



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

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Case File N° 002/19-09-2007-ECCC/TC

19 March 2012

Trial Day 38

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

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KHIEU Samphan

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MR. ANG UDOM	Khmer
JUDGE CARTWRIGHT	English
MS. GUISSÉ	French
MR. KARNAVAS	English
JUDGE LAVERGNE	French
MR. LYSAK	English
MS. NGUYEN	English
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. NUON CHEA	Khmer
MR. PESTMAN	English
MR. PICH ANG	Khmer
MR. SENG BUNKHEANG	Khmer
MS. SIMONNEAU-FORT	French
MR. SMITH	English

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

2 (Court opens at 0901H)

3 MR. PRESIDENT:

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

5 According to our schedule, this morning the Chamber is going to
6 hear testimonies of the accused person Nuon Chea concerning the
7 facts have -- that have already been identified to be the subject
8 for the hearing for this segment of the trial in Case 002.

9 [09.03.35]

10 In the second segment of this trial, the facts include the
11 administrative structures of the Democratic Kampuchea, and the
12 communication structures of the regime of Democratic Kampuchea,
13 and, third, the relevant paragraphs concerning the roles of the
14 accused person. The roles are closely related to these two
15 contexts, the administrative structures and the communication
16 ones.

17 Since these issues are interrelated and parties have already been
18 informed of the orders for questioning the Accused or the order
19 of the hearings and that parties have been informed that the
20 questionings will proceed in accordance with the orders of the
21 facts listed in the Closing Order, or Indictment -- and this is
22 the common scheme. However, due to the fact that the situation
23 and the relevance of these facts need the Chamber to -- or the
24 Chamber is needed to advise parties that there would be some
25 amendments or adjustments, rather, to these orders because we

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1 have three main context before us at issue and to ensure that the
2 proceedings are smooth and that we can avoid unnecessary
3 repetition.

4 [09.06.02]

5 And the Chamber is well aware of -- is considering the roles of
6 the Accused which is part of the context of the administrative
7 structure of the Democratic Kampuchea. It is therefore important
8 that the Chamber will determine that, during the second phase of
9 the trial, we will look into, first, the administrative
10 structures of Democratic Kampuchea, starting from paragraphs 33
11 to 71 in the Indictment, and, number 2, the roles and
12 responsibility of the Accused will begin from -- starting from
13 paragraphs 869 to 872, 880 to 892, 1001 to 1015, 1131 to 1444,
14 and with regard to another portion, we commence from paragraphs
15 72 to 112.

16 [09.07.55]

17 We have shifted the part with -- with regard to the roles of the
18 accused person to an early stage, and I think the rest of the
19 proceedings will remain the same. And we hope that the parties
20 will be fine with this reschedule of some certain paragraphs for
21 the debate.

22 I would like now to hand over to Judge Sylvia Cartwright
23 concerning this change and to ensure that the message is
24 well-conveyed into the ears of those who speak English.

25 JUDGE CARTWRIGHT:

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1 Yes. Thank you, President.

2 The President has announced that there will be a small change in
3 the order of examination. The first part, administrative
4 structures, centre and national, we will begin with that, that
5 is, paragraphs 33 to 71 of the Indictment.

6 The next stage will be the roles and functions of all three
7 accused. I don't have all the paragraphs specifically in front of
8 me, but so far as the accused Nuon Chea is concerned, those
9 paragraphs are 869 to 892; and the other two accused, the
10 paragraphs relevant to them will also be examined before we
11 return to paragraphs 72 to 112, which is the Communications
12 section of the Indictment.

13 So I hope that, between us, the President and I have made this
14 clear to all the parties. Is it clear enough? Yes. Thank you.

15 [09.10.18]

16 MR. PRESIDENT:

17 Security personnels are now instructed to bring the accused Nuon
18 Chea to the dock.

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

20 [09.10.45]

21 Counsel for Nuon Chea, you may now proceed.

22 MR. PESTMAN:

23 While my client is being taken to the stand; maybe I can just
24 make a small request.

25 After you have asked for your first relevant questions as to the

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1 identity of the client -- or I don't know whether you're going to
2 do that again -- my client would like to make a short statement.
3 He has submissions to make before answering the questions of the
4 prosecutor. I think it will take 10 to 15 minutes; it won't take
5 any longer. So the request is to allow my client to read a short
6 statement which can be seen as a submission for Your Honours
7 before answering the questions of the prosecutor.

8 (Judges deliberate)

9 [09.12.39]

10 MR. PRESIDENT:

11 Before we rule on this request, we would like to ask Mr. Nuon
12 Chea whether he would like to make the statement that is relevant
13 to the facts at issue or not - indeed, the facts determined for
14 the purpose of this portion of the trial -- or is he trying to
15 make a statement irrelevant to these facts, but relevant to
16 others?

17 MR. NUON CHEA:

18 Good morning, Mr. President, Your Honours. This statement is
19 relevant to those facts.

20 MR. PRESIDENT:

21 Thank you. The Chamber grants your request.
22 And that counsels for Nuon Chea, please be informed and other
23 parties be advised that the hearing with regard to the accused
24 person Nuon Chea will begin from the Bench. This setting will not
25 be the same as suggested by other parties. In other words,

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1 parties are not supposed to question the Accused before the Bench
2 has finished the questioning.

3 [09.14.34]

4 Mr. Nuon Chea, you may now proceed.

5 MR. NUON CHEA:

6 Good morning, brothers, sisters, everyone here and outside of
7 this courtroom in Cambodia and abroad, Your Honours.

8 We are here today claiming that we are looking for justice and
9 truth for Cambodian people. However, the fact before us today is
10 that the truth that we have been looking for does not show the
11 complete picture of the history of Cambodia to ensure that
12 Cambodian people would understand what had actually happened
13 during those times.

14 [09.15.55]

15 I still maintain my choice of words concerning the analogy that I
16 used that this Chamber is now looking into only the head of the
17 crocodile and failing to also ensure that its tail and the whole
18 body be examined; in other words, the root causes and its
19 consequence which are part and parcel of the events that happened
20 before 1975 and after 1979. The Chambers have not contemplated
21 those things.

22 Your Honours, how could this Court contemplate my activities
23 without first having to look into the broader political, social,
24 and contextual circumstances at the times of the Democratic
25 Kampuchea? We shall examine and have the appreciation of the most

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1 corrupt regime. We have to appreciate the hunger, destruction,
2 poverty, death, corruption, epidemic, chaos, and violence that
3 had happened in Cambodia before the Democratic Kampuchea regime
4 and the aftermath.

5 [09.18.30]

6 We also need to look into the American aerial bombardments. These
7 bombardments had not caused only the death of 100,000 of
8 Cambodian people, but it also destroyed the structures -- the
9 infrastructures of the whole country and the food it supplied to
10 its people.

11 We also need to look into this very bad situation in the whole
12 country before the -- before April 1975; the situation which --
13 in which the country was annihilated by the civil wars for many
14 years and that there was no functional medical services
15 available. These are part of the facts and the truth that are
16 very relevant for the Court to take into account carefully and
17 meticulously.

18 On top of that, when evaluating -- when evaluating my activities,
19 one needs to look into the other issues to see whether my country
20 had already been destructed by the aerial bombardments, by the
21 B-52 bombers or not.

22 [09.20.25]

23 When assessing an activity of an individual person during the
24 time of the Democratic Kampuchea, one needs to look into whether
25 the person controlled the whole beautiful city or not or the city

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1 -- or cities had already plunged into the situation of great
2 hunger and destruction. When assessing the activities of an
3 individual leader of the Democratic Kampuchea, one needs to
4 consider the activities of neighbouring countries; in this
5 situation, Vietnam, who tried to harbour its policy to get rid of
6 Cambodia, to conquer Cambodia, and to wipe out Cambodian race
7 from the world or not.

8 In short, we cannot take it for granted with regard to the roles
9 of the Khmer Rouge or the Democratic Kampuchea's leader and that
10 we shall not fail to look into a broader context surrounding this
11 situation before they can come to the conclusion by judging their
12 activities ultimately.

13 [09.22.11]

14 Your Honours, you can correct this shortcoming by just hearing
15 some witnesses our team have proposed. We would like to hear
16 witnesses who witnessed and who were in the City of Phnom Penh
17 and understood what happened before the fall of Phnom Penh
18 because only these witnesses can tell the public more clearly
19 about the actual situation, how bad it was. I would like to hear
20 these testimonies from some American military officers who would
21 be able to shed light on the destruction the Americans caused
22 during the course of the -- their aerial bombardments on the soil
23 of Cambodia.

24 Furthermore, I would really love to hear the testimonies of other
25 witnesses who may be able to shed light on the other context

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1 relevant to what had happened during the Democratic Kampuchea. It
2 is really important for the interest of the Cambodian people and
3 to the younger generation to fully understand what constituted
4 the acts committed by the Democratic Kampuchea.

5 In light of that, I would like to invite the Chamber to not
6 forget to deliberate or to discuss on these very important
7 historical context and that debate has to be conducted in public.
8 And these following things I would like the Chamber to take into
9 account.

10 [09.24.39]

11 First, the aerial bombardments by the Americans on the Cambodian
12 soil from 1965 through 1973, and also the Chamber need to take
13 into account how many people died from these bombardments, and a
14 proper assessment has to be made with regard to the destruction
15 on the infrastructure including roads, bridges, and
16 communications, and also the agricultural productivity to see
17 whether such things have already been vanished during that time.

18 [09.25.26]

19 Two, the poverty, hunger, which were widespread both in the
20 cities -- in Phnom Penh before April 1975. The Chamber needs to
21 also look into the number of refugees, their condition of living,
22 and the causes that make them evacuate or had to move places or
23 be displaced.

24 Number 3, the quantity of food, in particular the food in Phnom
25 Penh, immediately after April 1975, and the agricultural

1 productivity for a short period of time and long-term during that
2 time. These also need to be assessed and considered.

3 Four, health services before 1975 and humanitarian aid --
4 international humanitarian aid that could have -- during the time
5 starting from 1970 to 1975 including the aid provided by the
6 American government.

7 [09.26.58]

8 Number 5, the role of Vietnam and -- with regard to Cambodia, the
9 Democratic Kampuchea.

10 Your Honours, these issues have not just been raised today.

11 My counsels have made requests to the Office of Co-Investigating
12 Judges to conduct investigation into these very important topics
13 to ascertain the truth, which is very beneficial. However, the
14 ignorance and bias on the part of the Co-Investigating Judges
15 make it impossible for the request to be entertained. And this
16 has really prejudiced -- it is, therefore, prejudicial to the
17 whole Court proceedings.

18 [09.28.23]

19 The Office of Co-Investigating Judges have been working to only
20 find inculpatory evidence to please the Office of -- rather, the
21 Office of Co-Prosecutors. It is a shame, indeed. It is really
22 obvious and unacceptable. Most importantly and vividly, in its
23 Indictment -- rather, in its Closing Order, the Co-Investigating
24 Judges had not mentioned a word with regard to this particular
25 topic. And in the introductory submission by the Co-Prosecutors,

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1 the same thing echoed, and there is no -- nothing mentioned with
2 regard to this topic, as I indicated.

3 We note that there has been order by the Co-Investigating Judges
4 -- counsel for the accused persons are not allowed to conduct
5 private -- or, investigation on their own. We heavily rely on the
6 investigative actions by the Co-Investigating Judges and --
7 because we were not allowed to do such investigations by
8 ourselves. For that, we failed to grasp the whole context of the
9 investigation.

10 MR. PRESIDENT:

11 Mr. Nuon Chea, could you please hold on? We note that the
12 Co-Prosecutor is on his feet, and he may proceed.

13 MR. LYSAK:

14 Thank you, Mr. President. I'm sorry to interrupt the Accused's
15 statement. I've been patiently waiting to see if there was
16 anything in the statement that related to the upcoming
17 administrative structure segment.

18 [09.30.44]

19 The Accused was specifically asked in advance whether his
20 statement would relate to that; he indicated that it would. That
21 turns out to be an untruthful statement, as he has used this time
22 to make an argument that his counsel has previously made, an
23 argument that we take particular issue with, given that this
24 Court has spent almost two months on the historical background of
25 this Case.

11

1 The Accused and his counsel had a chance to question him, asked
2 for a very limited time, and spent their time asking questions
3 about his childhood and about trips to the border with Heng
4 Samrin, instead of these issues, and when having the opportunity
5 to present documents on these historical issues, listed six
6 documents, and when having the opportunity to present some of
7 them, chose not to. I say that because these assertions that are
8 part of the objection made by counsel are simply absurd.

9 And also we object to the Accused using this statement to make
10 legal arguments rather than to make a statement regarding this
11 upcoming trial segment.

12 MR. PRESIDENT:

13 Counsel for Nuon Chea, you may now proceed.

14 MR. PESTMAN:

15 Mr. President, I don't want to go into another argument; my
16 client has almost finished, so I would like you -- to request
17 that my client finish his statement.

18 And we do maintain, of course, that it is relevant for the facts
19 contained in the Closing Order.

20 (Judges deliberate)

21 [09.32.55]

22 MR. PRESIDENT:

23 The objection by the Prosecution is sustained, so Nuon Chea is
24 instructed to pause on his statement.

25 And the Chamber wishes to remind the Accused and, in this case,

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1 Mr. Nuon Chea that any statement should be made relevant to the
2 portion of the segment of trial. Earlier on, before we started
3 the session, the Chamber did remind the Accused and the parties
4 to focus their efforts on discussing the matters relevant to the
5 three main facts at issue: first, structure -- administrative
6 structure of the Democratic Kampuchea; second, the role and
7 responsibility of the Accused relevant to certain paragraphs of
8 the Closing Order; and, third, on the communication of this
9 regime. And just now we listened to the statement of the Accused,
10 but that statement was not relevant to the facts determined by
11 the Chamber as the subject for the discussion of today's session.

12 [09.34.31]

13 We have repeatedly reminded parties that they are facts relevant
14 to the portion known as Case 002/01.

15 And it -- I now hand over to Judge Sylvia Cartwright to put
16 questions to the Accused.

17 And, Counsel, you are not allowed to make any further observation
18 or argument concerning this statement.

19 So we would like to proceed to questioning the Accused relevant
20 to the facts subject to the discussion today.

21 I now hand over to Judge Cartwright.

22 MR. PESTMAN:

23 Your Honour, can I-- I don't want to make any arguments or
24 observations, I would just like to ask for a five-minute break to
25 discuss the consequences of your decision with my client. I can

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1 do that in Court, I don't have to go downstairs to discuss this
2 with my client.

3 (Judges deliberate)

4 [09.36.20]

5 MR. PRESIDENT:

6 Your request is not granted.

7 Counsel and the Accused will have sufficient time, and we -- the
8 Chamber has already notified parties through our various
9 memorandums so far, concerning the schedule for the hearing.
10 And in addition, before concluding the session last week, the
11 Chamber also advised parties of the purpose of this week's
12 hearing. Particularly, we indicated the time needed to question
13 the Accused and times allotted to question other individuals
14 concerning this portion of the hearing.

15 So I would like to now hand over to Judge Sylvia Cartwright.

16 QUESTIONING BY JUDGE CARTWRIGHT RESUMES:

17 Yes. Good morning, Nuon Chea. Good morning, Nuon Chea.

18 I would like to say, at the outset, that the Chamber fully
19 understands your reasoning concerning the events that happened
20 prior to 1975. However, today we are focusing for the first time
21 directly on the administrative structures for the centre and for
22 the national parts of Cambodia from 1975 on.

23 Some weeks ago, we discussed in some detail the work that you and
24 Tou Samouth, in particular, did developing the tactical lines and
25 strategy for the Party. And I fully understand that this was very

14

1 important work for the Communist Party of Kampuchea, and that you
2 are very knowledgeable about the history of the Party's tactical
3 lines and strategy.

4 [09.38.58]

5 You also told us that, in 1960, the Party adopted a statute. And
6 now I want to focus on the statute that was used by the Communist
7 Party of Kampuchea from 1975 onwards.

8 In the Closing Order, at paragraph 33, it says that a new statute
9 was adopted in 1976. You thought, when we discussed this some
10 weeks ago, that it might have been a month or two after that, but
11 you agreed that the document that you were shown on that occasion
12 was the statute that was in force, that was used by the Party
13 from 1975 on.

14 I now want you to be given a copy of that same statute in Khmer
15 because I want you to help me to understand the various parts of
16 the statute, as it is set out, because I believe you are in a
17 unique position to assist the Court in understanding this
18 statute.

19 The document that has just been placed before Nuon Chea is "The
20 Communist Party of Kampuchea Statute", E3/130.

21 I'd like to start by asking you some questions about the
22 fundamental principles and political stances of the Party that
23 are set out in the first part of that Statute.

24 Q. First of all, it's correct, isn't it, that the very first
25 paragraph in the statute names the Revolutionary Party as the

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1 Communist Party of Kampuchea; is that correct?

2 [09.41.48]

3 MR. NUON CHEA:

4 May it please the Court, I would like to exercise my right to
5 remain silent temporarily, until I am allowed to discuss with my
6 counsel.

7 JUDGE CARTWRIGHT:

8 Can you help me; do you wish to discuss this question with your
9 lawyer, or do you wish to discuss other matters?

10 MR. PESTMAN:

11 That is not allowed. I don't think the Court should--

12 JUDGE CARTWRIGHT:

13 Excuse me, Mr. Pestman; the President has already made a ruling,
14 and I simply wish to clarify before we discuss the reaction to
15 Nuon Chea's request.

16 [09.42.40]

17 MR. PESTMAN:

18 But I object--

19 JUDGE CARTWRIGHT:

20 Please sit down until this is resolved.

21 MR. PESTMAN:

22 I advise my client strongly not to answer this question.

23 It's not - it's not up to the Court to ask any questions about
24 what I will discuss.

25 (Judges deliberate)

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1 [09.43.46]

2 MR. PRESIDENT:

3 Mr. Pestman, how much time do you envisage you need to discuss
4 with your client.

5 MR. PESTMAN:

6 As I said, five minutes would be sufficient.

7 MR. PRESIDENT:

8 You may proceed.

9 Security guards may retire a bit so that the counsel may exercise
10 the right to discuss matters directly with his client.

11 (Discussion between the accused Nuon Chea and his counsel, Mr.
12 Pestman)

13 [09.47.10]

14 MR. PESTMAN:

15 Thank you very much for allowing me to speak with my client
16 briefly.

17 The request is to allow my client to finish reading his
18 submissions. He had almost finished, there was one more page. I
19 think it will not take more than two or three minutes.

20 I think it's important that he's allowed to finish, because the
21 last part of his submission actually contained a request for this
22 Trial Chamber.

23 He's -- what he is in fact doing is making an oral submission,
24 and I think he should be allowed to do so. And I think the Trial
25 Chamber has, then, to decide on this oral submission.

17

1 I just discussed this with my client: if he's not allowed to
2 finish reading his statement, he will not answer any other
3 questions with regards to the structure of the Party or his role
4 in the 1975-1979 period.

5 (Judges deliberate)

6 [09.55.10]

7 MR. PRESIDENT:

8 To address the matter at hand, the Chamber grants leave for Nuon
9 Chea to finish the statement. But, once again, the statement
10 shall be relevant to the facts concerning Case 002/01.

11 At the same time, the Chamber wishes to observe the attitude of
12 the Accused's counsel in this hearing.

13 So, now, Mr. Nuon Chea may proceed.

14 MR. NUON CHEA:

15 Thank you, Mr. President. I would like to continue my statement.
16 As I have repeatedly said, there was an order from the Office of
17 Co-Investigating Judges, and my counsel was not allowed to
18 conduct independent investigation on his own. For this reason, I
19 have no choice but to rely on the result of the investigation
20 conducted by the Office of Co-Investigating Judges.

21 [09.56.49]

22 We have requested to the Office of Co-Investigating Judges to
23 thoroughly discuss -- or investigate, rather, the facts at issue.
24 However, unfortunately, our request has never been duly
25 considered. The treatment of the Office of Co-Investigating

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1 Judges on our request makes it clear that their investigative
2 acts have not been any help to my case. Consequently, when I am
3 coming to the Court, I have nothing but bare hands to this
4 courtroom.

5 I hope that this Trial Chamber would not follow what the Office
6 of Co-Investigating Judges has done and I, again, hope that Your
7 Honours, members of the Bench, will exercise your full discretion
8 to search for the truth that is useful and in the interest of
9 justice.

10 For the above-mentioned reasons, I would like to earnestly
11 request the Chamber: one, to continue the discussion of the
12 historical context before 1975, as I indicated earlier,
13 thoroughly and broadly so that the Cambodian people as well as
14 our foreign friends understand the historical context of Cambodia
15 at that time, and if the Chamber would not deal with that, I am
16 going to exercise my right to remain silent throughout the
17 proceeding; two, I would like to earnestly request the Chamber to
18 listen to the testimony of the witnesses and experts requested by
19 my counsel, so that we can ascertain the truth and justice
20 acceptable by all parties; three, in accordance with the
21 Cambodian law, I would like to request the Chamber that I be
22 allowed to put additional documents until the conclusion of the
23 proceedings.

24 So these are my requests which I would like the Chamber to
25 earnestly consider.

19

1 [10.00.10]

2 In addition, I would also like to ask the Chamber to respond to
3 the requests I made orally on 16 February 2012. I would like to
4 know whether or not my request has been dealt with by the Chamber
5 because it has been almost a month now since this request was
6 made. Unfortunately, however, to date I have not received any
7 response from the Chamber. May it please the Court to provide the
8 response to my requests.

9 With respect, thank you.

10 MR. PRESIDENT:

11 Lead Co-Lawyer for the civil party, you may now proceed.

12 MS. SIMONNEAU-FORT:

13 Mr. President, I was listening to the end of Mr. Nuon Chea's
14 statement.

15 [10.01.59]

16 On behalf of the civil parties, I wish to express a certain level
17 of concern at this stage, also a level of exasperation.

18 We are fully aware that the Defence has rights. We understand
19 that those rights have to be balanced with the rights of other
20 parties and that, in addition, such rights can only be exercised
21 in a certain context, and it is up to the Trial Chamber to
22 decide, and not up to Mr. Nuon Chea, nor his defence counsel.
23 Mr. Nuon Chea is once again talking about the historical
24 background. We've spent several weeks discussing the historical
25 background of this trial, and I do not believe that Mr. Nuon Chea

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1 nor his counsel were prevented from raising these issues
2 previously.

3 I'm rather astonished that today they are asking to address this
4 subject once again.

5 I wish to also point out that while the Defence does -- entitled
6 to rights, there are certain limits and, in fact, what they are
7 undertaking is a type of bribery (sic), as Mr. Nuon Chea is
8 effectively saying if you do not proceed as I suggest, I will
9 refuse to speak.

10 I do not believe that we should agree to such conditions in order
11 to hear him speak or to have him speak.

12 [10.03.21]

13 This trial must advance. It is not for Mr. Nuon Chea-- This trial
14 has been set up for all parties, including the civil parties who
15 we defend.

16 We would hope that Your Honours will impress upon Mr. Nuon Chea
17 that he shall not impose or dictate the circumstances in which
18 this trial shall unfold. Thank you.

19 MR. PRESIDENT:

20 Does any other party wish to make any observation with regard to
21 this?

22 [10.03.59]

23 MR. LYSAK:

24 Thank you, Mr. President. I obviously share those concerns.

25 The only observation I wish to add to this is that there are --

21

1 the way this trial will proceed is that there are many, many
2 witnesses yet to be heard. Unlike the Accused, where we are
3 structuring their testimony on particular segments, when
4 witnesses appear, they will be able to address historical
5 background issues.

6 So, to the extent the Accused is suggesting that no future
7 witnesses can address events prior to pre-April 1975, that is
8 incorrect, and I just want to make sure that's clear on the
9 record.

10 Beyond that, it is up to the Chamber to determine how to proceed
11 now with Mr. Nuon Chea.

12 (Judges deliberate)

13 [10.05.20]

14 MR. PRESIDENT:

15 The Chamber may take an earlier adjournment. We now adjourn until
16 10 to 11.

17 Counsel for Ieng Sary, you may now proceed.

18 MR. ANG UDOM:

19 Thank you, Mr. President.

20 Due to health reasons, Mr. Ieng Sary has requested that he be
21 excused from this courtroom the whole day and that he be allowed
22 to observe the proceeding from his holding cell.

23 MR. PRESIDENT:

24 The Chamber notes the request by Ieng Sary through his counsel.
25 He has requested that he be excused from this courtroom and be

22

1 allowed to observe the proceedings from his holding cell due to
2 his health reason.

3 [10.06.40]

4 The Chamber, therefore, grants such request, a request that has
5 already been made through his counsel.

6 The Chamber would like to advise counsel that such a request is
7 produced with his signature and -- or thumbprint.

8 Security personnels are now instructed to take the accused person
9 to the holding cell.

10 And the AV officers are instructed to ensure that the AV
11 equipment is linked to his holding cell.

12 The security personnels at the same time are asked to take Nuon
13 Chea back to his seat behind his counsel.

14 The Court is adjourned.

15 (Court recesses from 1007H to 1101H)

16 MR. PRESIDENT:

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

18 Before we proceed -- we note that Nuon Chea raises his hand, but
19 before we proceed to him, we, the Chamber, would like to inform
20 Nuon Chea that the Chamber has examined your request made this
21 morning, in which you asked that the Chamber settle four items in
22 the request.

23 Having looked and examined such request, the Chamber notes that
24 this request is the old request and it has been raised by
25 counsels for Nuon Chea and Mr. Nuon Chea himself on -- in the

1 courtroom. Some of the requests had already been entertained; the
2 others are pending -- I mean, the decision is pending.

3 Next, we would like to ask Nuon Chea whether he is ready to
4 respond to questions to be put by Judges of the Bench or not; in
5 particular, the questions concerning the facts in this segment of
6 the trials. Please respond to the question I put to you now and
7 you may proceed with your other observation. You may proceed.

8 Mr. Nuon Chea, you are now instructed to respond to my question.

9 The question, again, is: Are you prepared or ready to answer to
10 questions to be posed by the Judges of the Bench concerning the
11 facts relevant to this segment of the trials in Case File 002/01?
12 Please respond to this question first.

13 MR. NUON CHEA:

14 I thank you, the Chamber, for allowing me to have an opportunity
15 to consult with my counsels and that I was allowed to finish my
16 request.

17 [11.06.07]

18 Now, the Chamber is proceeding to the next section and in my
19 request, for the time being, I would like to exercise my right to
20 remain silent. I will reconsider to respond to questions posed to
21 me in any appropriate time. I believe that I should have been
22 given the opportunities to explain to the people of Cambodia
23 concerning the evacuations and I would like to state that the
24 evacuation was done on a necessary base and it was in accordance
25 with international law.

1 MR. PRESIDENT:

2 I thank you, Nuon Chea, for stating your position concerning your
3 right to remain silent.

4 In light of that, we feel that we cannot proceed this morning's
5 session further as Nuon Chea has indicated that he has or he is
6 exercising his right to remain silent.

7 And to ensure that we can deal with this problem smoothly and to
8 expedite the proceedings, the Chamber has decided to reschedule,
9 or to make some adjustment to the schedule for questioning Mr.
10 Kaing Guek Eav, alias Duch. It is therefore amended that Duch
11 will be questioned this afternoon, from 2 p.m. Parties to the
12 proceeding are advised to be present in this courtroom by then.

13 [11.08.08]

14 Kaing Guek Eav alias Duch will be questioned concerning the facts
15 that already determined by the Chamber.

16 The security personnels are now instructed to bring witness Kaing
17 Guek Eav alias Duch to his room before 1.30.

18 Since it is now appropriate time for adjournment, the Chamber
19 will adjourn, and the afternoon session will be resumed as
20 indicated.

21 [11.09.00]

22 The International Co-Prosecutor, you may now proceed.

23 MR. LYSAK:

24 Thank you, Mr. President. Just one quick point.

25 Our office had filed a motion in relation to Khieu Samphan on the

25

1 issue of the consequences of providing statement to the Court and
2 then refusing to answer questions. It appears that that issue may
3 now also apply to Nuon Chea. We think this is an important issue
4 to be decided by the Court and for the Accused to be clearly
5 advised on the consequences of refusing to answer questions after
6 having made statements to the Court. So it is up to the Court
7 whether to have a hearing on this or whether to request any
8 additional briefing as pertaining to Nuon Chea.

9 But now that -- in consideration of the morning's events, we
10 think it is important to deal with that issue as soon as we can
11 and to advise the Accused on the consequences. Thank you.

12 MR. PRESIDENT:

13 Security personnels, please be seated.

14 (Judges deliberate)

15 [11.11.52]

16 Thank you, International Co-Prosecutor, for your observation
17 concerning the right of the Accused to remain silent. And the
18 Chamber is preparing to respond to this case.

19 And the Chamber would like to inform the parties that our
20 decision will deal with all the relevant co-accused persons
21 before this Chamber when it is rendered.

22 Security personnels are now instructed to bring the two accused
23 persons to the holding cells and have them returned to the
24 courtroom before 1.30.

25 The Court is adjourned.

26

1 (Court recesses from 1112H to 1408H)

2 MR. PRESIDENT:

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

4 During this afternoon session, and indeed in light of the change
5 to the schedule, this afternoon we're going to hear testimonies
6 from witness Kaing Guek Eav alias Duch concerning the facts and
7 paragraphs on the relevant portion in Case File 002/01.

8 The greffier, could you please advise the Court whether this
9 witness has any relationship with any recognized or admitted
10 civil parties in the case file?

11 And, secondly, has this witness taken an oath?

12 THE GREFFIER:

13 Mr. President, Mr. Kaing Guek Eav alias Duch is available here,
14 at this court, and he is not in any listed relationship -- or not
15 related to any civil parties.

16 And he will take an oath before this Chamber in a moment.

17 MR. PRESIDENT:

18 Thank you.

19 [14.10.08]

20 Before we proceed to that hearing, the Chamber would like to
21 inform the accused person -- the Trial Chamber notes the motions
22 involving Ieng Sary and Khieu Samphan's right to remain silent,
23 E164 and E174. Pursuant to Article 35 new (g), an accused shall
24 not be compelled to testify against himself or to confess guilt.

25 (Judges deliberate)

1 [14.11.33]

2 Since there's some misunderstanding and we would like to defer
3 this matter to a later stage, the Chamber would like to call the
4 Accused -- rather, the witness and the Accused.

5 However, before that, we would like to give the floor to Judge
6 Lavergne to shed light on the issues that have not yet been
7 resolved this morning.

8 JUDGE LAVERGNE:

9 Thank you very much, Mr. President. Indeed, the Chamber wishes to
10 make the following statement with respect to the events that
11 occurred this morning.

12 The Trial Chamber reminds the parties and counsels that the
13 subject of today's hearing was advised well in advance of today's
14 hearing and repeated at the beginning of the hearing this
15 morning.

16 The Trial Chamber intends to examine particular parts of the
17 Closing Order that relate to the structures of the Communist
18 Party of Kampuchea, both centre and national, the roles and
19 responsibilities of each accused within those structures, and
20 then communications within the CPK during the relevant period.

21 [14.13.28]

22 It is for this reason that, when counsel for the Accused, Mr.
23 Pestman, asked permission for the accused Nuon Chea to make a
24 brief statement before the examination began, the President asked
25 him to confirm whether the statement related to the subject

1 matter was immediately under consideration.

2 By allowing his client, the accused Nuon Chea to state -- and I
3 quote -- "this statement is relevant to those facts" -- end quote
4 -- when the entire statement was devoted to facts that have been
5 examined earlier in the Trial, co-counsel for Nuon Chea in fact
6 encouraged Nuon Chea to attempt to mislead the Trial Chamber. The
7 Trial Chamber President interrupted the reading of the statement
8 when it became clear that the statement had nothing to do with
9 the facts to be examined.

10 [14.14.51]

11 The co-counsel for Nuon Chea submitted that Nuon Chea should be
12 allowed to continue making his oral statement, and going even
13 further on to state that -- and I quote -- "if he's not allowed
14 to finish reading his statement, he will not answer any other
15 questions with regards to the structure of the Communist Party of
16 Kampuchea or his role during the 1975-1979 period" -- end quote.
17 In an effort to allow him maximum opportunity to speak to the
18 facts currently under consideration, the Trial Chamber then
19 allowed Nuon Chea to conclude his statement. However, the Accused
20 continued to make statements that were irrelevant to this part of
21 the trial.

22 The Trial Chamber considers that the co-counsel for Nuon Chea is
23 attempting to force the Trial Chamber to change its conduct of
24 the proceedings or to manipulate the Trial Chamber in some
25 inappropriate way. This appears to be contrary to his duties as

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1 counsel to the Court. As a consequence, the Trial Chamber states
2 that this conduct on the part of the co-counsel raises serious
3 ethical issues. It will therefore consider what future action in
4 relation to these events it might take.

5 MR. PRESIDENT:

6 Thank you, Judge Lavergne.

7 Court officer now is instructed to bring Mr. Kaing Guek Eav into
8 the courtroom.

9 (Witness Kaing Guek Eav is taken to the dock)

10 [14.19.38]

11 QUESTIONING BY THE PRESIDENT:

12 Good afternoon, Mr. Kaing Guek Eav. The Chamber would like to ask
13 for your background information relating to your relevance before
14 this Chamber.

15 Q. Is your name Kaing Guek Eav, alias Duch?

16 MR. KAING GUEK EAV:

17 A. Yes, Your Honours.

18 Q. Could you tell the Chamber when you were born?

19 A. Mr. President, I was born on the 17th November 1942.

20 Q. Where were you born?

21 A. I was born in Pov Veuy village, Peam Bang, Stoung district,
22 Kampong Thom province.

23 [14.20.53]

24 Q. Before you were arrested, where did you live?

25 A. I lived in Ou Tontim, Ta Sanh commune, Samlout district,

1 Battambang province.

2 Q. How many children do you have?

3 A. I have four children.

4 Q. Which religion are you a follower?

5 A. I am now a Christian.

6 Q. Thank you, Mr. Kaing Guek Eav. According to the report from
7 the greffier to the Chamber, you have certified that you are not
8 in any listed relationship or have no relation to any parties in
9 this proceeding, including the civil parties; is that correct?

10 A. Yes, it is, Your Honour.

11 MR. PRESIDENT:

12 Court greffier is now instructed to allow the accused (sic) to
13 take an oath.

14 THE GREFFIER:

15 Mr. Kaing Guek Eav alias Duch, could you put your left hand on
16 the Bible and your right hand raised and say -- repeat the words
17 after me: "I solemnly declare that I will speak the truth, the
18 whole truth, and nothing but the truth."

19 [14.22.54]

20 MR. KAING GUEK EAV:

21 I solemnly declare that I will speak the truth, the whole truth,
22 and nothing but the truth.

23 MR. PRESIDENT:

24 Thank you.

25 Mr. Kaing Guek Eav, as a witness before these proceedings, you

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1 can refuse to make any comments or to respond to any questions
2 that are incriminating you, yourself, and this is the right you
3 shall enjoy. And as a witness, you are obligated to tell the
4 truth, what you have personally seen, heard, know and remember,
5 and that you are supposed to respond to questions put by parties.

6 [14.23.58]

7 Do you understand this?

8 MR. KAING GUEK EAV:

9 Yes, I do, Your Honours.

10 MR. PRESIDENT:

11 Thank you. According to Rule 91 ter, and according to the
12 memorandum by the Trial Chamber, document E172/5 concerning the
13 summoning of this witness who will give testimony relevant to the
14 three accused persons, the Co-Prosecutor will have the floor
15 first. The Co-Prosecutors may now proceed.

16 MR. SENG BUNKHEANG:

17 Thank you, Mr. President.

18 [14.25.04]

19 During the course of questioning, we put to the -- rather, to the
20 witness, Mr. William Smith and I myself will conduct -- will lead
21 the questions, and we will divide the stages in putting the
22 questions into six stages.

23 But please allow me to introduce myself so that the witness knows
24 me and us and to -- ask the accused (sic) to brief us concerning
25 his role and duties during the regime, concerning in particular

1 the -- his long-term relationship with the leaders of the Khmer
2 Rouge and his personal experience with regard to all the policies
3 of the Party, according to his perspective, throughout the whole
4 Khmer Rouge regime.

5 [14.26.20]

6 After this introduction, we would proceed to put questions
7 concerning key principal policies of the Party of Democratic
8 Kampuchea, such as the forced evacuation, the smash of the enemy,
9 and forced labour and forced marriage. I would also refer to
10 several paragraphs of the Indictment -- as listed, document
11 E124/7.2, the list of materials relevant to the first segment of
12 the trial.

13 My colleague, Mr. William Smith, will proceed with the remaining
14 questions concerning the administrative structures and the
15 government structures of the Democratic Kampuchea, and also the
16 relevance of how these structures were conducted. We also would
17 -- he also asks question concerning the roles of the accused
18 person and he will be presenting some documents to the witness
19 for his confirmation.

20 QUESTIONING BY MR. SENG BUNKHEANG:

21 Q. I would like now to proceed with my first question. And good
22 afternoon, Mr. Kaing Guek Eav. Your presence before this Chamber
23 has already been indicated by the Chamber. You are here as a
24 witness, not an accused, and that you are here to assist the
25 Chamber by providing information concerning the truth. Do you

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1 understand this? Do you cooperate with us?

2 MR. KAING GUEK EAV:

3 A. Mr. Co-Prosecutor, I understand this and I am ready to
4 cooperate with the Court.

5 Q. Thank you.

6 [14.29.00]

7 My first question is: When did you continue your education in
8 Phnom Penh?

9 A. I finished "bac orng" (phonetic) in 1962, and I started
10 further education at Sisowath High School for two years. And I
11 repeated one grade. In 1964, I graduated with a "bac dup"
12 (phonetic), and I attended a--
13 (Microphone not activated)

14 Q. When you began your work, what did you do?

15 A. I was a math professor. I was a math teacher at the primary
16 school.

17 Q. When you began your teaching career, how old were you at that
18 time?

19 A. I finished my baccalaureate and I was 22 years old.

20 [14.30.30]

21 Rather, I was 23 years old when I began my teaching career.

22 Q. Thank you. My next question is; when did you first receive the
23 ideology of the Communist Party of Kampuchea? Do you still
24 remember that?

25 A. I have had that ideology a long time ago. It was probably in

1 1955 when I learned that Mao Zedong sort of issued -- the famine
2 issue in China. I had families in China, and later on I went to
3 join the revolutionary movement in 1964. There was a fighting,
4 and there was -- there were leaflets that spread the news that
5 General Lon Nol was conducting coup d'état. I decided to join the
6 revolution because I did not want to sit idly, so, again, I
7 joined the revolution in October, 1964.

8 Q. Thank you. Who introduced you to -- and praised the ideology
9 of the Communist Party. Can you elaborate on this issue?

10 A. The first person I met was my superior; it was teacher Son
11 Sen. But it was not when I finished my high school education. I
12 told him that I would not join with him, so he went to the forest
13 and he met with other students. It was through Kong Saroeun, and
14 then Chhay Kim Huor, alias Huor.

15 Q. What was the reason -- what were other reasons that you
16 decided to participate in the revolution?

17 A. I decided to participate in the revolution in October 1964.

18 [14.33.15]

19 I bought some progressive books, and I studied those books. And
20 in about 1967 -- July of that year, I went to study secretly.
21 Then I was sent to the countryside.

22 Q. Thank you. Concerning your political activities in the CPK
23 that you did at that time: what difficulties did you encounter?
24 For example, was there any arrest?

25 A. In 1967, there were two issues. The first issued was the Party

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1 needed to establish bases -- military bases. And the second issue
2 is that we need to create petty-bourgeoisie.

3 [14.34.46]

4 I began my work on the 35th (sic) of December 1970 -- 1967,
5 rather. A branch of the Party was created in Chamkar Leu
6 district, and there was a congress.

7 I would like to correct that I began my work in 1968. I was
8 jailed there for 27 months, until 1970. I was released by the
9 coup d'état conducted by Marshal Lon Nol.

10 Q. Do you remember why you were arrested?

11 A. To put it plainly, that, because I was a Khmer Rouge, I was
12 accused of joining with the foreigners and destructing the
13 security and the safety in Prey Nokor -- I'm not sure about that.

14 Q. And after you were released, did you still actively
15 participate in the Communist Party of Kampuchea?

16 A. Yes, I did.

17 Q. Did you also join the struggle in the forest?

18 A. May I ask for clarification from the prosecutor whether it was
19 immediately after I was released? Yes, thank you. After I was
20 released, I went to live in Monastery Number 3, in Ounalom
21 Pagoda. It was my former residence. I lived there for a while,
22 and we gathered together again, those who were jailed.

23 [14.37.24]

24 Then, in August 1970, I travelled along Preaek Preah Trail and I
25 went to the liberated zone.

1 Q. When you went to Preaek Preah commune, what was your role?

2 A. I went through Preaek Preah. It was Champuh K'aeak, and I
3 arrived at K'aeak and I was simply a Party activist.

4 Q. When you went to Thma Da, who else did you go to?

5 A. I went to those people from Phnom Penh. It -- there was
6 Comrade Hun Keat (phonetic), Soa Cham alias Choy (phonetic) and
7 some other people, but they already died.

8 [14.38.58]

9 Q. Thank you. After you began your struggle there until 17 April
10 1975, did you meet with Pol Pot, Ieng Sary, Khieu Samphan or any
11 people at that time?

12 A. No, I never -- I never met -- I want to be brief because your
13 question is also brief. I never met them. I never heard of Pol
14 Pot's name, but I did hear about Ieng Sary's name and also Khieu
15 Samphan's name. I also have some sentiment towards Khieu Samphan.

16 Q. Thank you. When you joined the movement to struggle in the
17 forest, did you know that the Communist Party of Kampuchea was
18 fighting with the Lon Nol forces?

19 A. I told you already that before I went to the countryside I
20 started secret lessons and we also started the Party statute, but
21 that statute was the 1960 statute.

22 I started the strategic lines and the tactical lines, and I also
23 started some party documents, "The Class Struggle". I also
24 started some other documents about the disciplinary spirits, so
25 these are the Party documents, but at the same time as I said, as

1 I told you before, that I like reading books about the theories
2 of Mao Zedong. I also read a number of books.

3 [14.41.42]

4 Q. At that time, were you aware of the military strategies of the
5 CPK concerning the Lon Nol regime?

6 [14.42.01]

7 A. I already told you just now, I started in September -- or it
8 was in September where there were leaflets distributed to people
9 telling people that Lon Nol was preparing for a coup d'état, but
10 before that when I started in a math class, there was an incident
11 where there was -- where Kennedy was murdered - assassinated,
12 rather, in Dallas in 1964.

13 There were other events in Vietnam where Nguyen Van Linh was also
14 assassinated. So that was the incident we found in Vietnam.

15 There was also a coup d'état in Vietnam and also in Thailand. It
16 was about Sarit Thanarat, the prime minister at that time, who
17 died.

18 It was that time when the Phnom Penh students had this idea. At
19 the time, SEATO was created in August -- on the 8th of August --
20 and when I joined in 1962, the American activities were come
21 already.

22 There were two groups of gangsters; one is called "Solex Consor"
23 (phonetic), and another one was "The Morning Stars", and we have
24 -- we also have the compatriot groups. So the situation back then
25 allowed us to understand what was going on in the world.

1 And Sam Sary fled the country. And we also had an incident of Dap
2 Chhuon, and we also -- the situation of Labat (phonetic) and Song
3 Sak Pintong (phonetic).

4 [14.45.20]

5 So all of these events allowed the nationalists to understand
6 real situations occurring around the world. That was the factor
7 to arouse the nationalism among people, that is, to sacrifice
8 what they had and to join the revolution because they did not
9 have idea why they should stay.

10 In 1961, as you may -- rather, 1966, as you may recall, there was
11 a Lon Nol's revenge -- three prosperous people remained.

12 [14.46.32]

13 So this situation led to our understanding that the coup d'état
14 could happen in any moment.

15 At the beginning, Lon Nol installed the government in 1966 and
16 that he allowed rural area to be controlled by the military, and
17 we already had heard that Lon Nol tried to inspire the rural
18 farmers to control them. At that time, the militia forces were
19 still weak, and farmers at Samlaut already attacked at Phnom Vai
20 Chab (phonetic), and Lon Nol had no choice but to ask that the
21 government is resolved -- rather dissolved.

22 And I, during my secret training, I was advised by Chhay Kim Huor
23 that we cannot -- we could not start people's war, we had to wait
24 a little bit longer. We had to build militia base and forces. And
25 as I indicated, intellectuals were sent from the cities into the

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1 rural areas so that the militia base could be built.

2 That's how the situation was unfold, and when the militia forces
3 were built in 1968, the Party decided to attack the post in Bay
4 Damram to start the people's war.

5 However, such theory was not in my appreciation until later, when
6 I went to Koh Thom because I read at that time a document by Pol
7 Pot concerning the people's war and the -- and the tactics for
8 militia war, and another article concerning the revolutionary
9 position toward class.

10 MR. PRESIDENT:

11 Before we proceed, may the witness be advised that your testimony
12 be made in a slower pace for good record and for rendition,
13 indeed.

14 [14.49.48]

15 BY MR. SENG BUNKHEANG:

16 Q. And you said the militia base was built and that you were
17 quite familiar. Could you tell us who were leading the base?

18 A. I was in charge at Chamkar Leu for a few days, from 25
19 December 1967 to the 5th of January 1968 when I was arrested, and
20 Ke Vin was the person who close to my superior, Ke Vin alias Ke
21 Pauk.

22 [14.50.40]

23 Q. Thank you. I would like now to proceed to another question.
24 Had you ever worked at any security centre of the Democratic
25 Kampuchea?

40

1 A. When I went to the Southwest Zone in 1971, the 20th of July --
2 at that time the special zone was just appointed and I was
3 assigned to work as the chief of Office 13. It was the security
4 office for the special zone and I was in charge from the 20 or
5 21st of July onwards.

6 Q. Do you still recall that Office 13, where was it located?

7 A. The office had changed locations several times. First, it was
8 located in a village. I don't remember the village name because I
9 didn't ask the villagers, but it was next to the Thma Kob
10 village. According to the document written by Mr. François Bizot,
11 the village was called Anlong Veng (phonetic) village, or
12 something, but the next village is in Amleang, Kampong Speu.
13 After we had problem with water and we would like to make sure
14 that we could self-sustainable by growing rice, without water we
15 couldn't do -- plant rice, so we moved to another location.
16 At that time, there was a jailbreak. I asked Vorn Vet that I be
17 punished because I could not manage the security office very
18 well. However, I was later on sent to Trapeang Chrab, and on the
19 30th of April 1975 I was relocated again.

20 [14.53.38]

21 Q. As the Chief of Security Office 13, who assigned you with this
22 position?

23 A. It was Vorn Vet, the Special Zone Secretary.

24 Q. Did you accept the position?

25 [14.53.58]

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1 A. I think it is normal that I would not accept it. However, I
2 was obliged because it was obligatory as a member of the Party.
3 In any party, the member had no choice but to accept the offer.

4 Q. Could you describe the security office; what was its role?

5 A. At that time, we called it the police office. It was tasked
6 with receiving people who had been arrested from the
7 battlefields; those who had been accused of being spies and they
8 were supposed to be interrogated at the office and smashed.
9 Anyone who infiltrated into the liberated zone could be perceived
10 as an enemy and had to be smashed accordingly.

11 However, in real practice, I was reluctant time and again. That's
12 why I could manage to maintain -- to keep 30 people or more alive
13 that led to the jailbreak situation, and that when I met with Ta
14 Mok, he reprimanded me and he advised me to be very careful with
15 the spies because he said that during the struggle time, which is
16 during the Son Ngoc Minh's time, we had to be very strict
17 concerning the spies because our land was considered to these
18 people, despite.

19 And at the Office 13A, I was in charge. At M-13B, it was in
20 charge by another person because M-13B was tasked with receiving
21 only people who had been suspected but committed minor offences.

22 [14.56.35]

23 Q. Thank you. You said--

24 MR. PRESIDENT:

25 Counsel for Khieu Samphan, you may proceed.

1 MS. GUISSÉ:

2 Good afternoon, Mr. President. I pray the Court's indulgence I
3 have to interrupt the testimony of the witness.

4 [14.56.58]

5 I believe he is speaking extremely fast; you have already pointed
6 that out. In French, we need to grasp the subtleties of -- the
7 semantic subtleties of what the witness is saying.

8 Maybe you could request the witness to speak a bit more slowly
9 because we're not quite understand what he's saying.

10 MR. PRESIDENT:

11 Thank you for your observations and I, again, remind the witness
12 to slow down when you speak to facilitate the interpretation so
13 that all parties understand your testimony.

14 And it is now appropriate for the Court's adjournment, and we
15 will take a 15-minute adjournment. After that, we will resume our
16 proceedings.

17 Administrative officers are instructed to facilitate or
18 accommodate the witness and to bring him back to the Court by the
19 time the Court resumes.

20 The Court is adjourned.

21 THE GREFFIER:

22 All rise.

23 (Court recesses from 1458H to 1521H)

24 MR. PRESIDENT:

25 Please be seated. The Court is now in session and the floor is

1 handed over to the prosecutors to continue their questioning to
2 the witness.

3 [15.22.43]

4 I remind the witness again that you should be slow to facilitate
5 the interpretation so that all parties can understand your
6 answers. I thank you in advance for your effort to slow down.

7 The prosecutor may now begin.

8 BY MR. SENG BUNKHEANG:

9 Thank you, Mr. President.

10 Q. Mr. Kaing Guek Eav, before we broke, we talked about police
11 Office 13. We will set that aside for a moment.

12 And I want to move on to the other question -- that is, when you
13 began the struggle in 1970, that is -- that was in the liberated
14 zones, until you worked at the police Office 13; what did you do
15 during that time?

16 MR. KAING GUEK EAV:

17 A. Thank you, Mr. Co-Prosecutor, for bringing that up. I also
18 want to clarify this issue. The Sector 25 comprises of four
19 districts, S'ang, Kaoh Thum, Leuk Daek, and Kien Svay. They
20 called that Sector 25, and the Vietnamese from Thanh Hien
21 (phonetic) called it as Sector 62. That sector was initially
22 liberated by the South Vietnamese and it was called Sector 62.
23 The authority back then was under the Vietnamese - Anyang
24 Vietnamese province. The names were changed at the time. That was
25 the first issue.

1 [15.25.15]

2 Another issue concerns the Khmer troops delegated by the
3 Vietnamese authority and they were controlled by the Vietnamese
4 authority. There were one company and one district. Looties they
5 collected were brought back to Vietnam. Taxes money -- tax monies
6 collected were brought back to Vietnam. Sector 25 was a rich
7 location -- was a rich area. Vietnam could earn a lot of money
8 from that area.

9 It was not until 1970 that the sector was handed over to Khmer
10 authority. When Vietnam was in charge of the sector, I and other
11 people did not have any work to do. The Vietnamese arrested
12 Comrade Choy (phonetic) and Sovann and detained them. Kun Keat
13 (phonetic) alias Sambat (phonetic) was also arrested and
14 detained.

15 [15.26.48]

16 Later on, there was a rearrangement of the Khmer authorities so
17 there were partitions -- there were conflicting partitions
18 between the Bot Chamroeun's (phonetic) partitions and other
19 partitions. I did not have any work to do at that time, but later
20 I was called to -- to study -- I was called to teach some
21 documents and the documents that I already told Mr. Prosecutor,
22 it was documents about the people's war, documents about the
23 military guerrilla attacks, and others.

24 In May, I observed that it was easy for me to contact with the
25 secretariat's chief -- rather, the chief of staff so that I could

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1 find my former superior, that was Vorn Vet. So I went there. So,
2 in Sector 25, I was not assigned any particular work to do. When
3 I arrived in the Southwest Zone and when -- that was when I met
4 my former superior; I was assigned as the chief of M-13. Back
5 then I became aware of -- of what was going on. So this is my
6 brief answer to your question, Mr. Prosecutor.

7 Q. Thank you.

8 [15.28.53]

9 Before we broke, we discussed as to who appointed you to do your
10 work. My next question is: why were you chosen to be the
11 chairperson of M-13?

12 A. It is difficult for me to answer, but I can put it this way;
13 the situation in Southwest Zone was that the petit bourgeois
14 people were not allowed to do any work. Before the special zone
15 was created, Ta Mok mistreated the petit bourgeois people.

16 There were four petit bourgeois people and they were Pen, Ke Kim
17 Huot , Chhea Huon (phonetic), and Um Chhoen. These people were
18 expelled by Ta Mok, and Pol Pot facilitated this -- Pol Pot,
19 rather, take them -- took them to the other place. Mun Ing
20 (phonetic) was very furious with Ta Mok. He boycotted; he did not
21 say anything; he did not join any meetings. So the arguments were
22 very, very strong at that time. Ta Mok held this position; we do
23 -- we do farming, we have rice to eat; if we read books, we eat
24 the paper. Ta Mok was of the view that our farmers were like
25 grass; they grow everywhere. Ma Mang (phonetic) was murdered at

1 Aoral Mountain at that time.

2 [15.31.27]

3 That year, as I remember, Pol Pot distributed a document about
4 the revolutionary morals and there were 12 terms in that
5 document. One of those terms reads, "Wherever we are, we serve
6 the farmers at that place wholeheartedly". These revolutionary
7 documents -- I'm not sure whether the Office of the Co-Prosecutor
8 has been seized of these documents, but we can find these
9 revolutionary documents in the book by Francois Ponchaud. He
10 translated this document and incorporated that document into his
11 book -- rather it was Ponchaud -- and he misunderstood the Khmer
12 word when it comes to the translation. In Khmer we call (words in
13 Khmer), meaning "sacrifice". And he misunderstood that as the
14 "labour".

15 MR. PRESIDENT:

16 I note that Mr. Karnavas is on his feet. You may proceed, sir.

17 MR. KARNAVAS:

18 Thank you, Mr. President. Good afternoon and good afternoon, Your
19 Honours, and to everyone in and around the courtroom.

20 [15.33.04]

21 The question that was posed to the gentleman was: why he was
22 appointed as chairman of M-13. I believe that was the question.
23 He began by saying he didn't know and then -- since then we've
24 heard all sorts of other interesting, fascinating matters that
25 are not relevant to the question posed.

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1 At some point, the Prosecution will, I suspect, ask for more time
2 in order to get through what they -- the questions that they have
3 for the gentleman. At this pace, however, if the -- if the
4 witness is allowed to ramble on, on matters that are not related
5 to the questions, it will take a very long time to get through
6 his evidence.

7 We certainly are concerned that when we have the opportunity to
8 cross-examine the witness, that we get, you know, straight
9 answers so we can move along.

10 So I would ask Your Honours to perhaps: one, instruct the -- the
11 witness to listen to the question and answer the question only,
12 and the prosecutor or whoever's questioning the gentleman will
13 ask a follow-up if they need more clarification; more
14 importantly, also, for whoever's questioning the gentleman not to
15 be shy to interrupt the witness, to focus the witness if it
16 appears that the witness is straying off into areas that may be
17 interesting, fascinating, but not relevant to the question that
18 is being asked of him.

19 [15.34.37]

20 Thank you very much, Your Honour.

21 MR. PRESIDENT:

22 Thank you for your observation, Defence Counsel.

23 Can the witness be reminded that when answering the questions,
24 you need to understand the question and answer only to the
25 question asked unless the question was -- is objected to by

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1 another party, then the Chamber will deliberate on the objection
2 and decide whether the witness is to answer the question asked?
3 This is a general practice that we do as part of the conduct of
4 our hearing so that we have an expeditious trial.

5 [15.35.36]

6 Besides, the prosecutors are reminded to make use of the time
7 given so that they can ask more precise questions to the witness
8 and make it easy for the witness to understand for him to answer
9 the question directly. By doing so, we can expedite our
10 proceedings and we will try to save as much time as possible.
11 The prosecutor may now continue with a new question.

12 BY MR. SENG BUNKHEANG:

13 Thank you.

14 Q. Now, I move on to my other question. The question is: Why did
15 you accept the role at M-13? Can you specify that?

16 MR. KAING GUEK EAV:

17 A. What I want to say is to explain to you the context in the
18 Southwest Zone. The petit bourgeois people were not -- would not
19 be appointed. They would not -- they would not be appointed to
20 take charge of the base. The political context in the Southwest
21 was like that. That was why I was not first -- in the first place
22 appointed to anything. I was not appointed to do any military
23 work or -- so that was the political context as the intellectuals
24 were forced to do work.

25 [15.37.43]

1 I was also brought to work in the police. That was the -- again,
2 the political context that -- that allow me to work in -- in that
3 area.

4 Q. You answered earlier that those people who were brought to --
5 or arrested to M-13 were spies. Could you tell the Court what
6 those people were like?

7 A. The people who were sent by the soldiers to M-13 for
8 interrogation and smash, they were part of the Party's policies.
9 No matter if they are -- they were poor or rich, they would be
10 sent to M-13 and they were accused of -- as spies and they were
11 later to be smashed, but I was of the view that not all of them
12 were spies so I managed to release some of them.

13 [15.39.17]

14 All people who were admitted to M-13 were considered as spies, Ta
15 Mok advised me or rather, instructed me. Later on I sought
16 permissions to separate M-13 into two entities, so this is what I
17 want to say.

18 Q. You told the Court just now that those who were sent to M-13
19 would be interrogated and smashed. During the interrogation --
20 interrogation, were there any tortures?

21 A. Yes, there were. They would be tortured when they were
22 interrogated.

23 Q. Was there any orders to do so, to interrogate and torture
24 those people?

25 A. That was the Party's policy. My apology, I was too quick to

1 answer. It was the Party's policy. Those who were admitted to
2 the -- the liberated zones were considered as spies.

3 [15.40.48]

4 Vorn Vet, himself, instructed me the way to torture those people.
5 The best way he liked -- the way that he liked most was to use a
6 plastic bag to cover the heads of those people. He said: You,
7 Comrade, need to look at their neck and see if it's shaking or
8 it's vibrating - or, rather, the pulse at the neck; if it was
9 vibrating very strongly, and they would be considered as spies.

10 Q. You said, just now, that as the Party policy, those people
11 were to be smashed; how did you know that?

12 A. I learned that from the Party's documents. It was the Party's
13 policy.

14 Q. Thank you. Do you remember whether -- or how many were killed
15 at M-13?

16 A. To put it simply, they were no more than 300 people. There
17 were about 200 people.

18 Q. Thank you. Now, I move on to -- to ask you further about your
19 role at M-13.

20 [15.42.43]

21 At M-13, who -- who was your immediate supervisor?

22 A. As the Party's work -- at -- at the office, we have 100 and --
23 Office 105 -- rather, Office 305 and he was the chief of that
24 office, but he already died. His name was Chheat; that was for
25 the Party's work. And as for the administration, it was Vorn Vet

1 and we also had Son Sen.

2 Q. Do you know the roles of Vorn Vet and Son Sen during that
3 time?

4 A. Vorn Vet was a -- the Central Committee member and so was Son
5 Sen.

6 Q. Do you know where they lived?

7 A. Vorn Vet's office was in Peam commune, probably in Krang Beng
8 village; I'm not sure about that. Later on Son Sen's office was
9 set up somewhere near the railway station, Domnak Snach - Smach,
10 rather.

11 Q. In "khum" (phonetic) Peam, that you said earlier, was it near
12 M-13?

13 A. No, Peam commune was in Kampong Tralach Leu. It was in Krang
14 Beng; it was very far from M-13.

15 Q. Thank you.

16 [15.45.30]

17 Did you ever go there?

18 A. Yes, I did. I went to Vorn Vet's office. I also went to Son
19 Sen's office.

20 Q. Thank you. When you went there, did you know there were any
21 meetings conducted?

22 A. In one year, all zones and cadres were called upon to join a
23 study session. That was after the secretary -- the Zone
24 Committees joined a study with Pol Pot. It was in June or July.

25 [15.46.42]

1 So then after the Zone Committee came back, they would call upon
2 their subordinates to join the study and it took one month or
3 half a month to finish and after that they were -- they went back
4 to -- to do their work.

5 Q. Thank you. Could you please tell the Court about your
6 understanding of the meetings?

7 A. Well, actually, they were not meetings. It was study sessions
8 where people discussed about the situation -- about the
9 situations at the battlefields and how the rare would -
10 battlefield would be prepared and how we could prepare ourselves
11 mentally to carry out the Party's policies, so we meet half a
12 month annually in June or July.

13 Q. Do you recall that during those sessions political lines would
14 be lectured?

15 A. The hand-outs could be classified into three: first, political
16 documents concerning the political situation; for example, the
17 situation of the enemies and our situation, what else need to be
18 done to cope with such situation.

19 [15.48.30]

20 Secondly, the document on morality, for example, people could be
21 educated on our stance.

22 And thirdly, it is about organizational issue; how we conduct
23 meetings, live-view meetings. Each office could hold their
24 respective live-view meetings, like in M-13 and the Party's
25 branch was in charge of this. And I would like to add also that

1 members of the Party had to study the political stance and view
2 through the Revolutionary Flags magazines and this is a must;
3 they have to do that.

4 Q. Thank you. With regard to the hierarchy at M-13, who was the
5 most superior?

6 A. M-13 was not fully organized although I was the -- the highest
7 - person of highest authority and Comrade Sum and I was - were
8 holding the highest authority there.

9 Q. Thank you.

10 [15.50.15]

11 When did M-13 operation end?

12 A. Actually, after -- after there were no more spies sent to
13 M-13, it was on the 1st of January 1975, the date we never
14 received any more spies. And it was the time when my superior was
15 already in the battlefields, and later on the 30th of April,
16 M-13s were no more functional. People were dispersed or
17 discharged of duties.

18 Q. When M-13 grounded to a halt, was there any prisoners left?

19 A. Some were released; some had to be transferred to Brother Les
20 (phonetic) when others were ordered to be smashed. About 50 to
21 100 prisoners were released.

22 Q. At M-13, was you - or were you assigned any roles to educate
23 people under your supervision?

24 A. I think every member of the Party had to educate their
25 subordinates.

1 Q. Who were they; the people you educated or trained?

2 A. Those people I brought to work at M-13; there were about 10
3 people.

4 Q. Did you also educate prisoners?

5 A. I don't think so. However, it was a different situation with
6 regard to roughly 30 people that we would like to keep to do
7 farming.

8 [15.52.49]

9 Q. Could you please tell us how you conduct such education?

10 A. Mr. Prosecutor, you may refer to the documents, for example,
11 the documents of the Party's policy towards the enemies and
12 spies, but they don't limit - I mean they are not restricted only
13 to policy on spies and enemies, there were also documents
14 concerning the policy on land management and how to manage war
15 spoils, for example. War spoils were regarded as the - as the
16 property of the Party.

17 Q. In your - in the training sessions, did you teach your
18 subordinates how to torture and interrogate?

19 A. Yes, I did. Comrade Bond (phonetic) who was the -- close to me
20 was educated on how to deal with this.

21 [15.54.05]

22 Q. With regard to interrogation, how did you impart this
23 knowledge to them?

24 A. Mr. Prosecutor, you may be familiar that I was one detained in
25 a prison. I was interrogated and that's what I learned. And also

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1 I learned from that and later on, on the job.

2 Q. Thank you. At that time, did you ever use the term "smash"?

3 A. At M-13, they would use the term "resolve", or "doh sray"
4 (phonetic) in Khmer.

5 Q. What does that mean?

6 A. It means "smash".

7 Q. What about the term "smash"?

8 [15.55.05]

9 A. "Smash" means executed. You know they are used interchangeably
10 because they're the same terms. The ultimate goal is that the
11 person is dead.

12 Q. According to the work patterns at M-13, were such practices
13 applied elsewhere in liberated zones, for example, in 1975?

14 A. In December 1970, I learned that at Sector 25 led by Comrade
15 Theng (phonetic) - I am referring to Sector 25 - there was a
16 policeman in Trapeang Chour led by Comrade Thang (phonetic).
17 There also was another office in the Southwest led by the police
18 although later on was dissolved by Ta Mok. So I can conclude that
19 this police work was passed on by the culture of the Party that
20 was in place long since the Issarak regime.

21 Q. Do you remember what kind of people were in the liberated
22 zones who were arrested?

23 A. I think the question is broad. I would like to touch upon the
24 issue concerning M-13 only here.

25 [15.57.25]

1 At M-13 people who were sent to the place could have been those
2 who were arrested at the battlefields, but later on in 1973,
3 after the B-52 bomb -- aerial bombardments, Ta Mok arrested the
4 base people and have them sent to M-13 as well. So these are the
5 two classifications of people sent to M-13; people who sent from
6 the liberated zone -- I mean, from -- those who entered to the
7 liberated zone, and people at the base as indicated.

8 Q. Could you also tell us whether the model applied at M-13 be
9 reapplied elsewhere, like S-21 or S-24?

10 A. This model had been left over from Issarak, and it was applied
11 also at S-21 and S-24.

12 [15.58.39]

13 It was a classic practice.

14 Q. So the techniques applied at M-13 would be applied elsewhere
15 at S-21 and S-24; is that fair to say?

16 A. I think it is. The thing that I think -- I believe it is fair
17 to say so because the police office -- the 196 police office had
18 no connection with one another. At M-13, we were allowed to first
19 beat the prisoners; secondly, used the telephone -- electric
20 telephone as the method of torturing; and water-boarding and
21 plastic bag to cover the detainees face to suffocate them.

22 Q. What happened to the interrogators at M-13?

23 A. Those people were transferred to S-21, because they were my
24 subordinates, and I could have them transferred to work with me.

25 MR. SENG BUNKHEANG:

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1 Mr. President, I think perhaps it is appropriate time for the
2 adjournment.

3 [16.00.37]

4 Should we adjourn or should I proceed?

5 MR. PRESIDENT:

6 Thank you, Co-Prosecutor. Since it is now appropriate time for
7 adjournment, the Court will adjourn and the next session will be
8 resumed tomorrow by 9 o'clock.

9 Security personnels are now instructed to bring all the accused
10 persons back to the detention facility, and have them returned to
11 the courtroom by 9 a.m. Likewise, security personnels are
12 instructed to return witness Kaing Guek Eav alias Duch, to the
13 detention facility, and have him returned to the courtroom --
14 rather, to the witness room by 9 a.m., awaiting call by the
15 Chamber.

16 And on another issue concerning the dress -- the outfit of the
17 accused person, the Chamber would like to instruct the security
18 personnels to change this current dress to the normal dress worn
19 by ordinary civilian when he is transferred into this courtroom.
20 The witness cannot be compelled to wear the dress or the outfit
21 normally worn by the convicted person, because he is here as a
22 witness.

23 [16.02.10]

24 You may proceed, Co-Prosecutor.

25 MR. SMITH:

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1 Thank you, Your Honours. I understand it's 4 o'clock, so I'll be
2 very brief. I'd like to thank the Ieng Sary defence team for
3 raising that with the Chamber. I think it was highly appropriate.
4 But, secondly, Your Honours, as you are aware, we stated that
5 we'd provide some documents to the accused (sic) to -- so he
6 could, sort of, review those documents before they were presented
7 to him in Court.

8 [16.02.45]

9 We have a booklet of his prior statements, which will make it
10 easier in Court to refer to that at a later date, and we also
11 have copies of first pages -- some of the documents we would show
12 him, and your senior legal officer has advised that -- is
13 appropriate, and I think Your Honour has said that it's
14 appropriate to do, so the list of the documents has been made
15 available to the Defence. It's just the first pages of those
16 documents. It's not all of them, but at least it gives the
17 accused (sic) an idea of some of the material that may be
18 presented to him. So, we have some of those binders here, and if
19 we could provide them to the guard on the accused's (sic) way
20 out, I would ask -- sorry, the witness's way out, I would ask
21 that that be done so. Thank you.

22 MR. PRESIDENT:

23 Mr. Kaing Guek Eav, could you please be seated first? And we
24 would like now to proceed to counsel for Nuon Chea. He's on his
25 feet. You may proceed.

1 MR. PESTMAN:

2 Yes, Your Honour, I would like to respond to the suggestion made
3 by the prosecutor.

4 [16.04.19]

5 We were aware of this, but I think it's more appropriate if we do
6 that not in the presence of the witness, so my request is to lead
7 the witness back to wherever he is waiting to be transferred to
8 the detention centre, and then allow me to respond to what the
9 prosecutor just said.

10 MR. PRESIDENT:

11 Security personnels are now instructed to bring the witness to
12 the detention facility.

13 (Witness Kaing Guek Eav leaves the dock)

14 MR. PESTMAN:

15 Thank you very much, Mr. President. I'll be very brief. I know
16 it's 4 o'clock. We've objected to supplying witnesses with their
17 own statements, and I would like to do that again, for the
18 record. I would particularly like to object to the intention the
19 prosecutor has to supply this particular witness with a list and
20 also copies of the first page of the documents they intend to
21 tender or to show this particular witness when cross-examining
22 him.

23 [16.05.45]

24 We have said before, and I would like to repeat that, giving this
25 kind of information in advance to a witness does encourage false

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1 memories. It taints the statement of a particular witness. It
2 will be very difficult, in fact, to separate that -- what a
3 witness actually remembers or has personally testified, from that
4 what the witness has learned or read at a later stage. And if I
5 remember correctly, the prosecutor themselves at one point
6 acknowledge that, particularly with this witness, it was very
7 difficult to reconstruct testimony to actually establish whether
8 this particular witness had witnessed something personally at the
9 time, or whether he had read about this particular incident or a
10 particular incident at a later stage, especially after he was
11 given a copy of the file in his own case.

12 So I would be very reluctant to agree with anything -- and in
13 fact I do not agree with giving this witness -- this particular
14 witness, especially a list of documents and copies of those
15 documents before he is going to testify, and would encourage the
16 prosecutor to ask as much open questions as possible before
17 showing this particular witness a document which he can use to
18 refresh his memory.

19 [16.07.18]

20 I don't want to do it the other way around. I don't want the
21 document to indicate -- or, the document to be used to indicate
22 to the witness what the prosecutor wants to hear. So I would
23 really encourage the prosecutor to ask open questions and then
24 show the documents they want to use to further examine this
25 particular witness. So we object to this practice.

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1 MR. PRESIDENT:

2 Does any other counsel wish to make any observation concerning
3 the request made by the Co-Prosecutor? We would wish to end this
4 now. You may proceed. Counsel Karnavas, you may proceed.

5 MR. KARNAVAS:

6 Thank you, Mr. President, and Your Honours.

7 [16.08.15]

8 I find myself at a difficult position, because my experience, at
9 least in other jurisdictions -- it would appear that it's
10 customary to allow a witness to have access to their statements,
11 and also, to some extent, review documents that are going to be
12 shown to the witness in court. So, I understand the Prosecution's
13 technique. I understand the concerns of counsel for Nuon Chea.
14 It's a bit late in the game. The gentleman has had all these
15 documents all along. I daresay there's nothing that he's going to
16 see that would in any way influence, at this stage -- you know,
17 his memory, because it has been, to an extent, influenced, and
18 it's a matter that can be tested on cross-examination.

19 So, our position is that we leave it to your -- we leave it to
20 your discretion, but I merely wish to point out that my
21 experience has been similar to the one that is being advocated by
22 the Prosecution, albeit I don't feel comfortable with it. It is
23 what it is.

24 [16.08.30]

25 Thank you.

1 MR. PRESIDENT:

2 Civil party lawyers, you may now proceed.

3 MR. PICH ANG:

4 Mr. President, with regard to the observation -- the statement by
5 Duch or the situation surrounding this context, I would like the
6 floor to be handed over to counsel Lyma Nguyen and Hong Kimsuon
7 to have a few words.

8 MR. PRESIDENT:

9 You may proceed.

10 MS. NGUYEN:

11 Good afternoon, Your Honours. Ms. Nguyen on the civil party side.
12 Your Honours, we on the civil party side support the Prosecution
13 providing the witness written records of interviews in which he
14 has participated before, and that he would already have them --
15 have access to them. Given the enormous scope of evidence that
16 Mr. Duch could potentially give in this segment of the trial, it
17 is entirely appropriate.

18 [16.09.49]

19 And given that it is in the interest of the good conduct of trial
20 for him to have ready access to his documents and for an
21 efficient management of the conduct of the trial, I would say
22 that it is entirely appropriate for, at least, his written
23 records of interviews to be provided to him.

24 MR. PRESIDENT:

25 International Co-Prosecutor, you may now proceed.

1 MR. SMITH:

2 Perhaps I shouldn't have raised this legal point, because to make
3 one small point in this courtroom takes about 15 or 20 minutes,
4 but, in any event, Your Honours -- up until this moment, Your
5 Honours have ordered through your senior legal officer -- or
6 allowed this practice to happen. It was just unfortunate I didn't
7 give it to the witness earlier today. She advised all the parties
8 via email that it was appropriate for the smooth conduct of
9 proceedings.

10 [16.11.52]

11 But, in any event, Your Honours, the aim was to ensure that we
12 have less time of the -- with this witness -- particularly this
13 witness -- acquainting himself with each particular document.
14 However, as Your Honours are aware, this witness has a very good
15 -- almost photographic memory, so it may well be the case that it
16 may not take him too long. But it was to speed up the
17 proceedings. We've seen with the accused, Nuon Chea, stating
18 that; look, I can't talk about this document until I've had time
19 to review it. And so it was just giving the same cooperation or
20 the same, sort of, convenience to this witness as Nuon Chea
21 himself had asked for.

22 [16.12.33]

23 So, Your Honours, we're in your hands. We have asked for five
24 days for examination of this witness, if appropriate. Your
25 Honours have not objected to that at this stage, so perhaps it's

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1 not so much an issue now, but it really was to save a bit of
2 time. Thank you.

3 (Judges deliberate)

4 MR. PRESIDENT:

5 After hearing parties concerning the request by the Co-Prosecutor
6 with regard to the documents, in particular, access to documents
7 before -- during the investigation phase, to refresh the memories
8 of the accused -- rather, the witness, such observation is
9 relevant to what the Chamber has already decided, and the Chamber
10 therefore agrees with the idea.

11 And with regard to the attire of the witness -- and that the
12 chief of detention is instructed to change the casual attire --
13 or, the normal attire of the witness when he is brought before
14 this Chamber. This decision has been made by the discretion of
15 the Trial Chamber, and this decision has not made after receiving
16 any request by any parties.

17 Security personnels are now instructed to bring all the accused
18 persons back to the detention facility, and the Court is
19 adjourned.

20 (Court adjourns at 1616H)

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