he may have -- his counsel may have given it back to
3 us, so we are looking for it. But if I can ask him a more general
4 question while we're looking for the hard copy, in the interim?

5 MR. PRESIDENT:

6 You may proceed.

7 BY MR. LYSAK:

8 Q. Thank you. The question that I'm asking you, Mr. Nuon Chea, is
9 -- In this document and numerous other Party publications, there
10 is the use of a term, "antagonistic" or "life and death
11 contradiction", in discussing the relationship between workers
12 and peasants, on one hand, and the feudalist landowners, on the
13 other hand. I could give you six Party publications where this
14 term is used. So, aside from this specific document, can you
15 explain to the Court what the term "antagonistic contradiction"
16 or "life and death contradiction" meant?

17 [11.26.02]

18 MR. NUON CHEA:

19 A. The terms were part of the -- your interpretation, and I, once
20 again, keep insisting that the documents -- the original
21 documents -- be produced before me -- brought to me so that I can
22 assure that they are really the genuine documents of the
23 Democratic Kampuchea, before I can elaborate. Otherwise, I cannot
24 respond to your -- to the terms you emphasize, which to me is the
25 terms that you used at your own pace.

40

1 And I do not really patronize your way of interpreting the terms,
2 but I'm afraid that they are really subjective.

3 (Court officer assists the accused Nuon Chea)

4 [11.28.12]

5 I cannot accept the hard copy of the document, which are, again,
6 the copied version, not the original one. The writing is too
7 small to read.

8 [11.28.49]

9 MR. PRESIDENT:

10 Could you make any observation with regard to the wordings that
11 have already been read out to you as quoted? So what would be
12 your observation on this?

13 MR. NUON CHEA:

14 (No interpretation)

15 MR. PRESIDENT:

16 The portions, as highlighted and put to you by the prosecutor.
17 Would you wish to elaborate on this?

18 MR. NUON CHEA:

19 Mr. President, I cannot really respond to these questions if I
20 have not been provided me with the original version of the
21 documents, not the copied versions.

22 MR. PRESIDENT:

23 Thank you for your response. The Co-Prosecutor, you may now
24 proceed.

25 BY MR. LYSAK:

41

1 Q. Do you deny, Mr. Nuon Chea, that the Party, in describing the
2 relationship between the peasants and the feudalist landowners,
3 used the term "antagonistic" or "life-and-death contradiction"?
4 [11.30.16]

5 Have you ever heard the use of that term before?

6 MR. NUON CHEA:

7 A. Can I clarify? Which documents are you referring to? Or are
8 they only the documents that you have made up to challenge me?

9 Q. I'm asking you, Mr. Nuon Chea: Have you ever heard the term
10 "life and death contradiction" or "antagonistic contradiction"?
11 Are those terms that you have ever heard before today?

12 A. When did you ask me last time?

13 Q. Have you ever heard those terms, Mr. Nuon Chea? Yes or no?

14 A. I have read some documents. There were internal conflicts,
15 there were internal contradictions in -- antagonistic
16 contradiction. I recall the antagonistic contradiction is between
17 the aggressor and the country-owner.

18 [11.32.22]

19 And as for the internal contradiction, it was the contradiction
20 among the mass. It was a minor contradiction, though.

21 Q. If I understand your statement, your testimony correctly,
22 you're saying that there was two types of contradictions:
23 internal contradictions and antagonistic contradictions; is that
24 correct?

25 A. I may not be able to say it is correct or it may be incorrect,

42

1 because you are not detailing your statement either.

2 Q. You just described -- referred to something you called an
3 internal contradiction, which you indicated was a relatively
4 minor contradiction; is that correct?

5 A. Yes, that is correct.

6 Q. And you indicated that there was another type of contradiction
7 called an antagonistic contradiction, which is a more serious one
8 that existed between the peasants and landowners; is that also
9 correct?

10 A. No, it's not correct. I refer the antagonistic contradiction
11 to the contradiction between the aggressor and the country that
12 has been invaded. That is the antagonistic contradiction. The
13 stake was the loss of the country.

14 [11.34.19]

15 And when it comes to the contradiction within the country, it was
16 not a life-and-death contradiction, because the contradiction
17 could be resolved through -- or by way of discussion and
18 negotiations. So, unless we have the document to refer to, I may
19 not be able to describe it in detail.

20 Q. I'm not asking you about any particular documents now, Mr.
21 Nuon Chea. You were Deputy Secretary of the Party; you were
22 present at the first congress. I'm asking you a very simple,
23 direct question: Did the Party conclude that the contradiction
24 between the peasants and the feudalist landowners was an
25 antagonistic or life-and-death contradiction?

1 A. Mr. President, just now, Mr. Co-Prosecutor talked about the
2 contradiction between the peasant and the landowner. There was
3 detailed discussion in the document. They were not simple
4 landowners, they were brutal landowner; they were henchmen. So
5 they were not merely landowners. If the conflict or the
6 contradiction was between the simple landowner and the peasant,
7 it could be resolved, but if the conflict or the contradiction
8 was between the henchmen and the peasant, it was the
9 life-and-death contradiction.

10 [11.36.27]

11 You are talking -- you are saying not fully about the word. That
12 is why I'm demanding for the documents to refer to.

13 Q. How was it that the Party proposed to resolve contradictions
14 that were life-and-death or antagonistic contradictions, Mr. Nuon
15 Chea? How were those contradictions to be resolved?

16 A. Mr. President, to resolve -- There were different resolution
17 for the internal contradiction and the antagonistic
18 contradiction. The resolution for the invaders and the country
19 has been invaded is different. So I don't know how to answer your
20 question when you ask -- when you do not ask fully.

21 Q. You just said that there were differences in the resolution
22 depending on whether it was an internal or antagonistic
23 contradiction. Can you explain to the Court how -- what that
24 difference was?

25 [11.38.01]

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1 How were internal contradictions resolved? And how were
2 antagonistic contradictions resolved?

3 A. Let me ask you, what internal contradictions are you referring
4 to? What -- who were involved in the contradiction and who were
5 involved in the antagonistic contradiction? It was not easy. It
6 was very complicated, and so the resolutions to the contradiction
7 was very complicated. We had to be very specific. We can't
8 resolve the conflict on our own initiative.

9 Q. I'm asking about a statement you just made a few minutes ago,
10 Mr. Nuon Chea. You indicated that the resolution of the conflict
11 depended on whether it was an internal contradiction or an
12 antagonistic contradiction. I'm asking you to explain what you
13 meant by that.

14 A. Let me ask you: What contradiction are you talking about?

15 Q. You stated a few minutes ago that there were -- how a conflict
16 was resolved depended on whether it was an internal contradiction
17 or an antagonistic contradiction.

18 [11.39.51]

19 I'm asking you to explain what you meant by that. What did -- how
20 were these different contradictions resolved?

21 A. You should ask me this clear. To resolve the internal
22 conflict, we held discussions, education, study sessions among
23 us, basically. It was done by way of negotiations to find out the
24 root of the problems, what was the cause of the problems, what
25 was the negative and positive consequences of the problems and

1 how we could proceed to the solution of the problems. There were
2 detailed procedures to do that, and that is why I am demanding
3 the documents, so that we can refer to the document. We can't
4 just put questions -- and this is also the same when it comes to
5 the antagonistic contradiction. We had to see how big the
6 contradiction was. For example, as we are looking at the land
7 conflicts -- as we are having this day, as you can see, many
8 people have committed suicide by jumping into the river.

9 [11.41.41]

10 So we have to see the scope of the contradiction. Maybe you can
11 reflect the present situation.

12 Q. Let me read to you two more documents issued by the Party, and
13 I'll give you one more chance to explain this, Mr. Nuon Chea. In
14 a circular issued by the Party entitled "Sharpen the Ideology and
15 the Proletarian Class until it becomes Very Sharp and Strong",
16 the following statement was made: "A minor mistake can lead to
17 the antagonistic contradiction, in which situation we cannot work
18 and live together". Continuing on: "The conflict must be solved
19 according to the situation and type, whether it is the internal
20 conflict or the life-and-death one."

21 [11.42.43]

22 That is a quote from case file number D366/7.1.56 at Khmer ERN
23 00442476, English ERN 00743812, and French ERN 00721105. And I
24 would also refer you to the November 1976 "Revolutionary Flag",
25 which makes the following statement: "If they joined the

1 revolution to embed themselves to attack the Party, that is an
2 antagonistic contradiction and we take measures accordingly."
3 That is from Case File Document D243/2.1.8 at Khmer ERN 00064999,
4 English ERN 00455312, and French ERN 00491949. Is it correct, Mr.
5 Nuon Chea, that an antagonistic or life-and-death contradiction
6 is one in which you could no longer live and work together?

7 A. I insist again and again that unless we examined the document
8 in detail, as we are only making statements here, I couldn't
9 answer this question correctly, because ten people may have
10 different opinions. You have your own views, I have my own views.
11 You are talking based on your own view and I am talking based on
12 my own views.

13 [11.45.01]

14 So how could we arrive at agreements? That is why I insist again
15 and again that the document be shown, so that I could examine
16 whether I could claim that the document belongs to me.

17 Q. Alright, Mr. Nuon Chea, I'll move on to another Party line to
18 ask you about. In your opening statement, you described how the
19 Party adopted a strategic line to start from the outskirts areas
20 and work gradually towards the urban areas. And in your 1998
21 discussion with Khem Ngun, you stated that the Party had to be
22 built using the countryside as a support base and the city as the
23 fuse.

24 [11.46.05]

25 What did you mean by that?

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1 A. Who are you referring to? Who is that Khem Ngun? I never knew
2 this person. Ngun? What is his last name again?

3 Q. We've discussed him a number of times, Mr. Nuon Chea. You had
4 a -- what you called a chit-chat with a Mr. Khem Ngun in 1998. Do
5 you recall stating that the Party needed to use the countryside
6 as a support base and the city as a fuse? Do you recall making
7 that statement?

8 A. May I ask for clarification whether you are talking about Khem
9 Ngun, or another person?

10 Q. Yes, that is the person I'm talking about, Mr. Nuon Chea. But
11 I'm asking about your statement.

12 [11.47.39]

13 A. According to the lines -- I'm moving back to talk about the
14 lines again and again. It's repetitious, so I will not talk about
15 that. The strategic and tactical lines -- these are what I have
16 talked earlier. It is a waste of time for me to answer your
17 question.

18 Q. Mr. Nuon Chea, what is the reason that the Party determined in
19 1960 to use the countryside as its base, rather than the cities?

20 A. Mr. President, for -- that the Party considered the
21 countryside to be the support base was because the people in
22 those areas were poor, and for them to become aware that they had
23 to work -- that's to work in order to support their lives.

24 [11.49.43]

25 So we started from the countryside. We start from the countryside

1 first, because people in the urban areas had enough to live. But
2 as you may observe, people for example in Aural, or in very
3 remote areas were very, very poor. People in Roleak Kang Cheung,
4 for example, were very, very poor. They couldn't have even
5 clothes to cover their body. That is why we began our work with
6 educating those people in those areas to understand the
7 situation. That was the method we used.

8 Q. And was another reason the Party selected the countryside as
9 its base because it determined that the enemies of the Party were
10 located primarily in the cities?

11 A. Mr. President, the reason why the countryside were used as a
12 support base was -- first of all -- there were no enemies in
13 those areas. The enemies were not able to go there. There were
14 only peasants. So the work could be done smoothly.

15 [11.51.47]

16 Secondly, as I said, the people there were very, very poor, and
17 if we began from there, we would provide the opportunity for them
18 to have enough to eat, and have proper clothes to wear. And so we
19 began our work from there, as people in the urban areas already
20 had enough to eat.

21 Q. Let me read to you a statement from the September 1977

22 "Revolutionary Flag", which stated as follows:

23 "Our operational line was that the countryside was the support
24 base. Why did we take the countryside as the base, and why did we
25 not take the cities as a support base? The cities could not be

1 used as a support base. Though the population there was large,
2 the cities were small, the enemy was everywhere there. The
3 assembly, the courts, the prisons, the police, and the soldiers
4 were all there. The networks of the enemy's repressive apparatus
5 were concentrated there."

6 [11.53.08]

7 This is from Document D243/2.1.12 at Khmer ERN 00063150, English
8 ERN 00486238, and French ERN 492826. Mr. Nuon Chea, was this a
9 correct statement of why the Party chose the countryside as its
10 support base rather than the cities?

11 A. As I said again and again, can you present me the document for
12 me to read with my own eyes, so that I can answer your questions?

13 Q. Mr. Nuon Chea, I can show you a copy of this page if you will
14 answer the question. But again, if you are asking us to submit
15 the originals, the Court has already ruled on that and we cannot
16 do that. So, if I show you a copy of this quote, will you answer
17 my question?

18 A. As I understand about the Court, first of all, it is to seek
19 the truth. Secondly, it is to seek justice.

20 [11.55.08]

21 This is what I have heard from what the President said. That is
22 the principle; that is the goal of this Court. So we had to have
23 everything -- we have to have everything clear, we have to have
24 everything concrete. Here the prosecutor just speaks, without any
25 concrete evidence. It is not acceptable. Our goal is to seek the

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1 truth, is to seek justice. So if you don't have the document, how
2 could we know who wrote the document, and how could we know --
3 how could we get justice? I also want the Court to seek the
4 truth, to seek the truth for the benefits of the younger
5 generation, for them to learn and to gain experiences.

6 Q. Mr. Nuon Chea, we are happy to show you the page and simply
7 ask you to read it and answer whether or not it is a correct
8 statement of Party policy. So why don't we show -- put up on the
9 screen, if we could, Mr. President, this page, which is Khmer ERN
10 0063150. It is our quote number 20. We can also give you a hard
11 copy of that, Mr. Nuon Chea.

12 [11.56.53]

13 And my question is simply whether this statement is a correct
14 statement of Party policy. Are you willing to answer that
15 question based on a copy of the document rather than the
16 original?

17 A. If you show the original, and if that is the original, I will
18 accept that, Your Honours. But if you are speaking on the basis
19 of no document, with no evidence, how could I accept it?

20 Q. Mr. President, why don't we try this one more time to show the
21 witness the relevant page, and see whether he'll answer? Again,
22 it's Khmer ERN 0063150. If we could put that on the screen?

23 (Judges deliberate)

24 [11.59.04]

25 MR. PRESIDENT:

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1 Mr. Nuon Chea, the Chamber has already ruled on this issue this
2 morning concerning the electronic documents to be used in this
3 case. All these documents are considered by the Chamber to be
4 documents -- as having been placed before the Chamber and to be
5 examined by the parties.

6 But the reason that we use electronic documents and before and
7 after the Co-Investigating Judges issue the Closing Order, no
8 defence counsel checked the documents to be placed before the
9 Chamber as has been shown to all parties and the Chamber and has
10 been put on the screen right now.

11 [12.00.33]

12 So, again, the Chamber has already ruled on this issue and
13 because the case file is big and the only ways to govern this big
14 document or the size of this document is to have it digitalized
15 -- digitized, there is no other way that we can proceed without
16 this method expeditiously. So when he gets to the document as
17 being displayed on the screen, I asked Mr. Nuon Chea to read it
18 and to express your opinion about the contents of this document.
19 I think for all the things that you have gone through in your
20 life and for the reason that no parties has filed for any
21 procedural defects concerning the documents being placed in a
22 case file, you can answer this question on the basis of your
23 experiences as you have gone through in your life.

24 [12.02.08]

25 Can you read this document? If you cannot, the Chamber will order

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1 the greffier to read the content of the document for you; the
2 document that has been shown on the screen by the Co-Prosecutor.
3 Can you make your observation on this issue, Mr. Nuon Chea?

4 MR. NUON CHEA:

5 Thank you, Mr. President, for your clear statement in order to
6 seek the truth and justice, but I -- how could I believe the
7 Court a hundred per cent? Could I believe a hundred per cent in
8 the Court if I was -- if I am not shown the original document? I
9 respect the Court because the Court is the Court of Law, is a
10 respected entity, and Judges are respected people, but I insist
11 again and again that the document -- the original document be
12 shown to me. I can't even read the document being displayed here
13 on the screen and as I read the hard copies, the letters are
14 very, very small. So I thank you very much, Mr. President,
15 respectfully yours.

16 MR. PRESIDENT:

17 Counsel?

18 MR. PESTMAN:

19 Yes, thank you. Thank you, Your Honour.

20 [12.04.16]

21 I think the position of my client is very clear. He is
22 challenging the authenticity of the digitally-produced documents.
23 He's willing to look at the original documents to assess their
24 authenticity and to be absolutely clear, we have many times
25 objected to the admission of these documents in this trial. We

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1 have always said that the authenticity has to be established and
2 I understand that the documents have been admitted with your
3 decision this morning to the trial, but that doesn't mean that
4 they are authentic. And were to be used as evidence, the
5 authenticity has to be established.

6 I understand there is going to be a debate next week. Maybe you
7 can postpone this discussion until next week when this is going
8 to be put on the agenda. And if it's not on the agenda, we can
9 put it on the agenda. Thank you.

10 [12.05.07]

11 MR. PRESIDENT:

12 Is there any other party who would wish to observe on this?

13 MR. SMITH:

14 The learned counsel has it correct. I think next week has been
15 set aside to discuss the admissibility of documents. We would be
16 asking Your Honours to advise Mr. Nuon Chea that his failure to
17 answer questions in relation to copies of the documents may, in
18 fact, place less weight on his evidence at the end of the case.

19 That's what we will be submitting at the end of the case.

20 In relation to whether or not copies -- original documents are
21 required in order for copies to be admissible. Your Honours have
22 correctly stated that under international criminal law at the
23 other tribunals, originals are not required to be presented
24 unless there is a significant doubt as to their authenticity. At
25 this stage, Your Honours, as you know, the defence have not put

1 forward, prior to -- prior to the Accused raising it, any
2 specific indicators that this document or other documents the
3 prosecution have put forward are, in fact -- the copies are not,
4 in fact, authentic copies. So we would ask that it is not
5 required that originals be brought to this Court.

6 [12.06.59]

7 We've provided in our filings international jurisprudence to that
8 effect that originals are not required and one of the reasons for
9 that, of course, is that the hearing can come to a standstill if
10 every accused said, "I will not comment on a document unless the
11 original is brought forward." There's got to be a reasonable and
12 significant basis to assume that the copy that's being shown is,
13 in fact, not a copy of the original. Just the fact that the
14 Accused states: "I need to see the copy -- I need to see the
15 original", that cannot be a reason to make the Court produce
16 those documents because then the trial will be brought to a
17 standstill.

18 As Your Honours are aware, on the case file there are about
19 12,000 documents and the prosecution has put forward about four
20 and a half thousand for the first phase of this case. If the
21 Accused has the right to bring forward every original of those
22 four and a half thousand documents without placing -- without
23 providing the Court a reasonable basis for that other than, "I
24 would just like to see the original," the case law of
25 international tribunals does not support that and they don't

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1 support it because it will extend -- it would bring the trial to
2 a standstill and there would not be expeditious justice.

3 [12.08.24]

4 The defence has to provide a far more reasoned and comprehensive
5 argument about why this document and other documents need to be
6 brought forward. Your Honours have given the defence -- the Nuon
7 Chea defence the opportunity to do that. They have failed to do
8 that in the -- in their written pleadings. Your Honour has seen
9 that. And simply at the whim of an accused that every original be
10 brought to the Court, that doesn't further the interest of
11 justice; it only lengthens the process to a point that the trial
12 will not be expeditious.

13 [12.09.02]

14 So we reject the defence objection that originals are required to
15 be brought forward, unless there is a significant argument made
16 as to the document not being what it purports to be; namely, a
17 copy of the original. And the defence nor the Accused have not
18 done that and so we would ask Your Honours just to proceed on the
19 basis of copies and if the Accused decides not to answer
20 questions on the basis of those copies, then we will be
21 submitting to Your Honours at the end of the case that less
22 weight be placed on the Accused evidence on the particular issues
23 which he doesn't decide to comment on bearing in mind he has
24 taken the stand and has decided to give evidence. Thank you.

25 MR. PRESIDENT:

1 Counsel for Ieng Sary, you may proceed.

2 MR. KARNAVAS:

3 Good morning, Mr. President. Good morning, Your Honours, and good
4 morning to everyone in and around the courtroom.

5 [12.10.08]

6 A couple of points.

7 The International Co-Prosecutor failed to note that normally in
8 the international tribunals there is some sort of a procedure as
9 to where the documents came from so while they may not
10 necessarily require the originals -- the original documents to be
11 placed before each witness, there is some sort of a custodian who
12 would come and testify or they would do it by way of a motion. We
13 have filed submissions indicating that we wish the authenticity
14 of documents to be established before being used. It was a
15 general submission and, granted, it would appear that we will get
16 to that next week, but I think the onus is on the prosecution to
17 establish where these documents came from and when they were
18 copied, how were they copied, and so on. So that's my first
19 point.

20 [12.11.19]

21 The second point that I have, which goes to the testimony, in the
22 manner in which the evidence is being taken today: it started off
23 with -- and I apologize for being late, but as I walked in, the
24 question that was being posed was with respect to the 1960
25 Congress. Then he -- the prosecutor, that is -- began to ask a

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1 general question about policy never eliciting from Mr. Nuon Chea
2 what exactly was discussed to get his evidence, what if any
3 policies was set forth, but rather, he then jumps forward some 17
4 years, refers to a document, and then wants to validate what's in
5 the document in order to establish that back in 1960 there were
6 policies set in place.

7 And so I would submit, Your Honours, that this is a waste of
8 time. The prosecution has Mr. Nuon Chea and they should simply
9 ask him what was discussed during that three-day period in 1960,
10 what policies, if any, were discussed, what programs were set in
11 place. I think that's the -- that's the -- that should be the
12 beginning. And then, if he wishes to impeach Mr. Nuon Chea with
13 some document, then he can go ahead and do so. But in my opinion,
14 I don't think it's fair to sort of mention 1960 then somehow talk
15 about policies in order to later on argue that in 1960 certain
16 policies were set in place because something was written some
17 place. Because we -- during that 17-year period, there is an
18 entire dynamic; the situation is very fluid.

19 And I don't think that the sort of questioning that is being
20 posed, especially the leading nature of them, gets us anywhere;
21 at least it doesn't get us any closer to the truth. And that, I
22 think, is why we are here. Thank you.

23 [12.13.44]

24 MR. PRESIDENT:

25 We proceed with counsel for Nuon Chea first.

1 MR. PESTMAN:

2 Thank you very much. Very briefly, the prosecutor suggested that
3 my client has not given specific -- or not very specific
4 objections against the documents which were shown to him today.
5 He has said about the "Revolutionary Flag" several things to
6 suggest that these documents -- these copies are not copies of an
7 original document or authentic document. He has said that, as far
8 as he remembers, the "Revolutionary Flag" pre-1975 was
9 handwritten. He also said that the "Revolutionary Flag" was
10 replaced by the "Red Flag" after 1975 and the "Red Flag" was a
11 printed document. He looked at the printed copy of the digital
12 version of the document and he said the letters were -- are too
13 small, I remember them being much bigger. He also said it was
14 printed in red not in black and he also said it had the shape of
15 a booklet and he has given very specific information about what
16 he remembers those documents look like.

17 [12.14.50]

18 I think these objections are specific enough to justify the
19 shifting of the onus as the prosecutor is suggesting and it's up
20 to the prosecutor now -- and I agree with my colleague that it's
21 up to the prosecutor now to show that these documents are
22 authentic. And part of this showing is also that they have to
23 prove the chain of custody and it's really not up to us to prove
24 that; it's up to the prosecutor, we cannot prove that.

25 MR. PRESIDENT:

1 Counsel Kong Sam Onn, you may now proceed.

2 MR. KONG SAM ONN:

3 Thank you, Mr. President. I would like to make a general
4 observation. The procedure concerning the presentation of the
5 document has been observed. It is relevant to the case of my
6 client, as well, if it is not properly addressed now.

7 [12.15.58]

8 First and foremost, I have observed that the -- the
9 authentication of the documents does not necessarily refer to the
10 copy of the versions. Indeed, the documents have to be copied for
11 the facilitation of the smooth proceeding within the Court. As
12 the President indicated, there was huge number of documents to be
13 presented; however, the question is whether such copy has been
14 made genuinely; whether the genuine source of the document has
15 been well maintained.

16 The documents that presented by the prosecutors have been copied
17 time and again, not just once, so the genuine -- the origin of
18 the document may has lose its value by layers and layers of
19 photocopy. We also need to know whether such documents have been
20 properly copied, whether it is proper to make such copy, and that
21 documents, after all, can be accepted to be put before the
22 Chamber.

23 [12.17.32]

24 With regard to the writings on the documents that Nuon Chea
25 indicated that he could not read them, I think this has been

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1 contributed to the fact that the documents have been copied
2 several times and that because the technique in copying the
3 documents has not been done properly, the final product could not
4 be well read. And may I suggest that if Nuon Chea himself cannot
5 read the document, can he be assisted by his counsel or the
6 greffier to read out the portion to him?

7 MR. PRESIDENT:

8 Counsel for the civil parties, you may now proceed.

9 MS. SIMONNEAU-FORT:

10 Very briefly, Mr. President, to give the views of the civil
11 parties, we support what has been said by the prosecutors just a
12 moment ago on these documents and we would point out that these
13 documents were submitted during the investigation stage, which is
14 a time when there is leeway to discuss the -- whether or not the
15 documents are bona fide. This was done during the investigation
16 and all the parties were well aware of the digitized versions of
17 these documents during the investigation and these documents have
18 been in the files for several months, if not several years, in
19 digitized form.

20 [12.19.05]

21 MR. PRESIDENT:

22 We would like to proceed with the Co-Prosecutor and please be
23 brief because the DVD is almost running out and that we need to
24 adjourn for lunch as well.

25 MR. SMITH:

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1 Briefly, Your Honour, we agree with counsel that documents have
2 to have a minimum level of authenticity and that's -- that's the
3 test under international criminal law there must be some
4 indicators that would show that the document is authentic and the
5 prosecution agrees with that.

6 [12.19.44]

7 And that is what the hearing is about next week. Of course this
8 is turning into next week's hearing this week, but just to
9 briefly respond. As far as Nuon Chea's argument or position that
10 these documents or this document today is not, in fact, a copy of
11 an authentic document, my learned friend has put forward that
12 he's raised some doubt, but in fact, there's no doubt in relation
13 to this document because this document -- this "Revolutionary
14 Flag" -- was produced after 1975 and he has given testimony today
15 that the documents produced after 1975 were, in fact, printed and
16 this document was printed. So the very fact that he states that
17 "Revolutionary Flags" or "Red Flags" prior to 1975 were in
18 handwriting is not really the issue because the document that was
19 produced to him today was, in fact, dated after '75 which
20 confirms the authenticity of the document rather than throws it
21 in doubt.

22 [12.20.49]

23 The fact that it's not -- he said it was in red. It's clear it's
24 a black and white copy; that doesn't throw the authenticity in
25 doubt. The fact that the letters are too small; that's really

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1 just a case of the visibility of the document.

2 Of course, Your Honours, the prosecution will not be putting
3 documents forward that cannot be read by Your Honours, the
4 defence, the prosecution because that would be useless; it would
5 be unreliable. If the defence or if Mr. Nuon Chea -- and it's
6 understandable -- needs a larger version to look at something, to
7 comment on it; of course that can be done on a computer screen,
8 but we would disagree that Mr. Nuon Chea has thrown in doubt the
9 authenticity of this document today. More so, we would say that
10 he's more -- more than that confirmed it.

11 [12.21.38]

12 In relation to the method of questioning -- how an accused or a
13 witness should be questioned -- I think within reasonable
14 parameters that should be the prerogative of the party. As long
15 as the questions are clear and not confusing and are simple, the
16 idea of putting a document in 1977 or after 1975 to the Accused
17 which states what the fundamental Party lines were in 1960 is
18 clearly relevant to this section of the case, the historical
19 background. Particularly when the Accused, in some instances, is
20 finding it difficult to remember, it's quite appropriate to prod
21 an accused's memory in relation to documents -- even if they were
22 produced after 1975 -- when they relate specifically to what was
23 agreed on in 1960 at the first -- the first meeting and that was
24 specifically stated in the document.

25 [12.22.43]

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1 So it is appropriate, Your Honours, to put that questioning to
2 the Accused. If there was a concern, perhaps, that should have
3 been raised earlier, but I would suggest that it was highly
4 appropriate questioning particularly when an accused is, perhaps,
5 forgetful on certain areas. Thank you.

6 MR. PRESIDENT:

7 Thank you.

8 Counsel Ang Udom, would you wish to address other issues or
9 within the same context?

10 MR. ANG UDOM:

11 I am here to talk about the presence of Mr. Ieng Sary as he has
12 already been allowed to observe the proceedings remotely. His
13 health condition is now not yet better. May I ask that he still
14 observe the proceedings from the holding cell even in this
15 afternoon's session? He has already been communicated these
16 messages through us.

17 MR. PRESIDENT:

18 Thank you for this and it is now for the adjournment.

19 [12.24.14]

20 The Court will adjourn for lunch. We resume at 1.30.

21 Security personnels now are instructed to take the accused
22 persons to the holding cell and have them return to the courtroom
23 by the time as indicated.

24 (Court recesses from 1224H to 1338H)

25 MR. PRESIDENT:

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

2 [13.39.31]

3 During this afternoon's session, the Chamber is going to hear
4 civil party's testimonies. The two civil parties have -- portions
5 of the testimonies of the civil party have already been heard,
6 but we have not yet concluded the session because of their health
7 reason. We continue hearing their testimonies during this
8 afternoon's session again.

9 Court official, could you advise us whether the two civil parties
10 are present? Civil parties Romam Yun and Klan Fit; are they here?

11 THE GREFFIER:

12 Mr. President, both civil parties are present, awaiting call by
13 the Chamber. Thank you.

14 MR. PRESIDENT:

15 Thank you, Mr. Duch Phary.

16 Court official is now instructed to call civil party Romam Yun to
17 the courtroom.

18 Counsel for Nuon Chea, you may now proceed.

19 MR. SON ARUN:

20 Mr. President, my client is tired now. He asks that he be excused
21 from this courtroom and that he observe the proceeding downstairs
22 from the holding cell. If the Chamber allows, I would like to
23 proceed with the paperwork already produced by him.

24 (The witness, Mr. Romam Yun, is taken to the dock)

25 [13.41.33]

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1 MR. PRESIDENT:

2 The Chamber has noted the request made by the national counsel
3 for Nuon Chea that the accused person be excused from the
4 courtroom and that he be allowed to observe the proceedings
5 through remote participation at the holding cell. The Chamber
6 agrees with the request made through his counsel.

7 [13.43.03]

8 Counsel for Nuon Chea needs to produce the letter -- the waiving
9 or the waiver that's signed by Nuon Chea.

10 Security personnel are now instructed to take Nuon Chea to the
11 holding cell and the AV booth officials are instructed to make
12 sure that the equipment is well installed so that the Accused can
13 observe the proceeding from his holding cell.

14 (The accused Nuon Chea exits courtroom)

15 Good afternoon, Mr. Romam Yun. Today you are called to give your
16 testimony to be continued from the previous portions of your
17 testimonies that you could not really make completely because you
18 - your health -- was not good at that time and today you are
19 before the Chamber to give further testimonies as a civil party.

20 In the proceedings, as guided by the rules, the Lead Co-Lawyers
21 for the civil parties would be putting questions to the civil
22 party and followed by the Co-Prosecutors, but they have already
23 made -- put their questions to the civil party. It is now turn
24 for counsel for Nuon Chea to put questions to the civil parties.

25 [13.45.26]

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1 Please be advised that each defence counsel has 25 minutes to put
2 questions to the civil party. You may now proceed.

3 MR. PESTMAN:

4 Thank you very much, Your Honour. Mr. Romam Yun was heard as a
5 civil party, not as a witness and I note that this civil party
6 has given no evidence whatsoever about damages he allegedly
7 incurred. Giving evidence about the damages is the only purpose
8 of a statement is our position a civil party can give in Court.
9 We argue - we would argue that no evidentiary value can be
10 attached to the statements that Romam Yun has given in Court in
11 December and for the same reason, we have no questions for this
12 civil party.

13 [13.46.31]

14 Thank you very much.

15 MR. PRESIDENT:

16 Thank you. Lead co-lawyers for the civil party, you may now
17 proceed.

18 MS. SIMONNEAU-FORT:

19 Yes, Mr. President. The statement of civil party's objective is
20 beyond just reparation; the civil party also provides elements to
21 ascertain the truth in the case as all other parties in a regular
22 trial and, therefore, it is as a party to the proceedings -- as a
23 civil party that the statements were made until now and will
24 continue to be done.

25 And furthermore, the Chamber confirmed in its memos and in

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1 several of its decisions -- and I don't remember exactly which
2 ones because I'm answering impromptu -- the Chamber said upon
3 several occasions that the civil parties constitute a
4 consolidated group and will preserve their capacity as civil
5 party during the entire trial.

6 [13.47.47]

7 This party is a civil party and will be heard as a civil party
8 with the applicable rules and the Chamber has not questioned this
9 position until now.

10 MR. PRESIDENT:

11 Since counsel for Nuon Chea has no question to put to the civil
12 party, we proceed to Counsel for Ieng Sary if they would wish to
13 put any questions to the civil party.

14 MR. ANG UDOM:

15 My sincere respect to the venerable monks and Your Honours. Thank
16 you, Mr. President.

17 I would like to begin with the observation similar to that of
18 Nuon Chea's counsel. I also noted that previously the President
19 also indicated about the roles of the civil parties, the
20 witnesses, and experts or expert witnesses.

21 [13.49.50]

22 We observe that two civil parties were called and too much time
23 was already dedicated to put -- so their party can put questions
24 to them and it is beyond the scope of the hearing or the status
25 of the civil party to be questioned because civil parties are

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1 supposed to only provide testimonies with regard to the damage,
2 the harm or the suffering these people have incurred. However, so
3 far civil parties have been questioned far beyond this scope and
4 much of the -- much time of the Court has been wasted.

5 Witness has the role to provide testimonies with regard to the
6 facts concerning the crimes that have been committed when the
7 experts are supposed to provide specific information with regard
8 to the evidence; the information that the parties cannot really
9 produce.

10 [13.51.37]

11 In light of this, may I ask that the Chamber disregard all the
12 testimonies given by the civil parties before this Chamber
13 because it is not really the role of the civil parties to give
14 such testimonies to the facts; it is the witnesses who are
15 entitled to do so.

16 MR. PRESIDENT:

17 Co-Prosecutor, now counsel for the civil party should begin first
18 followed by the Co-Prosecutor.

19 MR. PICH ANG:

20 Thank you, Mr. President. Good afternoon and my sincere respect
21 to all the monks who are present in the public gallery.

22 On behalf of the civil party lawyers and civil parties, I would
23 like to strongly object the observation made by counsel for Ieng
24 Sary because with regard to the participation of the civil
25 parties in this court, according to Internal Rule 23, civil

1 parties are entitled to participate in the proceeding to raise
2 issues concerning the facts with relation to the civil reparation
3 claim and also the other aspect that are relevant to such a
4 claim.

5 [12.53.40]

6 For that reason, civil parties are entitled to give such
7 testimonies. The rule allows civil party to raise the facts
8 concerning Case File 001 and 002; the relevant parts of the
9 cases.

10 I can submit that civil parties are allowed to tell the Court any
11 facts or details with regard to the facts that they have the
12 knowledge of so they can both tell the Court about the facts and
13 the harms they have incurred.

14 MR. PRESIDENT:

15 Co-Prosecutor, you may now proceed.

16 MR. DE WILDE D'ESTMAEL:

17 Mr. President, thank you. Good afternoon as well. Your Honours, I
18 will be quite brief.

19 [13.54.52]

20 I believe we have been listening to the defence for them to ask
21 questions and not for them to express their opinions on the civil
22 party's ability to testify before your Chamber. This is a
23 question that was already discussed and we have already -- you
24 have already ruled on this issue so there's no point getting back
25 to it today. It's also not up to the defence to determine whether

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1 or not asking questions to victims is a waste of time. It's also
2 not up to the defence to insinuate that the Chamber does not have
3 the right to call civil parties to testify. All of this,
4 therefore, proves that the defence shows little respect towards
5 the people who are here today with us to testify and I find this
6 unacceptable.

7 MR. PRESIDENT:

8 Thank you. Indeed, we give the opportunity to the counsel for
9 civil -- for the Accused to put questions to the civil party. It
10 is now the opportunity you put such questions.

11 If you indicate clearly that you do not really wish to put the
12 questions, that is it, you -- we can proceed to the other counsel
13 because we do not want to hear from you that time has been
14 wasted. But at the same time, you are wasting time.

15 [13.56.31]

16 If you don't have questions, it is fine because we can proceed to
17 the other counsel who may wish to put questions.

18 MR. ANG UDOM:

19 Thank you, Mr. President, and I would really like to apologize.

20 MR. PRESIDENT:

21 Indeed, you can proceed with the questions. Just tell the Court
22 whether you have questions or not.

23 MR. ANG UDOM:

24 (No interpretation)

25 [13.57.08]

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1 With reference to Document D208/2 under ERN 00380956, since I
2 have no idea or knowledge whether the civil party can read Khmer
3 fluently or can read Khmer, I may ask that this document be read
4 out to him starting from the ERN page number that I have just
5 indicated, after which I would proceed with the questioning to
6 Mr. Romam Yun.

7 MR. PRESIDENT:

8 Mr. Romam Yun, can you read Khmer?

9 MR. ROMAM YUN:

10 Yes, I do, Your Honour, but only some, not completely.

11 Good afternoon, Mr. President, Your Honours, and brothers and
12 sisters.

13 MR. PRESIDENT:

14 My question is that whether you can read the Khmer text before
15 you.

16 MR. ROMAM YUN:

17 No, I don't.

18 MR. PRESIDENT:

19 Since you cannot read this text, the Chamber instructs now the
20 greffier, Mr. Duch Phary, to read this document to you and Mr.
21 Romam Yun, you are advised to listen to the text being read to
22 you by our greffier and the greffier, please read slowly.

23 THE GREFFIER:

24 Even the though the test -- the interview of Mr. Romam Yun has
25 been concluded, we have noted that Mr. Romam Yun -- the civil

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1 party statements lack information in his complaint. Sometimes
2 there are two pieces of information with regard to the same fact
3 which makes it difficult to rely on the testimony by the civil
4 party.

5 [14.00.29]

6 Although the mission ordered by means of this rogatory letter has
7 only been partially executed, and although we were unable to
8 interview the second civil party, Mr. Klan Fit, we considered
9 that this rogatory letter will be closed by the 27th of August,
10 2009.

11 MR. ANG UDOM:

12 Could the greffier be instructed to pause here?

13 MR. PRESIDENT:

14 Yes, he is allowed to pause now.

15 QUESTIONING BY MR. ANG UDOM:

16 Mr. Romam Yun, have you understood the first paragraph that has
17 already been read to you?

18 MR. ROMAM YUN:

19 A. Yes I do -- I have understood it. However, what I heard --
20 some part of the text was clear enough that I could hear clearly
21 but in other parts I could not really hear very well.

22 Q. During the Democratic Kampuchea regime from the 17th of April,
23 1975, to the 6th of January, 1979, you were appointed as the
24 deputy chairman of the sector; is that correct?

25 A. Yes.

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1 Q. How many times, or how often, have you been sent to Phnom
2 Penh?

3 A. I have come to Phnom Penh two times to attend the meetings.
4 [14.03.25]

5 I joined the meeting along with other people.

6 Q. Is it true that you only came to Phnom Penh once, to attend
7 the meeting?

8 A. Yes, indeed I came to Phnom Penh only one time.

9 Q. Do you remember when you came to Phnom Penh? You remember the
10 date?

11 A. I don't remember the exact date, because, when time passed by,
12 my memory is poor.

13 [14.04.25]

14 I can see things with my own eyes, but I seem to have forgotten a
15 lot. I only understood some small matters, not the major issues.

16 MR. ANG UDOM:

17 Thank you, Mr. Romam Yun. Could -- instruct that Document D22/43
18 be read out? In particular document with ERN number page
19 00279550. We would like only paragraph number two be read out.

20 MR. PRESIDENT:

21 Court officer is now instructed to put this document up on the
22 screen.

23 MR. ANG UDOM:

24 May we ask that the document be read out to him, like we did
25 before, your Honours?

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1 MR. PRESIDENT:

2 Mr. Phary, have you found the document? Can you read it?

3 [14.06.40]

4 Beginning from 002779 -- rather, 279550.

5 THE GREFFIER:

6 "In December, 1978, I was appointed by Ya to travel to Phnom Penh
7 along with Klan Fit, in Ta Lav, Andoung Meas district,
8 Rattanakiri province. We went there by boat, leaving Veun Sai
9 district of Rattanakiri province, heading toward Stung Treng
10 province. Six of our friends were waiting for us there. The first
11 friend was -- the person was Comrade Phung, whose birthplace was
12 in Kachang, Banlung district in Rattanakiri province. Another
13 person was Comrade Pha, a Laotian who was born in Stung Treng
14 province. Another person was Yang -- Comrade Yang, who was born
15 in Siem Pang district. Another person was Comrade Lun (phonetic)
16 born in Kong district of Siem Pang. And the other two comrades,
17 named Comrade Chhom and Comrade Chhun. We were notified by Ta
18 Kheng, who was the chairman of the Northeast division, and the
19 chairman of the North zone, and his bodyguard named Mean, who was
20 armed with an AK rifle, as well as two boat operators whose names
21 cannot be recalled. They accompanied us to Phnom Penh, which took
22 two days and two nights"

23 [14.09.34]

24 MR. PRESIDENT:

25 Thank you, Mr. Phary.

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1 (No interpretation)

2 BY MR. ANG UDOM:

3 Q. Mr. Romam Yun, you have heard what the greffier has read
4 concerning your statements that in September 1978, you were
5 assigned by the North sector chief, whose name was Ya, to go to
6 Phnom Penh. Do you admit that you were assigned to go to Phnom
7 Penh on that date?

8 MR. ROMAM YUN:

9 A. Yes, I do. At that time, I --

10 MR PRESIDENT:

11 Mr. Co-Prosecutor, you may proceed.

12 MR. DE WILDE D'ESTMAEL:

13 Mr. President, during Mr. Romam Yun's statement, both the civil
14 parties and the Co-Prosecutors were instructed by the Bench not
15 to ask questions about the period at the end of 1978. This was
16 the time of the purges of the Northeast zone, and so I don't
17 really understand why we are hearing these questions now from the
18 defence.

19 [14.11.30]

20 During Mr. Klan Fit's statement, the defence always asked
21 questions about why these people were arrested and sent to Phnom
22 Penh. What I'm talking about, Mr. President, is remaining within
23 the confines of this first trial. Thank you, Sir.

24 MR. ANG UDOM:

25 Thank you. I was only trying to refer to the date that he went to

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1 Phnom Penh. I will not be moving any further than that. I'll ask
2 a different question.

3 BY MR. ANG UDOM:

4 Q. Mr. Romam Yun, you said Ya, the zone sector -- the zone chief
5 assigned you to Phnom Penh. Could you tell us whether Ya is a
6 revolutionary name or a full -- or a real name?

7 MR. ROMAM YUN:

8 A. I do not know about that.

9 Q. Thank you. Do you know his formal name?

10 A. I know his face.

11 [14.13.04]

12 Q. Thank you. Before I end my question, I would like to seek your
13 permission, Mr. President, that Document D22/43.2 be read in its
14 entirety.

15 MR. PRESIDENT:

16 The Court Officer is instructed to display the document onto the
17 screen. Document D22/43.2.

18 [14.13.52]

19 Has Mr. Phary found the document? If so, you are now instructed
20 to read the document in its entirety, as requested by the
21 counsel.

22 THE GREFFIER:

23 "To: Victims Unit. Additional Information from Victim. Name:
24 Romam Yun. Alias: Khamphy."

25 [14.14.33]

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1 MR. ANG UDOM:

2 (Microphone not activated)

3 MR. PRESIDENT:

4 Can you activate your mic, Mr. Counsel?

5 MR. ANG UDOM:

6 ERN number 00279543. Document number is D22/43.2.

7 MR. PRESIDENT:

8 You may proceed, Counsel.

9 MS. SIMONNEAU-FORT:

10 I'd like to echo the prosecutor's comment, Mr. President. We're
11 moving out of the framework of this trial. This comment concerns
12 the purges, and there is no place for questions on that subject
13 here.

14 MR. PRESIDENT:

15 The question does not seem to touch upon the issue of the purges.
16 The question is for the civil party to respond to the document.
17 The previous testimony of the civil party may not reflect what
18 was inside the document. That is why the counsel is putting the
19 question to the civil parties to clarify their point.

20 [14.16.15]

21 So the objection is not sustained. Now, the greffier is
22 instructed to read Document 222/43.2

23 THE GREFFIER:

24 "Additional information concerning Document D22/43: At the
25 beginning of 1978, the Khmer Rouge assigned:

1 "1. Romam Yun -- I myself -- a regional deputy-chief of Veun Sai
2 district
3 "2. Klan Fit, deputy-chief of district 21
4 "3. Pung, regional deputy-chief of district 15, Lumphat district
5 "4. Chea (or Pha) from Laos, district secretariat
6 "5. Poy, district secretariat 23
7 "6. Bean, district secretary 22
8 "7. Yang, district secretariat, Siem Pang district
9 "8. Chhom, chief of the Northeast soldiers
10 "9. Tha Vorn, Laotian, Stung Treng deputy-chief of the region
11 "10. Sovann, Siem Pang district deputy-chief
12 [14.18.27]
13 "When I arrived in Phnom Penh, the Khmer Rouge kept me in a house
14 for one month, which -- in which there was a king portrait, a
15 world map, and windows. The Khmer Rouge asked each of us about
16 our past. Then we were told to do potato gardening. One month
17 later, four of us -- Klan Fit, Romam Yun, Pung, and Chea -- were
18 separated and were taken to Wat Sleng. The other six friends were
19 arrested and taken to Tuol Sleng prison by the Khmer Rouge, and
20 then we never heard from them again. I would like to complain
21 about the disappearing of my six friends.
22 [14.19.43]
23 "Done in Rattanakiri, on the 20th of August 2008. Thumbprint:
24 Romam Yun."
25 MR. PRESIDENT:

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1 Thank you, Mr. Phary, you may be seated.

2 BY MR. ANG UDOM:

3 Thank you, Mr. President.

4 Q. I would like to ask Mr. Romam Yun: Mr. Romam Yun, you said
5 that you came to Phnom Penh only once during the Democratic
6 Kampuchea regime. Was that in September 1978, or in early 1979?

7 [14.20.32]

8 Can you answer my question?

9 MR. ROMAM YUN:

10 A. I do not recollect the exact date, but I'm sure I was there.

11 But I don't remember the date.

12 Q. Thank you. Can you confirm that you came to Phnom Penh only
13 once? Is this correct?

14 A. Yes, it is. I went there once.

15 (No interpretation)

16 Q. So you do not know whether it was in September 1978 or in
17 early 1979? You're not sure about the date, is this correct?

18 A. I do not remember that.

19 MR. PRESIDENT:

20 Counsel for civil party, does the lawyer receive any waiver?

21 MR. PICH ANG:

22 I would like to seek permission from the President to allow the
23 counsel to take the floor.

24 MR. PRESIDENT:

25 You are allowed to take the floor to respond to -- or make any

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1 objections to the question, but you are not allowed to make any
2 observation on other issues. The Chamber will decide after that
3 whether the objection is sustained or whether the civil party is
4 allowed to answer or not to the question.

5 [14.22.41]

6 Other issues you are not permitted.

7 MR. NEKUIE:

8 Thank you, Mr. President. I'd like to pay my respects to this
9 Chamber, and to my learned brothers on the defence.

10 Quite simply, I would like to object to this line of questioning,
11 that Mr. Ying So and his defence team is presenting. It does seem
12 to me that when I listen to my learned friends, and, having heard
13 the presentation of the document to the civil party, that we,
14 Avocats sans frontières, have looked after -- the rights of the
15 defence to say what they did say are enshrined, but what they are
16 saying is pointless.

17 [14.23.45]

18 They are quite simply trying to take advantage of the loss of
19 memory of this elderly gentleman. At the outset, Mr. Kim Mengkhy
20 stated that, on the basis of this man's age and all of the
21 horrifying things that he went through, that his memory was
22 failing and therefore his testimony here would be a delicate
23 issue, and the Ieng Sary defence was in fact making a comment of
24 that kind in its first statement. Mr. President, this gentleman
25 does have deficiencies in his memory and there is therefore no

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1 point in Mr. Ieng Sary's defence dwelling on this particular
2 aspect. I would like the President to propose that the Ieng Sary
3 defence team adopt another line of questioning.

4 [14.24.56]

5 That is my point, sir.

6 (Judges deliberate)

7 MR. PRESIDENT:

8 The objection made by the civil party lawyer is not sustained.

9 The defence counsel can proceed with your questioning to this
10 civil party. The Chamber would like to inform the public, as well
11 as the parties, that this civil party is selected from the list
12 submitted by the civil party lawyers, who requested the Chamber
13 to submit these civil parties to be testifying in the court. So
14 it is the selection, originally, by the Lead Co-Lawyers, for the
15 civil parties.

16 BY MR. ANG UDOM:

17 Thank you Mr. President.

18 [14.26.40]

19 Q. I will now ask Mr. Romam Yun concerning the same document,
20 D22/403.2.

21 Mr. Romam Yun, you claimed in a document that, in early 1979, the
22 Khmer Rouge arrested you, along with your other friends -- your
23 other 10 friends, and you were all brought to Phnom Penh; is this
24 true?

25 MR. ROMAM YUN:

1 A. Yes, it is.

2 Q. And when you arrived in Phnom Penh, you further stated that
3 the Khmer Rouge brought you to a house where there was a king
4 portrait, and there were mirrors surrounding, and you were left
5 there for about one month. Is this true?

6 A. Yes, it is.

7 Q. And there you were asked about your biography. Each of you
8 were asked about your biography. Is this true?

9 A. Yes, it is.

10 Q. Thank you. After a month, you were separated from your
11 friends. It is correct?

12 A. Yes, it is.

13 Q. Some of your friends were brought to Wat Sleng, while others
14 were arrested and brought to Tuol Sleng prison; is this correct?

15 A. Yes, it is. It is correct.

16 Q. So these events did happen subsequently. According to your
17 statements, you said that you came to live in Phnom Penh for one
18 month in early 1979, and one month later, you were separated.

19 Some of you were brought to Tuol Sleng.

20 [14.29.17]

21 Can you confirm this again, whether it is correct?

22 A. Yes, it is.

23 MR. ANG UDOM:

24 Thank you. Mr. President, I do not have any further questions.

25 MR. PRESIDENT:

1 Thank you, Counsel. Now the Chamber would like to give the floor
2 to counsel for Khieu Samphan for him to put questions to civil
3 parties if he wishes to do so. And counsel is to be reminded that
4 the questions should not be repetitious and the questions should
5 be short so that the civil party can understand and respond to
6 the questions.

7 You may now proceed, Counsel.

8 MR. KONG SAM ONN:

9 Thank you, Mr. President. Counsel for Khieu Samphan has no
10 questions to be put to the civil party.

11 MR. PRESIDENT:

12 We would -- I would like to know whether the Judges of the Bench
13 would wish to put questions to the civil party.

14 Judge Lavergne, you may now proceed.

15 [14.30.43]

16 QUESTIONING BY JUDGE LAVERGNE:

17 Q. Thank you, Mr. President.

18 Mr. Romam Yun, good afternoon. My name is Jean-Marc Lavergne, and
19 I am a judge at the Trial Chamber.

20 And I would like you to tell us if you -- if the date of 17th
21 April 1975 corresponds to something specific -- if it has any
22 specific meaning for you? Do you know what happened on 17th April
23 1975?

24 A. I'm afraid I don't know what happened because these things
25 happened a long time ago. Without anyone reminding me, I am

1 afraid these things would not come up in my memory to be able to
2 tell the Court what happened.

3 Q. Mr. Romam Yun, do you know today's date -- what day is today?

4 A. I'm afraid not. I don't know what day it is today. Can this
5 gentleman help me? What day exactly is today?

6 [14.32.51]

7 (Short Pause)

8 Q. Mr. Romam Yun, can you hear me? Can you -- have you ever heard
9 about the fall of Phnom Penh, about the capture of Phnom Penh by
10 the Khmer Rouge?

11 A. Back then, I heard about it.

12 Q. Can you tell us when this event happened, more or less? Can
13 you tell us whether this happened recently? Can you give us an
14 idea of how many years ago this event took place? Was it five
15 years ago, 10 years ago, 20 years ago, 30 years ago, or more?

16 A. I don't remember the exact date of the event.

17 Q. Mr. Romam Yun, can you tell us what you remember specifically
18 about this event? Was this something that you just heard of or
19 did you actually witness something?

20 [14.35.04]

21 A. I do not know what happened in other places, but I do know
22 what happened in my place. Since I was born, I had never been in
23 a senior position because I was not born with the position of a
24 politician or leader. I think if I am allowed to talk more it
25 would be very long, because this even involves the story that are

1 relevant to parents -- my parents, my relatives, so on and so
2 forth. I remember that when I first came to Phnom Penh I could
3 see that some people who came with me were happy, some were not
4 very happy. Those who were happy because - because I was not able
5 to report -- I was at that time supervised, oversaw the work in
6 my area. I led people to do farming, to ensure that people worked
7 together very well and the work was, at some point, good but at
8 many other occasions was not very good, and I was reprimanded for
9 not being able to make people grow better crops. And I reported
10 to Angkar that, indeed, I tried my best to tell people to do good
11 work, but it was up to them to make sure the work was good.

12 [14.39.13]

13 There was only commune chief who was leading the local people.
14 There were no people from the zone committees or from the upper
15 echelons who would be coming to ask that the orders be executed.
16 We, at the commune level, only had to help make sure people do
17 their work and, after that we had to report to Angkar about the
18 work.

19 It took me several occasions to convince the upper echelon to
20 understand the actual situation because Angkar did not really
21 believe me, at the very beginning, that the work was not
22 successful. Angkar keep reprimanding me that I would not do
23 enough to ensure the successful work, although I told them that
24 we did our best with sweats and blood but the production was not
25 at the expected level.

1 [14.40.55]

2 We had to admit that if we had to follow what Angkar asked us to
3 do, we would never be able to shoulder this burden because we did
4 our best already but we could not really produce the amount of
5 work to commensurate with the quota imposed by Angkar. The task
6 was very difficult and I, every now and then, was reprimanded for
7 not being able to lead the community to produce more crops --
8 production for example. And in my commune, I was blamed for not
9 being able to convince or to educate people to improve their
10 revolutionary stance. I did my best, indeed, to ask the community
11 forced to work very hard but they worked from the bottom of their
12 heart already. They could not really do much further than that
13 and still Angkar did not understand the situation. They still
14 blamed us for not being able to be more efficient.

15 I was also asked to be active in fighting the exploiting class.
16 They asked us to fight them hard, and I told them that I was not
17 able to do that because I was reluctant and I could not know how
18 to really perform the task. At some point, because I was so upset
19 and frustrated, I was about to hang myself -- to commit suicide
20 to avoid these hardships.

21 [14.43.38]

22 People also were reprimanded for allowing their captors to go
23 free or go missing. Angkar kept reprimanding me. They said that I
24 could not do better job. I could be regarded as enemy. So it's
25 more like I was in the very difficult situation, I was in the mid

1 of -- between the rock and a hard place. I did my best to lead
2 the community to do good work, but they could not do good work.
3 Then Angkar blamed me for not being able to lead the people, and
4 I was in a very difficult situation.

5 It is not easy at all to really educate people to do things when
6 they did not even have a very long term vision. So, for that
7 reason, we could never achieve our goal. And for not being able
8 to make people realize the long term vision or goal, I was
9 blamed. Fingers have been pointed toward me, and I had to work
10 double hard to ensure that everything was on the right track.

11 [14.45.54]

12 I was even tasked with helping people to find their lost
13 relatives, people who have lost their loved one and they asked me
14 where their relatives could have been.

15 The work or the order could have been rendered from the top to
16 the lower level, and the lower level had to make sure that the
17 orders be carried out and that we had to ask people at the local
18 community to work very hard. But still, we were poor and
19 desperate.

20 [14.47.16]

21 At that time, not only did the pigs have enough food to eat,
22 their piglets also had problem with food, let alone human beings.
23 When it comes to plantation, doing farming, we had to really
24 bring crops from the plantation -- the thing that we could eat to
25 feed the family, still the food was not enough. Some people were

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1 hanging themselves because they could not really stand the
2 situation. People at the sector zone or provincial level only
3 pretended to say that people in the community were having decent
4 lives, having enough food to eat but, in reality, it was not true
5 because we could not really produce enough food, grow enough
6 crops to feed the villagers.

7 And yet, the commune chief was blamed because he was not a better
8 man who could lead the people. We had problem managing our own
9 people internally at our local area, although other people would
10 say that it was a piece of cake to manage people, but we felt
11 that it was not that easy.

12 Later on we were in big danger, and it was the Angkar itself who
13 really inflicted this pain on us. How could I be reprimanded for
14 not being able to manage the people when it was Angkar that
15 should shoulder all this blame. They said that when we joined the
16 revolution we had to make sure that our stance be firm and that
17 we have to be very dedicated, politically clean, so on and so
18 forth.

19 [14.51.40]

20 MR. PRESIDENT:

21 Mr. Romam Yun, since it is now appropriate time to take a brief
22 adjournment, the Court will adjourn for 20 minutes. The session
23 will be resumed at ten after three.

24 Court Officer is now instructed to ensure that civil party be
25 taken to a proper place and that he be returned to the courtroom

1 by ten past three.

2 (Court recesses from 1452H to 1510H)

3 MR. PRESIDENT:

4 Please be seated. The Court is in session.

5 Before we broke, the Chamber had the statement made by civil
6 party Romam Yun, as a response to the question put forward by
7 Judge Lavergne. I would like to know whether Judge Lavergne
8 wishes to make any further questions to this civil party.

9 JUDGE LAVERGNE:

10 Mr. President, I have no further questions for this civil party.

11 Thank you very much for this statement.

12 MR. PRESIDENT:

13 Does any other Judge of the Bench wishes to make questions to the
14 civil party?

15 [15.12.29]

16 Now that Judges of the Bench do not wish to put any further
17 questions to the civil party Romam Yun, the Chamber considers the
18 hearing of Romam Yun's testimony concluded. The Chamber would
19 like to express its gratitude to civil party Romam Yun for taking
20 his time and traveled from a very far area to here, in order to
21 answer a lot of questions.

22 And I want to inform you, Mr. Romam Yun, that we do not have any
23 further questions for you, and you may return to your home.

24 However, since your home is located far away from here, and you
25 will need to be facilitated by the WESU, you will have to stay

1 here until everything has been arranged for your to travel back
2 home.

3 [15.13.43]

4 Court Officer is now instructed to escort Mr. Romam Yun back to
5 where he were before he was brought here, and to bring Mr. Klan
6 Fit to the Courtroom.

7 (The witness, Mr. Romam Yun, leaves the dock)

8 (The witness, Mr. Klan Fit, is taken to the dock)

9 Next, the Court will hear testimony of another civil party. That
10 is, Mr. Klan Fit, who has been providing testimonies before the
11 Court, but his testimony was not yet concluded last time. Today
12 we will continue his testimony.

13 [15.15.22]

14 The Chamber recalls that civil party lawyers have already put
15 questions to this civil party, and the Co-Prosecutors have asked
16 some questions, already, to this civil party, and they now have
17 30 minutes further to finish their questioning to the civil
18 parties. And as we have experienced before, we have noted that
19 some defence counsels did not use the time allocated for them to
20 put questions to civil party.

21 Now the Chamber reiterates its question in order to be clear
22 whether the defence counsel intends to put any questions to this
23 witness, so that the Chamber can manage the hearing of this civil
24 party testimony smoothly. We begin with counsel for Nuon Chea,
25 first.

1 MR. PESTMAN:

2 It depends, of course, on the answers that will be given to the
3 questions the Prosecutor has, but in principle we have no
4 questions for this civil party for the same reasons we gave for
5 the previous witness.

6 MR. PRESIDENT:

7 Yes, Judge Cartwright, you may proceed.

8 JUDGE CARTWRIGHT:

9 Thank you for that indication.

10 [15.17.07]

11 My recollection is, however, that you asked for time to be
12 allocated for defence counsel to ask questions of this civil
13 party.

14 In future, please indicate much earlier if you do not intend to
15 seek time to ask questions, because we have a trial to manage,
16 and it results in significant inefficiencies in allocation of
17 time. Thank you, President.

18 MR. PRESIDENT:

19 And Counsel for Ieng Sary?

20 MR. ANG UDOM:

21 Mr. President, I agree with the time allocation, and from my
22 experience from previous proceedings, the Chamber may not be able
23 to determine exactly the exact time to be given to the defence
24 counsel. However, if time is to be allocated to parties, I am of
25 the view that the Chamber should indicate clearly the exact time

1 for all the three parties to these proceedings, not to only two
2 parties and not the other party.

3 [15.18.37]

4 As for the questioning to this civil party, Klan Fit, the counsel
5 for Ieng Sary will not use more than 30 minutes.

6 MR. PRESIDENT:

7 Thank you. And how about Counsel for Khieu Samphan?

8 MR. KONG SAM ONN:

9 Mr. President, for witness Klan Fit, we may not be able to
10 determine exactly the amount of time that we will need to use for
11 our questioning because we are not aware, yet, how much related
12 his testimony to our client. But if we will need the time, we
13 will not use more than 30 minutes.

14 [15.19.34]

15 And if there is no relevant testimony to our client, we will not
16 ask any questions. Thank you.

17 MR. PRESIDENT:

18 Thank you, Counsel.

19 Now we would like to hand over to the prosecution, to continue
20 their questionings to this civil party.

21 QUESTIONING BY MR. DE WILDE D'ESTMAEL RESUMES:

22 Thank you, Mr. President.

23 Q. Mr. Klan Fit, it's more than a month now since we last met,
24 and before asking my first question, I might summarize what you
25 declared before. And if anything in what I say seems to you to be

1 inaccurate, then, needless to say, you must correct me.

2 [15.20.27]

3 You said that you had been forced to join the revolutionary
4 movement in the 1960s. At the time, you were told that if you
5 didn't join the movement, you would not be free or you would
6 indeed not survive. You also said that you joined the revolution
7 to free the country, which was oppressed and exploited by other
8 people in general, and in particular feudal people. You said
9 that, because you were not educated and belonged to an ethnic
10 minority, it was easy for the Khmer Rouge to indoctrinate you.
11 And you told us that you had worked for the party after being
12 recruited in the 1960s, up until the 17th of April, 1975 and
13 beyond. You've always had to maintain a firm position -- that's
14 what the party said. That meant accepting certain moral rules.
15 You were told that you had to remain modest and respect party
16 discipline and respect Angkar.

17 [15.22.12]

18 You also said that you were forbidden from practicing religious
19 rights or making any offerings to the spirits. I also recall that
20 you said that you should not betray the party. Not go over to the
21 enemy side. And by "enemies", you said that you meant the
22 Vietnamese, the people of Lon Nol, or the feudal people.
23 My first question is as follows. Your work for the revolutionary
24 Party before 1975, before the fall of Phnom Penh -- did that work
25 give you more freedom? Did it improve your situation in life?

1 MR. KLAN FIT:

2 A. Let me respond to your question, according to what had
3 happened.

4 [15.23.31]

5 Ieng Sary called upon me to attend the K-5 meeting. I was busy. I
6 did not want to go. It was about the time that I had to do the
7 rice farming. He appointed me asking a person to come who was
8 armed at the time, and he was named Kheng. He said to me that if
9 I did not go, he would not return either, and I asked him; who
10 asked you to say so? And he said it was Ieng Sary. His name is In
11 (phonetic). He was the one who came to my plantation field and
12 asked me to go there. He was carrying a rifle. I was so afraid.
13 And he kept saying that if I did not go, he wouldn't return
14 either.

15 He said I was called upon to attend a meeting, and I asked who
16 called me, and he said it was Ieng Sary. During that time, it was
17 the time that I was to grow rice. However, I had to go, and so I
18 went there. Everyone was going there -- that includes the commune
19 chiefs and also the zone chiefs. It was the zone meeting, so when
20 I arrived there I was standing on one plot. Mr. Ieng Sary was
21 checking whether I was there, and asked for my presence. And he
22 asked whether I would like to do revolution. I did not know how
23 to answer that, so I remained silent.

24 [15.26.07]

25 He said: "Everyone is here, everyone is waiting for you, and

1 there are about 90 people and they are waiting for you and it
2 seems like they are waiting for you for 90 days."

3 I replied to him that my father was ill, and he said if I did not
4 do the revolution, I would not have anything to eat, and that if
5 I was afraid to die, everyone was also afraid to die. That he
6 said. I was afraid of Angkar at that time. It was the highest
7 level, and everyone was afraid of Angkar. I am still afraid of
8 Angkar, nowadays.

9 I was afraid. Ieng Sary forced me to do revolution. I was
10 covering my eyes when I was called upon to attend the meeting. He
11 said that I was the last who came, that the other 90 people were
12 waiting for me and it was like that they were waiting for me for
13 90 days. I was afraid. It was in 1976 when I was appointed as the
14 district deputy-chief.

15 [15.27.55]

16 I worked in the cooperative, and they collected everything. They
17 collected cattle, they collected food, and they collected
18 everything. We had communal eating. I said to myself: How could
19 we do revolution, when only we have little in our hands? We do
20 not have anything. I attempted to hang myself. I was asked what I
21 was able to do, and I said I was able to build dams. Om Ya and Om
22 Vy were the zone committees. They were leading us to build dams.
23 We have dams in Obeon (phonetic), Oga Dam (phonetic) --

24 Q. Mr. Klan Fit, may I please interrupt you. Because we don't
25 have much time, unfortunately, and I'd like to only focus on the

1 period that preceded April 1975 now, and I'm -- I apologize for
2 interrupting you, but I have a few questions to ask you, one
3 concerning Mr. Thang Sy. You mentioned his name often during the
4 previous interview and you said that he was a district chief and
5 twice again that he was part of the Northeast Zone Committee.

6 Could you tell me again what Mr. Thang Sy's exact position was?

7 A. Ieng Sary, Om Vy, two of them were the leaders before the
8 cooperatives were created. In 1976, I was assigned as the
9 committee of the district so that the cooperative could be set
10 up. We collected -- we gathered items belonging to individual to
11 put them in a collective or cooperative.

12 Q. Thank you. My question, in fact, pertained to the period prior
13 to April 1975 and occasionally you said that Mr. Thang Sy, alias
14 Chan Deng I believe, was among the people who influenced you to
15 join the revolutionary movement. So can you -- do you remember
16 Mr. Thang Sy's position, his function.

17 [15.31.40]

18 A. Thang Sy was a Laotian in Klang Village, Veun Sai district. He
19 was the man who persuaded me to join the revolution movement.

20 Q. Thank you. As far as you know, was Mr. Thang Sy someone who
21 was important within the Party?

22 A. He could have been an important person because he was in the
23 movement long before I joined the revolution. He was in the
24 movement already when I was at a very young age, when I was in my
25 teen.

1 [15.32.54]

2 Q. And did this Mr. Thang Sy speak to you about enemies when he
3 recruited you within the revolutionary movement and what did he
4 say about those enemies?

5 A. He said, nephew if you did not join the revolution, where
6 would you live? Otherwise, you would be implicated as an enemy
7 and we had to fight the enemy and, by doing so, we had to join
8 the enemy to survive or stay alive. Otherwise, we would be
9 killed. I actually did not understand what revolution was. I just
10 followed the orders; whatever was asked of me, I would never
11 object doing it and we also attended meetings chaired by Ya, Om
12 Vy and other people and I don't remember the exact date when we
13 met because I cannot read or write Khmer. I can speak it but not
14 be able to write and read it.

15 [15.34.51]

16 Q. Thank you very much. I would now like to revisit another
17 topic. Last time you said that you were involved or you attended
18 two meetings with Mr. Ieng Sary, and you said that these meetings
19 took place -- both of these meetings took place before Lol Nol's
20 coup d'état in 1970. You said that these meetings took place in
21 the forest.

22 And I would like to speak now about the second meeting that you
23 attended with Mr. Ieng Sary. Can you tell us where the second
24 meeting took place, specifically?

25 A. We met with him in the meetings two times. Once at the O

1 Plaing. Then when I joined the revolution, we also met at the
2 Chai village.

3 Q. And was this second meeting organized by the Party? And was it
4 organized for all of the villagers?

5 A. Chiefs of communes, chief of districts and deputy chiefs of
6 sectors have all been asked to attend the meeting.

7 [15.36.43]

8 Q. Thank you. Can you try to tell us when this meeting with Ieng
9 Sary took place? Was it a long time before Phnom Penh was
10 captured by the Khmer Rouge or was it a little time before 17
11 April 1975?

12 A. It was before Phnom Penh was captured by the Khmer Rouge. I
13 don't remember exact date but it was prior to that event.

14 [15.37.31]

15 Q. And were you still village chief back then or were you already
16 the commune chief of Talan?

17 A. Back then I had already been appointed as the commune chief.

18 Q. As far as I remember, between 1971 and 1975, Ieng Sary was in
19 China, at least most of the time. So can you tell us again that
20 Ieng Sary did come to the Northeast of Cambodia during the period
21 that preceded the capture of Phnom Penh?

22 MR. PRESIDENT:

23 Counsel for Ieng Sary, you may now proceed.

24 MR. KARNAVAS:

25 I wish to lodge an objection. This is improper. Rather than

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1 asking the gentleman when, he feeds information to the witness
2 and then tries to elicit information from the witness. The
3 prosecutor might as well testify himself. This is utterly
4 improper. It mirrors what was said by the earlier gentleman who
5 testified here. Without someone really reminding me, I'm having
6 difficulty remembering. What was the purpose of reminding the
7 witness or telling the witness, I should say, where Mr. Ieng Sary
8 was between '71 and '75? He's coaching the witness; this is
9 utterly improper. I urge Mr. President that you reprimand or at
10 least suggest to the gentleman not to do this again.

11 [15.39.44]

12 MR. PRESIDENT:

13 International Co-Prosecutor, would you wish to make any
14 observations with regard to this objection?

15 MR. DE WILDE D'ESTMAEL:

16 I'm simply trying to have the witness clarify and tell us whether
17 he remembers the period and to tell us why he believes Ieng Sary
18 might have come to his area. But, of course, I can reformulate my
19 question.

20 [15.40.28]

21 MR. PRESIDENT:

22 The objection is sustained. If questions are believed to be the
23 leading questions, they should not have been put in the first
24 place. The Chamber has already advised and reminded each party
25 that you should be refrained from putting any leading questions

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1 and may Co-Prosecutor now be reminded that your allocated time is
2 now ticking and that other parties also would wish to put some
3 questions to the civil party. So please make the most of your
4 allocated time.

5 BY MR. DE WILDE D'ESTMAEL:

6 Q. Thank you. Besides Ieng Sary, did other important leaders
7 attend this meeting?

8 MR. KLAN FIT:

9 A. No, no other people other than those people that I already
10 emphasized.

11 Q. My last question regarding Mr. Ieng Sary: Following this
12 second meeting and until 1979, did you meet Ieng Sary again; and
13 when and upon which occasions?

14 A. I did not see him again apart from the two meetings, the one
15 at K-5 and at other location when I met him after the 1979 or --
16 after that I never met him again.

17 Q. Thank you. I'm going to ask my colleague to continue with the
18 questions in the remaining time allotted to us.

19 MR. PRESIDENT:

20 National Co-Prosecutor, you may now proceed.

21 [15.43.11]

22 QUESTIONING BY MR. CHAN DARARASMEY:

23 May I ask how much time left for me?

24 Good afternoon, Mr. Klan Fit. I am Chan Dararasmeay, the National
25 Co-Prosecutor. I would like to put a question to you with regard

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1 to Nuon Chea. You indicated on the 6th of December, before this
2 Chamber and also previously before the Co-Investigating Judges,
3 you indicated that you attended education sessions on two
4 occasions. The sessions were political sessions chaired by Nuon
5 Chea. They were convened after 1975, the 17th of April, and that
6 the session was chaired by Nuon Chea.

7 Q. Could you please verify whether the date is correct as it is?

8 MR. KLAN FIT:

9 A. Frankly, I saw Nuon Chea who came to the meetings two times.
10 Because in each meeting there would be about 500 to 600 people.

11 Q. Where was the meeting convened?

12 MR. PRESIDENT:

13 Can the civil party activate his mic before responding?

14 Chan Dararasmeay, repeat the question.

15 BY MR. CHAN DARARASMEY:

16 Q. Where was the meeting held?

17 MR. KLAN FIT:

18 A. The meeting was conducted in Phnom Penh but I don't recollect
19 in which location exactly was it conducted. I just don't
20 remember. It was in the place where there was a bad smell in the
21 location.

22 Q. How many people were attending the meeting?

23 A. A lot of people, about 500 to 600 people were attending the
24 meeting.

25 Q. Were people who attending the meeting cadres from all across

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1 the country?

2 [15.45.58]

3 A. Those members of the meeting were from various locations, from
4 ministries, from district levels.

5 MR. PRESIDENT:

6 Counsel for Nuon Chea, you may now proceed.

7 [15.46.15]

8 MR. PESTMAN:

9 I'm sorry but I have to object to this line of questioning. This
10 is completely outside the scope of the first trial. It's all
11 after the post 1970 period.

12 MR. PRESIDENT:

13 Objection is not sustained. Question that is put to the witnesses
14 or civil party before this Chamber are exactly within the scope
15 of the Case File 002/1 and during this phase of the trials,
16 parties are allowed to put questions that are relevant to the
17 historical background of the Communist Party of Kampuchea and
18 other relevant facts. However, parties are advised to put
19 questions in accordance with the order of the facts starting from
20 the smaller number to the bigger number. That's all. You may
21 proceed.

22 BY MR. CHAN DARARASMEY:

23 Thank you, Mr. President.

24 Q. The next question is Mr. Klan Fit, you indicated that the
25 meetings were chaired by Nuon Chea. Who told you that Nuon Chea

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1 conducted the meeting? Just tell the Court how you learned about
2 this information.

3 [15.48.00]

4 MR. KLAN FIT:

5 A. I actually did not see his face in person but when the meeting
6 started he would be introduced. His name would be read out loud
7 and at that moment we knew that it was Nuon Chea who chaired the
8 meeting.

9 Q. Thank you. Could you please tell the Court whether Nuon Chea
10 has another name?

11 [15.48.38]

12 A. No, I don't. So far as I know, I remember that his name is
13 Nuon Chea all along and I remember that there are other people
14 who has alias including Yam and others.

15 Q. Did you ever meet Nuon Chea before 1975? Or in other words,
16 have you ever met Nuon Chea before 1975, from 1970 to 1975?

17 A. I only met him when there were sessions conducted in Phnom
18 Penh when I attended. I never met him elsewhere.

19 Q. Have you ever noted or have you ever learned any information
20 concerning the statute for staff before 1975 or the regulations
21 for the members of the Party?

22 A. I'm afraid not. I did not know whether such statute was
23 established. We were only told about the statute to which I did
24 say that how could I understand such a statute. We were at that
25 time, had -- supposed to serve our people to make sure that

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1 people could not be arrested and that we had to be clean and that
2 we have to be -- that we had to be ethically and morally
3 well-behaved.

4 Q. Could you tell the Court the role of Nuon Chea at that time?

5 A. I don't know what role he held. I knew that people referred to
6 them as Om Nuon Chea, Om Ieng Sary, Om Khieu Samphan, Om Pok, and
7 that we were told that the person of highest authority was Om Pol
8 Pot.

9 Q. When you were asked to attend sessions in Phnom Penh, what
10 were the sessions about?

11 [15.51.56]

12 A. We were educated on how to understand how to manage our
13 country when we were in -- the country was an independent one.
14 Try to be independent to maintain this independence; the country
15 has been liberated that we have to make sure we can ensure peace
16 and order.

17 Q. You said you attended meeting at Borei Keila. Were other
18 senior people of the Khmer Rouge attended such sessions?

19 A. I don't know. I only remember seeing him alone there.

20 [15.52.50]

21 Q. During the political sessions that you saw Nuon Chea, what was
22 the topic of discussion about?

23 A. It was about the documents that I indicated that we were asked
24 to maintain a strong firm to protect our country. At that time,
25 my Khmer language was very embryonic. I could not read and write

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1 Khmer very well, I was just remaining sitting there listen to the
2 proceeding.

3 Q. How long was the session – was each session?

4 A. The sessions lasted three hours -- three days each.

5 Q. During the second session, do you remember any names or cadres
6 who attended this session?

7 A. There were people from various provinces, senior people from
8 various provinces attending the session.

9 Q. When Nuon Chea was in the sessions, did he talk about the
10 Communist Party of Kampuchea?

11 A. Back then I, indeed, did not understand what Communist Party
12 of Kampuchea was. I talked to other people who attended the
13 meeting who shared the same ignorance. They did not know what the
14 Communist Party of Kampuchea was about.

15 [15.54.41]

16 Q. Did Nuon Chea talk about Party discipline in the meeting?

17 A. Such content was discussed but I could not recall the details.
18 Indeed, some documents were hand -- discussed which were relevant
19 to the part that you asked. We were also lectured on the
20 leadership stands and to enforce -- to make sure that the stand
21 was strengthened.

22 [15.55.29]

23 Q. During the session, have you ever heard the terms cooperative,
24 new people or enemies?

25 A. Honestly, I did not really hear those terms. New people, poor

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1 people were not really discussed.

2 Q. During the second session, when it was concluded, do you know
3 that weapons were distributed to people and why?

4 A. After the liberation, each commune would be asked to group 20
5 people as the militia -- and armed so that they could defend the
6 country -- the villages and communes.

7 Q. Mr. President, since we are running out of time, I may only
8 put question with regard to Mr. Khieu Samphan to Mr. Klan Fit.
9 Mr. Klan Fit, have you ever met Khieu Samphan after Phnom Penh
10 was captured by the Khmer Rouge and when and where if did.

11 [15.57.25]

12 A. Frankly, I have never met him even once. I don't even know him
13 or his name. I never met him in person -- I never met him in
14 person. I have only heard of him.

15 Q. Have you ever heard the term "K-5"? What "K-5" means? Did you
16 know that there was meeting in the jungle?

17 [15.58.04]

18 A. I learned that there were meetings in the jungle. Meetings
19 were convened before the liberation and the zone committees
20 including the senior people like Pol Pot, Ieng Sary and Khieu
21 Samphan were attending the meetings.

22 Q. Do you know that Khieu Samphan has another revolutionary name
23 back then?

24 A. No, I'm afraid not.

25 Q. Do you know that Mr. Khieu Samphan also held another position

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1 in the Communist Party of Kampuchea?

2 A. No I don't. Honestly.

3 Q. Did you meet Khieu Samphan after April 1975 -- April -- May --
4 the 17th of April, and where?

5 A. No I never met him.

6 Q. Do you know what Mr. Khieu Samphan did after 1975, what
7 position he held?

8 A. No I have never met him. I did not know anything about his
9 role.

10 Q. Mr. Klan Fit, with regard to the radio broadcasting, between
11 the coup d'état of the Lol Nol regime and the liberation of the
12 -- by the Khmer Rouge, had you had any knowledge of the radio
13 broadcasting back then?

14 A. I knew that there were radio broadcasting in Khmer, but my
15 Khmer language was not at the level to understand what it was
16 about.

17 [16.00.21]

18 Q. Mr. President, with your permission I may wish to put question
19 with regard to the evacuation of the people from the cities.

20 Mr. Klan Fit, have you ever heard of the expression "new people"
21 and have you ever learned that people have been evacuated from
22 cities to the rural areas.

23 A. Yes, I have witnessed such evacuation. We knew that the people
24 who were evacuees were integrated into the cooperatives; and
25 there were people from other locations who were brought to my

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1 area where they were asked to join the cooperatives.

2 Q. How many days after the collapse of Phnom Penh when the --
3 before the evacuation took place?

4 A. Mr. President, I am afraid that I do not recollect this
5 because I was living in the jungle; I was disconnected from the
6 situation in Phnom Penh, so I cannot really respond to this
7 question.

8 Q. Did you ever hear that the leader of the Communist Party of
9 Kampuchea discuss about the evacuation and the reason behind this
10 phenomenon?

11 [16.02.03]

12 A. No, I did not hear anything. I only learned that people were
13 evacuated. I learned -- I witnessed that people were being
14 brought by car or trucks or tanks to our location. I asked some
15 people why these people were evacuated. I was only told that they
16 were evacuated or relocated because these people were at danger
17 of being attacked by the Vietnamese, for example.

18 Q. I have only final mini questions. Do you ever hear or have any
19 knowledge of the evacuation of the people; or have you ever
20 witnessed the live condition of the evacuees who were evacuated
21 from Phnom Penh; were they living a decent life?

22 A. The people who were evacuated from cities were living a very
23 difficult life. I could say that they endured hardship. People
24 were relocated every now and then because they say that they had
25 to really move from places for the reason that if they did not do

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1 so the Vietnamese would attack them.

2 Q. The final question by Co-Prosecutor. Who actually ordered --
3 issued orders and follow-up whether the orders were executed
4 properly?

5 [16.04.01]

6 A. It was Om Pauk, Ieng Sary, and other people who were senior
7 people who would be doing this; no other people would have power
8 or allowed to do so.

9 MR. CHAN DARARASMEY:

10 Thank you, Mr. Klan Fit, for your statements. And thank you, Mr.
11 President, for allowing me to put all the questions I intended to
12 put to the civil party.

13 MR. PRESIDENT:

14 Thank you, Mr. Klan Fit.

15 Since it is now an appropriate time for the afternoon session
16 adjournment--

17 (Judges deliberate)

18 [16.05.30]

19 Before we adjourn for the day, we would like to touch upon the
20 issue, the same issue concerning this civil party because a while
21 ago that counsel for Khieu Samphan said he waited for the
22 testimony of this civil party before he could tell the Chamber
23 whether he would wish to put any questions to this civil party;
24 so the Chamber would like to ask defence counsel whether he
25 wishes to have some time to put questions to this civil party.

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1 The question is for counsel for Khieu Samphan.

2 MR. KONG SAM ONN:

3 Thank you, Mr. President.

4 We are the last group, so I do not know whether I will have
5 questions because I will have to wait to see whether the other
6 defence counsel asks questions or not.

7 MR. PRESIDENT:

8 Counsel for Ieng Sary, what is your position as to whether you
9 are going to ask question to this civil party? Do you have
10 questions to ask to this civil party or you do not?

11 [16.07.18]

12 Because I have noted that you, first of all, request for an
13 appropriate time location but then you change your position, so
14 for the purpose of smooth administration of this proceeding I
15 want to hear from you.

16 MR. ANG UDOM:

17 Mr. President, I would like to clarify that we do not change our
18 position; we will ask questions to this civil party tomorrow and
19 we will limit our questions within 30 minutes.

20 MR. PRESIDENT:

21 Counsel Son Arun?

22 MR. SON ARUN:

23 Mr. President, as for counsel for Nuon Chea, we will also have
24 questions for Klan Fit tomorrow.

25 MR. PRESIDENT:

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1 But the international counsel for Nuon Chea said a while ago that
2 he did not have any questions to ask to this civil party; that is
3 why I did not ask him again.

4 [16.08.40]

5 And if the defence counsel decides to -- or decide not to ask
6 question, then the defence counsel do not have any other
7 opportunity. So can you reiterate your position again?

8 MR. MICHEL PESTMAN:

9 I'll reiterate exactly the same position as--

10 MR. PRESIDENT:

11 I hand over to Counsel Son Arun to tell the court whether he
12 would like to take some times to put questions to the civil
13 party.

14 Mr. Son Arun, can you answer the question?

15 MR. SON ARUN:

16 I would request a 20 minutes tomorrow morning for the
17 questionings. Thank you.

18 [16.09.49]

19 MR. PRESIDENT:

20 Thank you for your clear position. This will help the Chamber to
21 prepare and arrange the time for tomorrow's sessions and this
22 will be our experience for our subsequent proceedings.

23 Mr. Klan Fit, we thank you for your time to be here and to
24 provide your testimony, however your testimony has not been
25 concluded today because you will be questioned, as you have

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1 heard, tomorrow by the three defence counsels. So, in principle,
2 tomorrow morning the Chamber will hear testimonies of the accused
3 Nuon Chea, and as for you, the Chamber will hear your testimony
4 in the afternoon session beginning from 1.30. So you are
5 instructed to come back to the Court accordingly, and the victim
6 -- the witness and expert support sections is instructed to
7 accommodate and facilitate the travel of the civil party so that
8 he arrive at the Court before 1.30 tomorrow.

9 As for now, it is time for us to adjourn our proceedings today
10 now and we will resume our proceedings tomorrow from 9 o'clock in
11 the morning.

12 Security guards are instructed to bring the three accused persons
13 back to the detention facility and return them to the courtroom
14 by 9 o'clock, tomorrow morning.

15 The Court is now adjourned.

16 (Court adjourns at 1612H)

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