



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

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ជាតិ សាសនា ព្រះមហាក្សត្រ

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អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

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TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

19 July 2012

Trial Day 80

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

The Accused: NUON Chea
IENG Sary
KHIEU Samphan

Lawyers for the Accused:
SON Arun
Andrew IANUZZI
Jasper PAUW
ANG Udom
Michael G. KARNAVAS
KONG Sam Onn
Arthur VERCKEN

Trial Chamber Greffiers/Legal Officers:
SE Kolvuthy
Andrew James MCINTYRE
DUCH Phary

For the Office of the Co-Prosecutors:
CHAN Dararasmey
Tarik ABDULHAK
SONG Chorvoin
Salim NAKHJAVANI

Lawyers for the Civil Parties:
PICH Ang
Élisabeth SIMONNEAU-FORT
SAM Sokong
Christine MARTINEAU
LOR Chunthy
VEN Pov
TY Srinna
HONG Kimsuon
CHET Vanly
Olivier BAHOUGNE

For Court Management Section:
UCH Arun

For the Medical Unit:
TONG Hong

INDEX

MR. DAVID CHANDLER (TCE-11)

Questioning by Mr. Abdulhak resumes page 24

List of Speakers:

Language used unless specified otherwise in the transcript

| Speaker | Language |
|-------------------------------------|----------|
| MR. ABDULHAK | English |
| JUDGE CARTWRIGHT | English |
| MR. CHANDLER (TCE-11) | English |
| MR. IANUZZI | English |
| MR. KARNAVAS | English |
| MR. KONG SAM ONN | Khmer |
| THE PRESIDENT (NIL NONN, Presiding) | Khmer |
| MR. PAUW | English |
| MR. PICH ANG | Khmer |
| MS. SIMONNEAU-FORT | French |
| MR. TONG HONG | Khmer |

1

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 As planned, today we resume hearing testimonies of expert

6 Chandler, questions to be put by the Prosecution.

7 Greffier, please report on today's attendance of the parties and

8 relevant individuals called to attend this courtroom by the

9 Chamber. Ms. Se Kolvuthy, can you report on this status?

10 [09.02.03]

11 THE GREFFIER:

12 Good morning, Mr. President. All parties are present. Thank you.

13 MR. PRESIDENT:

14 Thank you.

15 Before handing over to the Prosecution to continue their

16 questions to the expert, the Chamber would like to rule on two

17 requests.

18 The first one is the request to place documents by the defence

19 counsel for Nuon Chea and another one is the request by the

20 defence counsel for Mr. Ieng Sary not to sit this Friday.

21 [09.03.02]

22 Now, the oral decision of the decision -- the oral decision of

23 the Trial Chamber for the Nuon Chea defence team. The Chamber is

24 seized of Nuon Chea's second Rule 87.4 request to use documents

25 during the examination of expert David Chandler, document number

2

1 E172/27/2. In this request the Nuon Chea defence team seeks to
2 put another 11 new documents before the Chamber on the grounds
3 previously specified in its first Rule 87.4 request, document
4 number E172/27/1. For the same reasons as given in its own oral
5 decision of the 18 July 2012, the Chamber rejects the Nuon Chea
6 defence application.

7 [09.04.15]

8 The Chamber's second decision is as follows -- and I would like
9 to hand over to Judge Sylvia Cartwright to rule on this request.
10 You may proceed, Judge.

11 JUDGE CARTWRIGHT:

12 Thank you, President.

13 The Trial Chamber has deliberated on the request made by the
14 defence counsel for Ieng Sary, Mr. Karnavas, and has decided to
15 decline it. The reasons are as follows. The application itself
16 was that the Chamber not sit on Friday, the 20th of July, due to
17 a pre-existing commitment made by Mr. Karnavas to attend and lead
18 a seminar.

19 The reasons for declining the request are as follows: the parties
20 have known since the outset of this trial that although the
21 Chamber would try to ensure that Fridays were kept free of
22 sitting commitments, the parties must be flexible because there
23 would be occasions when it was necessary to sit on a Friday. This
24 is one of those weeks because we have lost two days of sitting
25 time already.

1 [09.05.47]

2 In his oral submissions yesterday, Mr. Karnavas drew an analogy
3 between the request made by the prosecutors for a delay in the
4 start of this week's proceedings due to the illness of one of its
5 prosecutors who was scheduled to lead the questioning of the
6 expert Professor Chandler. And in Mr. Karnavas's submission, if
7 we -- having granted that application, we were obliged to grant
8 his.

9 There is no clear analogy between the two situations. The
10 prosecutors could not have anticipated the illness of its - of
11 one of its members, and as was noted yesterday, the prosecutors
12 have already been criticized for not having in place a fallback
13 position in the event of a sudden emergency such as they were
14 faced with. There is no such clear situation in relation to the
15 request made by Mr. Karnavas. He has known of this commitment,
16 which he made, for the Friday of this week and he has known of
17 it, presumably, for some time. He ought to have anticipated the
18 possibility that the Court would be obliged to sit this Friday
19 and had in place an alternative.

20 [09.07.29]

21 In any event, he has national co-counsel, who is well qualified
22 and experienced and will be available to represent Ieng Sary
23 tomorrow.

24 Finally, the Chamber has taken into account the absence of Mr.
25 Karnavas for tomorrow and will make sure that the questioning by

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1 the Ieng Sary team does not begin until Monday of next week. That
2 is the decision of the Chamber.

3 Thank you, Mr. President.

4 MR. PRESIDENT:

5 Yes, Counsel, what matter do you intend to raise? Please inform
6 the Chamber, first of all, the topic you intend to raise. Defence
7 counsel for Mr. Nuon Chea to proceed first.

8 [09.08.28]

9 MR. IANUZZI:

10 Thank you, Your Honour. Good morning, everyone. Just very
11 briefly, for the same reasons that I articulated yesterday -- or,
12 I should say, attempted to articulate, we take exception to the
13 ruling that was just read out with respect to our motion on the
14 admission of documents.

15 Those documents are clearly relevant. They're in the public
16 domain. No one objects to them. There's no prejudice to any
17 party. They should be admitted. We should be allowed to use them.
18 Thank you.

19 MR. PRESIDENT:

20 Yes, Judge, please.

21 JUDGE CARTWRIGHT:

22 Yes. Thank you, President. I just want to make it clear that the
23 Nuon Chea defence team, as all defence teams, have the right to
24 appeal any decision, and the Chamber does not see the necessity
25 for making an objection for the record. You have that right in

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1 any event. And whether it's an appeal that would fit under our
2 Rules at the time of the verdict or an immediate appeal, you have
3 that right. There is no need to make repeated objections to the
4 rulings.

5 So I hope we've clarified that for you, Mr. Ianuzzi.

6 [09.09.43]

7 MR. IANUZZI:

8 Your Honour, it is my national practice to make exceptions for
9 the record, so I will continue to do that, and I think it
10 benefits the public as well.

11 JUDGE CARTWRIGHT:

12 We do not require you to make exceptions. It may be your national
13 practice it is not the practice here. We will assume that each
14 time the Court makes a ruling that is adverse to you, that you
15 will consider whether or not you will appeal. There is no need,
16 and the President will not expect any such objections for the
17 record in the future. Thank you.

18 MR. PRESIDENT:

19 Yes, Mr. Karnavas, you may proceed.

20 [09.10.31]

21 MR. KARNAVAS:

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

24 I have three matters: one is Mr. Ieng Sary's presence and his
25 health; two, an ex parte communication that occurred between the

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1 prosecutor and Mr. Chandler yesterday after you left the Bench;
2 and, three, we wish to know what exact documents Mr. Chandler
3 reviewed over the night.

4 And we will be making this a continuing request, since he is on
5 the stand, he is under oath, and he should have been prepared,
6 and a request was made for him to keep track of all of the
7 material that he was looking -- that he was going to be reviewing
8 in preparation for his testimony. And from what we heard
9 yesterday, he intentionally and deliberately ignored that
10 instruction from the Court. So those are the three topics.

11 [09.11.24]

12 First, Mr. Ieng Sary's health. I am told by Mr. Ieng Sary that he
13 is unable to sit here for long periods of time, especially in the
14 morning, because not only of his back but also because he needs
15 to use the restroom almost every five or ten minutes, and it's
16 exhausting. I've attempted to -- and I say attempted -- to meet
17 with a doctor and to get from the doctor his medical opinion.

18 Shockingly -- and it may be the practice in Cambodia, but I'm
19 unaware of anywhere else in the world -- the doctor is unwilling
20 to explain to us what, exactly, is wrong with Mr. Ieng Sary.

21 Instead, he indicated that he passed along a report to the
22 Chamber, and so I'm left with my client's representations to me.
23 In that -- since we are in this position, we respectfully request
24 for the doctor to answer what exactly is his position. What is
25 the medical opinion concerning Mr. Ieng Sary's presence? He has

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1 been following the testimony from his -- from the holding cell.
2 He is participating. We are receiving instructions, but we do
3 think that the constant -- the constant having to get up and
4 going to the toilet every five minutes and the pain in his back
5 certainly interferes with his right to effectively participate in
6 his own defence. So that's the first matter.

7 [09.13.10]

8 As far as the ex parte communication, I noticed that there was a
9 communication going on between the prosecutor and Mr. Chandler.
10 It would appear that Mr. Chandler initiated a conversation. I
11 wasn't aware of it initially, but I saw that it was ongoing and I
12 brought it to the attention -- in fact, I yelled from here that
13 such communications are forbidden. I think it is wholly improper
14 for a witness who is on the stand to then be having
15 communications with the prosecutor. Now, Mr. Chandler, albeit the
16 son of a lawyer, may not be aware that that is the practice; the
17 prosecutor and the lawyers ought to know that once a witness is
18 on the stand, there should be no communications.

19 I was informed over the -- by the prosecutor that it was merely
20 for scheduling purposes. I don't care what it was about. The
21 answer should have been, "Mr. Chandler, I can't speak to you. If
22 you wish to speak -- if you wish to make inquiries about the
23 scheduling, bring that up to those who are handling you."

24 [09.14.18]

25 I think we need clear guidance. It may have been an overlap -- a

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1 lapse. Nonetheless, I take these matters very seriously and I
2 think we all should. This is not a civil party. This is an expert
3 witness. He's on the stand and he's under oath, and he's
4 consulting documents as he's going along. And from his own public
5 admissions, everybody here, all of the Accused are guilty and he
6 opined as to what he thinks the Accused will be doing in Court.
7 So, in light of all of these circumstances, I think we need some
8 clear guidance. And I can understand the prosecutor being in a
9 very awkward position where the witness comes up, and obviously
10 he's very close to the witness, and the witness is merely asking
11 for scheduling, but nonetheless, we need a clear guidance.

12 [09.15.08]

13 And, lastly, Mr. President, if Mr. Chandler is on the stand and
14 he's testifying -- and he had weeks and months to prepare -- and
15 he's the doyen of the historians on Cambodia, we want to know
16 what material he's consulting. And I don't want to hear some
17 global answer such as "the Closing Order". What are the exact
18 documents that he's looking at to prepare himself and perhaps
19 recalibrate his testimony to fit the Prosecution's brief? Because
20 that's what we're submitting he would be doing because of his
21 publicly stated positions thus far. And I know that he's not
22 under any instructions, but I think it's only human -- it's
23 within human nature to recalibrate your answers in anticipation
24 of what may be happening.
25 So those are my -- the three topics, Mr. President. And perhaps

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1 you may wish to ask questions of the doctor first so we know
2 whether Mr. Ieng Sary should continue to be present in Court this
3 morning or whether he should go to the holding cell and
4 participate, as he has been doing throughout most of the
5 proceedings. Thank you very much.

6 [09.16.33]

7 MR. PRESIDENT:

8 Mr. Michael Karnavas, could you indicate again whether you are
9 making a request or you require that the Chamber seeks
10 recommendation from the doctor? Are you making a usual request
11 that your client be permitted to be present in a holding cell by
12 waiving his presence to be in this courtroom? And what is the
13 reasons to support your request? Is it the opinions of the
14 doctors treating the accused persons who are detained at the ECCC
15 detention facility? It is not clear in the Khmer version
16 regarding the request.

17 MR. KARNAVAS:

18 My apologies; perhaps I was speaking too quickly.
19 I don't know what the doctor's opinion is because the doctor
20 refuses to communicate with me even though he is my client. I
21 find that practice abhorrent. I should know the status of my
22 client's health. So I don't know exactly what the doctor is going
23 to say, but what my client is saying is that he is unable to be
24 here in Court today because of his back pain and because of the
25 constant stress put upon him where after every five or 10 minutes

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1 he needs to use the restroom, and that exhausts him. Obviously
2 it's a request for him to participate in the holding cell. We've
3 been making these requests. He's been signing the waivers.

4 [09.18.40]

5 It was you, Mr. President, that ordered that Mr. Ieng Sary be
6 present here today. As he sits here today, he's unable to
7 participate in his own defence. Being present physically does not
8 mean being present mentally, and the right to assist in one's
9 defence also means the right to be able to concentrate, to hear
10 the testimony, and if necessary, to give guidance and
11 instructions to the lawyers. We do have communications with Mr.
12 Ieng Sary during the breaks.

13 So we respectfully request, based on what we have been told by
14 our client -- not by the doctor, because the doctor who is
15 sitting there refused to even acknowledge my presence when I was
16 communicating to him. He merely walked away very arrogantly. Now,
17 maybe this is his part of the training, but I find that to be
18 abhorrent. I expect at least some answer such as, "This is the
19 state of his health." So I don't know what the doctor is going to
20 be saying, but I do know what Mr. Ieng Sary is saying, and
21 everybody can see Mr. Ieng Sary right now. He's in utter pain
22 because of his back. So we are making that request. He has signed
23 a waiver and he's waiving his presence here, but he will be
24 participating in the holding cell. So that is my request with
25 respect to Mr. Ieng Sary.

11

1 [09.20.07]

2 If you're not aware of what the doctor's report was, then perhaps
3 the doctor can take the stand, be placed under oath and give
4 testimony. But I am told that he gave his information to the
5 legal officer of the Tribunal or the Trial Chamber. Thank you.

6 MR. PRESIDENT:

7 National Counsel for civil parties, you may proceed.

8 MR. PICH ANG:

9 Good morning, Mr. President, Your Honours. I only have a brief
10 comment concerning what Mr. Karnavas has raised, particularly
11 about the not -- the no-response from the doctor to him.

12 I think it is not strange for a treating doctor not to answer to
13 someone else who is not a judge. In any event, if he is required
14 to explain the matter, he can be called in as an expert or a
15 witness before the Court. Likewise, a witness or experts are not
16 required to communicate directly to any parties outside the
17 Court. Only when the person is called before the Court as a
18 witness or expert could parties ask the person. These can apply
19 the same things to the matters that Mr. Karnavas raised about the
20 communication between the Prosecution and Mr. Chandler.

21 [09.22.06]

22 MR. PRESIDENT:

23 Defence Counsel for Mr. Nuon Chea, you may proceed.

24 MR. PAUW:

25 Thank you, Mr. President. I don't want to confuse the discussion,

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1 so I have a short addition to make to the third point raised by
2 my colleague, Mr. Karnavas.

3 Do you want me to make it now or do you want to provide the
4 Prosecution the chance to respond to the other issues raised by
5 my colleague?

6 [09.22.38]

7 MR. PRESIDENT:

8 Thank you.

9 International Co-Prosecutor, do you wish to take the floor in
10 order to respond to the observations by the defence counsel?

11 MR. ABDULHAK:

12 Yes, Mr. President. Thank you. Good morning, Your Honours.

13 As a preliminary point, I want to say that what we're confronting
14 now is a pattern of behaviour by defence counsel of making
15 requests and submissions at the start of the day when Prosecution
16 is scheduled to examine witnesses, which inevitably eats into our
17 time allocations. We will have spent another half an hour today
18 and yesterday out of its two and a half days, the Prosecution was
19 able to spend just over half a day examining the expert.

20 [09.23.33]

21 But moving on to the points raised by Mr. Karnavas -- and point
22 number 1 being Ieng Sary's health -- I'll be very brief. The
23 Prosecution has obviously no objection to Mr. Karnavas, with the
24 authority of his client, speaking to the doctors, but this is a
25 matter for the Chamber.

1 Secondly, participation from the holding cells is, in effect,
2 participation in the proceedings, same as being upstairs insofar
3 as the Accused have access to their lawyers and access to a video
4 feed from the proceedings.

5 Again, we'll leave the matter to Your Honours' discretion as to
6 what the most appropriate way to proceed.

7 Secondly, on the issue of alleged ex parte communications, I have
8 to say we are both surprised and shocked by this matter being
9 raised in Court as Mr. Karnavas himself indicated. And I hate to
10 deal with these matters in Court, but I do want to state them
11 clearly for the record.

12 [09.24.47]

13 Professor Chandler came up to our bench to inquire about
14 scheduling, and my response was exactly as Counsel Karnavas
15 suggested, to ask him to speak to the Chamber about scheduling
16 for this week and next week. I take great exception at Counsel
17 Karnavas raising this matter in open Court when I explained to
18 him yesterday what the matter was about, and he could see that
19 the communication ceased very quickly.

20 Lastly, on the issue of documents, I don't think we need to waste
21 any more time on this, Your Honours. The professor has been asked
22 to prepare a list. He indicated he has already prepared that list
23 in part he will continue to add to it. As we go along today, we
24 will be showing specific documents to the professor and he will
25 be opining, in part, based on those documents.

14

1 So this mystery that the Defence wishes to pretend is in place
2 needs to be dispelled. We will be dealing with specific
3 documents. There is nothing controversial about the professor
4 looking at them and giving his opinions based on years of
5 research.

6 [09.25.54]

7 And while I'm on that matter, I also wish to record our objection
8 to, both yesterday and today, the counsel for Mr. Ieng Sary
9 effectively seeking to intimidate the witness. We heard yesterday
10 comments about their intention to place Professor Chandler under
11 great fire. We heard today, again, offhand comments about his
12 supposed bias.

13 None of these matters relate to their application to deal with
14 documents. This is a blatant attempt to intimidate the witness.
15 It is a blatant attempt to, if you like, give him a preview of
16 the attack they think they can put him under, and it is an
17 attempt to make it more difficult for him to testify. So we take
18 great exception to it.

19 Your Honours, subject to you dealing with the issue of Ieng
20 Sary's attendance in Court, we would like to get on with the
21 examination, if at all possible in the shortest amount of time.

22 Thank you.

23 [09.27.09]

24 MR. PRESIDENT:

25 You are not allowed. We cannot go back to the same issue. One

15

1 party can raise the matter only once.

2 The Greffier of the Court, do we have the record of the treatment
3 of Mr. Ieng Sary by the ECCC doctor for today's morning?

4 UNIDENTIFIED SPEAKER:

5 (Microphone not activated)

6 MR. PRESIDENT:

7 You are not allowed to proceed. We will proceed with another
8 matter.

9 THE GREFFIER:

10 Mr. President, the doctor has already examined the Accused, but
11 there is no record of the examination yet.

12 [09.28.05]

13 MR. PRESIDENT:

14 In order to deal with this matter, the doctor is now instructed
15 to be on stand -- to be right next to the expert.

16 International Counsel for Mr. Nuon Chea, do you wish to raise
17 another matter or do you intend to raise the same issue?

18 Otherwise, you are not allowed to do so because the matter has
19 been fully heard by all three parties, or do you wish to address
20 another new matter? You are not allowed to proceed with the same
21 matter here. The Chamber has heard enough grounds for its
22 consideration.

23 (Judges deliberate)

24 [09.29.50]

25 Defence Counsel for Mr. Nuon Chea, can you inform the Court first

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1 of all the matter that you intend to raise? Again, you are not to
2 -- you are not allowed to raise the same issue unless it is a new
3 one.

4 MR. PAUW:

5 Mr. President, as I told you in my first submission this morning,
6 it is related to the third issue raised by Mr. Karnavas.

7 In order to facilitate your proceedings, I proposed to discuss it
8 after the other issues were raised and discussed by the
9 Prosecution, the health of Mr. Ieng Sary and the ex parte
10 communications.

11 [09.30.33]

12 So I submit that I should be allowed to give my submission on the
13 issue that is related to the documents as discussed by Professor
14 Chandler. It will be a quite simple addition, taking no more than
15 one or two minutes.

16 MR. PRESIDENT:

17 Yes, you will be granted that opportunity to proceed.

18 But now the doctor is before us ready to provide his medical
19 opinion concerning the health status of Mr. Ieng Sary. Doctor,
20 you may proceed.

21 MR. TONG HONG:

22 I would like to report to the Chamber. My name is Tong Hong. I am
23 the physician attached to the ECCC. Subject: the health status
24 report of the accused Ieng Sary.

25 [09.31.45]

17

1 As of 8 o'clock in the morning, his blood pressure is 8 out of 13
2 and -- 13 of 8. He is -- as a recommendation, he can participate
3 in the proceeding for only an hour or two a day.

4 MR. PRESIDENT:

5 Judges, do you have any question to put to the medical doctor?
6 How about other parties? Do you have any question to put to the
7 medical doctor concerning his report of the health status of the
8 Accused?

9 MR. KARNAVAS:

10 I do, Mr. President, but I see that Judge Lavergne is conferring
11 with other judges.

12 (Judges deliberate)

13 [09.34.55]

14 MR. PRESIDENT:

15 Now the Chamber has decided that we would not grant time to
16 parties to put questions to the physician, due to time
17 constraints, and I would like to thank the medical doctor for
18 your report.

19 And according to your recommendation, Mr. Ieng Sary may
20 participate in the proceeding for about one to two hours, and the
21 Chamber will decide on this matter before we adjourn in the first
22 half of this morning.

23 So, physician, you may now return to your seat.

24 Now, I -- my apology. Now, the International Defence Counsel for
25 Nuon Chea, the floor is now yours, but we would like to remind

18

1 you to be brief in your submission because we have spent a lot of
2 time this morning on these matters.

3 MR. PAUW:

4 Thank you, Mr. President. I'll be brief, while trying to speak
5 slowly to not -- accommodate the translators.

6 [09.36.22]

7 We heard Professor Chandler say yesterday that he had studied the
8 Closing Order before his testimony before your Chamber, and I
9 want to make it clear that we do not take issue with that fact,
10 as such. But, as Professor Chandler has indicated, this Closing
11 Order has changed his mind on certain issues. We think it's
12 relevant to note that the Closing Order is no more than a
13 conclusion by the Office of the Co-Investigating Judges, and I would
14 like to add that it is an indictment and, therefore, it is
15 inculpatory by nature.

16 Considering that, I think it's important going forward with the
17 testimony of Mr. Chandler, that we know -- that all the parties
18 know -- whether or not he had access to all the underlying
19 documents of the Closing Order, and if not, which particular
20 documents did he have access to and which particular documents
21 did he not have access to?

22 [09.37.31]

23 And I recall something the professor said yesterday. And I do not
24 have the transcript, so I forget the specific wording, but I
25 believe Professor Chandler stated: "I wish I had had access to

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1 that information or to those documents." Professor Chandler could
2 clarify that to us.

3 So it is clear that certain information in the Closing Order is
4 new. We would like to know whether he -- Professor Chandler bases
5 his change of opinion on certain matters on certain new documents
6 that he did not have access to before, and if so, what those
7 documents were.

8 I will also state, just to be clear, that it is quite obvious to
9 us that Professor Chandler did not have access to all documents
10 that underlie the Closing Order, simply because they are of a
11 confidential nature and they were produced by the OCIJ during the
12 investigation. So to a certain extent, Professor Chandler cannot
13 know the underlying documents.

14 Again, we don't -- do not place any blame on Professor Chandler,
15 or anybody else for that matter, regarding that circumstance. But
16 it should be clear going forward what documents has he relied on.
17 Because as my colleague, Mr. Karnavas, has pointed out the
18 testimony of Mr. Chandler has become muddled in a way, has become
19 tainted in a way, by reading the Closing Order. Again, we place
20 no blame on anyone for that, it is simply human nature, but we
21 need to verify what Professor Chandler bases his knowledge on
22 today before you.

23 [09.39.13]

24 So perhaps today will be too late for Professor Chandler to
25 provide this kind of information, but we will be coming back to

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1 this issue during our questioning of Professor Chandler. So
2 perhaps the Trial Chamber could instruct, perhaps as a matter of
3 fair warning to the professor, that we will be coming back to
4 this issue so the professor could prepare for this eventuality.
5 Those were my submissions. Thank you.

6 MR. PRESIDENT:

7 Thank you.

8 And I give the floor to the representative of the Prosecution.

9 You may proceed.

10 [09.39.57]

11 MR. ABDULHAK:

12 Thank you, Your Honours. I think my learned friend has both asked
13 and answered the question.

14 The attachments to the Closing Order are indeed confidential and
15 therefore the professor is obviously very unlikely to have had
16 access to them.

17 I'm surprised we're coming back to this point, because I believe
18 we had found a way forward. Essentially we will be taking the
19 professor through specific documents and through his specific
20 conclusions.

21 Where he is of the view that those conclusions have been altered
22 or affected by the Closing Order, we have asked him to so
23 indicate, and I think that's where the matter can rest. The
24 Closing Order is, of course, a set of allegations which the
25 professor has had access to, and it may have provided him

21

1 additional information and he will indicate that.

2 I don't think it would be appropriate at all -- and counsel
3 indicates this as well -- to expect the professor to now try and
4 reconstruct the supporting materials for the Closing Order to
5 which he doesn't have access. He can be asked by the Defence in
6 their own examination what the bases are for his conclusions
7 which they challenge.

8 (Judges deliberate)

9 [09.41.48]

10 MR. PRESIDENT:

11 First, I wish to remind the expert that you were called to
12 testify in a capacity as a witness, so we would like to remind
13 you not to communicate with any parties to the proceeding. That's
14 why immediately when the Chamber calls a break, we ask the court
15 officer to accommodate you so that you will not communicate with
16 other parties during the breaks.

17 And on a separate matter, concerning the use of the various
18 documents, particularly the ones identified in the Closing Order
19 as well as the footnotes in the Closing Order raised by the
20 party, it is the same matter that has already been ruled upon by
21 the Chamber. And I would like to hand over to Judge Silvia
22 Cartwright to clarify on that further.

23 (Short pause)

24 [09.43.18]

25 I give the floor to the Prosecution to continue his line of

22

1 questioning. And, if possible, you can clarify the time
2 allocation between the Prosecution and the civil party Lead
3 Co-Lawyers, how you would allocate times among yourself for the
4 two days and a half allocated to you.

5 MR. ABDULHAK:

6 Thank you, Mr. President.

7 On the last issue, we hope there will be some scope to
8 accommodate us, based -- in light of, rather, all of the delays
9 that we have experienced since yesterday. If we are still able to
10 use up the entire two and a half days allocated to us, within
11 those two and a half days total, we will take close to two days
12 and leave the rest to the civil parties.

13 [09.44.23]

14 I want to stress that we will absolutely try to move
15 expeditiously, and we will try and deal only with the most
16 important issues, but approximately two days or perhaps a little
17 bit less for the Prosecution, and then the remainder for the
18 civil parties.

19 And would you like me to proceed?

20 MR. PRESIDENT:

21 Thank you. The civil party Lead Co-Lawyer, you may proceed.

22 MS. SIMONNEAU-FORT:

23 Mr. President, once again, I have to express my regret that the
24 civil parties can only use the time left over to them by the
25 Prosecution. I quite understand that the Prosecution has to use

1 the time it needs for its questions, but another party -- namely,
2 the civil parties -- has to be able to make use of the amount of
3 time that it needs.

4 [09.45.23]

5 We need five hours, and we told Susan Lamb that we need those
6 five hours, and here we have, beside me and my colleagues, who
7 have been preparing these subjects in a very serious manner, who
8 have come from abroad to do so-- And it's quite inconceivable
9 that within a reasonable time, as usual, incidentally, that the
10 civil parties shouldn't be allowed to ask the questions that they
11 wish to ask.

12 And so we do rather insist that we be allowed the five hours that
13 we are entitled to. Thank you.

14 MR. PRESIDENT:

15 According to the revised schedule of the Chamber which has
16 already been well circulated to the parties, we would rather
17 shorten the time allocated for the examination of this witness,
18 and there is no possibility for an extension of time for parties,
19 as such.

20 So we, once again, urge the Prosecution and the civil parties to
21 discuss among themselves how to best allocate the time.

22 And the Prosecution has the burden of proof to -- against the
23 Accused, and the other parties will have to provide other
24 arguments or counter-arguments to the Prosecution. So there won't
25 be any additional time for parties concerning that matter. Thank

1 you.

2 [09.47.15]

3 QUESTIONING BY MR. ABDULHAK RESUMES:

4 Q. Good morning, Professor Chandler. Unfortunately, we're almost
5 halfway through our first session, so I will be skipping a number
6 of sub-topics and simply try and touch upon the main areas in the
7 first subject matter which I wish to deal with which is the -- as
8 I indicated yesterday -- pre-1975 key events and development of
9 policies that you also referred to yesterday.

10 In your books, "Brother Number One" and "The Tragedy of Cambodian
11 History", you trace the origins of the Cambodian movement in
12 Cambodia. We unfortunately don't have the time to go through the
13 entire chronology, so what I might do is simply start at 1960,
14 which is one of the dates that you consider significant in your
15 books and take it as our first milestone, if you like.

16 [09.48.33]

17 Now, again, in the interests of time, I will ask my assistants to
18 give you hard copies of these two books with the excerpts that we
19 will be dealing with, but I will read the excerpts and perhaps we
20 won't go to the screen in order to save time.

21 Mr. President, with your permission, we would give the professor
22 hard copies so that he can refer to them as I read?

23 MR. PRESIDENT:

24 Yes, you may proceed.

25 Court officer is instructed to obtain the document from the

1 prosecution and present it to the witness.

2 BY MR. ABDULHAK:

3 Thank you, Mr. President.

4 [09.49.34]

5 Q. Professor, you -- just a - just a minor housekeeping matter.

6 You will note that your microphone switches on with a slight
7 delay after I finish. The reason for that is that the AV Unit is
8 simply waiting for your - for the interpretation of my answers
9 into Khmer and French to be complete so that we have a full
10 record. So if you could wait for the microphone to come on and
11 then give us your answers?

12 Looking at "Tragedy of Cambodian History" -- and this is in
13 Chapter 3. The document number is E3/14 (sic). This particular
14 book is only available in English. The relevant ERN is 00193197.
15 So, if you look through those hard copies, if you simply look for
16 number 97 in the top left-hand corner, this is a passage that I
17 wish to focus on, and it's a discussion of the 1960 Congress of
18 the Communist Party. You state:

19 [09.50.40]

20 "The congress has received considerable scholarly attention. Much
21 about it remains uncertain, but three facts emerge. One is that
22 Saloth Sar was appointed at the congress to the number three
23 position on a newly constituted central committee, just below Tou
24 Samouth and Nuon Chea. The second is that the KPRP changed its
25 name on this occasion to the Khmer Workers' Party, placing it

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1 semantically on a level with the VWP -- the Vietnamese Workers
2 Party. We also know that Son Ngoc Minh, in absentia, earned a
3 place on the central committee."

4 And the brief following passage: "Ieng Sary and Koy Thuon were
5 the only intellectuals besides Saloth Sar to be brought onto the
6 committee.."

7 The next passage is in the same book, over the page:

8 [09.51.40]

9 "Moreover, in view of the Communists' activities in Cambodia over
10 the next six years or so, there is no possibility that
11 resolutions passed at the meeting in 1960 espoused a truly
12 independent line. Nonetheless, in hindsight the participants were
13 clearly breaking into factions. One of these, the eventual
14 victor, was Pol Pot's own. Another, with links to the ICP -- the
15 Indo-Chinese Communist Party -- and roots in the eastern part of
16 the country, was personified by So Phim."

17 Now, if I could ask you, Professor, to describe for the Chamber
18 your findings and your conclusions as to the significance of this
19 Congress and of course, you point to the -- to certain
20 appointments within the committee and the change of the Party's
21 name. Could you expand on this for us briefly?

22 MR. CHANDLER:

23 A. Thanks very much, and good morning. And before I answer your
24 question, I'd like to apologize to the Court for what was clearly
25 an oversight on my part in making a very brief moment of

1 conversation with the prosecutor. No - I -- there was no ill
2 intention doing that, I was - it was my mistake, and I'm sorry
3 for it.

4 [09.53.01]

5 Now, as regards the passage cited, the Congress of 1960 has --
6 was marked by Pol Pot, and particularly in things he's written
7 and said, as the date -- the official date of the start of the
8 Communist Party -- of the - of the Communist Party of Kampuchea,
9 saying it was really founded in 1951, but we don't talk about
10 that because the genuine foundation occurred in 1960.

11 And what happened in the genuine foundation event, of course, was
12 that Pol Pot himself came onto the Central Committee for the
13 first time, and the -- and he went along with Ieng Sary, and --
14 and Koy Thuon, and this group constituted -- eventually
15 constituted a - "faction" might be too strong a word to use, and
16 I'm not referring to any subsequent documents in the Closing
17 Order or anything when I say that, but I see now this book --
18 that may have been - "faction" might be a strong word to use -
19 "elements" is more likely. These people did not break apart in
20 later times.

21 [09.54.13]

22 But, yes, this was a very significant meeting and it was a place
23 where the Communist Party began to move out of its period of --
24 rather, of inactivity and toward having a set of proposals that
25 were felt to be appropriate for Cambodia and to be no longer

1 under the guidance, formal or informal, of Vietnam and the
2 Indochina Communist Party.

3 So, yes, this is a very significant occasion. Thank you.

4 Q. Thank you, Professor.

5 Moving on to the next significant date -- or the date that you
6 consider significant, and it is the 1962 period. And, again, it's
7 dealt with in both "Brother Number One" and "Tragedy of Cambodian
8 History". In the interest of time, I'll simply read a passage
9 from the "Tragedy of Cambodian History". I might need to refer to
10 the other book as well.

11 But at ERN 00193209 -- again, this is a English ERN, the only one
12 available you -- we have the following passage:

13 [09.55.32]

14 "Soon after these events, the WPK's urban committee, perhaps
15 fearful of Sihanouk, convened a general assembly (some documents
16 refer to it as a congress). Its main decision was to confirm
17 Saloth Sar as the secretary of the WPK's central committee,
18 replacing Tou Samouth, who was now presumed to have been killed.
19 Two of the twelve positions on the enlarged committee were taken
20 by intellectuals who had studied in France: Number Three, Ieng
21 Sary, and Number Eleven, Son Sen. Son Ngoc Minh in Vietnam was
22 again elected in absentia, and Vorn Vet joined the committee for
23 the first time."

24 [09.56.24]

25 I will also read, for the purposes of continuity, before I ask

29

1 you some questions, a relevant passage from "Brother Number One".
2 This is document -- I do apologize, the passage I just read was
3 from "Brother Number One" -- so that was E3/17. No, there is a
4 mistake in our notes. That was from "Tragedy".

5 We are moving on to "Brother Number One". "Brother Number One" is
6 E3/17. This is available in English and Khmer. The relevant
7 English ERN is 00392977 to 8, and Khmer ERN 00821727. Again, I'll
8 be very brief with this passage. You stated:

9 "By then, Sar and Sary were both high-ranking members of the
10 party. Their positions had been confirmed at a special party
11 congress convened in the wake of the Siem Reap demonstrations,
12 but before Sihanouk's return. At the meeting, Sar replaced Tou
13 Samouth as secretary of the party. Nuon Chea kept the second
14 position..."

15 And a little bit further down in that same -- on that same page,
16 you state:

17 "What was important about the congress was that it locked Saloth
18 Sar, Nuon Chea, and Ieng Sary into positions in the party
19 hierarchy that they retained for many years."

20 [09.58.00]

21 I apologize for the length of some of these passages.

22 If you could elaborate for us on the importance of this 1962
23 Congress following the disappearance of Tou Samouth and what you
24 describe about the "locking into positions in the party
25 hierarchy" of Pol Pot, Nuon Chea, and Ieng Sary?

30

1 A. Sure. I don't think there's much to expand on, from what I
2 said there.

3 This leadership group of the Party -- some -- there's some
4 question later on -- some ambiguity about whether Ieng Sary or
5 Son Sen was Number Three, but that doesn't matter. I mean, Son
6 Sen was also in this -- member of the leadership group, starting
7 to move toward a sort of consolidation.

8 I think some other writers have said: Oh this meant a kind of a
9 semi-coup by the French educated members of the Party. I think
10 it's very important to remember that Nuon Chea has never been in
11 France, and he was a -- Number -- second man for a long time, was
12 not subject to French intellectual patterns, and so forth. I
13 think some of that is a bit of a - of a misleading suggestion,
14 that this is somehow sort of a French faction. It's just that
15 there were -- some of them had studied in France. But it's
16 significant that these four people, including Son Sen, then
17 formed basically a core of leadership that continued later on,
18 once they came to power.

19 [09.59.45]

20 It should be said, of course, that the only importance of this
21 Congress is that they did come to power, because this is a very
22 ill-equipped, ineffective, frightened, concealed Party that -- it
23 wasn't -- I mean, it's very like the childhood of Mao Zedong.
24 It's only important because of what happened later. This is -
25 it's important for the history of the Party, but its intrinsic

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1 importance is only to these particular people because they were
2 actually hoping, you know, to seize power. This is the reason
3 they were forming their Party. They hoped at some time to be
4 victorious, and so they were -- they're the optimists in the
5 room, surrounded by people who had no expectation that anything
6 like that would ever happen.

7 Q. Thank you, Professor. And I thank you for your brief answers.

8 [10.00.34]

9 We will move forward now, skip a number of years, in the interest
10 time, and make a brief pause at 1966 and 1967. These are
11 discussed again, in "Brother Number One" and in "Tragedy of
12 Cambodian History". In both books, chapters 5 are relevant.
13 To save time -- there are a number of important passages here,
14 but, again, to save time, I'll just read very -- two very short
15 ones from "Brother Number One". This is at English ERN 00392988,
16 and Khmer ERN 00821739. Professor, you indicate here -- and I
17 quote -- and I should say that you're dealing here with a 1966
18 study session which you state was held in the new headquarters in
19 Rattanakiri -- and you state -- quote:

20 [10.01.44]

21 "The escalation of the Vietnam War and developments in Indonesia
22 and Cambodia made the 1966 study session a turning point in the
23 history of the Cambodian Communist Party because they persuaded
24 Sar that the party's tactics had to be changed".

25 Then, over the page, you state the following:

1 "...Sar and the others made two important tactical decisions at the
2 1966 study session. They changed the party's name from the
3 Revolutionary Worker's Party to the Communist Party of Kampuchea,
4 and they moved some of their key personnel to the remote province
5 of Rattanakiri in Cambodia's northeast."

6 Could you tell us - again, briefly -- why you considered that by
7 this stage, the Party's tactics -- that the leadership had
8 decided that the Party's tactics had to be changed, and that that
9 included the change of the Party name and move of key personnel?

10 [10.03.02]

11 A. Yes, I think the events in Indonesia were -- from 1965, 1966,
12 an estimated half a million alleged Communists were put to death
13 by the forces of the Indonesian government -- was this, if you
14 want - it was a terrible phrase and a wake-up call to the
15 Cambodian Communists. They said: Here's a country where the
16 Communist party has just about been wiped out by the government.
17 And they were a small group. They felt -- I think that - sorry.
18 Perhaps it was in their interest to move away from the populated
19 areas of Office 100, in eastern Cambodia, to a more secure base,
20 I think also felt that they could no longer operate with any kind
21 of an open -- front operations inside Cambodia, because they were
22 - they were in danger. So the whole Party went underground and,
23 in effect, disappeared.

24 [10.04.01]

25 Yes, I mean, it was a -- and it was in this area, this base in

1 northeastern Cambodia, where they remained for over the next
2 three years, basically just -we don't know exactly what they were
3 doing, but, obviously, what seems to me they were doing was were
4 planning policies for when they would seize power, rather than
5 hiding from Sihanouk's police or things that they had been doing
6 before. This a period of policy-making, a period of
7 consolidation, and a period of -- also, they were gaining
8 strength. Recruits were coming to them from the cities,
9 particularly in the local region of Rattanakiri -- they recruited
10 a fair number of minority people.

11 [10.04.44]

12 So, yes, it's a crucial change. And I think the interesting point
13 - it's not mentioned in this book, but it's interesting that the
14 -- it seems to me that the events in adjoining Vietnam, which of
15 course are much more well-known to the people in this room,
16 perhaps are more well-known than is -- what is happening in
17 Indonesia -- were less -- paid less attention by the Cambodian
18 Communists. That -- they didn't mention this in their "we must
19 change our tactics in order to play some role in the Vietnam war,
20 but, rather, to protect ourselves, we must avoid what happened to
21 the -- we must work to avoid what happened to the Indonesian
22 party", which was -- it was demolished. The Indonesian party was
23 just obliterated, basically, and several tens of thousands of
24 people were imprisoned after that. The ones that weren't killed
25 were imprisoned for, often, 10 years. So it was a very scary set

1 of events down there.

2 [10.05.37]

3 Q. Thank you. You've indicated just now that, based on your
4 research, the Party was then based -- or the leadership of the
5 Party was then based in the Rattanakiri area for another three
6 years. You discuss, in your books -- again, both in "Brother
7 Number One" and "Tragedy of Cambodian History" the Samlaut
8 uprising, as some authors have called it, and then the subsequent
9 hostilities in January 1968, which were subsequently, if you
10 like, described as the birth of the Revolutionary Army.

11 Perhaps, if we can rely on your memory of those passages - or, if
12 you wish, I can read them out to you. But if you're able to, very
13 briefly, summarize the importance, if any, of the emergence, if
14 you like, of armed struggle in that period between '67 and '70.
15 And then we'll move on to post-'70.

16 A. Yes. The beginning of armed struggle was significant primarily
17 as a historical -- iconic historical event in the history of the
18 Communist Party. It didn't amount to much; it was -- a handful of
19 weapons were seized from a police station in Battambang province.

20 [10.07.18]

21 The Samlaut rebellion has been studied extensively, but no
22 conclusive results have come out of it, any connections between
23 the CPK and the rebellion. The -- members of the Party have
24 denied that they were connected. I think this is probably true. I
25 think this was a disconnected revolt conducted by individual

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1 people who were upset by government policies in that area.
2 So -- but Sihanouk saw, with the Samlaut rising, as I - as I said
3 in the book, that for the first time, Cambodians, without
4 inspiration from overseas, could - or no visible inspiration
5 overseas, were with -- the enemies of the Sihanouk regime were
6 people who were not Cambodians -- were able to revolt against his
7 regime. So he got angry and frightened and quite - and decided to
8 fight back. He said -- he decided to really quash this rebellion
9 with great force. He'd never gone after his own -- his force had
10 never gone after Cambodian people before, to this extent. I think
11 -- I'm sorry. I wasn't at the meeting, so I don't know what
12 exactly was said, but it seems to me the natural response of Pol
13 Pot and his colleagues would have been: Okay, we better get an
14 armed struggle to -- there's no point postponing this, because he
15 is going to -- his forces are going to attack our forces, and
16 which is indeed what started to happen in -- yes, in '68, '69.
17 You started to get skirmishes between the army, which was
18 permitted now to go after these local people, which, I think,
19 they knew -- they knew who they were, they knew where they were,
20 but they didn't do anything. There started to be some fighting.
21 So you're starting to get -- I guess the very beginnings of the
22 civil war do occur under the masteries of Sihanouk, rather than
23 breaking out under Lon Nol.
24 [10.09.15]
25 Q. Thank you.

1 Moving on, then, to the 1970 period -- and of course, again, you
2 discuss this in both books. "Tragedy of Cambodian History",
3 chapter 7 is relevant here, and "Brother Number One", mainly
4 chapter 5. Again, I will try and avoid reading long passages. I
5 believe you're intimately familiar with the events here. But,
6 essentially, you describe in "Brother Number One", at English ERN
7 00392998 and following, and also Khmer ERN 00821751 -- you
8 describe the events following the coup on the 18th of March 1970
9 by Sirik Matak and Lon Nol, and you also deal with the presence
10 of Saloth Sar -- or Pol Pot -- in Beijing and the negotiations --
11 or, rather, communications, if you like, which take place and
12 which culminate in the issuance of a broadcast on the 23rd of
13 March by Norodom Sihanouk.

14 I don't want to deal with that in great detail, because these are
15 largely matters of public record, but I will read one quote, and
16 then perhaps ask you to elaborate on the key aspects of these
17 developments.

18 [10.11.25]

19 And we're looking here now at "Brother Number One". This is in
20 chapter 6 now, English ERN 00393001, and Khmer ERN 00821752 to 3.

21 And you say the following:

22 "Saloth Sar did not emerge from hiding, and it was more than a
23 year before he was even identified as an official on Sihanouk's
24 National Front. Inside the country, authority was supposedly
25 placed in the hands of the Three ghosts -- Khieu Samphan --

1 ostensibly working on Sihanouk's behalf."

2 And a little bit further down: "Sihanouk, ensconced in Beijing
3 with an entourage of chefs, courtiers, and hangers-on, was a
4 figure-head from the start."

5 [10.12.20]

6 And a little bit further on, towards the end of that paragraph:

7 "...the Front publications, financed and printed in China, conveyed
8 the impression that the guerrillas inside Cambodia were fighting
9 on his behalf."

10 I know I'm asking a lot. If you could give us a very brief
11 outline of your findings in relation to the events following the
12 coup -- the decision to form a front and then the Front's
13 emergence and what you describe as Norodom Sihanouk's position as
14 a figurehead.

15 A. Well, you're right, that's a very -- that's a complex question
16 that goes into a lot of areas that I've -- have not studied in
17 great detail.

18 It's a -- from Sihanouk's point of view, the coup was a surprise
19 and an enormous insult -- a personal insult, and when he arrived
20 in Beijing, he was ready to make a whole lot of contradictory
21 decisions. He was discouraged from doing these -- by making these
22 decisions by Zhou Enlai, his friend for many years, who
23 encouraged him to work to fight against the Lon Nol -- the Lon Nol
24 regime.

25 [10.13.42]

1 Pol Pot was known to be in Beijing at this time for reasons -- we
2 don't know what they are. We don't know why he was in Beijing,
3 but he was. They summoned Pham Van Dong up from Hanoi very
4 quickly, and so that the elements of the Front that Saloth Sar
5 concealed -- never came up forward to say he was an element of
6 the Front -- decisions were made to form this Front under
7 Sihanouk's -- in quotation marks -- "leadership".

8 I think he knew that this was symbolic, but he also knew that
9 this was the most he could get, and it was a way of retaining
10 some of his prestige, and also -- not merely his prestige, but
11 his feeling -- maintain his feeling -- which, I think, was very
12 deep in his character -- that he was in fact the embodiment of
13 the Cambodian people, and this coup -- the coup people were -
14 well, traitors, very much a point of view that you find recurring
15 under the Khmer regime, in complete opposition. I mean, anybody
16 who wasn't exactly with the regime was a traitor.

17 [10.14.36]

18 So, yes, the Front period is a - is an interesting period.
19 Sihanouk acted in public as if he was the leader but was telling,
20 as always -- telling journalists -- I think he said: "When the
21 time comes, they'll spit me out like a cherry pit", he said. And
22 he had documented bad relations with Ieng Sary in Beijing; those
23 two just did not get along, that's a matter of record. He didn't
24 know what the CPK's programs were -- he wasn't kept in touch with
25 that -- but he knew there was something that he didn't - didn't

1 like, yes, something he didn't like, something not right about
2 where they seemed to be going, through a radical twist.
3 So it's a - it's an interesting period from his point of view. I
4 think the Front never made much sense to the people who were
5 running the Party inside Cambodia, except to make sure that the
6 "three ghosts" were actually acting in front of the -- as a
7 front, in front of them, did not depart from any policies of the
8 Party that had been arranged in secret; they wouldn't let these
9 people come out with their own policies. These were working for
10 the CPK.

11 [10.15.48]

12 Q. Thank you--

13 MR. PRESIDENT:

14 Thank you, Expert. We have a received a request from our
15 interpreters for you to slow down so that your message can be
16 fully interpreted.

17 Mr. Prosecutor, you may proceed.

18 MR. ABDULHAK:

19 Thank you, Mr. President--

20 MR. CHANDLER:

21 (Microphone not activated)

22 MR. ABDULHAK:

23 Please go ahead.

24 [10.16.18]

25 MR. CHANDLER:

40

1 Thank you, Your Honour. This was the one instruction my wife gave
2 me before I came up here, to speak slowly. So I'm sorry. Go
3 ahead.

4 BY MR. ABDULHAK:

5 Very well.

6 Q. Just one question on the -- if you like, authority structure
7 or the organization of the FUNK. You indicated in the passage
8 that we read that Norodom Sihanouk was a mere figurehead. Saloth
9 Sar very much operating behind, if you like -- behind the scenes
10 and from hiding. You also indicated that authority was supposedly
11 placed in the "three ghosts".

12 Are you able to comment, if you have conducted research into this
13 issue, whether or not the "three ghosts", as you describe them --
14 as they were described at the time -- were in positions of
15 authority at that particular point in time, in the early
16 seventies? If you haven't -- if this is too specific a point,
17 then please indicate.

18 [10.17.31]

19 A. No, it's fine. I mean, they held the positions that they were
20 said to hold. What they were able to do independently inside
21 those positions is not something I'm able to answer, but it looks
22 to me as if the evidence is not that they were ever ahead of or
23 to the side of anything that was being decided behind them. You
24 know, this was not an independent body. Yes, these three men
25 occupied the positions that they were given, but we don't know

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1 what power went with that or what they were told to do; all that
2 is not available.

3 Q. Thank you.

4 [10.18.10]

5 And moving on to 1971 -- and here we encounter some discussion of
6 policy as studied by you from Party documents. I'm looking here
7 at "Brother Number One", chapter 6. Again, that was E3/17. The
8 English ERN is 00393008, and the Khmer ERN is 00821759. So the
9 last three digits, Professor, in the English version, should be
10 008. Very brief passage that I'm interested in - quote:

11 "After 1971, party documents became more insistent in their class
12 analysis of Cambodian society. They stressed that cadre must be
13 drawn from poor peasant, lower-middle-class peasant, and worker
14 backgrounds - 'from deep down in [rural] areas,' as one document
15 suggested, 'extracted from the earth like diamonds.' Relying on
16 these categories, it was thought, guaranteed the disappearance of
17 feudal or capitalist elements".

18 [10.19.32]

19 If you could expand briefly, on the policy, if any, that these
20 documents reflected in relation to the issue of class?

21 A. (Microphone not activated)

22 Q. We just need to wait for the microphone.

23 A. Okay, sorry. As I mentioned before, it seems, although the
24 direct evidence of what was said at these confabs is missing,
25 that the Party leadership spent the years in Rattanakiri

1 fine-tuning and developing policies that they would put into
2 effect when -- not if, they never said "if" -- when they came to
3 power. So it seems to me they started to behave, in a way, like a
4 party that was in power and needed to expand its membership in
5 order to seize power, to expand its membership.

6 [10.20.35]

7 And for its membership, it felt -- because it was already engaged
8 -- it was engaged in a civil war with Lon Nol -- that it couldn't
9 seek support from the kind of people it was fighting. Its support
10 had to come, for ideological reasons, from the poorest of the
11 poor, the so-called worker class of Cambodia, which, as far as I
12 know, has never been -- didn't exist; there was very little
13 manufacturing, but these are dogmatic places from which the
14 "diamonds could be draw from the earth". And also, to be fair to
15 them, this was also the segment of the society that probably felt
16 victims of inequity, and so forth, had genuine objections to the
17 traditional Cambodian government. These had already been
18 expressed, for example, in the peasant uprising at Samlaut.

19 Q. Moving on to an issue which you discuss again in "Brother
20 Number One" -- and I should say, by this point you indicate that
21 the leadership had moved from Rattanakiri to an area near Phnom
22 Santuk, near the Kratie-Kampong Thom border. The -- an event
23 which you deal with in "Brother Number One", chapter 6, English
24 ERN 00393005 and Khmer ERN 00821756, is a July 1976 school study
25 session and a congress. And the relevant passage is the

1 following:

2 [10.22.44]

3 "In July 1971 a 'party school session for the entire country'
4 summoned sixty-odd cadre to the party's headquarters in 'the
5 forest in the Northern Zone.' Saloth Sar presided over the
6 meeting, which elected an enlarged Central Committee and
7 proclaimed that the Cambodian Communist Party had entered a new
8 phase in its history -- namely, a national democratic revolution
9 to overthrow feudalism and imperialism."

10 And then, a little bit further down, in that same passage --

11 quote: "Without meaning--"

12 I apologize, I'll rephrase that:

13 "Without mentioning Vietnam, the text noted that the revolution
14 must 'be appropriate for our country' and that the party's
15 leaders, also unnamed, were to command 'all aspects of the
16 revolution'."

17 This is -- you're referring to a journal -- to a Party journal in
18 that second quote. If I could ask you first what is the
19 significant, if any -- or, perhaps, first, what is the meaning,
20 perhaps of the concept of "national democratic revolution to
21 overthrow feudalism and imperialism", as you understand it, based
22 on your research and whether that had any significance in this
23 period?

24 [10.24.26]

25 A. Yes, the Party leaders in '71 -- July '71 -- already were

1 aware of two things: one was that the - primarily, the North
2 Vietnamese and the left forces had given severe blows to Lon
3 Nol's army. These Vietnamese forces had been aided and supported
4 by the local Khmer Rouge forces. They were being trained and
5 armed -- already sent by Vietnam at this stage. They knew that
6 the -- I think they saw a certain amount -- to a certain extent,
7 they saw victory in the distance but in sight. Having seen that
8 -- perceived that, they decided -- they stated that their
9 revolution - and they're the judge of all this, knowing there was
10 no discussion -- had reached a new stage. The new stage was one
11 where they could, as it says there, attack that revolution "to
12 overthrow feudalism and imperialism".

13 Well, this is in a Party document that was not accessible to
14 Norodom Sihanouk, but Sihanouk is a person of extreme
15 sensitivity, of antennae. I think he may have sensed this slight
16 gain of overconfidence in (inaudible) - this is a supposition, I
17 don't want to go too far. But the regime is - because "feudalism"
18 is a code word for him; "imperialism" is a code word for the
19 United States. So this is - this was going to be a war against
20 the old society and America and all its - all the--

21 [10.26.11]

22 So, yes, I think it's a decisive -- it was a decisive meeting and
23 one that marked, I think, the -- a statement of saying where
24 their party was going to go, and it went ahead in that direction
25 when they came to power.

1 Q. Thank you. And we will come back to the issue of struggle with
2 those groups that you just described.

3 Just looking for another minute at that Congress, in "Tragedy of
4 Cambodian History", Chapter 6, this is at ERN 00193299, you deal
5 with decisions again, or other decision if you like, from that
6 Congress and to summarize them, rather than to read the passage,
7 you say that one important decision was to send Ieng Sary to
8 Beijing. Another was to celebrate the September 30th anniversary
9 of the Congress of 1960. And what I am interested in is a
10 declaration that you refer to in the context of that new party
11 anniversary date. And this is what you say, at ERN 00193299:

12 "No record of the celebration has survived, but the date chosen
13 for the declaration of patriotic intellectuals issued in the
14 liberated zone of Cambodia, September the 30th, was probably not
15 fatuitous and several members of the new committee including
16 Saloth Sar, Son Sen, and Khieu Samphan signed the declaration."
17 [10.28.12]

18 If I understand that passage correctly, and do please correct me
19 if I am wrong, there is an indication that members of the new
20 committee included Saloth Sar, Son Sen, and Khieu Samphan. Does
21 that refresh your memory in relation to the issue of Khieu
22 Samphan's membership of the Central Committee which was raised in
23 part yesterday? If not, if you are not sure about it and if you
24 will be speculating, then please indicate so.

25 MR. PRESIDENT:

1 Expert, please hold on. The Court will hear the objection from
2 the defence counsel first.

3 Mr. Karnavas, you may proceed.

4 [10.29.00]

5 MR. KARNAVAS:

6 Thank you, Mr. President. It seems that the way the question was
7 phrased is rather leading.

8 If he is going to read a passage, he can simply read the passage
9 and then ask him to give an explanation, as opposed to him giving
10 his interpretation -- that is, the Prosecution giving his
11 interpretation -- and understanding what the passage means -- in
12 other words, leading the witness to a conclusion that the
13 Prosecution thinks it's necessary, that fits their brief.

14 So it's leading. We should - we should refrain from those sorts
15 of techniques. I am well aware of them, the Prosecution's aware
16 of them. They can ask the gentleman what he understands it to be.
17 And I understand that in this instance it was for purposes of
18 refreshing a witness's - witness's memory, but nonetheless, on a
19 technical ground, I object to this sort of questioning. Thank
20 you.

21 [10.29.58]

22 MR. ABDULHAK:

23 Mr. President, I think that the question was entirely appropriate
24 in its form. I was very careful. I asked the professor to correct
25 me and but I have -- in the interest of time, I am happy to move

1 on and simply ask the professor what -- if he could expand on
2 that passage ignoring my question, and simply looking at the
3 membership of the new committee in 1971.

4 MR. CHANDLER:

5 A. Let me either delay or not answer that; I have to look at some
6 other material first before I'm absolutely clear. It might be on
7 the preceding page, but I don't have the book with me.

8 BY MR. ABDULHAK:

9 Q. If -- Professor, do you think you will be able to do so in the
10 next break of 20 minutes or, perhaps, over lunch?

11 [10.31.12]

12 MR. CHANDLER:

13 A. Yes. I mean, if someone has a complete copy of my book, I
14 could do it in the break. I just want to see what I've said about
15 that committee in those two pages there.

16 MR. ABDULHAK:

17 Mr. President, with your permission we have a copy of the book
18 and can give it to the expert if the Chamber so orders.
19 Otherwise, I am mindful of time, and we are at your discretion.
20 We can continue or take a break.

21 [10.31.35]

22 MR. PRESIDENT:

23 What book are we talking about here? Is this book in the lists
24 that you request to be discussed before the Chamber?

25 MR. ABDULHAK:

1 Yes, indeed, Mr. President. It's "The Tragedy of Cambodian
2 History", the book that we've been discussing. It's on the list
3 for these hearings and we have a hard copy which we can provide
4 to the expert.

5 [10.32.10]

6 MR. PRESIDENT:

7 Then you may proceed.

8 The time is now appropriate for a short break, but before we
9 break, the Chamber wishes to rule on the request by the defence
10 counsel that Mr. Ieng Sary expresses his intention to waive his
11 right not to be present directly in this courtroom. But instead
12 he wishes to follow the proceeding from the holding cell due to
13 his deteriorating concentration as well as his back pain that he
14 cannot sit for a long time in the courtroom.

15 And according to the expert advice, Dr. Tong Hong, he also
16 recommends that Mr. Ieng Sary can follow the proceeding for only
17 one or two hours directly in the courtroom. Taking that into
18 consideration as well as our observation of the health status of
19 Mr. Ieng Sary, he should no longer stay in this courtroom, but he
20 is instructed to follow the proceeding from the holding cell,
21 where the audio-visual equipment is connected to him.

22 And the Chamber notes that he waives his right not to be present
23 directly, but he will be brought to the holding cell downstairs,
24 and through audio-visual equipment he will be able to communicate
25 with his defence team.

1 So the request by Mr. Ieng Sary, through his defence counsel, not
2 to be present directly in the courtroom for the rest of the day
3 is granted. And Mr. Ieng Sary is to be brought to the holding
4 cell downstairs, below this courtroom, for the remainder of the
5 day.

6 [10.34.19]

7 And AV technician is instructed to link the audio-visual means
8 for him to follow the proceeding remotely for the rest of the
9 day.

10 And security guards are instructed to bring Mr. Ieng Sary and the
11 other co-accused to the holding cell downstairs.

12 The Court is now adjourned for 20 minutes, and we will resume at
13 five to 11.

14 Court Officer, please make sure that you arrange the place for
15 the expert witness during the break and have him back to the
16 stand at the time indicated earlier.

17 (Court recesses from 1035H to 1059H)

18 MR. PRESIDENT:

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

20 The floor is handed over to the Prosecution to continue their
21 questionings to this expert.

22 THE GREFFIER:

23 (No interpretation)

24 [10.59.38]

25 BY MR. ABDULHAK:

50

1 Thank you Mr. President.

2 Q. Professor Chandler, if we could return briefly to that last
3 point we discussed before the break, and if you could tell us --
4 you've had a chance to review the relevant passages of your book.

5 [11.00.08]

6 MR. CHANDLER:

7 A. Yes. I'm sorry to say, the information about Khieu Samphan's
8 being -- coming onto the Central Committee at that time is not in
9 that book. I have to find it somewhere else. I state it but I
10 don't -- it's not a - it's not a sentence that I can find. I can
11 promise to try and look for it tomorrow, but I can't do it with
12 just the break.

13 Q. Very well. Thank you. If possible, if you can review the
14 materials and just keep track of the materials you've reviewed,
15 if we can come back to the issue tomorrow?

16 [11.00.47]

17 The next issue I would like to discuss moves into the 1972
18 period, and this deals with what you describe as a, perhaps a
19 tension or an anger -- to use your words, anti-Vietnamese stance
20 -- within some groups or subgroups within the CPK.

21 Now, just for everyone's benefit, what I'm going to do as we go
22 forward is, I will -- we will display Khmer versions of documents
23 for the benefit of the public where available. Some of these are
24 only available in English, but we will have hard copies for you,
25 and I will ask my assistants to update your bundle. There are

51

1 additional documents that relate to this '70 to '75 period.

2 And as we do that, what I want to focus on is what you describe,
3 in both "Brother Number One" and "Tragedy", as an anti-Vietnamese
4 stance or a - or a resentment on the part of members of the CPK
5 towards the Vietnamese. And to illustrate that point, in "Tragedy
6 of Cambodian History", at ERN 00193309 -- this deals with the
7 late 1972 period -- you say the following:

8 [11.02.54]

9 "Freed at last from Vietnamese supervision and control, CPK
10 forces in some areas organized demonstrations against the
11 Vietnamese, dismantled guerrilla forces supporting Sihanouk's
12 return to power, and purged returnees from North Vietnam. When
13 the North Vietnamese queried Khieu Samphan about the purges, he
14 replied that they were 'possibly plots of the CIA'."

15 Now, looking at these incidents, are you able to opine as to what
16 they reflect in terms of the policy on the part of the CPK, or
17 the evolution of their relationship with the Vietnamese Communist
18 Party?

19 A. The withdrawal of Vietnamese troops from Cambodia was part of
20 the agreement reached between the North Vietnamese and the
21 Americans -- the withdrawal of these troops from there. The
22 ceasefire took place in Vietnam at the same time, and in Laos.

23 [11.04.13]

24 Lon Nol agreed to the ceasefire, the Khmer Rouge did not. The
25 Khmer Rouge felt -- the leadership felt that they had been

1 deserted by the Vietnamese and that the Vietnamese withdrawal
2 from Cambodia -- they never referred to the Paris Peace Talks,
3 they said that this is a betrayal of the Cambodian revolution and
4 that this was an intentional move of the Vietnamese to - to
5 undermine what was going on in Cambodia.

6 And the returnees were people who had gone up to North Vietnam in
7 1954, '55, as part of the peace settlement to the first Indochina
8 war. I think numbers here are contradictory, but it seems like
9 700 or 800 of them at least came south to join the Cambodian
10 revolution in 1970, and some of them managed to get out before
11 the purges started. (Unintelligible) were purged at this time.
12 So you are starting to get an open tilt against Vietnam in party
13 policy, which would certainly not have been possible when there
14 were three Vietnamese divisions inside the country.

15 [11.05.18]

16 Q. And just following up on that answer, you estimate that some
17 700 to 800 CPK cadres had return from Vietnam, and, in your
18 conclusion, many were purged. As -- if we can just look forward
19 beyond '72, did any of those cadre -- were any of those cadre
20 appointed to positions of authority? In other words, were there
21 any people in positions of authority, later in the 1970s, who had
22 spent this time in Hanoi and were trained there?

23 A. Yes, but only after 1979.

24 And a small correction just to your wording. I want to make sure
25 the -- the returnees coming down from Vietnam were not CPK cadre.

1 They may not even have been members of the CPK. They had
2 sympathized with the movement in the 1950s, might well -- we
3 don't know -- might well have been brought into the Vietnamese
4 Party while they were living in Vietnam for those 15 years, but
5 they were not cadre of the CPK. They were sympathizers -- or they
6 thought they were sympathizers of the Cambodian revolution.

7 [11.06.38]

8 Q. Thank you. And thank you for correcting my characterization of
9 these groups.

10 And if we could explore that relationship with Vietnam just a
11 little bit further, you say -- we're still on "Tragedy of
12 Cambodian History", which unfortunately is only available in
13 English. ERN 0019302 -- that will be page 219, if that makes it
14 easier, Professor. There's a brief passage here where you state
15 -- quote:

16 "In public, Hou Youn was more discreet, and it was only in 1973,
17 when nearly all the Vietnamese troops were gone, that CPK cadres
18 began calling them the Number One Enemy. In 1988, Sarin recalled
19 that Ta Mok had urged listeners to 'destroy Friend Number Seven
20 secretly where possible', and even Non Suon, in spite or perhaps
21 because of his ICP experience, was anti-Vietnamese in private."

22 [11.08.07]

23 Could you describe for us this development as it seems to occur
24 in 1973, where there is a -- you seem to suggest an opening -- a
25 more opening up of that resentment, or perhaps more public

54

1 statement of it? Could you explain for us what significance, if
2 any, that meant -- that had, for the development of CPK's
3 policies?

4 A. I think what the significance of this page actually is that it
5 reflects the findings of two young Cambodians, two teachers, who
6 went out of Phnom Penh and -- to the revolutionary base, and
7 joined in '73 -- it was closer to -- it was not in Rattanakiri at
8 that time -- and joined the Khmer Rouge movement, and came away
9 with lots of specific information of what they'd been told and
10 said. The book was banned in Cambodia at the time, but it-- when
11 it was published, but it seems to me to have represented an
12 authentic effort by these two people to say what they'd
13 encountered in the Khmer Rouge region. The statements that are
14 made, that they report on from Ta Mok, and so on, in no way
15 contradict other documents that have (inaudible) and which were
16 secret. So I think it's significant; this is a kind of an opening
17 up of evidence that widens our perspective on this particular
18 period. And I was able to interview Sarin himself in California
19 in 1988.

20 [11.09.54]

21 Q. Thank you.

22 Now, moving on to another policy which you actually referred to
23 yesterday in relation to the pre-'75 period, where -- now in 1973
24 -- you made reference to policies of introducing cooperatives.
25 This is dealt with, again, in both "Tragedy of Cambodian History"

1 and in "Brother Number One". I might read the quote from "Brother
2 Number One" and see if -- because that is available in Khmer --
3 and see if we can have it on the screen. The English ERN for
4 "Brother Number One" is 00393010. The Khmer ERN is 00821762. And
5 we'll try and have that Khmer passage on the screen for the
6 benefit of Khmer speakers.

7 [11.11.02]

8 The passage is as follows:

9 "In early 1973, Cambodian Communist troops attacked government
10 [troops] throughout the country to [expand] territorial control
11 and to set their social programs in motion. The process was
12 closely monitored in the southwest. Measures adopted there
13 included the introduction of cooperative farms, the forced
14 movement of some of the population, the repression of Buddhism,
15 the formation of youth groups whose members were taken from their
16 families, the extirpation of folk culture, and the imposition of
17 dress codes whereby everyone had to wear peasant work clothes
18 (black cotton pyjamas) all the time. As a result of the harshness
19 with which these policies were applied, more than twenty thousand
20 Cambodians sought asylum in South Vietnam. These policies
21 probably flowed from decisions taken at Saloth Sar's 1971 study
22 session. They certainly had his approval and were introduced
23 nationally after April 1975 with more radical proposals, such as
24 the abolition of money, markets, and schools and the evacuation
25 of entire towns and cities."

1 [11.12.23]

2 Before I ask you some questions, I'll indicate that in the
3 "Tragedy of Cambodian History", the relevant passage is at
4 English ERN 00193309 to 10, where you date these developments to
5 May 1973.

6 Could you describe for the Court how it was that these
7 developments came into being, how they were promulgated, and what
8 evidence is available of their implementation in practice through
9 your research?

10 A. Well, actually, the implementation of these policies in the
11 Southwest was not due to any direct research of my own, but due
12 to the extraordinarily insightful, long airgram sent by a young
13 American Foreign Service officer stationed in South Vietnam who
14 later became the American ambassador to Cambodia, Kenneth Quinn.
15 He was working in Chau Doc, on the border with -- very close to
16 the border with Cambodia. He saw columns of smoke out of his --
17 from his - from his house across the border, and soon after that
18 refugees were coming into Vietnam to say the kinds of things that
19 were happening inside that area.

20 [11.13.49]

21 The Southwest, of course, throughout the history of -- ever since
22 the CPK managed to take control of that area, became a very
23 severe and very loyal portion of the Communist regime. This is
24 the Ta Mok area of Takao -- particularly Takeo province. And Ta
25 Mok was pretty much in command of these reforms, working within

1 the framework as he understood it, as a member of the Central
2 Committee himself, of the policies of -- the policies of the --
3 of the Party.

4 Now, this shows, it seems to me, that the significance is that
5 they -- when they were able to do it, the Khmer Rouge were happy
6 to -- well, if "happy" is the right word -- were eager to put
7 these policies in place, not to test them to see if they'd
8 succeed, but just to put them in place, full stop. Because their
9 failure was unthinkable, the failure of policies was always the
10 work of traitors anyway.

11 [11.14.48]

12 So - but it was --so it wasn't really a test case, but it was,
13 for the outside world -- of course who didn't have access to
14 Quinn's telegrams so wouldn't know about it -- a prelude to the
15 kinds of behaviour that was going to happen later. And that's
16 what makes that evidence really quite significant.

17 Q. You -- in a passage that I read, you draw a -- if you like, a
18 -- or you state that the policies were then introduced after
19 April '75 -- that is, there's a connection before and after. In
20 your study of CPK publications and various other documents, have
21 you found evidence, or speeches, or information that would
22 support the continuity of that - of that policy, the - its, if
23 you like, initiation in -- around 1973, and then its continued
24 existence, as you indicate, through April 1975 and following?

25 [11.16.00]

1 A. The brief answer there has to be no, because I don't - I don't
2 recall statements by the CPK later on of praising these
3 activities of '73. I think such documents may well exist in
4 "Revolutionary Flag" articles, but I can't cite them at this
5 moment. There is certainly -- they were certainly not unhappy
6 with this -- with these procedures. Ta Mok was never disciplined
7 at all for supervising these severe policies.

8 Q. Can you tell us if you - if you recall, perhaps more
9 generally, whether these policies -- or alleged policies of
10 forced collectivization and forced movement were discussed in the
11 "Revolutionary Flags" from '75 to '79 and what is said about
12 them?

13 A. I'd have to check. I might be able to find that material for
14 you, I might not. But it would seem to me -- I vaguely -- vaguely
15 remember seeing something like this, but I can't cite it, and I'd
16 have to -- I have to verify. I might come back with an answer
17 tomorrow but I'm not sure that it will be a very helpful one.

18 [11.17.17]

19 Q. Thank you very much. We might -- we might encounter some of
20 those documents as we go forward and see if you are able to
21 assist us with them.

22 Another set of events that you deal with, in relation to the
23 pre-1975 period, is the emptying of urban areas, and you delve
24 into this in a bit more detail in other passages that we'll look
25 at. In "Brother Number One" -- the Khmer ERN is 00821765 -- and

1 perhaps if we could show that Khmer page on the screen? The
2 English ERN is 00393014. Mr. President, with your permission
3 we'll show that Khmer page on the screen. And I will -- thank
4 you. If the AV Unit could assist us, I will begin to read. And I
5 apologize if it is not particularly clear. We're looking at an
6 entire page.

7 [11.18.34]

8 The quote is as follows -- and it relates to an assault on
9 Kampong -- town of Kampong Cham:

10 "The assault on Kampong Cham was probably intended to sustain
11 momentum. Vietnamese forces nearby did nothing to help. At one
12 stage, Communist troops penetrated within a few hundred metres of
13 the centre of town. When they withdrew, they rounded up several
14 thousand local people to take with them, following a pattern of
15 warfare that had been traditional in pre-colonial Southeast Asia,
16 conforming to their own policy of 'drying up the enemies'
17 population base', and foreshadowing what their armies would do in
18 Phnom Penh and other Republican towns and cities..."

19 Now, because it relates, I will also read a separate passage from
20 the "Tragedy of Cambodian History", and this is at English ERN
21 00193314. It should be page 231, if that makes it easier,
22 Professor. Here, you are dealing with an attack a few months
23 after the Kampong Cham incident. This is now in March '74, and
24 you -- it's in relation to the Royal -- former royal capital of
25 Udong.

60

1 [11.20.04]

2 You say:

3 "When their troops overran the former royal capitol of Udong,
4 north of Phnom Penh, in March 1974, some twenty thousand people
5 were led off into the countryside, where the 'class enemies'
6 among them were executed and the others put to work."

7 Professor, what is the significance, if any, of these events for
8 what happened in April 1975, when the Khmer Rouge toppled the
9 Khmer Republic regime?

10 A. Well, I think, for an historian, the significant of these
11 evacuations was to show -- very unlike the first impressions
12 people got, including myself, in 1975 -- that the evacuation of
13 the cities was unprecedented, and so on. In 1975, it seemed to us
14 -- I mean, observers of Cambodia -- that this was an
15 unprecedented move. We now find from things that came to light
16 after 1975 -- documents, and so on -- that this had been
17 predicted, if you like, in -- both in Takeo and in Udong, but
18 also in the town of Kratie, which was also evacuated by -- when
19 the Khmer Rouge took it over, and Stung Treng, to the further
20 north.

21 [11.21.39]

22 So it was a - it was a repetitive pattern that then reached its -
23 if you like, its climax in the evacuation of Phnom Penh.
24 Evacuating Battambang was of course just as severe, but it
25 doesn't get into the public record quite as much. So, yes, it was

61

1 a - it was a consistent pattern.

2 Q. Thank you.

3 Now, I want to spend one more minute or two on this issue because
4 it is dealt with in the "Revolutionary Flag" publication -- an
5 issue that you have looked at in your books. It's cited in
6 footnotes to your books. This is the special issue for December
7 1976 and January 1977. The document number is E3/25. The relevant
8 ERN in Khmer is 00063039 to 40; in French, 00504049 to 50; and
9 in, English, 00491425. Given that we have the Khmer version of
10 this we will place that on the screen. And, Professor, we had a
11 hard copy which I'll ask my assistants to pass to you. This is
12 the "Revolutionary Flag" issue for December 1976 and January
13 1977. Now, given that the Khmer text will be on the screen, I
14 will read some passages in English for everyone's benefit for
15 those who don't read Khmer. And it relates to some of these
16 events.

17 [11.23.39]

18 At point (a) on that page:

19 "Attacking the enemy politically: Taking just one example,
20 fighting to seize the people. Throughout the world, they never
21 fought to seize the people. Our line was to fight to seize the
22 people: one, we took him; two, we took them; 100, we took them;
23 1,000, we took them; and so on until we fought for and seized the
24 people from Phnom Penh too. The line of drying up the people from
25 the enemy was very correct."

1 Now, then, further down, the authors of this publication give
2 three examples, which -- rather, two examples, one of which we've
3 considered. The first example is the fighting in Banam in 1973.
4 The publication says: "We took everyone in Banam Town, expelling
5 the ethnic Vietnamese, the ethnic Chinese, the military, the
6 police; we took everyone, drying up the people from the enemy."

7 [11.24.52]

8 And then, finally, again in the same document, continuing further
9 down, an example that deals with Udong, which we just discussed:
10 "We liberated Udong in 1974. We pulled out all the people. When
11 they took it back, they had no forces."

12 What I'm interested in in these quotes, Professor Chandler, is
13 the use of the phrase "seizing the people". Are you able to
14 elaborate on what the Party means by "seizing the people",
15 removing them from areas which are overrun by their forces?

16 A. I think it's pretty clear, as a policy, as I mentioned in the
17 other page, there was a -- even pre-colonial policy of, say, the
18 Thai - Thai Army when they invaded Cambodia in 1833; they did the
19 same thing, they cleaned out Phnom Penh. They didn't - they
20 didn't bring the Phnom Penh population into the Thai Army; they
21 just drove them out to clear the place out so there'd be nothing
22 to support any kind of military action in response. I think this
23 is the idea.

24 They didn't know exactly who all these people were in terms of
25 class or loyalty. Pretty sure they weren't very loyal or they'd

63

1 be in the maquis, supporting the revolution. So they were -- so
2 they were intrinsically disloyal and had to be pulled away from
3 these places where, if they were left behind, in their view -
4 and, I think, fairly correctly, from a military point of view --
5 would form the basis for another set of angry anti-Khmer Rouge
6 people.

7 Q. Thank you.

8 I want to deal next with another policy. We touched earlier on
9 the fate of cadre returning from Hanoi, and I'd like to consider
10 briefly a policy which you discuss in "Voices of S-21". Now, we
11 have this also in Khmer. The document number is D108/50/1.4.6--
12 I think we have an objection.

13 [11.27.28]

14 MR. PRESIDENT:

15 The Expert, please hold on. We'll hear the objection from defence
16 counsel.

17 Mr. Karnavas, you may proceed.

18 [11.27.42]

19 MR. KARNAVAS:

20 Thank you, Mr. President. I apologize for interrupting, but I
21 believe the expert corrected the prosecutor once before that
22 those coming from Vietnam or North Vietnam were not cadre.

23 So, if we could perhaps reformulate the question to comport, you
24 know, with some accuracy, I would most appreciate it. Thank you.

25 MR. ABDULHAK:

64

1 The correction by the professor was that they were not CPK cadre.
2 I use the word "cadre" in a more general sense now, but perhaps
3 the professor can correct me when we ask him to answer the
4 question, if that's appropriate, Mr. President. Thank you. We'll
5 proceed.

6 [11.28.28]

7 BY MR. ABDULHAK:

8 Q. So we were looking at "Voices from S-21". This is in Chapter
9 2. It is at pages 21 and 22. The relevant Khmer ERN is 00191853
10 to 2. The English ERN, 00192700 to 1, and French ERN 00357284 to
11 5. You're discussing here the role played by Duch in the
12 Revolutionary Movement in the early 1970s. And what I'm just
13 interested in obtaining a brief comment from you, if possible, is
14 the activities that you describe in terms of the setting up of
15 security centres in that period.

16 Now, what you say -- I'll read a brief passage -- and what you
17 say is the following -- if we could have the Khmer on the screen
18 for the benefit of Khmer readers?

19 "Duch picked up his expertise in security matters as he went
20 along; there is no evidence that he ever travelled abroad or
21 received any training from foreign experts. He may well have
22 developed his elaborate notions of treachery involving 'strings
23 of traitors' between 1972 and 1973, when a secret operation was
24 set up by the Khmer Rouge to purge the so-called Hanoi
25 Khmers-Cambodians who had come south in 1970 after years of

65

1 self-imposed exile in North Vietnam, ostensibly to help the
2 revolution."

3 [11.30.41]

4 And then, a little bit further down, you state, in relation to
5 that campaign that you describe of the arrests and killings of
6 Hanoi people or people that had returned from Hanoi: "The
7 campaign, indeed, foreshadowed the modus operandi of S-21."
8 Now, I don't want you to expand on what appears to be speculation
9 on how Duch might have developed his elaborate notions of
10 treachery. You indicate you didn't interview Duch. So what I'm
11 really interested primarily is the -- your comment that that
12 campaign indeed foreshadowed the modus operandi of S-21, if you
13 could please expand on that conclusion.

14 [11.31.37]

15 MR. CHANDLER:

16 A. Certainly. First of all, to get back to the question raised by
17 the defence counsel, the word "cadre" might be - have been used a
18 bit loosely, but these were certainly not members of the CPK.
19 That's the point I was trying to make. But a point about these
20 people -- and I've talked to a couple of them, in the nineties,
21 who managed to survive, get out, come back to Cambodia -- these
22 were highly trained political animals. They had been in Vietnam
23 for 15 years, and the Vietnamese do not let up on political
24 training for people who are under their advice. These people had
25 probably more political training than anybody in the CPK. They

66

1 were better trained Communist "cadres" - in quotes -- than the
2 people who were upset by them, and I think that may be a reason
3 why some of the Khmer were upset by them; they didn't want to be
4 upstaged by people they, primarily, assumed were foreign agents
5 and, secondary, might have seen that were better equipped to
6 dialectic and things like that. That's just a preface to the
7 answer.

8 [11.32.40]

9 The rest of your question -- or really your original question, I
10 think the idea of going after strings -- or "khsae" -- is first
11 evidenced here, and that's the preface. That's all I meant. It's
12 that a string of traitors, people with the same association,
13 people who come from the same -- later on, the same workplace,
14 belong to the same military division, are related to an alleged
15 offender, and so on -- these people were a definable group. And
16 -- as I said before, happily for them -- some of them,
17 particularly the ones in the eastern part of the country, managed
18 to scurry out of the country, you can say. I've just assume that.
19 The ones who stayed behind were, I think, taken by surprise and
20 executed. There is no - there's no evidence of -- we have nothing
21 about execution sites, and so on. These people did not resurface
22 in Cambodia.

23 Q. And just on that last comment, based on your research and
24 study of this period, is it possible that these people were not
25 purged but, rather, had simply relocated elsewhere? Is there

67

1 evidence of what may have happened to them other than that they
2 were targeted in these purges?

3 [11.34.16]

4 A. No, I think not. I was just remembering from late nineties, I
5 interviewed one of these people here in Phnom Penh. And as I was
6 talking to him in Khmer -- because he was taking notes of our
7 interview in Vietnamese -- this is the language in which he'd
8 become more fluent over all those years. So it's a matter -- he's
9 one of the people who came down and went back, got out in '73,
10 '74 or maybe -- I forget -- might have been -- stayed behind. Not
11 all of the evacuees came down, but almost all of them did.

12 So what happened to them specifically, we don't have, for
13 instance, confessions, documents of that sort. They -- as is
14 mentioned in documents -- and Duch has mentioned it, that this
15 was a group of people who were done away with out of suspicion of
16 their motives - loyalties -- their loyalties, not their motives.

17 [11.35.09]

18 Q. Thank you. Were they Cambodians or Vietnamese people?

19 A. Oh, they were entirely Cambodian. But as the terminology of
20 the Khmer Rouge later on, they would have said they were people
21 with Cambodian bodies and Vietnamese heads. They had been
22 -- the Cambodian -- the CPK thought these people had been turned
23 and become Vietnamese. This is the suspicion that these people
24 were unable to allay after 15 years of residence in Hanoi. It was
25 hard to say: No, no, I'm really totally Khmer. It was a -- they

68

1 were people who were suspected of being un-Cambodian because they
2 had been up there so long.

3 Q. Thank you, Professor. And thank you for staying with me as we
4 jump through a vast subject matter and a long period of time.

5 [11.36.00]

6 I will next turn to the events which took place on the 17th of
7 April '75 and following, and as a prelude to that, I wish to
8 discuss a decision which you deal with and which, according to
9 your books, was made in 1974 and which relates to the evacuation
10 of the cities.

11 Now, here I'm looking at -- and I will ask my assistant again to
12 pass to you the relevant book. We're looking at your book "A
13 History of Cambodia", which I don't think we have -- you have a
14 copy of just yet. So if we can pass that on to Professor
15 Chandler? The document number is D366/7.1.69. The ERN in Khmer,
16 00679171 to 72; in English, ERN 00422838 to 9.

17 Now, the passage that I wish to refer you to, Professor, reads as
18 follows. It starts -- I will read two or three passages, but the
19 first passage is: "In the week after April 17, 1975, over two
20 million Cambodians were pushed into the countryside toward an
21 uncertain fate..."

22 [11.38.08]

23 And if we could have Khmer page on the screen for the public, I
24 would be grateful.

25 A little bit further down, you say - quote:

1 "The evacuation shocked its victims as well as observers in other
2 countries, who had hoped that the new regime would try to govern
3 through reconciliation -- these men and women may have forgotten
4 the ferocity with which the civil war had been fought by both
5 sides. Still other observers, more sympathetic to the idea of
6 revolution, saw the evacuation of the cities as the only way in
7 which Cambodia could grow enough food to survive, break down
8 entrenched social hierarchies, and set its Utopian strategies in
9 motion."

10 [11.38.55]

11 The next passage deals with the time of the making of this
12 decision - quote:

13 "The decision to evacuate the cities was made by the CPK's
14 leaders shortly before the liberation of Phnom Penh, but it was a
15 closely kept secret and took even some Communist commanders by
16 surprise. One reason for the decision was that the capital was
17 genuinely short of food. Another was the difficulty of
18 administering several million people who had, in effect, opposed
19 the revolution. A third was that the CPK's leaders were fearful
20 for their own security. Perhaps the overriding reason, however,
21 was the desire to assert the victory of the CPK, the dominance of
22 the countryside over the cities, and the privileged position of
23 the poor. Saloth Sar and his colleagues had not spent seven years
24 in the forest and five years fighting a civil war to take office
25 as city councillors. They saw the cities as breeding grounds for

70

1 counterrevolution, and their economic priorities were based on
2 the transformation of Cambodian agriculture, especially on
3 increasing the national production of rice."

4 Professor, you deal with the decision in 1974. If we can take
5 things in a chronological order, would you be able to expand on
6 your research into who that decision was made by and perhaps
7 when, more specifically, if you recall?

8 [11.40.46]

9 A. Could I have the page number, please? I've lost you a bit.

10 Q. Of course. So if you're looking at "A History of Cambodia"--

11 A. Yes, I am.

12 Q. --it should be on pages 210 and 211, if you're looking at the
13 actual page numbers. That might be easiest. And so--

14 A. (Microphone not activated)

15 Q. Just wait for the microphone.

16 A. I don't see where I've said "1974". I think this decision was
17 made in February 1975, but I didn't say it in this passage. I
18 said shortly before -- I don't know. I'd rather not come down and
19 say I said "74" because I don't think I ever did, and the
20 evidence from other sources is that the decision was made in
21 February '75, just to - but -- sorry, I don't mean to correct you
22 -- but just to make sure that I'm not down as saying this
23 decision was made in '74, because I don't think I ever wrote
24 that.

25 Q. I'm--

71

1 [11.41.45]

2 A. I may stand corrected. If I wrote it somewhere, it's wrong,
3 because February '75 is the right date. "Shortly before" is what
4 I wrote here.

5 Q. I'm grateful for your intervention there. The 1974 - I'm --
6 what I'm trying to do is draw together a number of your - of your
7 writings in the interests of time. But I'm grateful that you're
8 correcting us, because I want to -- I'll take you to the passage
9 where that period appears to be relevant.

10 But in the meanwhile, we seem to have an objection.

11 MR. PRESIDENT:

12 Counsel Michael Karnavas, you may proceed.

13 [11.42.22]

14 MR. KARNAVAS:

15 Thank you, Mr. President. I was listening quite well to --
16 attentively to what was being read, and I was shocked that the
17 prosecutor injected 1974 and I was waiting to hear what the
18 professor would say.

19 Now, it seems that what the Prosecution is intending to do is
20 read and then incorporate from elsewhere into his question. This
21 puts us at a disadvantage. I understand that they have some
22 problems with time, but we need to go step by step.

23 So, if they're going to be referring to a particular document,
24 read that document. I would respectfully request that the
25 prosecutor be instructed to simply ask the question based on the

72

1 document that's being shown, not some other document that perhaps
2 they're trying to collate the information into the question.

3 Thank you.

4 [11.43.18]

5 MR. ABDULHAK:

6 Mr. President, I'm certainly not trying to mislead the professor.

7 My use of that year is based on, in fact, his other book.

8 And perhaps to avoid any confusion, I can read that other

9 passage, and clearly the professor is able to opine. He has
10 already indicated that he thought 1974 may not be the right time.

11 So, with your leave, I would simply read another passage from
12 another book where that year comes up.

13 [11.44.17]

14 MR. PRESIDENT:

15 Yes, you may go ahead.

16 But I would also like to once again remind the expert witness to

17 slow down for the record, because if you speak too fast or you

18 may use the channel simultaneously, the interpreter may not get

19 your message across clearly.

20 MR. KONG SAM ONN:

21 With your permission, Mr. President, I know that you have already

22 granted leave to the Prosecution to read out the passage from the

23 book, but which book is it really?

24 [11.44.45]

25 MR. ABDULHAK:

73

1 Thank you, Counsel. That was going to be my next point. The book
2 that I was referring to is "Brother Number One". We've already
3 looked at it a number of times. It is E3/17. The passage which
4 deals with the decision to evacuate the cities and which
5 discusses events in 1974 is at Khmer ERN 00821768, English ERN
6 00393016. That should be at page 102 of the English version,
7 Professor, if you have it. It's "Brother Number One".

8 I think you may be holding a different book or--

9 MR. CHANDLER:

10 (Microphone not activated)

11 BY MR. ABDULHAK:

12 Q. You've been able to find it? Thank you.

13 And the page -- if we are able to show the Khmer version on the
14 screen, I would be grateful. This is what is said on that page:

15 [11.46.00]

16 "Toward the end of 1974, Chou Chet, the secretary of the
17 south-western zone, met Saloth Sar in rural Kampong Chhnang,
18 where he was coordinating plans for the third storming attack in
19 1975. Pol Pot declared in 1977 that the Central Committee had
20 decided on this final assault at a meeting in June 1974."

21 [11.46.32]

22 And if we move two paragraphs down, the passage that I wish to
23 read is as follows:

24 "About this time, the Central Committee decided what actions the
25 Communists would take following their victory. The most important

1 of these was to evacuate Phnom Penh and all other towns
2 controlled by the Republican regime, driving their populations --
3 well over two million people -- into the countryside where they
4 would pose no threat to the party and, in theory, could engage in
5 productive work. This dispersal of 'enemies' was breath-taking in
6 its simplicity. At this point, the Central Committee also decided
7 to abolish money, markets, and private property throughout the
8 country. The cadre were not informed of these decisions until the
9 eve of the final assault."

10 That's the passage -- the entire page, if you like, from which I
11 had inferred that reference to "about this time" was to the 1974
12 meetings, which are also discussed.

13 [11.47.39]

14 Now, please ignore my interpretation and simply give us your
15 recollection and your conclusions.

16 MR. CHANDLER:

17 A. Yes. I don't say specifically that the Central Committee
18 meeting was held any time in 1974. I know in fact it was in
19 February 1975. I probably should have said that in that book that
20 I wrote 20 years ago, but I didn't. We know now that's when it
21 was. When I said "about that time", it may well have been that at
22 the time I was writing the book, I didn't have a month and year;
23 I had the decision, an undated decision made -- you know,
24 February '75 isn't far from December '74, so about that time. But
25 I don't want -- I'm agreeing here with the defence counsel -- I

75

1 don't want to give the idea that there was a '74 decision
2 described in anything I've written, because I don't think there
3 was one. I think the decision was early '75, and that's -- I
4 think that's part of the public record. There's other -- many
5 sources tell you about that.

6 [11.48.46]

7 Q. Thank you. Thank you for clarifying that.

8 I'm being told to slow down, and I do apologize to the
9 interpreters and those listening in Khmer and French.

10 Now that we've dealt with the timing of the decision, I wish to
11 come back to what you described as the overriding reason for the
12 decision, it being - quote -- "the desire to assert the victory
13 of the CPK, the dominance of the countryside over the cities, and
14 the privileged position of the poor" .

15 Could you explain what you meant in that passage?

16 A. Yes. I certainly stand by that passage, although it contains
17 an element of an assumption because this was not ever given by
18 Khmer Rouge spokespeople later as the overriding reason. When
19 they were approached by outsiders, they often came up with other
20 reasons, which I think were also valid. There's a bunch of
21 reasons. I'm not saying that the shortage of food was bad, or the
22 fear of an American attack, or -- there's lots of ones that were
23 mentioned.

24 [11.50.13]

25 There -- but it seems to me the speed with which they went at

76

1 this evacuation, the failure to ever regret any aspects of the
2 evacuation by any spokespeople during the regime -- later on, you
3 have people saying: Oh, that was a terrible thing to happen.
4 Nothing was -- if it was said at the time, it was said in
5 private. And this is one of the things that Khieu Samphan has
6 said: I objected, but I didn't get anywhere. But we never read
7 about any kind of difference of opinion. So it struck me.
8 Yes. I mean, the people in the cities were, by definition,
9 enemies of the People -- with a capital P -- the People who were
10 fighting to liberate Cambodia from feudalism and imperialism,
11 which were located, in the eyes of the leaders of the CPK -- and
12 many ordinary Khmer too, I think -- in the cities. The cities
13 were where the bad things were happening. People were told, for
14 example, that the American bombers were based in Phnom Penh.
15 People didn't know about Guam and Sattahip in Thailand. They were
16 coming out of Phnom Penh to bomb their own people in '73, they
17 were told. So the anger -- the level of anger can't be
18 exaggerated. The level of triumphal feeling that they had - in
19 quotes -- "defeated the Americans" is what they said they'd done.
20 [11.51.35]
21 All these things combined to give me that sentence -- to have me
22 produce this sentence, that this was -- the overriding thing was
23 just the momentum of the victory included this eventually quite
24 cruel procedure, but they didn't -- they never looked back. I
25 think the cities never became: Oh gosh, we made a mistake; the

77

1 cities really were a source of great potential. They were a
2 source of labour, that's what they -- of labour for them,
3 agricultural labour, not expertise, bourgeois activities, and so
4 on.

5 Q. Thank you, Professor. Now, you indicated just then that these
6 urban people were seen as a source of labour, so I'd like to move
7 on to your treatment of the issue of urban people and how, in
8 your conclusions, they were classified and treated.

9 [11.52.58]

10 The first passage that I wish to read is, again from "Brother
11 Number One", E3/17 -- this is at Khmer ERN 00821666, and English
12 ERN 00392915. It actually continues, I believe, from the previous
13 passage that we looked at, and this is only a brief section I
14 wish to read:

15 "When they asked questions of the heavily armed young soldiers
16 who accompanied them, they were told to obey the 'revolutionary
17 organization' ('angkar padevat'), which would act as their
18 'mother and father'. The evacuees were called 'new people' or
19 'April 17 people' because they had joined the revolution so late.
20 Residents of the countryside were known as 'base people' and were
21 treated less harshly than the others."

22 [11.54.23]

23 Before I ask for your explanation of these passages, I want to
24 also refer to another related passage. This is in "The Tragedy of
25 Cambodian History" at page 242 of the original. And, again, we

1 only have an English version, so the English ERN is 00193325. And
2 what you say there is the following:

3 [11.55.12]

4 "In 1975, the violence was widespread in Battambang, less
5 frequent in other regions, and rare in the eastern part of the
6 country, but everywhere individual rights and preferences were
7 subordinated to revolutionary duties and to the class interests
8 of poor peasants as perceived by the Organization. Before
9 Angkar's priorities became known, many 'April 17 people' were
10 punished and executed for actions they considered harmless or
11 beneficial, actions such as foraging for family members,
12 concealing rations, telling the truth about their education, or
13 complaining about work conditions."

14 If we could start with the classification of people into New
15 People and Base People, in your research, what did that
16 classification represent? What did it mean?

17 [11.56.30]

18 A. I think, quite easily, it was a way of defining the Cambodian
19 population in terms of "us" and - "us" and "them", the winners
20 and the losers, basically, the revolutionaries and the people
21 they defeated. All of these were synonyms. The language offered
22 in the Khmer Rouge period is singularly kind of soft or
23 enigmatic, so they don't use these ferocious terms; they just say
24 "April 17th" or "New", which are very bland terms. But I think
25 everybody knew pretty fast that they weren't just New or April

1 17th they were targeted enemies of the -- or they were able to be
2 targeted if they made any missteps. They were being watched. They
3 were not trusted.

4 [11.57.20]

5 Q. Again, if we look at some of the punishments meted out, or
6 perhaps more precisely reasons for punishment meted out to these
7 people, as you concluded, such as foraging for family members and
8 telling the truth about their education, etc. does this emanate
9 from any policy in particular or any direction that the Party is
10 taking?

11 A. I can't trace it to a particular policy statement, but it
12 seems to me that the status of these people, the way they were
13 being observed, that everything flowed from that, that they were
14 under suspicion, that they had to work very hard to get out from
15 under that. There were some elements, in this early period of
16 April '75 to early '76, that this was a process of re-education,
17 of constructing new -- put it another way, constructing better -
18 better people out of the New People to help them become true
19 Cambodians by working hard and obeying the rules, and so on. So I
20 think it was -- that was the bland part of re-education.

21 [11.58.43]

22 But from the tradition of the way the Khmer Rouge had acted
23 toward their enemies throughout and the way the Lon Nol people
24 had acted toward their enemies, they were merciless with people
25 who stepped out of line. They weren't saying: Oh, you're just

80

1 being re-educated; don't do it again -- or they did that a couple
2 times, I think three times you offended was the last time; then
3 you went away.

4 So, yes, it follows -- nothing was that specifically said by the
5 leaders -- that I know of -- I mean, "make sure that this--" But
6 it all made sense, and none of it was withdrawn later as policy.

7 Q. Now, if we can expand on the classifications -- and this will
8 be my last question before the break, subject to the President's
9 instructions -- this is in "Voices from S-21", D108/50/1.4.6,
10 Khmer ERN 00182517 to 8, English ERN -- I apologize--

11 MR. PRESIDENT:

12 Co-Prosecutor, can you please repeat the ERN because it was not
13 translated?

14 BY MR. ABDULHAK:

15 Yes, Mr. President. Khmer ERN 00182517 to 18, English ERN
16 00192815, and French ERN 00357395. If we could give the professor
17 this passage in hardcopy?

18 Q. Professor, if it's easier for you to look at the hardcopy,
19 it's at page 122 in the original publication. And you discuss
20 here this classification and the status that it carried with it
21 for those affected -- quote:

22 "Elsewhere in DK, most 'base people' were given enhanced status.
23 They were placed in the same categories as Communist Party
24 members who had passed the 'Communist Youth League' phase either
25 as 'candidates' or as having 'full rights'. In contrast, 'new

81

1 people', as Cambodians with urban [and] non-revolutionary
2 backgrounds were called, became known as 'depositees', a category
3 reflecting their status as people evacuated to the countryside."
4 [12.01.50]

5 Insofar as we see -- you're referring to a classification into
6 three groups, would you care to expand on the reasons for the
7 creation of the depositee group and what it meant for those that
8 were in the group?

9 MR. CHANDLER:

10 A. Again, I'm not sure how largely known these classifications
11 were among New or Base People, how widely they were spread.

12 I think the purpose seems fairly obvious; it's to, again,
13 separate the "clean" Cambodians from the "dirty" Cambodians, and
14 the "dirty" ones are the ones who have been sent out, exiled,
15 "pnhao". You send a letter, it's the same verb. They do not have
16 status as candidates or so on. Not until 1978 did -- this
17 categorization was withdrawn by the regime, who said: Now you can
18 -- people who are -- had once been in the cities can now aspire
19 to candidate social status, not candidate status in the Communist
20 Party.

21 Again, it's a way of praising the people who stayed behind and
22 setting aside the people who were exiled from the cities. When I
23 say "stayed behind", the ones who were in the countryside at the
24 point of liberation.

25 MR. ABDULHAK:

1 Thank you, Professor.

2 Mr. President, I can continue at this point or if you wish to
3 call a break, we're at your disposal.

4 [12.03.22]

5 MR. PRESIDENT:

6 Thank you. It is now appropriate for us to adjourn for this
7 morning session. We will adjourn until half past 1 for the
8 afternoon session.

9 Court officer is now instructed to accommodate the expert during
10 the lunch break and return him to this courtroom at 1.30.

11 Yes, International Counsel for Mr. Nuon Chea, you may proceed.

12 [12.04.05]

13 MR. PAUW:

14 Thank you, Mr. President. My client, Mr. Nuon Chea, would like to
15 follow the proceedings from his holding cell, and following your
16 instructions from yesterday, we would like to inform the Court
17 that Nuon Chea is not only suffering from a lack of concentration
18 and general symptoms of old age, but he also is suffering today
19 from a headache and a back pain.

20 So, clearly, I leave it to your discretion what to do with this
21 information, but Mr. Nuon Chea would like to follow the rest of
22 the proceedings from his holding cell.

23 [12.05.07]

24 MR. PRESIDENT:

25 Having heard the request of Mr. Nuon Chea made through his

83

1 counsel to follow the proceeding remotely through audio-visual
2 means for this afternoon's session, Mr. Nuon Chea requests that
3 he waive his rights to be present in this courtroom, citing his
4 back pain, lack of concentration during -- while sitting in this
5 courtroom. The Chamber now requests by Mr. Nuon Chea made through
6 his counsel for him to follow the proceedings remotely from a
7 holding cell downstairs.

8 Mr. Nuon Chea waives his rights to be present in this courtroom.
9 The defence counsel is now instructed to submit the written
10 waiver with the signature or thumbprint of the Accused.

11 The AV Unit now is instructed to live the proceedings for the
12 afternoon sessions to the holding cell where the Accused being
13 held.

14 Security guards are now instructed to take the Accused to the
15 holding cell and to keep Mr. Nuon Chea there for him to follow
16 the proceedings from the cell and to return Mr. Khieu Samphan to
17 this courtroom by 1.30.

18 The Court is now adjourned.

19 THE GREFFIER:

20 All rise.

21 (Court recesses from 1207H to 1330H)

22 MR. PRESIDENT:

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

24 And I hand over to the Prosecution to resume his line of
25 questioning. You may proceed.

1 [13.31.30]

2 BY MR. ABDULHAK:

3 Thank you, Mr. President. And good afternoon, Your Honours. And
4 good afternoon, Professor Chandler.

5 Q. We were discussing before the break the classifications of the
6 population post-April 1975 and the ways in which you have
7 discussed the treatment of these -- of these people.

8 Now, continuing on from that point, what I would like to discuss
9 next is your analysis of the four-year plan of the regime which,
10 of course, is discussed or reproduced in the book that Judge
11 Cartwright referred to yesterday, your -- the book you co-edited
12 entitled "Pol Pot's" - "Pol Pot Plans the Future".

13 What I would like to look at now is, as I said, your analysis of
14 that plan and some of the conclusions that -- that you draw.

15 And just for everyone's benefit, this is -- the analysis of this
16 plan is contained in the book "Brother Number One", which is
17 E3/117, and it is also contained in Professor Chandler's other
18 books, including "A History of Cambodia", which is the book I
19 wish to look at now.

20 [13.33.30]

21 Professor Chandler, I'm -- if you could go to pages 214 to 216 of
22 the book, and I'll read out the relevant ERNs. The Khmer ERN is
23 00679175 to 77. The English ERN is 00422842. In "Brother Number
24 One", you indicate that the plan was introduced by Pol Pot in
25 August, but here we're moving to a -- the contents of the plan,

1 if you'd like, your views and analysis of the context.

2 So at those ERNs, in "A History of Cambodia", you say the
3 following:

4 "It called for the collectivization of all Cambodian property and
5 proposed ever increasing levels of rice production throughout the
6 country, with the aim of achieving an average national yield of 3
7 metric tons per hectare (1.4 ton per acre). The pre-revolutionary
8 average, harvested under less stringent conditions and with
9 monetary incentives, had been less than a ton per hectare, one of
10 the lowest in Southeast Asia".

11 [13.35.24]

12 A few lines below that, you state the following:

13 "The plan had been hastily written. There was no time to conduct
14 studies to see if its proposals were appropriate to soil and
15 water conditions in particular areas or if the infrastructure
16 needed for other programs was in place. Instead, the plan called
17 for an 'all out, storming offensive' by all the people."

18 And two more brief passages, continuing on in the same text -- so
19 just further down -- quote:

20 "No material incentives were offered the Cambodian people except
21 the bizarre promise that everyone would enjoy dessert on a daily
22 basis -- by 1980!"

23 A little bit further down, again, where you talk about the
24 concept of accomplishing this swiftly -- I quote:

25 [13.36.32]

1 "In explaining the plan to high-ranking members of the party, an
2 unnamed spokesman, presumably Pol Pot, stated that the plan could
3 be accomplished swiftly. The DK revolution, after all, was 'a new
4 experience, and an important one for the whole world, because we
5 don't perform like others'." And this here is quoting the
6 language of the regime: "We leap [directly to] a socialist
7 revolution, and swiftly build socialism. We don't need a long
8 period of time for transformation."

9 Could I ask you to expand briefly on your conclusion that there
10 was no time to collect -- to conduct studies, that no studies
11 were conducted, and that, instead, the plan called for an "all
12 out, storming offensive" by the people?

13 [13.37.45]

14 MR. CHANDLER:

15 A. Well, the plan, like many other policies set in place in
16 Democratic Kampuchea, was -- sprang from foregone conclusions
17 rather than any examination of possibilities or potentialities of
18 the policy taking effect. I mean, just as they -- you know, it'd
19 either be--

20 But at the beginning of the introductory paragraph to the plan,
21 as I -- was the explanation, which you haven't cited. Pol Pot
22 says, in a kind of typical -- I think, rather typical DK fashion:
23 "Why do we need the plan? Because we need the plan." His answer
24 is: we need it because we need it. No question of discussion or
25 anybody said we don't need one, or whatever. We need it

1 immediately.

2 [13.38.30]

3 Another reason he didn't mention, of course, is we need it
4 because this is what revolutionary regimes do when they come to
5 power, they set in motion plans, usually after a while -- not
6 immediately, not within a -- this is within -- well, the plan was
7 supposed to come in about a year and a bit after coming to power.
8 It was drawn up much less -- much earlier than that, drawn up
9 from, as I say, wishful thinking and foregone conclusions about
10 the way things had to occur in DK, under the leadership of the --
11 under what they call the "clairvoyant leadership" of the CPK.

12 [13.39.07]

13 I think their imitating -- they never cite the models they are
14 copying. As a matter of fact, the 3 tons per hectare, I found out
15 -- I stumbled across when I was writing "The Voices from S-21",
16 turned out be the policy introduced in a -- one of the model
17 areas of China in the early 1970s, to the same (unintelligible)
18 "mou" instead of hectare -- but it comes out to the same. So it
19 was a model that came from China, started the phase the "Great
20 Leap Forward", they used a lot -- came from China -- without
21 saying that it did.

22 But the idea that Cambodia's riches were in agriculture was true,
23 that its potential lay -- at least the way you can see it at the
24 time, not being too certain, for example, of the oil deposits,
25 which have only been guaranteed very recently -- that agriculture

1 would, in the future, be the source of income for Cambodia. The
2 plan, in a way, makes a kind of a -- kind of sense. What it
3 doesn't do, of course, as I tried to say before and -- it doesn't
4 take consideration for what was actually going on in '75 and '76,
5 just as it doesn't pay attention to the failure of the "Great
6 Leap Forward" or such other events outside of Cambodia.
7 It's built on hope. It's built on the assumption that the
8 liberated energies of the poor, as they were taking a lid off of
9 the oppressed - oppressed lives that they'd allegedly being
10 leading, would be enough to fuel -- to be the - to fuel the
11 engine of the revolution and produce these targets.

12 [13.40.45]

13 I think the -- there's lots of things in the - in the plan that
14 can be talked about, like -- such as they were going to get -- if
15 they -- if we have oil -- we will find it, stuff like that. The
16 main thing was to impose a dream, really -- a dream onto the
17 Cambodian people of this kind of level of production. It's, of
18 course, complete speculation, which is off base a bit, but had
19 the target been set at 2 tons per hectare, quite a lot more
20 success might have been achieved. Three was - three was out of -
21 out of reach. Pol Pot didn't think so, but it turned out to be
22 completely out of reach for most of the country.

23 Q. And, briefly, could you -- because we're discussing here a
24 speech attributed by you to Pol Pot -- could you tell us if you
25 have been able to conclude which body or whatever it was -- an

1 individual or a group of people -- issued the plan?

2 [13.41.45]

3 A. I'd have to recheck the texts, what I - what I said at the
4 time. It certainly wasn't a document originating from Pol Pot
5 personally. It was - it emerged from the Party leadership. It was
6 -- I think it was a composite - composite draft. There was some
7 -- some writers have suggested that parts were written by Khieu
8 Samphan, but I'm not saying that. It was written by -- it was
9 collectively written, certainly, collectively approved, coming
10 out of the collective leadership, and it was a -- again, you
11 never get a single signature on any DK documents, but only the
12 leader can explain, and only the leader had the final word. So it
13 comes out of this collective mentality, collective leadership,
14 which must be centred at some point in the Central Committee, but
15 we don't have that specific information.

16 Q. Thank you. And as far as you have been able to glean, how was
17 -- well, first of all, was that plan communicated to people who
18 would then implement it?

19 [13.43.00]

20 A. No. As far as we know, it was not. It was never - never put
21 into effect. The reason why it was not put into effect is -- the
22 specific reason is not known, but it -- I suggested it's
23 connected with the, sort of, tidal shunt that took place in the
24 Cambodian Communist Party toward the end of 1976 -- September,
25 October, in that area -- in that period of their rule. It was

1 withdrawn from -- it was never widely circulated and it was
2 withdrawn from - from execution, although the slogan "3 tons per
3 hectare" continued through the regime -- through the end of the
4 regime.

5 The -- let me just think what I was thinking -- no, this -- go
6 ahead, I'm sorry.

7 Q. Thank you. Insofar as the "3 ton per hectare" slogan continued
8 to be used, did it have any effect on the implementation of
9 policies and practices throughout the country?

10 A. Well, I think, certainly. It certainly frightened people. It
11 frightened the people who were supposed to carry it out. These
12 would be the cadre district and sector and zone leaders in the
13 countryside who had to produce these - these targets.

14 [13.44.28]

15 To what extent they actually produced the targets, we don't know.
16 The information -- at least, I don't think the information's
17 available. It wasn't available to me at the -- when I wrote the
18 book. But there's quite a lot of evidence that, in order to get
19 even close to the targets, they cut back on the amounts of rice
20 that was supposed to be set aside for seeds and for feeding the
21 population, in order to deliver a sufficient amount up the line.
22 And as I said, in one of -- somewhere, I was just reviewing it
23 yesterday, the -- there's an irony. Tied in with the whole idea
24 of self -- Cambodian self-sufficiency and failure to rely on
25 foreign aid, it's ironic that several hundred thousand tons of

91

1 rice were exported to China at this time to pay them for the
2 unacknowledged aid that they were giving. In other words, the
3 Cambodians were trying to show that they were producing surpluses
4 -- when they weren't -- to the Chinese, as a matter of fraternal
5 solidarity, and so on. All over the country, in all kinds of
6 evidence you get, you've evidence of food supply going down,
7 nutrition going down, starvation coming up, deaths from
8 malnutrition going up, all connected, I think, to the kind of
9 scare qualities of this 3 tons target. It was a target that was
10 just always stressed and never denied, and it was too much to
11 make, too much for the people to produce.

12 [13.46.01]

13 Q. Now, moving on to one particular region that you looked at --
14 and this is now in "Brother Number One", and the relevant ERNs in
15 Khmer, 00821782 -- Professor Chandler, if you're looking at the
16 hard copy, it should be page 117 of "Brother Number One" or ERN
17 in English, 00393031. Have you been able to find that passage? It
18 should end with--

19 A. (Microphone not activated)

20 Q. I will read it. I will read it - quote:

21 [13.47.00]

22 "Most of the work in the northwest would be done by more than one
23 million April 17 people who had been evacuated from Phnom Penh
24 and from the city of Battambang into rural areas in the zone.
25 Over the next two years, these men and women were forced to hack

1 rice fields, canals, dams, and villages out of malarial forests.
2 Tens of thousands of them died from malnutrition, disease,
3 executions, and overwork. These deaths, when they became known,
4 distressed the authorities in Phnom Penh only to the extent that
5 they indicated that 'enemies' were at work behind the scenes. New
6 people, because they were so numerous and 'class enemies' of the
7 revolution, were expendable. Many survivors recall a chilling
8 aphorism directed mockingly at them by cadre: 'Keeping [you] is
9 no gain. Losing [you] is no loss'."

10 I would -- first of all, Professor, if you could tell us what
11 evidence you looked at in arriving at the conclusions of tens of
12 thousands of deaths in this particular region?

13 A. One of the main sources for information about the conditions
14 in the Northwest were refugee testimonies after the war. A large
15 number of the refugees who got into Thailand came from that area,
16 and many of them, as New People, were educated to a certain
17 level, where they would find themselves in a position to give
18 detailed and articulate descriptions of what had happened.

19 [13.49.14]

20 The causality figures I've taken from a couple of books, which
21 are just estimates. There are no formal estimates of the
22 casualties under DK and in these different zones.

23 One of the points of the Northwest, as well as being filled with
24 New People, was it was not an area that had been under systematic
25 Khmer Rouge control during the civil war. This meant that there

1 were not as many well-trained, or competent, or screened --
2 whatever word you want to use -- local cadre to handle the
3 population, a situation very different in the Southwest,
4 different in large parts of the East, in the Northeast, and even
5 in some of the areas around Phnom Penh, in the centre and North
6 of the country. This was a frontier to which New People had been
7 sent, and also cadre often with no connection to this part of the
8 country. This is very important because, in great many parts of
9 the country, the Khmer Rouge leaders of a local area will be from
10 that local area. And this doesn't mean that they'd be especially
11 just or soft, but they knew conditions, they knew people to work
12 with, they could gather. In the Northwest, where cadre would not
13 come from there, who had little experience in administering and
14 were then -- once you'd expended, if you like, enough of the New
15 People, the regime decided that these were the enemies, really --
16 not the unproductive New People, but the cadre that had been sent
17 there to run the show were the ones who wrecked it.

18 [13.50.47]

19 This all comes from the absolute -- the sense that the Communist
20 Party has the sole -- has monopoly over the truth -- in other
21 words, can never be wrong. Therefore, there's no question of
22 saying, from the Centre: Oh, that policy was wrong, therefore we
23 must change the policy. No, the policy was right, so there has to
24 be some other reason for its failure, as opposed to its intrinsic
25 shortcomings.

1 And these were exactly the same strategies followed by Stalin.
2 These were blamed on wreckers and various people who just
3 couldn't do the right thing.

4 Q. And where you discuss the movement by -- of more than 1
5 million people -- April 17 people -- from Phnom Penh to that
6 region, have you been able to ascertain whether that was a result
7 of -- or, rather, I'll put my question differently: Have you been
8 able to ascertain which decision or decisions led to that
9 particular movement?

10 [13.52.05]

11 A. Without the precision -- that might be helpful if I had the
12 sources right in front of me, but the passage suggests that the
13 New People -- suggests mistakenly that the New People evacuated
14 to the Northwest had been sent there from Phnom Penh. No, these
15 were people who evacuated from Phnom Penh to various places and
16 then gathered up at the beginning of '76 and sent up to the
17 Northwest by truck, and train, and (inaudible) on foot. This is
18 called the "second evacuation". This is called that, it's in all
19 the -- in the literature.

20 [13.52.34]

21 So very few of the New People - I'll correct that. New People
22 from Battambang, which -- recently Cambodia's second city -- were
23 all evacuated into the Northwest. So this situation began to
24 occur. And a refugee I spoke to in '76, who had fled then, in
25 that optimistic period, was one of several hundred who jumped off

1 out of the Northwest quickly when it was starting to -- New
2 People. And these formed the basis for the first interviews with
3 refugees.

4 But, anyway, most of these people were -- went to provinces near
5 Phnom Penh, where they had relatives, because most people in
6 Phnom Penh in those days either had come from these regions
7 anyway or had relatives in them. So they would be in the
8 Southwest, the East, the South -- well, there is no South -- the
9 East and the centre, but they were gathered up to go -- once this
10 plan had started to get brought up, they were gathered up and
11 moved into the Northwest as a -- well, as a -- you can call it a
12 slave labour force or just a cutting edge, any word you want to
13 use.

14 [13.53.36]

15 These are the people who had to do the work. There weren't enough
16 people up there to achieve this 3 tons per hectare. Where were
17 the extra people? Well, they were the city people, obviously, and
18 up they went to the Northwest. So the phrasing 'evacuation from
19 Phnom Penh' in the paragraph is not really -- I wrote it, but
20 it's not exactly right.

21 Q. And just to -- for the avoidance of any doubt, you describe
22 that coordinated -- or that movement of people from a number of
23 regions in early 1976. Where did that decision emanate from? If
24 there was a decision, please elaborate.

25 A. Well, I mean, from the Party Centre. This was -- it was

1 connected with the whole policy plan that ended up producing this
2 four-year plan. This was all part of their strategy. It was not
3 decided -- nothing of this dimension was ever ad hoc in Cambodia;
4 it was always right from the top.

5 Q. Thank you. And lastly on this passage, you've indicated that
6 you interviewed survivors and some of this information is based
7 on those interviews. Are you able to expand on this aphorism
8 "keeping you is no gain, losing you is no loss" -- how that was
9 applied, if it was applied, and what effect, if any, it had in
10 practice?

11 [13.55.22]

12 A. The effect that it had in practice was to scare the people to
13 whom it was directed, and this was the purpose of it. It was
14 quoted so often, quite early on in the -- people starting
15 research on the Khmer Rouge in '80, '81, with survivors and with
16 people living inside the country -- still living inside Cambodia
17 after the collapse of the Khmer Rouge -- so widespread, this was
18 just -- almost a slogan for the -- what do we tell the New
19 People? Tell them this. I mean, there's no evidence of that
20 order, but this came all over the country. People had this
21 slogan, it was in their ears, it meant -- or it rang in their
22 ears: You are worthless, but if you want to survive, just work
23 extremely hard, and we'll decide from day to day what happens to
24 you. It's a terrifying slogan and it's -- and it was very, very
25 widespread. I heard it myself many, many times from survivors -

1 people, survivors of the regime.

2 Q. Thank you.

3 [13.56.22]

4 Moving on to the issue of deaths or estimated deaths -- numbers
5 of deaths during the 1975 to 1979 period, obviously you've
6 studied this for many years, and so there are a number of
7 references, and I will give you two to your own consideration of
8 this number.

9 In the "Tragedy of Cambodian History", at English ERN 00422860 --
10 it should be page 233 -- you -- for this we appear to also have a
11 Khmer reference. There have been partial -- no, I do apologize.
12 This is only available in English. I just want to check and make
13 sure that I have the correct ERNs here.

14 So, looking at the "Tragedy", the correct ERNs -- I'll just read
15 them out to make sure that we have it correct: 00193084 in
16 English. And in Khmer -- it does appear that we have a Khmer
17 excerpt for this-- 00820993.

18 [13.58.07]

19 You stated the following -- quote:

20 "Under the regime of Democratic Kampuchea, a million Cambodians,
21 or one in eight, died from warfare, starvation, overwork,
22 misdiagnosed diseases, and executions."

23 That was in "The Tragedy of Cambodian History".

24 You revisit the issue in "A History of Cambodia", and just for
25 the record that was D366/7.1.69. You give the following estimate:

1 "Although Vietnamese anti-DK propaganda was often heavy-handed
2 and inaccurate, even cautious estimates of DK-related deaths
3 caused by overwork, starvation, mistreated diseases, purges, and
4 executions came close to 2 million Cambodians, or one in five".
5 That second book is an edition from the year 2000, and there is
6 obviously a difference in estimate. Would you care to expand on
7 how you arrived at those figures and whether you still consider
8 the estimate given in a "History of Cambodia" to be accurate?

9 A. Yes, I consider the later estimate to be my later - my later
10 estimate. I mean, this is taking advantage of a lot of
11 interesting demographic work that was done -- none of it by me,
12 but -- and I'm also joining -- I was given just now this
13 demographic expert report. I was supposed to have that, I
14 suppose. Was I?

15 [13.59.56]

16 Q. No, if you don't mind, don't look at that.

17 A. Oh, I'm sorry.

18 Q. So just--

19 A. I didn't see it. But the point is, a consensus developed
20 between -- in the early 2000s -- about the level of deaths,
21 drawing on these same demographic sources that I had used - the
22 books and articles that I had used. So I joined the consensus,
23 not having the skills to calibrate up or calibrate down. In
24 conversations I've had since then, there are people whom I trust,
25 but don't want to just quote that -- now the evidence looks to be

99

1 -- it might be higher, it might be approaching closer to 2
2 million than 1.5. But I've stuck to 1.5, 1.7 because that's --
3 well, let's say received wisdom -- that's the phrase -- but it's
4 what people are agreed on at the moment. I'd be perfectly happy
5 to change those figures if better information came to - came to
6 hand.

7 [14.00.51]

8 Q. Thank you very much. Just for everyone's benefit, I considered
9 also showing you the -- a demographic expert report, but in the
10 interest of time, we'll move on. I think you've explained your
11 conclusion, and that is sufficient for our purposes, and I thank
12 you.

13 I now wish to move on to--

14 MR. PRESIDENT:

15 Yes, Defence Counsel for Mr. Nuon Chea, you may proceed.

16 MR. PAUW:

17 Thank you, Mr. President. Just to make sure that we get the
18 meaning of what just happened, I was not clear on what document
19 Professor Chandler wanted to discuss and whether or not he had
20 looked at the contents.

21 [14.01.50]

22 His initial remarks seemed to indicate that he had, he even later
23 said that he did not read it. I don't want to suspect any foul
24 play, but maybe the Prosecution can clarify this, because, again,
25 it's about the sources of knowledge of Mr. Chandler that we talk

100

1 here today as well.

2 MR. ABDULHAK:

3 Mr. President, I think it's a fair comment by my learned friend.

4 The document which was in our bundle and which we were

5 considering showing Mr. -- Professor Chandler, is the demographic

6 expert report, which is of course on the case file.

7 [14.02.29]

8 For the record, the document number is D140/1/1.

9 MR. ABDULHAK:

10 Q. And perhaps to avoid -- to remove any doubt, we can ask the

11 professor whether -- well, let's just take it one step at a time.

12 Did you look at the figures in that report?

13 MR. CHANDLER:

14 A. I mean, I was given it; I thought I could read it. I was -- I

15 wasn't -- never been given anything I wasn't supposed to read. So

16 I don't feel I've committed any sort of mistake. But on the other

17 hand, I didn't examine it in detail. What I did look at, I must

18 say, without examining everything in detail, was the end to see

19 the conclusion. And the conclusion showed, in the footnote -- I

20 think this can go on the record, because it's a document -- a

21 consensus that had developed from a variety of sources. In the

22 footnote it cites several sources, and these would be the ones

23 that I'm -- I mentioned that I'm in agreement with.

24 [14.03.30]

25 Now, if I'd examined the document officially, I would have had to

101

1 say, you know -- if it was different, I'd have to say what my own
2 conclusion was, still. It's not going to be changed by this
3 document. What I saw was they referred to this consensus that I
4 did refer to, so I said -- you know -- that's fine.

5 Q. And--

6 A. Which is 1.5 to 1.7 kind of thing -- million. That's -- I
7 mean, it's an awful figure, but you know--

8 Q. And that's really what we're - what we're--

9 A. Yes, okay.

10 Q. --what we're seeking to elicit, is your own, independent
11 conclusions. There was no mistake on your part, Professor
12 Chandler. It was inadvertently given to you with -- because it
13 was at the back of another document, but we have your - your own
14 conclusions, and that suffices.

15 As I said, I wish to move on to yet another topic, and it is
16 related in part to some of the questions that you were asked by
17 Judge Cartwright yesterday. It deals with, broadly speaking, the
18 appointments to various bodies during the Democratic Kampuchea
19 regime.

20 And what I would like to begin with is another quote from one of
21 your books we are going back to "Brother Number One". We have
22 this in Khmer, so if it could be shown on the screen that would
23 be appreciated. It is E3/17. The Khmer ERN is 00821773 to 4.
24 English ERN is 00393021 to 022. It's really just your treatment
25 of the relationship between the party and other bodies that I am

102

1 interested in.

2 [14.05.53]

3 And this is what you said, if we could show the Khmer version on
4 the screen that would be appreciated -- quote:

5 "The party, concealed by the facade of the Revolutionary
6 Organization (the name it had assumed among Cambodians), was
7 still officially hidden behind the National Front, with Sihanouk
8 ostensibly the chief of state. Layers of disguises, revolutionary
9 names, and secret meetings protected Saloth Sar from the judgment
10 of ordinary people. Party members who had been assigned new
11 responsibilities took up their work in secret, disguised by
12 revolutionary names. The complex charade hid the real division of
13 spoils, whereby high-ranking members of the party carved out
14 areas of patronage and control."

15 [14.06.59]

16 Firstly, if I can ask you Professor Chandler, whether you
17 considered internal documents, Standing Committee minutes and the
18 like, which deal with that period and I'm discussing here '75,
19 before we get to that decision we discussed yesterday.

20 A. Yes, you can assume that.

21 Q. Now, what you - perhaps, in hindsight, the question was
22 perhaps unnecessary. As we go through these passages, there is
23 additional information.

24 You do look at the October 1975 Standing Committee minutes and
25 you go through the minutes and you note certain appointments, and

103

1 I think this was -- this may have been discussed, so I apologize
2 if I'm covering ground that's already been covered. You indicate
3 the comrade deputy secretary, Nuon Chea, was responsible for
4 Party organizational work and education, and Ieng Sary was to
5 handle foreign affairs for the state and the Party. Khieu Samphan
6 remained as liaison officer with the National Front -- that is,
7 with Sihanouk -- and he was also given the task of the
8 accountancy and pricing aspects of commerce, recalling his
9 cabinet post in the 1960s.

10 [14.08.56]

11 As far as your research has indicated - again, in part, you may
12 have already answered this, but perhaps not entirely -- were
13 these roles indeed performed by the Accused during the DK period?

14 A. Yes, they were. I would alter the wording slightly of that
15 passage now, in hindsight, of course. I think the phrase that I
16 used there, "carved out", is a little harsh. I think what they
17 had is they had a group of people who had certain capacities, and
18 I think they looked -- in a way, I mean, this is to -- I don't
19 mean to give them a lot of credit, but it's more understandable
20 than that phrase, "carved out", would suggest; it would suggest
21 just a kind of gangster group.

22 The person with experience in foreign affairs had been Ieng Sary.
23 Nuon Chea had a lot of experience in educating Party cadre. This
24 has come out in his autobiography and other places.

25 [14.09.52]

104

1 Khieu Samphan had to have this commercial portfolio that he
2 performed very well when he was -- he was a very conscientious
3 cabinet member for Sihanouk in the 'sixties. He had knowledge of
4 that sort of issue.

5 So these people were not picked at random, although this is, I
6 guess you could say, the best and brightest; this is what they
7 had.

8 Ieng Thirith had a teaching - some teaching experience, so she
9 was over in that social -- social affairs there.

10 People got assigned -- Son Sen had been an active combatant, he's
11 a -- started as an anthropologist, but during the civil war, he
12 had shown talent as a military leader, so he was--

13 [14.10.28]

14 So I'm just taking back the phrase "carved out" because it's not
15 really fair; it's as if it's -- they gave these positions at the
16 -- for the disadvantage of more competent people. That's not --
17 it's poorly worded. It was really a fairly -- given the
18 materials, it was the best they could do. So it was a set of
19 choices.

20 Q. And moving on from that October 1975 document and those
21 decisions, I want to briefly go through the process of adoption
22 and promulgation of the constitution of Democratic Kampuchea --
23 in other words, the birth of the state itself.

24 As far as your research takes you, Professor, and considering our
25 earlier discussion about the Front, and the existence of the

105

1 Front, as well as a government, were those bodies active as at
2 post-April 1975? Did they continue to perform any - any executive
3 role as far as your research indicates?

4 [14.11.51]

5 A. I would say almost none. It was a continuing facade. I mean,
6 Sihanouk came down - he came back to Cambodia as the so-called
7 chief of state, and was driven around an empty city, and then was
8 told to go on a trip to here and there and do these various jobs.
9 Khieu Samphan was -- liaised with him and was -- played the role
10 that he was supposed to play as being liaison with Sihanouk. But
11 it's pretty clear, by then, the game was up. I mean, Sihanouk, as
12 I said earlier, had a very good social and political antennae and
13 he could see that he was really not the chief of the state
14 anymore, it was just a -- but he had no actions that he could
15 take. So I would say the actions that took place whether by the
16 ruling party between April '65 -- '75 and the promulgation of the
17 constitution and -- I think it was January '76, were just done in
18 secret and carried out the way they wanted to do it. There was
19 not without -- there were no laws of course, but without any kind
20 of open discussion of what was going on.

21 [14.12.52]

22 Q. Thank you. So, then, looking at the process of the adoption of
23 the constitution, there are a number of publicly available
24 records on this and some CPK documents, so I'd like to consider
25 only a couple of them.

106

1 Document E3/273 is a Foreign Broadcast Information Service
2 transcript of a report attributed to Mr. Khieu Samphan on the
3 draft of the constitution that is dated the 14th of December
4 1975.

5 Professor Chandler, have you, in your research, come across
6 Foreign Broadcast Information Service transcripts from this
7 period?

8 [14.14.05]

9 A. Oh, I certainly have. They're one of the major sources of
10 internal knowledge of this -- this country to up to '78. And I'm
11 familiar with this particular one also. I remember citing it, I
12 think.

13 Q. Thank you. Your Honours, if we could display it on the screen.
14 The English (sic) ERN is 00657439 to 40, the French ERN is
15 0025796 to 97, and the English is 00167811. What we can do is
16 show the Khmer version on the screen and we will hand the
17 professor a hard copy.

18 Professor if you could look at, in your copy, the versions where
19 the ERNs end with digits 96 and 97, it's that particular passage
20 that we - that I'm interested in.

21 This document reports a-- on a Congress which was held, according
22 to the document, at the end of April 1975, and then the events
23 which followed that Congress were as follows: "This resolution of
24 the special national congress is the basic essence of our
25 constitution itself."

107

1 [14.16.14]

2 A few -- two lines below that:

3 "...the special national congress set up a constitutional
4 commission in charge of preparing a written draft of the
5 constitution. The constitutional commission of the special
6 national congress then held successive meetings to discuss the
7 draft and finally decided on a draft constitution which was then
8 submitted to thorough examination and consideration by the
9 Council of Ministers. The Council of Ministers then submitted to
10 the commission its suggestions for amendments to the draft--"

11 MR. PRESIDENT:

12 Yes, Counsel, you may proceed.

13 MR. KONG SAM ONN:

14 Thank you, Mr. President. Could the prosecutor first ask the
15 expert whether he has seen the document before? Otherwise it can
16 be very confusing if we do not know whether the expert has
17 studied this document before or not.

18 [14.17.21]

19 MR. ABDULHAK:

20 Perhaps it didn't come through in interpretation, but the expert,
21 in fact, indicated that he had looked at this document. If I can
22 continue, so--

23 BY MR. ABDULHAK:

24 Thank you, Mr. President.

25 Q. "The Council of Ministers then submitted to the commission its

108

1 suggestions for amendments to the draft constitution so that the
2 draft could be gradually improved. For your information, the
3 Samdech Chief of State also agreed to the principles of this new
4 constitution. Currently, the Samdech is engaged in a series of
5 visits abroad and thus cannot attend our present third national
6 congress. The Samdech prime minister, present here, also fully
7 approved this constitution."

8 This report, as you can see, Professor Chandler, describes a
9 process by which the constitution was drafted, commented upon by
10 a council of ministers, and ultimately submitted for approval.
11 Based on your research on these processes and events, does that
12 reflect an accurate procedure -- process by which the
13 constitution came into being?

14 [14.18.49]

15 MR. CHANDLER:

16 A. I am not at all sure that it does because I've - I would have
17 to refresh my memory again, but I'm not aware that there's a lot
18 of publicity about this national congress which was established
19 in Phnom Penh. When it says the phrase "council of ministers",
20 I'm not sure which ministers they were or whether the government
21 had even been established yet. The Samdech prime minister is
22 Sihanouk's old prime minister Penn Nouth, who was there. The
23 whole thing was railroaded through--
24 I have a feeling -- I guess it's only a feeling, I can't prove it
25 -- that a lot of this documentary bit about procedures was for

109

1 overseas consumption. They -- the DK knew that their broadcasts
2 were being monitored and read overseas. It seems to me the --
3 this makes it sound like a very step-by-step or --thing with lots
4 of advice sought from all sorts of parties. And what we've heard
5 all day and yesterday, this is not the CPK way of proceeding. So
6 I have my doubts about this reflecting the reality, but again,
7 they're just thoughts, they're not anything firmer than that.

8 [14.19.57]

9 Q. Thank you.

10 Following the adoption of the constitution, the documents which I
11 will show you report on elections reportedly held on the 20th of
12 March.

13 The next document which deals with this is E3/274, and as I said,
14 it is a report on the elections. It's another FBIS extract, and
15 we can pass a copy to the professor, if that will be appropriate.

16 Thank you.

17 The relevant ERNs are: Khmer, 00700118; French ERN, which I
18 understand is an incomplete translation, is 00700112; and
19 English, 00167986. Now, I don't propose to go into great detail
20 in this document, but at those ERNs that I just read, out it
21 states:

22 [14.21.40]

23 "The 20 March elections were successfully carried out with all of
24 our people aged 18 years and up casting their ballots with
25 enthusiasm. The results from all polling stations throughout the

110

1 country are as follows".

2 It then proceeds to give some figures and I'll spare the
3 interpreters going through them, but it concludes that 98 per
4 cent of the eligible voices participated in the election.

5 Again, if we can refer to your research of the period, your
6 interviews with survivors and other sources you've looked at, are
7 you aware of evidence of elections being held and participated in
8 by 98 per cent of the population?

9 [14.22.35]

10 A. Well, that's 90 per cent of the eligible voters, and the New
11 People were not allowed to vote. So this means 98 per cent of the
12 presumably Base People, military people--

13 I am - it's inconceivable that this number of people could have
14 voted in an election in Cambodia at this stage of its
15 communications and its stage of its infrastructure. 98 per cent,
16 in the most thorough elections in Cambodian history under UNTAC,
17 you got up to I think up to 70 per cent. 98 per cent, I mean --
18 so there's something very inaccurate.

19 Of course, you have high party cadre listed as factory workers
20 here as candidates. Another wonderful anomaly is this 520
21 candidates, 250 people are elected, no sense of who the losers
22 were, how the choices were made.

23 [14.23.28]

24 Some people remember going to the election. Sihanouk himself
25 voted. Well, I mean, otherwise he'd say that he didn't; if there

111

1 was no election, he didn't vote. So he voted. Some of the areas
2 voted. There's some -- it was very spotty. But certainly it --
3 this does not reflect electoral - electoral politics were then
4 abandoned. There was no - this never--

5 I think, again, this largely for popular -- for overseas
6 consumption, it's to - it's to show that this is an orderly
7 transition of power from the Front organization to this new - the
8 new regime. But the elections themselves, I think you can't give
9 any real credence to them, in my mind.

10 Q. Thank you.

11 Now, I would like to look at the document which you discussed
12 with Judge Cartwright yesterday. This is the decision of the
13 Central Committee of the 30th of March 1976, its document E3/12.
14 And we have a hard copy, Professor, for you with -- President,
15 with your permission? Thank you.

16 MR. CHANDLER:

17 (Microphone not activated)

18 BY MR. ABDULHAK:

19 What we will endeavour to do as we go to any new document we will
20 provide you a hard copy and hopefully we'll keep track of what
21 we've provided.

22 Q. Now, what I'm interested in is at English ERN 00182813; in
23 Khmer, it is at 00003140; and the same passage in French, at
24 00224366. It is a discussion of the establishment of state
25 institutions and I just wish to read one part of it. If we could

112

1 show that on the screen in Khmer? Thank you.

2 [14.25.44]

3 The passage that I wish to read, Professor, is as follows -- it
4 may be difficult for you to follow on the screen in Khmer:

5 "The true nature of our state organization at this time is
6 different from before. Previously, the true nature was a Front -
7 [capital F]. Not now. They are the state organizations totally of
8 our Party. Must have all state organizations have true
9 representative characteristics with sufficient influence both in
10 the Party and in the country, and outside the country. This is a
11 political offensive as well."

12 [14.26.34]

13 Does that passage reflect your understanding of the practice or
14 did the practice differ from what is stated in this decision?

15 A. No, I think that's absolutely in line with what they were
16 doing. This is a - this is a document by the insiders about what
17 they were doing. There's no reason to lie to each other. This is
18 a - this is a truth telling document.

19 Q. Now, moving on to the constitution itself and just looking at
20 a couple of provisions -- we don't want to spend too much time on
21 this -- Article 5 of the constitution deals with legislative
22 power and the first sentence of that article says: "Legislative
23 power is invested in the representative assembly of the people,
24 workers, peasants and all other Kampuchean labourers." And it
25 mentions a number of 250 members which you referred to.

113

1 The document that we looked at earlier, the report attributed to
2 Mr. Khieu Samphan, E3/273, the report on the constitution, states
3 the following:

4 "The constitution stipulates that this law making power should be
5 given to the assembly of people's representatives which is
6 elected directly by the people as indicated in Article 6. In
7 fact, this law making power is given to the assembly to establish
8 various political lines for both the internal and external
9 policies of the country."

10 [14.28.30]

11 And before I ask you some questions Professor Chandler, against
12 the backdrop of those provisions and the report, if we could look
13 at a minute of the Standing Committee? This is document E3/232,
14 it is dated the 8th of March 1976. The relevant page in Khmer is
15 ERN 0017118; in English, 00182630; and French, 00323933. If we
16 could have that document on the screen? Thank you.

17 Now, what I wish to focus on -- what I wish to focus on is a
18 comment in this document which states as follows -- quote:

19 "If anyone asks, we must explain, not be wild and disorderly. Do
20 not let it be seen that we want to suppress. At the same time, do
21 not speak playfully about the assembly in front of the people to
22 let them see that we are deceptive and our assembly is worthless.
23 In fact, it still remains the task of the Party."

24 [14.30.35]

25 Considering that provision of the constitution and then these

114

1 comments, Professor, do the comments reflect the reality or was
2 there any implementation of the constitution as stipulated in
3 relation to the parliament?

4 A. No. I mean this is a tremendous DK document. I have seen it
5 before. It's - "don't speak playfully about" -- in other words,
6 don't tell the people this whole thing is of a façade and a joke
7 because -- just keep quiet about it, although it is a façade and
8 a joke; that's what they're saying. This is not something -- this
9 is not a genuine -- but it will please people overseas, it'll
10 keep things - it'll make us look orderly and allow us to proceed
11 in the way we want to proceed. And that makes it, I think, a very
12 typical document from the top.

13 The National Assembly, as far as we know, convened once and under
14 Nuon Chea's guidance. Now, it's hard to imagine that, you know,
15 some of these members of the Central Committee came trooping in
16 in the clothes of their factory uniforms or their - or their
17 rubber plantation gear, and sat there, and listened to -- I mean,
18 the Assembly consisted of - (unintelligible) high ranking cadre
19 in the National Assembly. It's hard to think that they were
20 trooped in with everybody else, if it met.

21 But the point is it did meet once; we think there's some evidence
22 that it did, document - adjourned - it was never brought back to
23 - never reconvened. So, yes, I mean this document says, you know,
24 don't worry about it; if you've heard something about it, you
25 know, just be discrete, don't say it - don't say it doesn't

115

1 exist, don't say it's useless, don't -- etc.

2 [14.32.25]

3 Q. Thank you.

4 And one final subject on the constitution, insofar as it relates
5 to the establishment of bodies. You have helpfully referred
6 already now to a session of the presidium of the state of
7 Democratic Kampuchea. There is a document on the case file which
8 records a conference of the legislature of the people's
9 representative assembly. This is document E3/165. If--
10 Or, rather, I'll just take a step back before I show you that
11 document. I will just go back to the decision on the 30th of
12 March which is E3/12, and see - look at decisions that are
13 reported there about certain appointments. So this is E3/12, the
14 relevant ERNs in Khmer is 00003141; in English, 00182813 to 14;
15 and in French, 00224366 to 67. This was discussed by Judge
16 Cartwright -- or you were asked questions by Judge Cartwright
17 yesterday.

18 What I would like to do is if we can show that, the relevant
19 passage on the screen, and just look at those appointments -- or
20 those reported appointments briefly. If we could have that Khmer
21 document on the screen? I think, Professor, you already have a
22 copy of the decision. Yes, it's ready. So if the AV Unit could
23 assist us?

24 [14.34.29]

25 The passage essentially starts with the heading "The Actual

1 Organization". As for the assembly, it indicates the methods --
2 or, rather, it states:

3 "The methods and regime of work as follows:

4 "1. All representatives in fact live with their people on into
5 the future. The Standing--"

6 "2. The Standing Committee of the People's Representative
7 Assembly of Kampuchea.

8 "Chairman: Comrade Nuon.

9 "First Deputy: Comrade Phim.

10 "Second Deputy: Comrade Mok."

11 Then, below that, on the appointment of the Presidium of State:

12 "Chairman: Comrade Hem.

13 "First Deputy Chairman: Penn Nouth."

14 [14.35.19]

15 On the government, just looking at the -- that section "The
16 Government":

17 "Must be totally an organization of the Party, directly of our
18 state. The wish is for it to be strong. Must have influence in
19 the Party, in the country, outside the country, with friendly
20 countries and with enemies."

21 The government appointments there are: Comrade Pol as First
22 Minister; Comrade Van as Deputy Prime Minister of Foreign
23 Affairs; Comrade Vorn, Deputy Prime Minister for Economics and
24 Finance; and Comrade Khieu, Deputy Prime Minister for National
25 Defense.

117

1 If we start there with the last body, if you could tell us who
2 those four individuals are: Comrade Pol?

3 A. Certainly. Just to preface, though, it's interesting and it's
4 amusing, in a way, that the Standing Committee of the General
5 Assembly is also members of the Standing Committee of the CPK,
6 this Ta Mok, and Ta -- and So Phim, and Nuon Chea. So you've
7 almost -- anyway.

8 [14.36.30]

9 The second one -- first, Pol is Pol Pot, Van is Ieng Sary, Vorn
10 is Vorn Vet, and Khieu is Khieu Samphan. That's it, that was
11 four.

12 Q. I just want, for the avoidance of doubt, on that last one,
13 Comrade Khieu--

14 A. No, Khieu is Son Sen, I'm sorry. No, wrong. The Defense. Khieu
15 is Son Sen. Khieu. I'm sorry.

16 Q. Thank you. I just want to--

17 A. No, no, you- My mistake.

18 Q. --avoid you being asked about it--

19 A. Certainly, certainly.

20 Q. --in subsequent examination.

21 [14.37.05]

22 Now -- and Chairman of the Presidium of State, indicated as
23 Comrade Hem, who do you understand that to be?

24 A. (Microphone not activated)

25 Q. If you could repeat your answer for the record.

118

1 A. I'm sorry. Khieu Samphan.

2 Q. Were there any other senior people that you are aware of,
3 based on your research, in that group that we're looking at, or
4 more broadly within the CPK hierarchy, who had the same alias,
5 Hem?

6 A. Not that I know of. That's a name that he used. I think he
7 admits it in his autobiography, and so on. I think this is quite
8 well known.

9 Q. Thank you.

10 Now, I will now return to that document on the conference of the
11 legislature that I mentioned earlier, E3/165. We have obviously a
12 Khmer version of that document. It is the original version. And
13 if that could be displayed on the screen? The ERN for this
14 passage starts at 00053634. That was the Khmer ERN. The English
15 ERN is 00184068, and the French ERN 00301354. That's the
16 beginning of the section.

17 [14.38.57]

18 Now, this document is dated the -- reports a conference held on
19 the 11th to the 13th of April 1976. I don't propose to again go
20 through names, other than to perhaps just point to the people
21 that we're concerned with. Primarily, it looks at the - or,
22 rather, the assembly approves the selection and appointment of
23 the Presidium, with Comrade Khieu Samphan as chairman.
24 He then goes on to under heading 6, that deal with the selection
25 and appointment of the Government of Democratic Kampuchea, and

119

1 there again we see Pol Pot, Ieng Sary, Vorn Vet, and Son Sen in
2 the positions that you looked at earlier. And after that there is
3 an appointment of – or, rather, an assignment of a number of
4 committees that were answerable to the Deputy Prime Minister for
5 Economics, Vorn Vet.

6 [14.40.13]

7 Professor, what, if any, conclusions can be drawn from the fact
8 that whilst the assembly report indicates that the assembly had –
9 had detailed discussions and decided on these matters on the 11th
10 to the 13th of April 1976, given that, as we saw on the 30th of
11 March, it appears appointments along very similar lines were made
12 by the Standing – or, rather, the Central Committee? What, if
13 any, conclusions can be drawn from that, from the events as
14 they're reported in -- by the documents?

15 A. I would say, clearly, that the appointments were not made as a
16 result of discussions inside the assembly. The decisions were
17 made as if this assembly meeting really did go on for that period
18 of time. The appointments were made -- no, the appointments were
19 ones that were agreed on by the assembly, having been presented
20 to them by higher-ups. That's the way it worked. It wasn't --
21 they didn't push the proposals up; the proposals came down toward
22 them. That's the significance of your two – your two dates. It's
23 an interesting way of looking at it, 30th of -- here's what's
24 going to happen, and then they say something else happened. It's
25 not--

120

1 [14.41.48]

2 MR. ABDULHAK:

3 Thank you, Professor.

4 MR. PRESIDENT:

5 Thank you.

6 It is now appropriate for us to take a short break. We will break
7 until 3 o'clock.

8 Court officer is now instructed to accommodate the expert and
9 return him to this courtroom at 3 o'clock.

10 The Court is adjourned.

11 THE GREFFIER:

12 All rise.

13 (Court recesses from 1442H to 1501H)

14 MR. PRESIDENT:

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

16 I know that international defence counsel for Nuon Chea is on his
17 feet. You may proceed, Counsel.

18 MR. PAUW:

19 Thank you, Mr. President, and my apologies to the Prosecution for
20 interrupting their questioning. I know everyone is tired, so I'll
21 be as brief as possible.

22 But my question relates to our questioning of Professor Chandler
23 later, and I would like to receive some guidance from the Trial
24 Chamber because I do not want to violate any of the orders as set
25 by you. And they relate to your decision to not accept our

121

1 documents under Rule 87/4. To be clear, we do not want to revisit
2 that decision at this moment, but we want to get some
3 clarification on this consequence so in order not to violate your
4 specific orders.

5 The point is that we understand your position that they cannot be
6 admitted as evidence, or cannot be considered to be put before
7 the Chamber under Rule 87.4, but we want to know if and how we
8 can rely on the contents of those documents, the substantive
9 contents.

10 [15.03.36]

11 And the reason I bring this up is because, in an earlier decision
12 on a request by Ieng Sary, you have ruled that several documents
13 that do not satisfy the test of 87.4 can still be relied on for
14 the contents of their -- the contents of these documents in order
15 to question this witness.

16 So our question would be: Can we, in any way, use the contents of
17 those documents in order to formulate questions to Professor
18 Chandler?

19 And I must say, as a slight addition to this request for
20 clarification, we have by filing that Rule 87.4 request, tried to
21 comply with your Trial Chamber's earlier ruling that we need to
22 do so in order to be able to impeach a witness using "new"
23 documents.

24 [15.04.41]

25 And I don't want to sound too miserable, but we do have the

122

1 feeling that we just cannot get it right. We have tried to comply
2 with your ruling. We have filed a request -- as especially Judge
3 Lavergne seemed to insist on -- and these documents are relevant.
4 They -- again, we will not attempt to put them before the Chamber
5 to constitute evidence under 87.4, but we do need to rely on
6 these documents in order to effectively question this witness,
7 and not using these documents would impede our possibilities to
8 do so.

9 So our question simply is: Can we rely on the contents of the
10 documents?

11 And I guess I can also add that if we cannot rely on the content
12 of these documents, I would like some guidance as to how to deal
13 with information that is now, let's say, in the public conscience
14 of my defence team. We have read this stuff; we cannot erase this
15 from our minds. And if you'd give us some guidance as to how to
16 proceed if we cannot rely on these documents altogether, I would
17 be grateful. Thank you.

18 (Judges deliberate)

19 [15.10.03]

20 MR. PRESIDENT:

21 The Chamber hands over the floor to Judge Silvia Cartwright in
22 order to respond to defence counsel for Mr. Nuon Chea. Judge
23 Cartwright, you may proceed.

24 JUDGE CARTWRIGHT:

25 Thank you, President.

123

1 The Trial Chamber appreciates the manner in which counsel raised
2 this matter and wishes to respond as follows.

3 As recently as the 16th of July, through memorandum with the
4 number E172/24/4/4, addressed to the Ieng Sary defence team, this
5 matter was dealt with at paragraph 5. And I'll just read it out
6 again precisely what the Chamber said in response to the Ieng
7 Sary application because it applies to the Nuon Chea team as
8 well, of course. So I'm quoting:

9 [15.10.23]

10 "It bears emphasizing that while the Chamber did not consider the
11 remainder of the documents to which E172/24/4 refers to meet the
12 Internal Rule 87.4 criteria, this decision clearly states that
13 there is no barrier to the Ieng Sary defence calling on their
14 contents when formulating questions to the Expert, where the Ieng
15 Sary defence provides advance courtesy copies of this material to
16 the Chamber and the other parties. As the Ieng Sary defence has
17 since provided the ERNs for [the relevant documents] on the
18 Shared Materials Drive, this latter condition has been
19 satisfied." End of quote.

20 So is that a sufficient response to enable you to plan for your
21 questioning?

22 MR. PAUW:

23 Thank you, Judge Cartwright. That is crystal clear.

24 And just for the record, I would then like to state that we have,
25 in fact, uploaded all the documents that we would like to rely

124

1 on, so they are accessible to all the parties in this courtroom.

2 But the message is clear. Thank you.

3 MR. PRESIDENT:

4 The floor is now handed over to the International Co-Prosecutor
5 to continue his line of questioning to this expert.

6 [15.12.42]

7 MR. ABDULHAK:

8 Thank you, Mr. President. If I may, two very brief housekeeping
9 matters, one for my and Professor Chandler's benefit.

10 We were requested during the break to both speak more slowly.

11 I'll do my best and I apologize on behalf of both of us to,

12 particularly, interpreters and those listening in Khmer and

13 French. It is simply our wish to get through a lot of material

14 really quickly. But if you could slow down a little bit,

15 Professor Chandler, I'll do the same.

16 And, secondly, Your Honours, I meant to raise this before the

17 break and I apologize for not doing so. It's simply a matter of

18 scheduling and timing. We were -- and I just want to put before

19 you our understanding of where we're at, so perhaps the Chamber

20 can consider it at the next -- when we break for the next

21 session. We were allocated two and a half days, which in real

22 time amounts to approximately 12 hours, if my maths are correct.

23 By the end of today, we will have done less than seven hours --

24 or close to seven hours, leaving about a bit over five hours

25 tomorrow, which would take up the entire day. I just say that so

125

1 that Your Honours, if possible, can consider it before we come
2 back and give us your instructions.

3 [15.14.18]

4 We will - we will do our utmost, as far as the Prosecution is
5 concerned, to finish early tomorrow, by the end of the first
6 session, give or take a short amount of time. I hope the Defence
7 will also be accommodating, particularly in light of all of the
8 procedural issues that have arisen and caused delays.

9 And now I will return to my examination.

10 BY MR. ABDULHAK:

11 Q. Professor Chandler, thank you again for coming back. And I
12 realize it's late in the day. As counsel for Nuon Chea indicated,
13 everybody's a little bit tired, so we do appreciate you
14 continuing to assist us and answering questions on really complex
15 subject matter.

16 There is really only one remaining subtopic on the issue of the
17 institutions of Democratic Kampuchea that I wish to touch upon
18 before moving on to yet another topic, and the issue I wish to
19 touch upon is the resignation of Norodom Sihanouk in March and
20 April 1976 or the events surrounding that resignation.

21 [15.15.47]

22 You've dealt with it in some detail in "Brother Number One",
23 E3/17, and the relevant passages: in Khmer, 00821775; in English,
24 00393023. I'm only pointing to those - to those passages so that
25 everybody has them available, because you have actually discussed

126

1 in those passages the documents which I will be showing you. So
2 perhaps we can speed things up by going straight to the source
3 documents, and if need be, we can refer back to the book.
4 Professor, the events took place in the first half of March, as
5 reported by the documents, and the first document that relates is
6 a Standing Committee minutes dated the 11 March 1976. It is dated
7 11 March but it deals with events on 11 and on the 13. It is
8 document number E3/197. And the agenda on the first page is
9 indicated as Sihanouk's resignation.

10 [15.17.33]

11 We will go to a passage which is of interest to us today. This is
12 at Khmer ERN 00000744, English ERN 00182638, and French ERN
13 00334961. I understand you've just been given an English
14 translation of that particular passage, and the text is as
15 follows -- I will read it in English for the benefit of those who
16 don't have a hard copy. If we could place the Khmer version on
17 the screen for Khmer readers, that would be appreciated. This is
18 topic number 3, Professor Chandler:

19 "Opinions of Angkar meeting on the evening of the 13th:

20 "Comrade Hem reported to the Standing Committee on the Sihanouk
21 problem. He has decided absolutely to resign his position. He
22 explained that Angkar should take pity on him, that he would even
23 crawl and show the gesture of respect, whatever, just let him
24 resign. This resignation is not done in opposition to us..."

25 [15.19.04]

1 The next passage:

2 "Comrade Secretary explained that this problem is a major one;
3 leave it for our Centre to decide. But the Comrade Secretary
4 outlined the principal ideas on which the entire Standing
5 Committee had already agreed, as follows:

6 "[Number] 1. Do not let Sihanouk leave [the country]. This is the
7 first measure.

8 "[And Number] 2: Must convene the Cabinet of Ministers. Report to
9 the Cabinet of Ministers to decide, then go and meet with
10 Sihanouk again with Penn Nouth participating."

11 There are two more brief passages that I wish to deal with, or
12 read through, and then come back to some questions, Professor.
13 Further down, as we continue the same topic, there is Section B,
14 which starts as follows -- and it's a discussion of the
15 resignation, it appears:

16 [15.20.13]

17 "He joined with our revolution even though he had conflicts with
18 us. This is why the Party has decided for him to be Chairman of
19 the Presidium of State, but he did not agree. So, whether he
20 stays or goes, it is his matter.

21 "We keep him as a dignitary. We do not kill him. But for the
22 nation and the people he bears serious guilt, in his status of a
23 killer of the people.

24 "Therefore, our decision is reasonable in every way.

25 "We will maintain him, but if he keeps on struggling to free

1 himself, we must end it."

2 The next passage starts with a number 5:

3 "5. The direction of the development of the revolution: We must
4 end feudalism, just like this. The chess game has gotten to that
5 point. The entire feudalist regime has been permanently smashed
6 and dug out by the revolution. The kings existing over 2,000
7 years must, in the end, be clean. We have no way out other than
8 this one."

9 [15.21.47]

10 Professor, looking at those deliberations and of course, your
11 research into the events and the policies of the Party Centre,
12 could you -- or are you able to opine about that last passage,
13 where having looked at the position of Norodom Sihanouk, the
14 Party Centre discusses ending feudalism and 2,000 years of the
15 kings existing in the country? What, if anything, does that
16 represent in terms of Party direction or Party policy?

17 MR. CHANDLER:

18 A. Well, they simply wanted to get him out of the way. What had
19 happened -- one of the reasons they'd hung onto him so long and
20 why he had felt able to hang on to them was the survival of his
21 friend, Zhou Enlai, in Beijing. And when Zhou Enlai died,
22 Sihanouk lost his support, his direct support in China -- very
23 important to the Khmer Rouge, the Chinese angle. But they felt
24 that it was perfectly safe to remove him from any positions of
25 power and lock him up.

129

1 [15.23.19]

2 I mean, the struggle against feudalism and -- which is a
3 euphemism for royalty in the - generally, in the CPK writings,
4 required them to stop giving Sihanouk the privileges that had
5 been valuable at the time of the beginning of the revolution, in
6 - in the beginning of the alliance in '70, and so forth -- very
7 important for him to be maintained for the outside world. And for
8 some people inside Cambodia, this last number has been cut way
9 back or pushed way up, depending on what your political views are
10 -- that there were millions of them or very few, we don't know.
11 But having him in the picture was not helpful to them. It looks
12 as if Sihanouk, in his request, there, at the beginning, from --
13 reported by Khieu Samphan, was terrified of being killed -- I
14 guess with justice -- and was willing to just give up all
15 responsibilities so there is no problem with him. And so Comrade
16 Secretary, Pol Pot, decided this was an appropriate way to
17 proceed with the continuing -- well, perpetual, I guess --
18 perpetual war against feudalism that the Party was always -- been
19 dedicated to.

20 [15.24.46]

21 Q. Just when you say the Comrade Secretary had decided to proceed
22 in this particular way, does that mean that this decision is
23 different from the collective decision making that you discussed
24 yesterday?

25 A. Not really. I mean, he has the overriding vote. He listens to

130

1 the discussion but then can override. He's got a veto power over
2 the discussion.

3 I'm pretty sure that people were just in the room, just waiting
4 to see what he was going to say. None of them are on record as
5 supporting Sihanouk's continuing presence, but this was a kind of
6 a prime ministerial thing to do against a former chief of state
7 as a status. You can't have a minor cabinet minister making the
8 policy, so it's appropriate. I think -- I'm sure the Standing
9 Committee agreed with all of this, there's never been any echoes
10 later on that they wanted him to play any more of an active role
11 in Cambodia.

12 [15.25.58]

13 Q. Thank you. And before we leave this topic entirely, I wish to
14 briefly look at a document dated 4 April 1976. So this is within
15 less than a month. It's another FBIS transcript. The document
16 number is E3/275, unfortunately not available in Khmer or French.
17 In English, the ERN is 00167605 and we do have a hard copy,
18 Professor. This is a different page.

19 This is attributed to Mr. Khieu Samphan. The - it is a Phnom Penh
20 Domestic Service on the 4th of April 1976 broadcast of that
21 service and is entitled "Statement of the Government of
22 Democratic Cambodia on the Request by Chief of State Norodom
23 Sihanouk for Retirement", read by deputy prime minister, Khieu
24 Samphan, presumably live.

25 I just wish to read -- in fact, if we look on the screen I will

131

1 read just below that -- just below that square:

2 [15.27.45]

3 "The Council of Ministers realizes that Samdech Norodom Sihanouk
4 is a monarch with a high sense of patriotism who has actively
5 contributed to the struggle for national liberation against the
6 most ferocious war of aggression of the US imperialists and their
7 lackeys.

8 "Part 3 of the Resolution of the National Congress dated [the] 27
9 [of] April 1975 clearly noted the good deeds of Samdech and
10 solemnly proclaimed to maintain the status of Samdech Norodom
11 Sihanouk as chief of state in the new phase of Cambodia's history
12 and in the new Cambodian society; but Samdech wishes to retire so
13 he will have time for the private life of his family after having
14 conducted political activities for 35 years."

15 And the last sentence:

16 "The Council of Ministers has expressed regret over the request
17 for retirement by Samdech Norodom Sihanouk. However, out of
18 respect for the highest wishes of Samdech, the Council of
19 Ministers has decided to approve the request for retirement."

20 [15.29.16]

21 Again, Professor Chandler, in light -- or on the basis of your
22 research and studies into these events, does this reported
23 decision of the council of ministers reflect a policy that was,
24 at the time, in place in relation to Norodom Sihanouk?

25 A. Yes, it would, if we hadn't seen the previous document. I

132

1 mean, the previous document says what the policy was going to be,
2 which was just to lock him up and: We're doing the right thing
3 not to kill him, and he's been an enemy of the state for
4 basically 35 - and of the people for 35 years.

5 It's important to know that these FBIS broadcasts, the
6 translations are - people have seen some of the original Khmer --
7 they're very good. They're very good, they were very good
8 translations, but they were targeted -- Cambodia was not full of
9 people listening to the radio. These broadcasts were targeted, to
10 a large extent, for overseas and also for -- perhaps for the
11 semi-education of cadre who might be a little bit confused about
12 Sihanouk's status. So they want to -- they don't want to make an
13 official announcement saying: We don't like him, we threw him
14 out. They have this kind of -- like a front in front of the
15 Party. It's a front announcement that's pleasing to the listeners
16 and convinces people overseas -- or attempts to convince people
17 overseas who had no access to these other documents that this is
18 a rational regime who is friendly, and, indeed, almost honouring
19 this figure who's been basically the only person most of the
20 world has ever of heard of when they think of Cambodia. So--

21 [15.31.09]

22 Yes. I mean -- that's my answer. It's a fascinating document for
23 those reasons. If you see them - see the two of them, you can see
24 - you can see what they're doing. It's interesting.

25 Q. Thank you, Professor.

133

1 And we move on now to another topic, and it is the topic of the
2 alleged policy regarding real or perceived enemies of the Party.
3 And in this section we will deal to some extent with S-21,
4 although as it is not currently part of this first trial and we
5 have been directed not to delve into great detail of the inner
6 workings, so we are focussing on the policy and the broad
7 outlines of its implementation.

8 [15.32.04]

9 Just by way of a general introduction so that we have a logical
10 place to start, could you in two minutes or less, describe for us
11 the establishment of S-21 based on your research, the time of the
12 establishment of the facility and its basic description, if you
13 could?

14 A. An institution called S-21 was established quite early in the
15 regime. I forget the exact month, it was sometime in the latter
16 part of 1975. For a while, it was situated in the psychiatric
17 hospital at Takhmau, other times in old police headquarters.
18 Its tasks as far as could be determined, although a lot of these
19 early records have disappeared, were to find and root out some of
20 the former members of the Lon Nol regime and perhaps also some
21 foreigners, minority people, some of the early traitors, things
22 like that that they just thought would not be -- but it was not
23 systematic. The records weren't kept in a systematic way.

24 [15.33.27]

25 In April '75 -- '76, which, as I said earlier, was this turning

134

1 point, this darkening shunt of the Cambodian government, that's
2 when they started to be convinced that there were enemies inside
3 the Party, particularly from the Eastern Zone, who'd been
4 responsible for some grenade explosion in Phnom Penh. There was
5 no (unintelligible) casualties.

6 And soon after that, Kaing Guek Eav, Duch, was put in command of
7 a new facility, a high school that many people in the room have
8 visited as the Tuol Sleng Museum of Genocidal Crimes. That opened
9 up in May in this former high school, and soon after that
10 prisoners began to pour in for interrogation and, as it turned
11 out, which was not -- we're not quite sure if this was true of
12 the early S-21; it certainly was of the subsequent one, the one
13 in Tuol Sleng -- for interrogation, in many cases torture -- all
14 cases interrogation, some cases torture, and all cases execution.

15 Q. Thank you.

16 [15.34.46]

17 And just a couple more questions on the facility itself. I don't
18 want to go into any great detail here, just to set the basics in
19 place. Apart from that location that you describe in a Phnom Penh
20 high school, did the facility also use any other locations? Or
21 was that the only that you've come across in your research?

22 A. That was the only one that bore that number. An affiliated
23 facility at Prey Sar was called S-24. This was a -- more of a
24 re-education facility, although some people were moved from there
25 into S-21 if they were thought to be more serious offenders than

135

1 they'd been thought to be when they were brought in.

2 Prey Sar, ironically or not, was the political prison in the Lon
3 Nol regime, so it was an existing prison facility, unlike the
4 high school at -- in Tuol Sleng.

5 Q. Now, looking your book which deals with the facility, "Voices
6 from S-21" -- and the D number for this document is
7 D108/50/1.4.6.

8 [15.36.32]

9 You discuss, among many other things, the mission of the
10 facility, and I wish to look at that passage briefly. Khmer ERN
11 is 00191845 to 46; the English ERN 00192693 to 694; and French,
12 00357277 to 278. If we could pass a hard copy to the professor?
13 And if we could also display the Khmer text on the screen for the
14 Khmer readers in Court and in the public gallery?

15 In this passage, Mr. -- Professor Chandler, you state the
16 following:

17 "The country was administered by a handful of
18 politically-obsessive men and women, many of them former school
19 teachers who saw it as their long-term duty to oversee, punish,
20 and transform the people under their control. The cadre in charge
21 of S-21, in turn, were under the surveillance of the Party Centre
22 ('mochhim pak'). Similarly concealed from you, and as members of
23 an independent regiment, they worked under military discipline."

24 A little bit further down, in the same passage, there is the
25 following -- there are the following sentences:

136

1 "Its mission was to protect the Party Centre. He had accomplished
2 this task, in part, by killing all the prisoners, and in part by
3 altering their autobiographies to align them with the
4 requirements and suspicions of the Party."

5 Professor, if I could ask you to expand on your conclusion that
6 the centre's mission was to protect the Party Centre.

7 [15.39.07]

8 How did you arrive at that conclusion? And if you could describe,
9 perhaps in more detail, what points to the mission?

10 A. I am not sure about your last phrase, "at what point in the
11 mission". What does that mean?

12 Q. I'm sorry, I probably misspoke. I just meant to say: What
13 points to the mission, what evidence and what you consider in
14 coming to that conclusion about the mission to protect the Party
15 Centre? And if we could -- if I could just remind both of us to
16 proceed slowly?

17 A. I mean, this mission shows up -- I think it was taken for
18 granted by Duch, who had already had a previous job of this in
19 the Amleang centre during the civil war. It was to protect the
20 Centre and to locate and basically sweep clean -- which is the
21 Cambodian phrase for purge -- opponents or perceived opponents
22 to the regime. Obviously, it purged some real opponents to the
23 regime, but an examination of the confessions makes it impossible
24 to tell which one -- which these people were. So you have to say
25 -- I think, generally, these were perceived opponents.

137

1 [15.40.39]

2 It was also -- a point I made in the book, that I drew from my
3 colleague Steven Heder -- I think it makes very good sense -- was
4 that one of the -- another supplementary or -- yes, purpose of
5 the place was to provide the Party Centre with a history of not
6 only opposition to the Party, but also to the -- how do you say
7 -- the extermination of that opposition on a continuous basis. In
8 other words, it's a -- it's horrible to use these images, but as
9 a kind of a cleaning mechanism, it's always in operation; your
10 opponents are always being punished; your views are always being
11 supported, and so on. This is a -- it's a guess. Nobody ever --
12 they never used it, but there are parallels with the Soviet
13 experience, so the history being the history -- the Stalin's
14 history of the Communist Party is the story of his overcoming his
15 enemies. I think this may have been a distant model, and that's
16 how they conceived history was punishing enemies.

17 [15.41.45]

18 So it was a very consistent, very deep notion that the Centre had
19 to be protected and that these people who had strayed or had
20 pushed -- or whatever word you want to use -- into S-21 -- rather
21 like Sihanouk, in a way, could never be allowed to come out of
22 that - of that institution; they couldn't go out into the street
23 and say where they'd been or what had happened to them, they had
24 to be demolished -- or smashed, as they said.

25 Q. And, considering that mission, as you - as you describe it, if

138

1 we consider the issue of re-education, which we have discussed a
2 little bit as we've gone through the various topics, in your
3 opinion, is there a relationship -- and please tell me if there
4 isn't any -- between the concepts of, on the one hand,
5 re-education and, on the other, the concept of smashing the
6 enemy.

7 A. No, there's really no direct relationship. These are two
8 procedures that were thought to be available when you were
9 confronted with a perceived enemy. If some of the evidence was
10 contradictory or ambiguous, the person was considered to be an
11 appropriate candidate for re-education. If not, it was a
12 candidate for execution.

13 [15.43.32]

14 Now, the - here's a place, interestingly enough, where the
15 Cambodians just deviated very sharply from the Chinese model that
16 they followed in so many other ways. There've been attempts to
17 pin Chinese policies onto S-21. The Chinese were relentlessly
18 concerned with re-education. This could take, in some cases, 20
19 or 30 years -- just a process. The Cambodians did very little in
20 this regard. There's very little formal re-education except
21 among, ironically perhaps, Party members, who were constantly
22 being taken to these study sessions, improved, criticized
23 themselves, apply the discipline, and become better Party
24 members. But they very - they talk about re-education, but it
25 doesn't happen at S-21 because, if it did, people would be

1 released.

2 There was some re-education, I think, at S-24. People were given
3 lectures, and they gave lectures -- they apologized. The
4 photographer from S-21 -- there was a blotch on a photograph of
5 Pol Pot, and people said he put the blotch there, but he said no
6 it's in the negative, and so he was released from S-24. Nobody
7 was released from S-21.

8 [15.44.51]

9 Q. And just focusing for a brief moment on the idea of people not
10 being released-- You said yesterday that you had interviewed some
11 of the survivors from S-21. Based on the information, data,
12 documents you've reviewed, and people you've interviewed, how
13 many survivors were there when the regime was toppled? And if
14 you're not sure in the exact terms, you can give us a range.

15 A. There seems to have been about a dozen, and some of them --
16 including some children. One of these people that's recently
17 surfaced is a middle-aged grownup. He was there as a child, a
18 child of one of the other prisoners who was killed. Many of these
19 people have passed away in recent years. I there there's -- to my
20 knowledge, there's only two survivors left. But active - active
21 survivors, about a dozen in 1979 that were - that came to the
22 surface.

23 The Vietnamese were quite assiduous in finding these people, not
24 only to provide them data about how S-21 used to work, but also
25 to provide anti-Pol Pot propaganda. And so these people were

140

1 sought out, treated fairly well, and were -- so I think, in other
2 words, we -- they located all the survivors. They were treated
3 well. The survivors came to them and were given jobs, and
4 salaries, and so forth.

5 [15.46.37]

6 Q. Now, if we take a brief look at documents discovered at S-21,
7 could you give us a brief overview of the types and volume of
8 documents discovered.

9 A. By far, the greatest proportion of documents are so-called
10 confessions. These documents were very interesting in many ways
11 for me to get voices coming out of the facility. I didn't use
12 these as evidence for genuine historical events, except, in some
13 cases, for biographical information that could be confirmed by
14 the sources.

15 But the material that is most useful, and from an analytical way,
16 were the administrative documents at the prison, including a
17 handbook of instructions, considering political work with
18 prisoners, which is a word for interrogation, study sessions that
19 were held among -- by the cadre at the - at the facility. I did
20 use, I must say, confessions by members of the staff because I
21 felt that, although most of the confessions can be assumed to be
22 a tissue of lies, it seems to me these guards, and so on, who
23 were arrested at S-21 for offences, when they confess to
24 offences, they were talking to people who knew -- probably knew
25 that these events hadn't actually occurred. So I used some of

141

1 that as information about how the place worked, confessions by
2 former employees -- or by employees who later became, by getting
3 killed, former employees.

4 [15.48.35]

5 Now, what comes through particularly -- the diaries of some of
6 the chief interrogators are very interesting, and I used them a
7 lot. This -- it will give you -- gives you a window into the way
8 these people saw their work, the way they saw the revolution, and
9 the kind of dedication they brought to their work -- which, I
10 think, a lot of this showed up in Case 001 -- I'm going to go
11 back to it. But this was a very dedicated bunch of people who
12 were in charge of this horrific but, in an odd sense, quite
13 logical operation which was to sweep clean, on a continuous
14 basis, the Party's enemies out of the -- just keep cleaning up
15 the country. I'm sorry -- the country at the top levels. These
16 were chosen people. There were - there were prisons all over the
17 country, other detention centres. A lot of this information has
18 come out after I wrote this book, but they were not -- Party
19 cadre did not get imprisoned in those places. This place is
20 pretty much limited to people who were either members of the
21 Party, or soldiers, or employees at ministries, they were
22 government or Party people at S-21.

23 Q. Thank you.

24 [15.49.58]

25 Now, because we're not concerned with the day-to-day workings of

142

1 the prison at this hearing, I won't go into a great amount of
2 detail on the documentation, other than just to ask you one
3 question. You have -- you said you have reviewed confessions.
4 Could you describe for the Court what these documents look like?
5 Are they separated into sections? Are they written, handwritten,
6 typed, how long are they, etc.?

7 A. Well, they're only about -- I've had the figure - I've had the
8 figure back in my room, actually, but it's -- I think it's like
9 -- 3,800 were found at S-21, another 300 or 400 found somewhere
10 else. We know the prison -- everybody had said for years the
11 prison held 14,000 people until Case 001, Duch said 13,478 -- so
12 around 14,000.

13 So a lot of the prisoners who went through there had two
14 alternatives.

15 They didn't produce confessions, there's some evidence that many
16 people were trucked in and trucked right out to execution sites.

17 [15.51.17]

18 Or - there are three - there are three possibilities. The second
19 is that their confession has just not been discovered, it was
20 just lost in the chaos of the late seventies.

21 And the third is that these confessions have been culled,
22 presumably by the authorities -- the PRK who found it, some of --
23 because there are Vietnamese notes on many of the confessions.
24 Vietnamese cadre, which were fluent in Khmer, went through these
25 confessions to see what was going on. They're very

143

1 historically-minded. And I'm just convinced that a lot of the
2 confessions were pulled at that stage, but we don't know which
3 ones they were, of course.

4 So, we've got 4,000 -- they're very different, in a sense that
5 the high Party cadre ones are very long. Some of them have 800 --
6 300, 400 pages, going for two or three months of interrogation.
7 Some of the minor soldiers are -- and a lot of those are
8 handwritten by the men -- mostly men -- men themselves. The
9 soldier's ones are briefer, they're usually typed. And these are
10 real falsifications, in the sense -- I couldn't have time to do
11 the -- all the work, but I found paragraphs in different
12 confessions that are absolutely identical to the typed-out --
13 just a standard kind of soldiers' confession. This is what you
14 put in and then move it forward. Pretty much -- probably the man
15 didn't say this stuff, it just got typed.

16 [15.52.43]

17 One extraordinary footnote to S-21, which I think is kind of
18 indicative of DK: I've never found a typing mistake, not a single
19 one. These typists were good and they were frightened because
20 typing mistakes would be on purpose. So the documents were very
21 neatly - neatly prepared. They're easy to read, in that sense --
22 the Khmer is not wildly complicated -- but there are a daunting
23 bunch of documents because they're -- these people don't know the
24 -- what's going to happen. They're not told what's going to
25 happen, so they're struggling to survive, and they're not told

144

1 they won't. Bas I was working, I knew every one of these people
2 had been executed, so it gave it a kind of horrible flavour to
3 study. That's all.

4 Q. And just if we can augment that very comprehensive answer with
5 a description of the form – or, rather, the structure of the
6 confessions, if there was a common structure?

7 [15.53.57]

8 A. Yes, pretty much, they started with an autobiography. The
9 autobiography would give facts about the person, his parents, his
10 birthplace, and so on; then his class origin, his class
11 relationship; then his history of activity in the Party if there
12 was such a history; then -- and this was in common with all the
13 biographies which everybody had to prepare at -- all the
14 employees prepared these same -- probably the same format in
15 their autobiographies that they presented to their -- to people
16 in charge of them.

17 Following that came two things. One is "the history of my
18 treasonous activities", and this was the actual confession where
19 they confess to various offences, which are catalogued in my
20 book. Some of the offences are wildly absurd, some are -- maybe
21 so, you don't know. And then, finally, in many confessions,
22 particularly of the important people, list of associates. And
23 this would -- long strings, they were called, "khsae", long
24 strings of people. Sometimes you get the impression that this
25 person is just spitting out all the names he knows; other times

145

1 more conscientious.

2 [15.55.12]

3 In many cases, some of these people are brought in to S-21
4 because they had been -- I think the rule was it was - it showed
5 up in one of the interviews. Oh, gosh. There was three -- if you
6 were cited in three confessions, there's authority to go out to
7 wherever you are and pull you in -- if three people named this
8 person. So what you find, obviously, if it's the -- the closer
9 you get to the centre of the Party, the more and more duplication
10 you get. So the thing rolls up out of - out of control. But
11 that's a -- not a -- they didn't predict this.

12 So, generally, these things are fairly standard format.

13 Now, often in one or two sessions -- now, the important people --
14 people like Vorn Vet and Koy Thuon and some of these people --
15 they were interrogated for days on end and produced a confession
16 that was then put aside, and the people could -- now tell us the
17 right story. Oh! So the person would write out another story that
18 he thought might meet the requirements. No, no, now a third; we
19 really want the truth. Another 50 pages contradicting the
20 preceding. And so they really felt they were getting toward a
21 true story, and actually what they were getting -- I would just
22 say, what they were getting, a document from a person who was
23 just getting completely -- had no sense of what was wanted or
24 what the truth was, even.

25 [15.56.45]

146

1 Q. Thank you.

2 MR. PRESIDENT:

3 Thank you, all parties.

4 The time is now appropriate to adjourn for the day.

5 However, the Chamber needs some time to consult with--

6 (Short pause)

7 Thank you, parties.

8 The time is now appropriate to adjourn for the day. However, the

9 Chamber needs some time to discuss with parties involved

10 concerning the schedule for examination of Professor David

11 Chandler. And in addition, we observe that Professor David

12 Chandler has made his level best to respond to all the questions

13 put to him. And in order to ensure that he can continue to

14 provide his testimony before us, we should adjourn a bit earlier.

15 But we would like to inform Professor David Chandler that the

16 examination of your testimony is not yet concluded. So we would

17 like to invite you to come to testify again tomorrow.

18 [15.58.32]

19 And court officer is instructed to arrange the transport and the

20 accommodation for Professor Chandler. And please have him back

21 before 9 o'clock in the morning. Then, Professor, you may now be

22 released for the day, and we will resume the examination tomorrow

23 morning, from 9 o'clock.

24 Is there an issue from the Prosecution? You may raise that.

25 MR. ABDULHAK:

147

1 Mr. President, I apologize sincerely for interrupting. It is just
2 because we are about to release Professor Chandler that I just
3 wanted to make two requests in relation to documents that we
4 would like him to review before tomorrow, simply to ensure that
5 everybody is prepared.

6 And if I may, Professor, if you could -- to the extent that
7 you're able to -- review the annotations on the set of confession
8 you were given by the Prosecution, and if you're able to consider
9 the sources on the status of Mr. Khieu Samphan in relation to the
10 Central Committee. That was one of the issues that we discussed,
11 and you were not able to recall the sources you relied upon.

12 [16.00.10]

13 I do apologize, Mr. President; I just wanted to make sure we got
14 those points across before the professor leaves.

15 MR. PRESIDENT:

16 Yes, Mr. -- Professor Chandler, you may now leave the room.

17 (Witness exits courtroom)

18 Now, I would like to ask the Prosecution as to how much time do
19 you anticipate to put question to Professor David Chandler.

20 MR. ABDULHAK:

21 Mr. President, I believe we need between one and a half and two
22 hours tomorrow. I'm more than happy to conclude in less than two
23 hours. I'm very apprehensive about giving an exact estimate,
24 because we haven't asked the questions, but if one and a half to
25 two hours could be allocated to us, we would be most grateful.

148

1 [16.01.37]

2 MR. PRESIDENT:

3 Thank you.

4 How about the civil party Lead Co-Lawyers?

5 MS. SIMONNEAU-FORT:

6 Yes, Mr. President. Thank you for this question. Well, by saying
7 five hours I might have been a bit ambitious. I think three or
8 three and a half hours should suffice. Thank you. But -- three,
9 three and a half hours is a minimum, I should also say.

10 MR. PRESIDENT:

11 Thank you.

12 After having heard of the request by the Prosecution and the
13 civil party Lead Co-Lawyers, the Chamber now decides that the
14 first half of the morning session is granted to the Prosecution,
15 and the second half of the morning session will be awarded to the
16 civil party Lead Co-Lawyers.

17 [16.03.12]

18 The reason is that we have spent a lot of time on various issues
19 yesterday and this morning, so this shall be the most reasonable
20 decision for the time to be given to the parties.

21 It is now appropriate for us to adjourn for the day, and we
22 adjourn now. And we will resume the proceedings tomorrow morning
23 on the 20th of July 2012, from 9 o'clock in the morning. The
24 proceedings will begin with the Prosecution continuing their
25 questioning to the expert, David Chandler, to be followed by

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1 civil party Lead Co-Lawyers.

2 Security guards are now instructed to take the accused persons to
3 the detention facility and return them by 9 o'clock.

4 Yes, Mr. Karnavas, you may proceed.

5 MR. KARNAVAS:

6 Thank you, Mr. President. Just a point of clarification. It would
7 appear, then, that the civil parties only have the rest of the
8 morning session, and not the afternoon -- at least that's how it
9 came across on the English translation. So I assume that you
10 meant the rest of the day, but I'm not here to challenge you. But
11 I'm just pointing that out.

12 [16.04.33]

13 MR. PRESIDENT:

14 Two parties will put questions to the expert tomorrow. The first
15 one is the Prosecution, who will take the first half of the
16 morning session, and the second half of the morning session and
17 the afternoon session will be provided to the civil party Co-Lead
18 Lawyers. The defence teams will commence their question to the
19 expert on Monday next week.

20 THE GREFFIER:

21 (No interpretation)

22 (Court adjourns at 1605H)

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