



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

ព្រះរាជាណាចក្រកម្ពុជា  
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង  
Trial Chamber  
Chambre de première instance

**ឯកសារដើម**  
**ORIGINAL/ORIGINAL**  
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TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

3 October 2012  
Trial Day 114

Before the Judges: NIL Nonn, Presiding  
Silvia CARTWRIGHT  
YA Sokhan  
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**List of Speakers:**

Language used unless specified otherwise in the transcript

<b>Speaker</b>	<b>Language</b>
MR. ABDULHAK	Khmer
JUDGE CARTWRIGHT	English
MS. GUISSÉ	French
MR. IANUZZI	English
MR. KONG SAM ONN	Khmer
MR. MEAS VOEUN (TCW-428)	Khmer
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. PICH ANG	Khmer
MR. SENG RETHY	Khmer
MS. SIMONNEAU-FORT	French
MR. VENG HUOT	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 we informed the parties yesterday, today the greffiers of the

6 Trial Chamber will read the relevant remaining portions of the

7 facts as part of the Case 002/01, segment 3.

8 Before I hand the floor to Ms. Se Kolvuthy to continue reading

9 those paragraphs, Ms. Se Kolvuthy, could you report the

10 attendance of the parties and individuals to this proceeding?

11 THE GREFFIER:

12 Mr. President, all parties are present except the accused Ieng

13 Sary, who is absent due to his health issue. However, the Accused

14 requests to waive his direct presence in hearing the testimony of

15 TCW-428.

16 [09.03.48]

17 This witness, TCW-428, will be heard by the Trial Chamber today,

18 and this witness will be available from 10 a.m. this morning and

19 will swear - or take an oath by then.

20 MR. PRESIDENT:

21 Thank you.

22 The floor is now given to Ms. Se Kolvuthy to read out the

23 paragraphs as assigned to you, to continue reading from where you

24 left off yesterday -- the paragraphs from 113 to 149, 156 to 165,

25 and 221 to 227 that have been assigned to you to read out.

1 You may proceed.

2 THE GREFFIER:

3 Zone Armies.

4 [09.05.08]

5 Paragraph 133. The second primary branch of RAK was the zone  
6 armies, usually organized as divisions. Despite being ultimately  
7 under the command of the Centre, they were integrated into the  
8 zone administration. Their tasks were closely connected to their  
9 zone, including territorial defence as well as internal security.  
10 Zone armies of zones bordering Thailand and Vietnam were heavily  
11 involved in the fighting occurring at these borders. Below  
12 division level, districts also maintained local forces on  
13 battalion level.

14 Militia.

15 Paragraph 134. The third pillar of the armed forces was the local  
16 militia, also referred to as the guerrilla forces.

17 Paragraph 135. Militia troops lived among the people in the  
18 villages and performed duties related to local security. Among  
19 these duties were arrests and killings, but also more clearly  
20 military-related duties such as preparations for the defence of  
21 the villages and cooperatives. The militias directly reported to  
22 the village, sub-district or district committees and were called  
23 on by the civil administration to perform security tasks.

24 [09.06.56]

25 Communication/Reporting.

1 Paragraph 136. RAK had a hierarchical command structure that was  
2 reflected by its communication structure. Reports were collected  
3 inside the divisions and then transmitted to the Centre level  
4 command bodies, these being the General Staff. Commands were  
5 issued via the same lines of communication. Central command  
6 transmitted its orders to the divisions, where they were further  
7 sent to lower level commanders that carried them out.

8 Communication Between Divisions and Centre.

9 Paragraph 137. Communication between the divisions and the Centre  
10 was continuous, with several contacts every day. The Centre  
11 command level regularly communicated with divisions and relied on  
12 the divisions to forward its commands to lower-level units.  
13 Important decisions on the division level were to be taken by the  
14 Centre command bodies. Divisions sent reports to the Centre  
15 command bodies on a regular basis, usually reporting on military  
16 engagements, discoveries of internal enemies, and other matters.

17 [09.08.38]

18 Paragraph 138. Communication was facilitated by various means.

19 One of the most common communication lines was via radio and  
20 telegraph lines, including oral communication as well as  
21 messages. To this end, the General Staff as well as the  
22 individual divisions maintained radio and telegraph units.

23 Messages sent and received by RAK were encoded.

24 Paragraph 139. Messengers were also frequently used to transport  
25 messages. Individual divisions had messenger units to provide

1 these services.

2 Paragraph 140. Communication between the General Staff or the  
3 Military Committee on the one side and individual divisions on  
4 the other side was frequently forwarded to members of the Central  
5 Committee.

6 [09.09.40]

7 Paragraph 141. Another common means to communicate between the  
8 Centre command bodies and the divisions was via in-person  
9 meetings. Meetings ranged from smaller gatherings to large  
10 rallies. Examples for larger meetings are the meetings conducted  
11 before the final attack on Phnom Penh and before the purge of the  
12 Eastern Zone. Large rallies often included speeches by senior CPK  
13 functionaries. Some witnesses report that military meetings were  
14 held at the Olympic Stadium of Phnom Penh for commanders of units  
15 from the battalion level upwards, chaired by Son Sen.

16 Communication Inside the Divisions.

17 Paragraph 142. Inside the divisions, communication followed the  
18 command structure, with commanders usually communicating with  
19 their direct superiors and subordinates. Commanders reported to  
20 their superiors on various matters and received orders from them.  
21 Every (sic) communication was often carried out through the use  
22 of portable radios, although messengers, telegrams, and meetings  
23 were also used.

24 Discipline.

25 Paragraph 143. RAK imposed upon its troops and commanders a

1 disciplinary regime that provided for different means of  
2 monitoring and punishment.

3 [09.11.32]

4 Paragraph 144. Criticizing and self-criticizing sessions were  
5 held in military units where troops were expected to criticize  
6 their mistakes and also implicate their comrades. This technique  
7 of control and discipline was also used in meetings organized by  
8 the General Staff.

9 Paragraph 145. Where bad conduct was detected, several forms of  
10 punishment were used to discipline troops. Besides punishments  
11 inside the military units themselves, troops would be sent to  
12 re-education or worksites or were killed. Commanders that  
13 disobeyed orders or were considered traitors were arrested and  
14 subsequently killed. For purposes of interrogation and arrest of  
15 alleged traitors, RAK units either used installations of the  
16 Centre, like S-21, or their own security offices.

17 Participation of RAK in Purges.

18 Paragraph 146. As part of its responsibility for internal  
19 security, RAK carried out purges under the orders of the CPK  
20 Centre.

21 [09.13.09]

22 Paragraph 147. During the official July 1975 RAK gathering the  
23 Chairman of the High-Level Military Committee of the Party  
24 declared that the Revolutionary Army must defend the country  
25 against "internal enemies", whom he instructed it was the

6

1 Revolutionary Army's duty "to continue to smash". During RAK  
2 meetings of secretaries and deputy secretaries of divisions and  
3 independent RAK regimes (sic), the measures discussed including  
4 (sic) purges of "no good elements".  
5 Paragraph 148. Duch explains that in the period immediately after  
6 17 April 1975, in the absence of any Centre security organ,  
7 orders to execute ex-Khmer Republic officers and others who were  
8 considered enemies were carried out by military personnel  
9 answering to zone secretaries, who received their orders from the  
10 Standing Committee. Zone units entering Phnom Penh and by zone  
11 and subordinate units entering other towns, such as Pursat, in  
12 the Northwest Zone, carried out executions. Involvement by zone,  
13 sector and district military forces in local executions continued  
14 in some parts of the country throughout the regime. This was the  
15 case at the West Zone Sector 37 and Prey Nob District Security  
16 Complex at Kaoh Kyang, the autonomous Sector 105 Security Complex  
17 at Phnom Kraol, in Kaoh Nheaek, and the Prey Damrei Srot District  
18 Security Complex in Kampong Tralach Leu district (12) of West  
19 Zone Sector 31.

20 [09.15.22]

21 Paragraph 149. According to one witness, the decision to carry  
22 out purges within the military ranks was made by the Standing  
23 Committee, with Son Sen acting on the orders of Pol Pot, Nuon  
24 Chea, and Ta Mok". He also referred to the existence of a purge  
25 "planning meeting of the Standing Committee which comprised Pol

1 Pot, Nuon Chea, and Ieng Sary". The same witness reports that the  
2 purge orders were conveyed at a meeting of military commanders  
3 convened by Pol Pot, Nuon Chea, Ta Mok, and Son Sen.

4 Section VII. Factual findings of joint criminal enterprise.

5 Paragraph 156. The common purpose of the CPK leaders was to  
6 implement rapid socialist revolution in Cambodia through a "great  
7 leap forward" and defend the Party against internal and external  
8 enemies, by whatever means necessary.

9 [09.16.37]

10 Paragraph 157. To achieve this common purpose, the CPK leaders  
11 inter alia designed and implemented the five following policies:  
12 the repeated movement of the population from towns and cities to  
13 rural areas, as well as from one rural area to another; the  
14 establishment and operation of cooperatives and worksites; the  
15 re-education of "bad-elements" and killing of "enemies", both  
16 inside and outside the Party ranks; the targeting of specific  
17 groups, in particular the Cham, Vietnamese, Buddhists, and former  
18 officials of the Khmer Republic, including both civil servants  
19 and former military personnel and their families; and the  
20 regulation of marriage.

21 Paragraph 158. The common purpose came into existence on or  
22 before 17 April 1975 and continued until at least 6 January 1979.  
23 The five policies designed to achieve this common purpose were  
24 implemented within or before these dates. These policies evolved  
25 and increased in scale and intensity (sic) throughout the regime.

1 One of the consequences of these policies was the  
2 collectivisation of all aspects of society. This collectivisation  
3 involved the suppression of markets, currency, and private  
4 property, the prohibition of peoples' freedom of movement, and  
5 generally forcing everyone to live in communal units according to  
6 their categorisation. This resulted in the implementation of a  
7 system which Cambodians have subsequently described in the  
8 following way: the entire country had become a "prison without  
9 walls".

10 [09.19.08]

11 Paragraph 159. The persons who shared this common purpose  
12 included, but were not limited to: members of the Standing  
13 Committee, including Nuon Chea and Ieng Sary; members of the  
14 Central Committee, including Khieu Samphan; heads of CPK  
15 ministries, including Ieng Thirith; zone and autonomous sector  
16 secretaries; and heads of the Party Centre military divisions.  
17 Movement of the population.

18 Paragraph 160. One of the five policies was to implement and  
19 defend the CPK socialist revolution through the movement of the  
20 population from towns and cities to rural areas, as well as from  
21 one rural area to another, by whatever means necessary. The  
22 movement by the CPK of people began prior to 17 April 1975 and  
23 continued until at least 6 January 1979. The Co-Investigating  
24 Judges were specially (sic) seized of three major phases of  
25 movement: the movement of people out of Phnom Penh (Phase 1); the

1 Central (Old North), Southwest, West and East Zones (Phase 2);  
2 and the East Zone (Phase 3).

3 [09.20.39]

4 Paragraph 161. One of the objectives of the population movements  
5 was to fulfil the labour requirements of the cooperatives and  
6 worksites. The CPK declared that it also had the objectives of  
7 providing food supplies to the population and protecting it from  
8 security threats. A CPK Party document dated September 1975  
9 reflects another major objective: to deprive city dwellers and  
10 former civil servants of their economic and political status and  
11 transform them into peasants, thus "preserving the revolutionary  
12 achievements". Population movements were therefore a key means  
13 used by the CPK to achieve "whatever can be done that is a gain  
14 for the revolution".

15 Dates and Participation.

16 Paragraph 162. Prior to 1975, the CPK had implemented a policy of  
17 removing people from the towns and cities that came under their  
18 control: people were moved totally or partially from urban areas  
19 in Stung Treng, Kratie, Banam, and Udong, in the Northeast, North  
20 and East Zones, and Sector 505. Publications of the  
21 "Revolutionary Flag" reflect that the CPK deliberately moved the  
22 population from urban to rural areas.

23 Paragraph 163. This policy was implemented, in particular, on or  
24 around 17 April 1975 (Phase 1); from the latter part of 1975  
25 until sometime in 1977 (Phase 2); and from late 1977 throughout

1 1978 (Phase 3).

2 [09.22.57]

3 Paragraph 164. With respect to Phase 1, Pol Pot played a key role  
4 in the decision to move the entire population out of Phnom Penh.

5 The plans to prepare the reception of the residents of Phnom Penh  
6 were disseminated before its implementation. There was further  
7 involvement of members of the Party Centre in the development of  
8 this plan during meetings in late March or early April 1975.

9 These were followed by meetings during which lower level cadre  
10 were informed of the decision. Some CPK soldiers were informed of  
11 the attack on Phnom Penh in advance, generally via their military  
12 superiors in accordance with the command structure, however,  
13 others only received the order to remove people from the capital  
14 shortly after their arrival. The evacuation of the population of  
15 Phnom Penh was not a singular phenomenon but constituted part of  
16 a wider pattern of population movements from cities after 17  
17 April 1975.

18 Paragraph 165. With respect to Phase 2, the plan to send people  
19 to the North and North West Zones is evidenced from a visit of  
20 the CPK Standing Committee to that area before or around August  
21 1975. This visit gave rise to the following report: "The labour  
22 force must be increased. Three or four hundred thousand more  
23 would not be enough. The current strength of one million persons  
24 can only work 50 per cent. It's imperative to add four or five  
25 hundred thousand more". A September 1975 Party document stated

1 that "New People" needed to be relocated out of areas where  
2 temporary over-concentrations of them had resulted in food  
3 shortages. The document specifies that a permanent solution to  
4 this problem had to be effected starting in November 1975 and  
5 adjusted to production requirements. Witnesses and documents  
6 provide further evidence as to how the CPK Centre was involved in  
7 these movements. Telegram number 15 dated November 1975 sent to  
8 Pol Pot describes a decision of the CPK Centre regarding Phase 2  
9 of the movement of population. The former head of the Central  
10 Zone Telegram Unit (formerly the North Zone) explains that the  
11 East Zone "had to send the report from the Zone to Pol Pot of the  
12 Centre level first, and then waited for Pol Pot instruction. KE  
13 Pauk [Secretary of the Central Zone (formerly the North Zone)]  
14 received this telegram from the Centre, not directly from the  
15 East Zone".

16 [09.26.42]

17 Movement of the population.

18 Movement of the population from Phnom Penh (Phase 1).

19 Pre-1975 Situation.

20 Paragraph 221. Between 1970 to 1975, the population of Phnom Penh  
21 greatly increased to several million due to internally displaced  
22 people coming to the city from the countryside seeking protection  
23 from the conflict.

24 Paragraph 222. Health service personnel and facilities were of  
25 decreased capacity during this period and services were less

1 available in the countryside than in the cities, largely due to  
2 the on-going conflict between CPK forces and the Lon Nol regime.  
3 Hospitals in the capital were overcrowded and of varying quality.  
4 Health represented under 3 per cent of the national budget at the  
5 end of 1974, compared to 5.7 per cent in 1968.

6 Paragraph 223. Although hunger and malnutrition were matters of  
7 concern during the conflict period prior to 1975, there are no  
8 reports of widespread famine or epidemic risks. This was largely  
9 due to foreign agencies supporting the population, although the  
10 ability to assist affected communities decreased as the  
11 insecurity grew.

12 [09.28.40]

13 Departure.

14 Paragraph 224. With the entry of CPK troops in the capital, the  
15 population of Phnom Penh was made to depart the city, from the  
16 morning of 17 April 1975, continuing for several weeks, including  
17 during the evening hours. Persons generally departed from their  
18 family homes located throughout the city.

19 People Moved.

20 Paragraph 225. The persons made to leave Phnom Penh were  
21 predominantly civilians, including men, women, the elderly,  
22 children, and monks. Doctors and nurses were also made to leave;  
23 as well as hospital patients, wounded and sick people, and  
24 mothers who had just given birth. Entire families were made to  
25 leave Phnom Penh, although frequently family members were

1 separated from each other.

2 [09.29.50]

3 Paragraph 226. The precise number of persons who were made to  
4 leave Phnom Penh is unclear, although the total figure is likely  
5 to be 1.5 to 2.6 million people. Witnesses refer to seeing masses  
6 of people travelling in the streets and that the entire city was  
7 emptied of people. Before 17 April 1975, the CPK claimed that the  
8 population in Phnom Penh and other areas controlled by the enemy  
9 was around 1 million. After 17 April 1975, the CPK officially  
10 estimated that the total number of persons moved from Phnom Penh  
11 was 2 million. Later the CPK put the number of persons moved from  
12 Phnom Penh and provincial capitals at around 3 million (although  
13 the same figure of 3 million was sometimes also cited for the  
14 population moved from Phnom Penh alone, including by -- alone).  
15 In 1977, the CPK changed their estimation of total number of  
16 people moved to 4 million.

17 [09.31.23]

18 Initial Destination.

19 The civilian population left Phnom Penh by the national roads in  
20 all directions: north, south, east, and west of the city. In  
21 general, people were not provided with directions nor informed of  
22 the final destination other than to go to rural areas or to their  
23 birth place or home village. On occasion CPK troops made people  
24 change their route. The evidence shows that the people left Phnom  
25 Penh for most of the zones in Cambodia. The local communities

14

1 were often instructed to receive the newly arriving population  
2 and provide food and shelter, although it was generally not  
3 sufficient for the number of arrivals. In other cases, the  
4 civilian population from Phnom Penh was either housed in halls or  
5 had to establish their own accommodation. Some people became ill  
6 from the journey from Phnom Penh or from the conditions on  
7 arrival. The people who had originated from Phnom Penh were  
8 identified as "New People" or "17 April People" or "Deposittee  
9 People" and were often targeted on arrival based on their  
10 identity.

11 [09.33.12]

12 MR. PRESIDENT:

13 Mr. Dav Ansan, please continue on reading from paragraphs 228 to  
14 273 and 274 to 281.

15 THE GREFFIER:

16 Means and Method of Movement.

17 Means.

18 Paragraph 228. The persons enforcing the movement of the  
19 population from Phnom Penh were identified by the witnesses as  
20 "Khmer Rouge" troops. They were described by wearing black or  
21 black (sic) clothes, some with scarves or kramas around their  
22 necks. The "Khmer Rouge" troops were often armed.

23 Paragraph 229. The troops made announcements, generally over  
24 loudspeakers or megaphones, that the population had a limited  
25 time period to leave Phnom Penh. In some instances the CPK troops

1 were reported to have had lists of names and were allocated  
2 specific areas of the capital to supervise the movement of the  
3 population.

4 [09.34.38]

5 Paragraph 230. Various contingents of the CPK army were  
6 identified as implementing the Phnom Penh population movement,  
7 namely the North Zone forces (including Division 1 under  
8 Commander [Redacted]), the Southwest Zone forces, the Special  
9 Zone forces, and the East Zone army; and witnesses report that  
10 the units had differing attitudes towards the population.

11 Paragraph 231. People did not resist the instruction to leave  
12 Phnom Penh. According to certain witnesses, there was no  
13 particular violence on the part of certain CPK troops. However,  
14 most witnesses state that the CPK troops engaged in threats and  
15 the use of force to ensure people left their homes. Witnesses  
16 reported hearing gunshots.

17 Paragraph 232. Other witnesses state that the CPK troops shot  
18 people dead if they refused to leave their homes. Civilians were  
19 also shot in the cross-fire targeting Lon Nol soldiers. Some  
20 witnesses reported seeing dead bodies in the streets of Phnom  
21 Penh. Others stated that the CPK troops were instructed to do  
22 whatever was needed to ensure people left Phnom Penh.

23 [09.36.32]

24 Paragraph 233. Ill treatment and acts of violence, such as  
25 beating and shooting in the air, were also reported against the

1 civilian population. There are reports that personal property was  
2 taken by the CPK troops from Phnom Penh inhabitants.  
3 Paragraph 234. With respect to Lon Nol soldiers, some were  
4 reportedly disarmed by CPK troops and in some instances made to  
5 leave the city with the civilian population. On other occasions,  
6 it is reported that Lon Nol soldiers were identified by  
7 questioning and taken away separately from the people leaving the  
8 city. There was an announcement in advance that "Angkar" would  
9 forgive all the people from the former regime except seven high  
10 level officials and that the CPK soldiers requested former Lon  
11 Nol soldiers, governmental officials and police officers to  
12 report for work for the Party, however these individuals were  
13 then taken away to an unknown location before disappearing.  
14 Paragraph 235. Some Lon Nol soldiers were shot if they refused to  
15 lay down their arms or showed any resistance. In particular there  
16 is a written order signed by Comrade [Redacted] ordering a list  
17 of Lon Nol officers be "smashed" and one witness states that Son  
18 Sen ordered the arrest of high-ranking civil servants of Lon Nol  
19 regime, including those in hospital. These people were later  
20 killed and thrown into a well in the Tuol Kork area. Witnesses  
21 refer to seeing executions of Lon Nol soldiers and seeing dead  
22 bodies of Lon Nol soldiers in the streets.  
23 [09.38.53]  
24 Methods.  
25 Paragraph 236. Witnesses do not refer to being provided with

1 transport other than limited reference to the use of military  
2 trucks. Most people travelled on foot, others drove or pushed  
3 their cars or other vehicles, including scooters or motorbikes  
4 and bicycles or "cyclos". In some instances boats were also used.  
5 Paragraph 237. The CPK troops told people not to take many  
6 personal belongings, in some cases specifying it was not  
7 necessary because they would be leaving for a short period of  
8 time, and in others specifying that it was not possible to take  
9 items with them since people had to leave quickly. Most people  
10 left their personal belonging inside their houses. For people who  
11 were carrying their personal belongings, there was no evidence of  
12 assistance provided to them. People carried items on their hands  
13 (sic) or shoulders, in carts or in their vehicles. People took  
14 with them items such as rice, money, medicine, school books, and  
15 clothing and they were also assisting those who were sick and  
16 elderly.

17 [09.40.40]

18 Paragraph 238. There is some evidence that food or other forms of  
19 support were provided to the population during the journey from  
20 Phnom Penh. There is evidence that certain CPK troops provided  
21 some rice for the people to eat, although some of these witnesses  
22 also report having to drink dirty water from ponds along the way  
23 and that the CPK cadre noted the names of those who received food  
24 and the names of those who did not want to continue travelling.  
25 Two witnesses state that they did not see people starving during

1 the population movement from Phnom Penh.  
2 Paragraph 239. There is no evidence of the CPK troops providing  
3 security or protection to the population along the way. People  
4 had no shelter along the way and slept on mattresses on the road,  
5 in empty houses and under trees. People were not provided with  
6 food or water. One witness refers to being denied permission by  
7 the "Khmer Rouge" to obtain food. Otherwise, the only food  
8 available was steamed rice. Some people had to travel through the  
9 night with no rest for several days. People developed swollen  
10 limbs from the long walk, and there are reports of deaths  
11 attributable to the conditions. There is no evidence of the  
12 population receiving any medicine. Some CPK troops took property  
13 from people as they travelled from Phnom Penh.

14 [09.42.36]

15 Paragraph 240. Witnesses refer to seeing corpses, along the road,  
16 of people who had been shot dead. People were killed along the  
17 road for small things such as not wanting to abandon their  
18 bicycles. Although some witnesses state that they did not see any  
19 mistreatment by CPK soldiers against civilians or they did not  
20 see anyone die along the road, Ieng Sary states that 2,000 to  
21 3,000 people died during the evacuation of Phnom Penh.

22 Return to Phnom Penh.

23 Paragraph 241. One witness states the CPK would threaten people  
24 that they would be shot if they returned to Phnom Penh. Nuon Chea  
25 stated that the intention was to permit people to return to Phnom

1 Penh, and Ieng Sary stated in May 1977 that the cities were  
2 re-populated after the initial movement to the countryside,  
3 however-- and that people could choose to return to the city if  
4 they wished or could remain in the countryside. However, although  
5 there was indication that in rare circumstances some people were  
6 sent back to Phnom Penh to work, the city was largely empty of  
7 people except for limited numbers of soldiers and cadres until  
8 the fall of the CPK regime. According a statement by Pol Pot at a  
9 meeting on the 6th of June 1976, the population of Phnom Penh was  
10 then "more than 100,000". As of April 1977, this included 43,810  
11 provided rations by the General Staff.

12 [09.45.07]

13 Reasons Given to the Population for the Movement.

14 Paragraph 242. During the movement of the population from Phnom  
15 Penh, the people were often told by the CPK troops that they  
16 would only be away from their homes for a short time of two or  
17 three days, or up to a week or two.

18 Paragraph 243. In addition, several witnesses state that the CPK  
19 troops told them that it was necessary to leave Phnom Penh for  
20 their personal security and so that the troops could identify or  
21 eliminate Lon Nol soldiers, or otherwise find the enemy. There  
22 was also reference to the anticipated American bombing of the  
23 city, although there are also indications that some people  
24 present did not believe this. There is also reference to  
25 justifications for the movement of people from the city because

1 CIA agents intended to destroy (sic) spies to launch a  
2 counter-attack.

3 Paragraph 244. Witnesses were further told that it was necessary  
4 to remove people from Phnom Penh to organise and clean up the  
5 city, such as clearing away the ammunition.

6 [09.46.40]

7 Paragraph 245. Certain political justifications were also  
8 provided: some witnesses state that they were told by -- that  
9 "Angkar" was waiting for them and they were needed to build the  
10 rural economy, to build dams, canals, and work in the rice  
11 fields; and that the only persons authorised to remain in the  
12 city were members of the military working there. Others have also  
13 referred to the food shortages in Phnom Penh as a reason for the  
14 population movement and that food was supposedly more plentiful  
15 in the countryside.

16 Paragraph 246. These justifications referred to in the evidence  
17 of witnesses have been echoed in statements made by the Charged  
18 Persons. Ieng Thirith was (sic) referred generally in an  
19 interview she--

20 [09.47.53]

21 Paragraph 47 (sic). Ieng Sary has stated in an interview with a  
22 journalist in 1975, as reiterated at a conference in 1978, that  
23 the primary reason for the population movement was food. He  
24 states that initially it was thought that there were 2 million  
25 people in Phnom Penh, however it was later discovered that the

1 population of the city was actually 3 million. He states that  
2 prior to the CPK regime, Cambodia had received between 30 to  
3 40,000 tons of food a month from the United States and that the  
4 CPK did not wish to ask the international community for aid, but  
5 that the CPK would have been unable to transport food from the  
6 countryside to the cities. Khieu Samphan has also stated in a  
7 radio interview in 2007 that the population was starving at the  
8 time, but conceded that there was not enough food in the  
9 countryside either; so people ate bananas with rice or manioc and  
10 only limited food aid was delivered from the allies of the CPK.  
11 However, in a prior statement, Khieu Samphan asserted that any  
12 government recently out of war would have faced the problem of  
13 starvation and he asserted that after moving people out of Phnom  
14 Penh, people had enough food in cooperatives.

15 [09.49.42]

16 Paragraph 248. The Charged Persons have also referred to the  
17 ideology of the regime as a justification for the population  
18 movement. In the face of the food crisis, Nuon Chea has asserted  
19 that the objective of the regime was to remain independent and  
20 sovereign. Khieu Samphan has also stated that Pol Pot did not  
21 want to live under the control of foreigners. The movement of  
22 people from the cities into the countryside has also been  
23 referred to by Nuon Chea as a component of the socialist  
24 revolution. Ieng Sary has stated that the objective was to  
25 transform the uninhabited quarters of the city into industrial

1 sites. He also stated that it was necessary to train the people  
2 from the cities to endure moral and physical sufferings through  
3 hard labour. One witness refers to Ta Mok stating that it was  
4 viewed as not necessary to have markets or cities and that all  
5 the city population were to go to rural areas to build the rural  
6 economy. Duch states in interview that the CPK objectives were to  
7 turn the whole country into peasants, abolish privatisation, and  
8 to force the technicians to do farming so as to make them  
9 powerless and dependent on peasants. CPK-era documents state that  
10 re-education was not deemed possible on a large scale and so it  
11 was necessary to "evacuate" people to the rural areas to stop  
12 "uncontrollable ideological contamination of the revolutionary  
13 ranks" and to participate in the movement to increase production,  
14 sustain the population, and contribute to defending and building  
15 the country.

16 [09.52.03]

17 Paragraph 249. Finally, with respect to security concerns, Nuon  
18 Chea has stated that it was necessary to move the people from  
19 Phnom Penh to facilitate the military defence of the country from  
20 Vietnam to protect the people from war. Ieng Sary referred to a  
21 secret document allegedly obtained from the CIA concerning plans  
22 to infiltrate the city. Khieu Samphan referred to the perceived  
23 need to make the country strong to fight the enemy. CPK-era  
24 documents state that if the population had not left the cities,  
25 the enemies might have been able to launch surprise attacks from

1 behind.

2 Planning.

3 Paragraph 250. Prior to 1975, the CPK had implemented a policy of  
4 removing people from the towns and cities that came under their  
5 control: people were moved totally or partially from urban areas  
6 in Steung Treng, Kratie, Banam, and Udong.

7 [09.53.18]

8 Paragraph 251. According to some witnesses, the decision to move  
9 the population from Phnom Penh was made in February 1975 and was  
10 a deliberate plan of the CPK senior leaders. According to a  
11 former East Zone cadre, this decision was followed in February  
12 1975 by orders from Pol Pot that all districts and sectors should  
13 prepare by building houses to receive people from Phnom Penh.

14 Paragraph 252. One witness explained that in early April 1975 a  
15 meeting took place at Pol Pot's office in Tang Poun village,  
16 Kampong Tralach (Leu) district, Kampong Chhnang province, which  
17 was focused on the plan to move the population from Phnom Penh.  
18 Although there was no official record taken of the meeting, Nuon  
19 Chea and Khieu Samphan each participated in the meeting and took  
20 their own notes. The commanders were told to "set up meetings  
21 when they returned to their sectors and make plans to evacuate  
22 the people from the cities under their responsibilities. This  
23 information was subsequently published in the 'Revolutionary  
24 Flag' and the '[Kampuchean] Front Flag' and was issued to all  
25 Party members" (although there is no known existing record of

1 such publications).

2 [09.55.07]

3 Paragraph 253. An additional witness refers to a coordination  
4 meeting prior to 17 of April 1975 to which all the CPK commanders  
5 of his unit (then the North Zone Division 1, later Centre  
6 Division 310) were invited as reported to him by [Redacted], the  
7 commander of his Battalion. Another witness states that about one  
8 month before the entry into Phnom Penh, a meeting was held in  
9 Phnom Sar (the headquarters of the CPK military command of  
10 Kampot). The Chief of Staff - [Redacted] - of the Southwest Zone  
11 Sector 35 chaired the meeting, and the Southwest Zone Secretary  
12 Ta Mok stated that it was not necessary to have markets or cities  
13 and that all people must be evacuated from the cities to the  
14 rural areas in order to build the rural economy in two days after  
15 occupying the city.

16 Paragraph 54 - 254, rather. Some witnesses state that Sam Bit,  
17 Commander of Division 2 of the Southwest Zone, attended a meeting  
18 in (sic) upper-echelon CPK members where it was said that Phnom  
19 Penh had to be evacuated to find Lon Nol elements. This  
20 information was then disseminated from this meeting down to the  
21 regimental and battalion levels.

22 [09.57.03]

23 Paragraph 255. Former low-level CPK cadres also state that they  
24 were informed in advance of the plan to remove the people from  
25 Phnom Penh. One CPK soldier was told that "Angkar" had a plan to

1 evacuate the people to their birth districts. Another witness  
2 states that North Zone Division 1 Secretary [Redacted] made an  
3 order to his group regarding the movement of the population about  
4 three days before "liberation", whereas another former soldier  
5 also refers to being informed by [Redacted] three days before the  
6 attack on Phnom Penh.

7 Paragraph 256. However, other low-level CPK cadres also state  
8 that there were no prior instructions. Furthermore, some soldiers  
9 were only told to commence moving the population after being in  
10 the city for several days.

11 Paragraph 257. CPK soldiers also received instructions from their  
12 superiors to move people from Phnom Penh through the military  
13 chain of command. Division 310 (North Zone 1) 2nd regiment (later  
14 723rd) received the order to evacuate people from the Commander  
15 named [Redacted] and also from the Commander [Redacted]. CPK  
16 soldiers also referred to the "Upper Echelon" and "Angkar" as  
17 issuing the instruction to leave the city.

18 [09.59.17]

19 Paragraph 258. With respect to the involvement of the Charged  
20 Persons in the decision-making process, Nuon Chea was involved in  
21 the military planning of the CPK regarding the attack on Phnom  
22 Penh as witnessed by his participation in meetings with military  
23 leaders. In a statement to a journalist, Nuon Chea stated that  
24 the decision to evacuate people from cities was made by "the  
25 Party Centre. At that time, individuals each helped a little to

1 originate ideas; it was combining this with that". Nuon Chea  
2 further stated that: "We attacked and we took military bases  
3 inside. So by 17 April 75, liberation, the army went in and  
4 completely liberated Phnom Penh." Ieng Sary stated in a written  
5 statement in 1996 that the decision was made by Pol Pot without  
6 his knowledge, although he states he attempted to dissuade Pol  
7 Pot, stating that: "In 1974 I talked with Pol Pot that taking  
8 Phnom Penh (sic) out of Stung Treng and Kratie was easy because  
9 there weren't many people, but evacuating people out of Phnom  
10 Penh would not be so easy, everything must be thoroughly arranged  
11 because there were millions of people." Ieng Sary has also stated  
12 that: "All decisions were made by the committee of the four  
13 [including himself and Nuon Chea]. The evacuation of people from  
14 the cities did not involve my participation in the decision [...]  
15 [upon return from Peking on 23 of April] I saw that the town had  
16 already been deserted of its inhabitants." According to Ieng  
17 Sary, the authoritative decision to "evacuate" Phnom Penh was  
18 made in late March or early April 1975. Khieu Samphan stated in a  
19 radio interview that he was against the population movement but  
20 that it had to be done for the good of the city dwellers, and he  
21 stated in another interview that such steps were "thought and  
22 planned by the Standing Committee". Ieng Thirith stated in an  
23 interview with Elizabeth Becker in 1980 that she did not know  
24 when the Phnom Penh evacuation decision was made because she was  
25 elsewhere at the time.

1 [10.02.27]

2 Paragraph 259. With respect to the presence of the Charged  
3 Persons in Phnom Penh, Nuon Chea left the former CPK headquarters  
4 on 17 April and arrived in Phnom Penh on or around 20 April. Ieng  
5 Sary stated that he arrived in Phnom Penh on 23 April 1975 from  
6 Peking, Ieng Thirith stated in an interview with Elizabeth Becker  
7 that she arrived in Phnom Penh around June but that she knew of  
8 the evacuation before she arrived, and Khieu Samphan stated that  
9 he entered Phnom Penh seven to 10 days after 17 April 1975.

10 [10.03.15]

11 Paragraph 260. Based on the foregoing evidence, the decision to  
12 move people from Phnom Penh was made largely by Pol Pot in  
13 February 1975 with plans already disseminated to prepare the  
14 reception of persons from Phnom Penh that same month. Further  
15 involvement in the development of this plan by members of the  
16 Party Centre also took place through meetings in late March or  
17 early April 1975, including the participation of Nuon Chea, Khieu  
18 Samphan, and Ieng Sary. Although Ieng Sary was out of the country  
19 at the time, there is evidence that he received communications of  
20 decisions and that he had already discussed the matter with Pol  
21 Pot in 1974. There were then meetings with lower-level cadre to  
22 disseminate this decision, and some CPK troops were told in  
23 advance of the attack on Phnom Penh, however others were not  
24 informed until they received the order to remove people from the  
25 city.

1 [10.04.40]

2 Movement of the Population from the Central (Old North),  
3 Southwest, West, and East Zones.

4 Time and Location.

5 Paragraph 262. Around September 1975 and continuing into 1976 and  
6 1977, a large number of persons were moved from the central and  
7 south-western parts of the country, which, applying the CPK's  
8 system of identifying administrative boundaries, encompassed the  
9 Central and Southwest Zones and parts of the West and the East  
10 Zones: the provinces of Kandal, Kampong Thom, Takeo, Kampong  
11 Speu, Kampong Chhnang, and Kampong Cham. Most of them were sent  
12 to what the CPK then designated Sector 106 (that is, Siem Reap  
13 Sector), Sector 103 (Preah Vihear), and the Northwest Zone  
14 (including locations in today's provinces of Battambang, Pursat,  
15 and Banteay Meanchey) or sent to what the CPK designated the  
16 Central (Old North) Zone (today's Kampong Thom and parts of  
17 Kampong Cham provinces).

18 [10.06.10]

19 Paragraph 263. Furthermore, there is evidence of other movements  
20 of population over the same period of time, such as from or  
21 within the East Zone (Prey Veng and Svay Rieng), to Kratie  
22 (Sector 505), within the Central (Old North) Zone or within  
23 Battambang province. Most witnesses state that people were moved  
24 several times before reaching their final destination, including  
25 a number of the persons who had initially been moved from Phnom

1 Penh.

2 People Moved.

3 Paragraph 264. It is difficult to estimate the number of people  
4 moved from central and south-western Cambodia to the North and  
5 Northwest Zones between late 1975 and 1976. A document of the  
6 Standing Committee dated August 1975 refers to the need to add  
7 400,000 or 500,000 people to the population of the Northwest Zone  
8 and also to relocate an unspecified number of people to the - to  
9 the then North Zone. According to a September 1975 Party  
10 document, 500,000 people were to be relocated to the Northwest,  
11 20,000 to Preah Vihear, and others to Kampong Thom in the North  
12 Zone and certain sectors of the East. A telegram dated November  
13 1975 ("Telegram Number 15") indicated that 50,000 people were to  
14 be moved from the East Zone. According to the evidence of former  
15 railway operators, it appears that thousands were sent by train  
16 through Phnom Penh to their destinations in Pursat and Battambang  
17 in the Northwest Zone.

18 [10.08.44]

19 Paragraph 265. According to most of the witnesses (some of whom  
20 were moved), children, women, elderly, and entire families were  
21 moved. Some were connected to the Lon Nol regime. Others were  
22 considered as "New People", including people who had previously  
23 been moved from Phnom Penh. Some witnesses state that only "New  
24 People" were told to leave. One witness refers to the movement of  
25 the Chinese and Kampuchea Krom minorities.

1 Paragraph 266. A number of Cham people were also amongst the  
2 persons moved. This occurred in late 1975, after the Cham  
3 rebellion in two East Zone locations. Many Cham people were moved  
4 from their home villages in Kampong Cham province and sent to  
5 other various villages within the same province. Some were sent  
6 further to villages in the provinces of Kratie, Kampong Thom, and  
7 Battambang. Telegram number 15 and other evidence suggest that a  
8 decision was made by the CPK Central Committee and subsequently  
9 implemented to relocate thousands of Cham people to the North and  
10 the Northwest Zones.

11 [10.10.32]

12 Means and Method of the Population Movement.

13 Paragraph 267. People were moved by military or civilian truck,  
14 train, boat, oxcart, tractor, or had to walk. In many cases, it  
15 was a combination of these various means, depending on the  
16 destination. Most witnesses felt threatened or forced to leave.  
17 People who thought they were being given a choice would still  
18 leave for fear of being arrested or executed. There is evidence  
19 that some people were tied up or had a gun pointed at them whilst  
20 others state they were neither tied up, nor mistreated or beaten.  
21 Some witnesses state that they were permitted to pack some  
22 belongings or a little food before departing.

23 [10.11.36]

24 Paragraph 268. The people who were moved, including Chams, were  
25 organised into groups. Some people were separated either when

1 departing, during the journey, or upon arrival. A former local  
2 cadre states: "We did not have a policy that prohibited the 'New  
3 People' from living with their relatives who were the Base  
4 People." A number of witnesses declare that the Cham people were  
5 dispersed through Khmer villages, with only a minority of Cham  
6 people allowed in each village. There is evidence that Cham men,  
7 women, and children were split up and moved to different places.  
8 Some Cham witnesses, however, state that they remained with their  
9 families throughout the movements of population or that they were  
10 subsequently allowed to join their families. Others indicate that  
11 whilst the majority of Cham people were moved, a small number  
12 were required to remain in their home villages. Three witnesses  
13 explain that they were made to live in the open spaces under the  
14 houses of Khmer people. Two others state that the elders and  
15 religious leaders in their village were arrested and killed  
16 before the movement of the population occurred.

17 [10.13.17]

18 Paragraph 269. Travel time could take one or several days, with  
19 stops on the way. People could rest a few minutes, overnight or a  
20 few days to one week, depending on the distance and the journey.  
21 People would travel during day and/or at night, the vast majority  
22 in very poor physical condition. Many witnesses explain that  
23 people were packed into crowded train carriages, onto trucks or  
24 boats. People were given little or nothing to eat or drink during  
25 the movement of population or upon arrival, although one witness

1 said that CPK soldiers provided bread before people were put on  
2 the boat. Medicine also was lacking. People would die before, on  
3 the way or after the journey from starvation because they were  
4 too old or too weak, or from disease. Witnesses also state that  
5 arrests occurred in the context of these movements of population.  
6 Paragraph 270. Some people disappeared during the movements. One  
7 witness explains having been told at a meeting that those who  
8 would refuse to leave would be sent for re-education from where  
9 people never returned.

10 [10.15.10]

11 Paragraph 271. There is consistent evidence that local leading  
12 CPK cadre were in charge of the implementation at both departure  
13 and reception stages. At departure, they would receive  
14 instructions from the Upper Echelon, although one witness states  
15 that the decisions to select villagers to be moved were made in  
16 secret by the platoon leaders. People who would ask questions  
17 would be threatened. According to some witnesses, local CPK cadre  
18 were given lists of names and would call meetings where these  
19 names would be read out and would also determine how people would  
20 be transported.

21 Paragraph 272. Troops, militiamen or security personnel  
22 supervised the movements of population. Most witnesses report  
23 their presence at all stages of the movement: at departure;  
24 during the movement of population; guarding people on boats,  
25 trucks, trains or oxcarts; and upon arrival. Conversely, a few

1 witnesses state that they were not always escorted by armed  
2 forces.

3 [10.16.44]

4 Paragraph 273. In Battambang or Pursat, most moved persons would  
5 arrive by train. The organization of the railway network was  
6 clearly and hierarchically defined, with the Phnom Penh Railway  
7 Unit at the top of the hierarchy. A former railway operator in  
8 Battambang reports that the trains were escorted by armed  
9 soldiers and that militiamen were in charge after the arrival of  
10 train. His impression was that "all the transportation was  
11 organised by the higher level". Two former railway operators  
12 explain that three soldiers managed the stations' communication  
13 network in both Pursat and Battambang. According to the witnesses  
14 who operated the railways in Battambang and Pursat, the CPK cadre  
15 in charge of the railway stations reported directly to the Phnom  
16 Penh Railway Unit. Further, confirming that the CPK Centre was  
17 kept informed of these movements of population, one of these  
18 witnesses explains that as a Party member, the cadre in charge of  
19 Pursat station would attend study sessions in Phnom Penh.

20 [10.18.22]

21 Paragraph 274. Local leading CPK cadre would receive people and  
22 assign them to cooperatives. Some witnesses state that they were  
23 questioned by CPK cadres about their biographies upon arrival.  
24 One civil party explains that at one point she was given the  
25 opportunity to choose the cooperative where she wanted to go and

1 she was subsequently sent for re-education further to the arrest  
2 of her husband. Regarding people sent to central parts of the  
3 country or to Kratie, relevant witnesses gave similar accounts.  
4 Return.

5 Paragraph 275. Most of the people who were moved and survived the  
6 DK regime returned to their homes or native villages as soon as  
7 they could. Some witnesses found that their old villages were  
8 deserted, houses destroyed and that grave pits had been dug.  
9 Witnesses state that it was not possible for the population to  
10 return to their home villages during the DK regime.

11 [10.19.55]

12 Reasons Given to the Population for the Movement.

13 Paragraph 276. A document of the Standing Committee dated August  
14 1975 pertains to the visit of the Standing Committee to the  
15 Northwest Zone. The report insists on the need to develop rice  
16 production in the whole of the Northwest Zone, with "Angkar"  
17 delivering its directions regarding inter alia economic and crop  
18 diversification and stating that the North and the Northwest  
19 Zones had "good qualities", such as better paddy land and rice to  
20 sustain "New People". A meeting minute of the Standing Committee  
21 dated July-August 1976 and containing the CPK four-year plan  
22 insists on the need to focus efforts on rice production.

23 Paragraph 277. A number of the witnesses who were moved were told  
24 that they were being sent to an area where there was more food  
25 and fertile land or because there was a shortage of labour. One

1 witness states that people were being told that they had to work  
2 for the socialist regime. Upon arrival, people were sent to work  
3 in cooperatives on building dams and canals or on rice farming.  
4 Paragraph 278. A former local CPK cadre explained that "the  
5 central policy was to remove the 'New People' from the East when  
6 the war broke with Vietnam in late 1975 or early 1976 ... the 'New  
7 People' had to be evacuated because the war broke out at the  
8 border".

9 [10.22.01]

10 Planning.

11 Paragraph 279. Witnesses and documents provide evidence as to how  
12 the Centre was involved in these movements of the population. The  
13 decision to send people to the North and the Northwest Zones of  
14 the country appears to have been made following the visit of the  
15 CPK Standing Committee to this area around August 1975, and a  
16 Party document dated September 1975 discusses its implementation.

17 Paragraph 280. Telegram number 15 dated November 1975 describes a  
18 high-level decision of the Party regarding movements of the - of  
19 population, which, according to numerous and consistent witness  
20 testimonies, was subsequently carried out. This telegram was sent  
21 by [Redacted] to Pol Pot and copied to Nuon Chea, Brother Doeun  
22 (Secretary of the 870 Political Office), and Brother Yem (Office  
23 870). One witness who translated telegrams for Office K-1 during  
24 the DK regime states that the Chairman of the Telegram Unit made  
25 the decision to copy this telegram to Nuon Chea, indicating that

1 "this telegram was originally sent to Pol Pot alone, but the  
2 person in charge of the telegram knew that this matter must also  
3 be sent to the person who was in charge of the people, like Nuon  
4 Chea, in order to find a solution". This witness also refers to  
5 the involvement of the Standing Committee in the resolution of  
6 the problem. Another witness, former chairman of the Central (Old  
7 North) Zone Telegram Unit explains that "[the East Zone] had to  
8 send the report from the Zone to Pol Pot of the Centre level  
9 first and then waited for Pol Pot instruction. Ke Pauk [Secretary  
10 of the Central (Old North) Zone] received this telegram about  
11 this matter from the Centre, not directly from the East Zone".

12 [10.24.27]

13 Paragraph 281. Telegram number 15 specifically refers to a  
14 problem raised by the movement of Cham people from the East Zone  
15 and reads "more than 100,000 more Islamic people remain in the  
16 East Zone [...]. In principle, their removal was to break them up,  
17 in accordance with your views in your discussions with us  
18 already. But if the North refuses to accept them, we will  
19 continue to strive to persevere in grasping the Islamic people".  
20 This happened a few weeks after the rebellion of Cham people in  
21 Kaoh Phal and Svay Khleang. When read in that context, this  
22 document suggests that the underlying reason for the movement and  
23 planned separation of the Cham people was to address the security  
24 concern they represented, illustration of the CPK policy to  
25 "break up" the Cham.

1 MR. PRESIDENT:

2 Thank you, Greffier.

3 [10.25.42]

4 The time is now appropriate for a 20-minute break, and we shall  
5 resume at a quarter to 11.00.

6 Lead Co-Lawyer for civil parties, you may proceed.

7 MR. PICH ANG:

8 Good morning, Mr. President, Your Honours. Good morning, parties  
9 and everyone in the Court. My observation regarding the readout  
10 by the greffier as instructed by the President: when it comes to  
11 the - to the structure and the movement of phase 1 and phase 2,  
12 two paragraphs in relation to -- paragraphs 161 and 282 were not  
13 read out by the greffier. It could be the concerns related to the  
14 - any of the documents of the civil parties.

15 And for that reason, I have two questions for You Honour: for the  
16 reason why there was no readout of paragraphs 161 and 282  
17 respectively, related to the civil parties; and number two is  
18 that -- what would be the consequence of the not readout of these  
19 two paragraphs regarding the facts raised by the civil parties in  
20 their application?

21 MR. PRESIDENT:

22 Thank you.

23 We -- the Court is now adjourned.

24 THE GREFFIER:

25 (No interpretation)

1 (Court recesses from 1027H to 1049H)

2 MR. PRESIDENT:

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

4 Before I hand over to Mr. Duch Phary to continue reading relevant  
5 paragraphs of the Closing Order, the Chamber wishes to respond to  
6 the question raised by the Civil Party Lead Co-Lawyers, who  
7 asserted that the Chamber failed to read two paragraphs and the  
8 probative consequence.

9 For paragraph 261 – no, 161, rather, was read out by Ms. Se  
10 Kolvuthy.

11 And as for the other paragraph, 282, we would only read the  
12 paragraphs that are relevant to the alleged facts against the  
13 Charged Persons, and the Chamber ordered the greffier not to read  
14 any paragraphs that are not considered to contain the facts  
15 concerning the Accused in question. And, in addition, that is  
16 also in accordance with document E124/7.2, and that was the  
17 decision.

18 [10.51.59]

19 And, in addition, the Chamber decides that other paragraphs not  
20 be read, for example the document – the paragraphs concerning  
21 legal facts as well as the forms of responsibilities, because  
22 they are not directly relevant to the facts alleged against the  
23 Accused.

24 MR. PICH ANG:

25 Mr. President, I would like to correct myself. Just now, I

1 mentioned paragraph 161, but actually I meant paragraph 261. That  
2 was the position from the Civil Party Lead Co-Lawyer.

3 Thank you, Mr. President.

4 MR. PRESIDENT:

5 Now I hand over to Mr. Duch Phary to continue reading relevant  
6 paragraphs of the Closing Order: from -- paragraphs 873 to 879,  
7 paragraphs 893 to 901, paragraphs 1016 to 1024, paragraph 1146,  
8 paragraphs 1151 to 1162, paragraphs 1580 to 1584, paragraph 1589  
9 to paragraph 1597, and paragraphs 1601 to 1604.

10 You may proceed.

11 [10.54.07]

12 THE GREFFIER:

13 Role in the CPK security apparatus.

14 Member of the Military Committee of the Central Committee.

15 Paragraph 873. Nuon Chea was a member of the Military Committee  
16 of the Central Committee. His membership of the committee is  
17 confirmed by Ieng Sary, [Redacted], and speech he gave on the  
18 occasion of the ninth anniversary of the RAK in the name of the  
19 Military Committee of the CPK. Duch explains that Nuon Chea was  
20 part of this committee, although it is unclear whether he had  
21 knowledge of this at the time or if his understanding has evolved  
22 with his access to the case file. In any case, Duch was aware at  
23 the time that Nuon Chea was responsible for security and military  
24 affairs. Nuon Chea has recognized that the Committee existed  
25 during the CPK regime and that its role was national defence and

1 purging internal enemies, but he has firmly denied that he was a  
2 member of it.

3 [10.55.50]

4 Paragraph 874. Other evidence in the case file supports the fact  
5 that Nuon Chea was responsible for security affairs. With respect  
6 to security, Duch states that "Pol Pot decided on Security work,  
7 but Nuon Chea was his representative". A telegram operator in  
8 Autonomous Sector 105 explains: "My typewritten documents  
9 regarding security matters were sent to Nuon Chea." He adds:  
10 "Nuon Chea regularly instructed on security matters." Other  
11 witnesses corroborate the responsibilities held by Nuon Chea in  
12 this area. In an interview with a journalist, Nuon Chea stated  
13 that Son Sen was responsible for the Ministry of Defence, and he  
14 further stated that he did not have the capacity to interfere or  
15 issue orders on internal security, an area for which the Military  
16 Committee was responsible.

17 [10.57.14]

18 Paragraph 875. Regarding military matters, the central body of  
19 the RAK was the General Staff led by Son Sen, with Pol Pot having  
20 general responsibility for the military. Nevertheless, as Deputy  
21 Secretary of the Central Committee and member of the Military  
22 Committee of the Central Committee, Nuon Chea actively  
23 participated in military affairs together with Pol Pot and Son  
24 Sen. During an interview, Duch states: "Everything had to pass  
25 through Nuon Chea even if it was in scope of the military." It

1 appears that Nuon Chea participated in the military planning of  
2 the attack on Phnom Penh in April 1975. Furthermore, numerous  
3 witnesses confirm that Nuon Chea exercised some responsibility  
4 for military matters during the Democratic Kampuchea regime,  
5 including the political training of the RAK members and the  
6 appointment of military cadres. Finally, a telephone operator for  
7 Son Sen explains that there was no telegram communication between  
8 Son Sen and Nuon Chea "because they generally met and worked  
9 together every day". Conversely, he states Nuon Chea never came  
10 to the General Staff where Son Sen regularly met with the  
11 divisions. This is corroborated by the fact that none of the  
12 minutes of meetings between the General Staff, Central Divisions,  
13 and Independent Regiments mention Nuon Chea's attendance.

14 [10.59.47]

15 Paragraph 876. Although foreign policy was not Nuon Chea's  
16 primary responsibility, he did exercise some functions with  
17 regard to international security matters. As a full-rights member  
18 of the CPK Standing Committee, Nuon Chea participated in the  
19 decision-making process regarding policies and strategies related  
20 to Cambodian borders and the situation with Vietnam. He provided  
21 opinions and precise instructions on these matters. Nuon Chea  
22 negotiated with the Vietnamese authorities and participated in  
23 the drafting of the "Black Paper" concerning the foreign policy  
24 of Vietnam. Nuon Chea was copied to the vast majority of  
25 surviving telegrams concerning the situation on the battlefields

1 and at the border with Vietnam, and movement of troops, military  
2 attacks, and casualties were frequently discussed. Some of the  
3 telegrams ask for instructions or materials from the CPK Centre  
4 or acknowledge having followed an instruction or received  
5 materials. There is also evidence that Nuon Chea had the  
6 authority to send instructions to lower echelons on matters of  
7 international security and that he did so by telegram, or by  
8 letter on some occasions.

9 [11.01.50]

10 S-21 Security Centre and S-24 Worksite (Prey Sar).

11 Paragraph 877. In interviews conducted after the CPK regime, Nuon  
12 Chea explains that he did not know about S-21 before 1979 and  
13 that any documents implicating him must have been fabricated. He  
14 adds that Duch was working for the Ministry of Defence and  
15 Internal Security and that Son Sen was the one accountable for  
16 that ministry. Nevertheless, there is strong evidence that Nuon  
17 Chea was in charge of the S-21 Security Centre and its associated  
18 worksite, S-24 (Prey Sar), from the time of their establishment  
19 until 6 January 1979.

20 Paragraph 878. At S-21, between 15 August 1975 and 15 August  
21 1977, first In Lorn alias Nat and then, subsequently, Duch had  
22 Son Sen as direct superior. Duch understood that Son Sen's  
23 authority was derived from his position as member of the CPK  
24 Centre Military Committee, member of the CPK Standing Committee,  
25 and as Chairman of the General Staff. Even if Duch did not have

1 direct contact with Nuon Chea during this period, he understood  
2 from his conversations with Son Sen that Nuon Chea, as the Deputy  
3 Secretary and the second in the Party hierarchy, was in overall  
4 charge of S-21 as Son Sen's supervisor. Duch states: "Son Sen  
5 [had] Nuon Chea as his superior, the latter being under Pol Pot's  
6 authority." It is not always clear to what extent Duch's  
7 knowledge and understanding of the hierarchical structure above  
8 him developed with his access to the case file, but it is clear  
9 that at the relevant time Duch was aware that Nuon Chea was Son  
10 Sen's superior with respect to S-21.

11 [11.05.24]

12 Paragraph 879. On 15 August 1977, when -- Son Sen left Phnom Penh  
13 to be closer to the front lines in the conflict with Vietnam and  
14 Nuon Chea summoned Duch to his office at the Buddhist Institute.  
15 From this point on, Duch understood he had to report to Nuon  
16 Chea, who became his direct supervisor. Duch states that Nuon  
17 Chea told him: "The Chairman at S-21 was not me, Duch, but he,  
18 Nuon Chea, was Chairman." Although reporting directly to Nuon  
19 Chea, Duch maintained communication with Son Sen, who would  
20 contact him once or twice a month by phone. Although Duch no  
21 longer sent confessions to Son Sen directly, Son Sen still  
22 participated in monitoring S-21 activities and, according to  
23 Duch, considered himself to be Duch's supervisor.

24 Association with other CPK Leaders.

25 Paragraph 893. Nuon Chea had personal and political associations

1 with other key members of the CPK for many years. In addition to  
2 his two offices at Borei Keila and Vitiyalai Preah Suramarit  
3 (that is, the Buddhist Institute), Nuon Chea lived and worked  
4 daily with Pol Pot, Khieu Samphan, Ieng Sary, and Son Sen at K-1  
5 and K-3 for almost the entire duration of the CPK regime.

6 [11.07.49]

7 Paragraph 894. Additionally, Nuon Chea visited a warehouse with  
8 Khieu Samphan and Van Rith and he went to the Ministry of Foreign  
9 Affairs with Pol Pot and Khieu Samphan. Nuon Chea also went to  
10 the grassroots with other members of the Party, including Pol  
11 Pot, Khieu Samphan, and Ieng Sary. He took part in major Party  
12 gatherings together with other CPK leaders, including Pol Pot,  
13 Ieng Sary, Khieu Samphan, and Ieng Thirith. Nuon Chea received  
14 foreign delegations in Phnom Penh together with other CPK  
15 leaders, including Son Sen, Khieu Samphan, Ieng Sary, and Pol  
16 Pot. Finally, Nuon Chea regularly made statements to foreign  
17 governments from Phnom Penh with other CPK leaders.

18 Participation in the common purpose.

19 Movement of the population.

20 Paragraph 895. Through his various roles in the CPK, Nuon Chea  
21 participated in the movement of the population from towns and  
22 cities to rural areas, as well as from one rural area to another.

23 Paragraph 896. The CPK moved the population from a number of  
24 cities prior to 17 April 1975, while Nuon Chea was on the  
25 Standing Committee. According to Khieu Samphan, in 1960, during

1 the first Party Congress, at which Nuon Chea was present, a  
2 determination was made that the cities were likely places for  
3 enemies of the Party to assemble. In a speech in July 1978, Nuon  
4 Chea confirmed this position, stating that before 1975 there were  
5 few enemies in rural areas, but many in the cities. Further,  
6 during the speech he gave at the ninth anniversary of the RAK on  
7 16 January 1977, Nuon Chea mentioned the evacuation of Banam in  
8 the East Zone in 1973 and Udong in the Special Zone in 1974.

9 [11.11.12]

10 Paragraph 897. On several occasions during and after the regime,  
11 Nuon Chea endorsed and defended this policy. He explained that  
12 immediately after liberation, the cities were evacuated for  
13 security reasons in order to "smash" the plan that "involved  
14 joint action on the part of the USA, the KGB, and Vietnam" to  
15 seize power from the CPK. After the regime, he added that the  
16 evacuation was necessary to protect the people from war and that  
17 it was a temporary measure because of the lack of food and fuel  
18 in the cities. Talking about the people who were moved, he  
19 states: "Not many people died; later on, yes, but during the  
20 evacuation they were still physically strong." Nuon Chea was also  
21 made aware of the CPK-era movements of the population through the  
22 receipt of telegrams, such as one dated 11 December 1977, which  
23 mentions the distribution of "New People" from Siem Reap to other  
24 districts.

25 Phase 1.

1 Paragraph 898. Nuon Chea participated in the decision making  
2 process that led to the movement of people from the cities, in  
3 particular Phnom Penh, to the countryside, starting from 17 April  
4 1975. In an interview after the regime, he stated that this  
5 decision was made by "the Party Centre". He nevertheless also  
6 stated that the analysis that led to the decision to evacuate the  
7 cities was taken by the CPK Military Committee, a committee he  
8 denies membership of.

9 [11.13.56]

10 Paragraph 899. Nuon Chea was involved in the continued planning  
11 of this policy through his participation in meetings in late  
12 March and early April 1975. In early April, a meeting took place  
13 at Pol Pot's office in Tang Poun village, Kampong Tralach Leu  
14 district in Kampong Chhnang province. The purpose of this meeting  
15 was to discuss the evacuation of Phnom Penh and the  
16 implementation of this policy. Nuon Chea participated in the  
17 meeting, took his own notes, and according to a witness, "Mr.  
18 Nuon Chea also provided his impressions and agreed to the plan".

19 Paragraph 900. In April 1975, Nuon Chea and Son Sen held a  
20 meeting with military commanders from all zones, in which they  
21 planned and coordinated the attack on Phnom Penh. In an interview  
22 after the regime, Nuon Chea stated: "We attacked and we took  
23 military bases inside. So, by 17 April 1975 liberation, the army  
24 went in and completely liberated Phnom Penh." Together with other  
25 CPK leaders, Nuon Chea left the former CPK headquarters on 17

1 April 1975 and entered Phnom Penh on or around 20 April 1975.

2 This is consistent with the first recorded CPK leaders' meeting  
3 held in Phnom Penh, which took place "less than a week after the  
4 liberation" at the train station and where Nuon Chea is recorded  
5 as present.

6 [11.16.45]

7 Phase 2.

8 Paragraph 901. The decision to move people from the Central (Old  
9 North), Southwest, West, and East Zones to the North and the  
10 Northwest Zones was made by the members of the Standing Committee  
11 after they visited the Northwest Zone between 20 and 24 August  
12 1975. It is likely that Nuon Chea was part of this trip and  
13 participated in the subsequent Standing Committee meeting. At a  
14 minimum, he was also aware of a Party document dated September  
15 1975 that specified the need to relocate "New People" to the  
16 North and Northwest Zones. This document coincided with an  
17 enlarged Standing Committee meeting in September 1975 to discuss  
18 strengthening agriculture and industry and which Nuon Chea  
19 attended. Telegram 15 dated November 1975, concerning problems  
20 arising in the implementation of the decision to transfer Cham  
21 and other people out of the East to the North Zone en masse, was  
22 sent by Chhon to Pol Pot and copied to Nuon Chea. A witness in  
23 charge of telegrams for Centre Office K-1 states that the  
24 Chairman of the Telegram Unit made the decision to copy this  
25 telegram to Nuon Chea "because this telegram is related to the

1 people, it had to be sent to Nuon Chea [...] in order to find a  
2 solution".

3 [11.19.07]

4 Association with other CPK senior leaders.

5 Paragraph 1016. Ieng Sary has had close personal and political  
6 associations with the other key members of the CPK for many  
7 years. During the CPK regime, he lived and worked with Son Sen,  
8 Khieu Samphan, Nuon Chea, and Pol Pot at K-1 and K-3.

9 Paragraph 1017. Ieng Sary associated with the senior leaders of  
10 the regime in many different capacities, including: at major  
11 Party gatherings with Pol Pot, Ieng Thirith, Khieu Samphan, and  
12 Nuon Chea; when preparing to travel to the zones; when assisting  
13 them to write speeches; or when receiving them at B-1. Ieng Sary  
14 and Khieu Samphan received foreign delegations together and  
15 jointly travelled overseas. Ieng Sary and Khieu Samphan also  
16 travelled to the countryside and inspected cooperatives and  
17 worksites together.

18 [11.20.40]

19 Participation in the common purpose.

20 Movement of the population.

21 Paragraph 1018. Through his various roles in the CPK, Ieng Sary  
22 participated in the movement of the population from towns and  
23 cities to rural areas, as well as from one rural area to another.

24 Paragraph 1019. The CPK moved the population from a number of  
25 cities prior to 17 April 1975, while Ieng Sary was on the

1 Standing Committee, a fact that he admits discussing with Pol Pot  
2 near Phnom Penh in 1974. These discussions may have happened as  
3 part of the June 1974 Central Committee conference.

4 Paragraph 1020. Both during and after the CPK regime, Ieng Sary  
5 publically endorsed and defended the CPK's policy of emptying  
6 cities and transferring their inhabitants to the countryside. In  
7 July 1978, Ieng Sary gave three reasons for the emptying of  
8 Cambodian cities: "the food shortage, the presence of enemy  
9 networks, and the peoples' farming experience". In the same  
10 month, he explained that once industry had been developed, people  
11 would be able to return to the cities. When he met foreign  
12 delegations, Ieng Sary said that the population movements had  
13 been planned in advance and were necessary due to the likelihood  
14 of bombings, the presence of spies, the threat of famine, and the  
15 need to send people to the countryside for agricultural  
16 production. He also endorsed this policy at meetings of his staff  
17 at B-1, saying that it had been done to purge the people of their  
18 town habits. Ieng Sary was made aware of CPK-era forced transfers  
19 through the receipt of telegrams. For example, one, dated 11  
20 December 1977, mentions the distribution of "New People" from  
21 Siem Reap to other districts.

22 [11.23.59]

23 Paragraph 1021. After 6 January 1979, Ieng Sary continued to  
24 endorse and defend the decision to empty various cities and  
25 towns. For example, in 1980, he claimed that the decision to

1 empty the cities had been taken because the CPK was afraid that  
2 Vietnam would infiltrate and kill CPK leaders. In the same year,  
3 he claimed that, when he arrived in Phnom Penh, the city was  
4 already empty and that, if there had been more people in the CPK  
5 who thought like him, the decision would not have been taken. In  
6 1996, the Democratic National Union Movement, created by Ieng  
7 Sary, stated in a communiqué that the movement of people had been  
8 considered necessary to teach city people how to endure moral and  
9 physical suffering through hard labour.

10 Phase 1.

11 Paragraph 1022. Ieng Sary participated in the movement of the  
12 general population of Phnom Penh. While he was not in Phnom Penh  
13 when the meetings that finalised the plan to evacuate the city  
14 took place (he returned to Phnom Penh from Beijing between 22 and  
15 23 April 1975, by which time he says the city was empty), Ieng  
16 Sary admits that he discussed the plan to move the population  
17 with Pol Pot in 1974 and advised him that the Chinese were  
18 interested to know what the CPK planned to do in the event of a  
19 CPK victory. Pol Pot replied that the plan was to evacuate, and  
20 that the Chinese need not worry as they already had experience in  
21 Steung Treng and Kratie. At this stage, Ieng Sary says that it  
22 was not clear if Phnom Penh would be totally emptied or not. He  
23 says the plan was to evacuate and then "we" would wait and see  
24 how Cambodians and the USA would react. In September 1996, Ieng  
25 Sary further admitted that in 1974 he warned Pol Pot that moving

1 the population from Phnom Penh would not be as easy as it had  
2 been to evacuate the smaller towns of Steung Treng and Kratie. He  
3 cautioned that everything would have to be "thoroughly arranged  
4 because there were millions of people". He says that by the time  
5 he arrived in the city everything was already decided and it was  
6 not worth talking about.

7 [11.27.59]

8 Paragraph 1023. Over the years, Ieng Sary gave various reasons  
9 for moving the population out of Phnom Penh. In September 1975,  
10 he claimed that there were two reasons for the movement. First,  
11 since there was a food shortage and the CPK did not have  
12 sufficient transport to deliver food to Phnom Penh, they decided  
13 to move people to the country, where there was food. This also  
14 avoided having to ask other countries for assistance. Second,  
15 they had discovered a document detailing a secret plan by the CIA  
16 and the defeated Lon Nol regime to undermine and resist the CPK  
17 victory in Phnom Penh. He also said that the people were free to  
18 return to Phnom Penh from the countryside if they wished and that  
19 100,000 had done so already. In October 1975, Ieng Sary claimed  
20 that the evacuation of Phnom Penh had been necessary to thwart an  
21 American plan to destabilise the CPK Government. In May 1977,  
22 Ieng Sary said that after the "initial evacuation the cities  
23 [were] being populated again" and that the unpopulated areas were  
24 being used for production. He also admitted that 2,000 to 3,000  
25 people died during the evacuation of Phnom Penh. On 15 January

1 1978, Ieng Sary gave a detailed explanation to the Danish  
2 Ambassador regarding the emptying of Phnom Penh. He said that it  
3 had been carried out due to the shortage of food, the security  
4 situation, and the need to increase agricultural production.

5 [11.30.50]

6 Phase 2.

7 Paragraph 1024. The decision to move people from the Central (Old  
8 North), Southwest, West, and East Zones to the North and  
9 Northwest Zones were made by the Standing Committee after it  
10 visited the Northwest Zone between the 20th and the 24th of  
11 August 1975. While Ieng Sary may have been out of the country at  
12 this time, he has stated that he attended an enlarged Standing  
13 Committee meeting in September 1975 to discuss implementing a  
14 dictatorship and strengthening agriculture and industry. A Party  
15 document coinciding with the date of this meeting specified the  
16 need to relocate "New People" to the North and the Northwest  
17 Zones.

18 Other roles.

19 Military.

20 Paragraph 1146. Both before and after 17 April 1975, Khieu  
21 Samphan was referred to as the Deputy Prime Minister, Minister of  
22 National Defence, and Commander in Chief of the CPNLAF. Duch has  
23 suggested that Khieu Samphan was merely the nominal head of the  
24 Committee for the Army, a "picture to show the world", whereas  
25 Pol Pot had the actual control of the army.

1 [11.33.05]

2 Association with Other CPK Senior Leaders.

3 Paragraph 1151. Khieu Samphan has had close personal and  
4 political associations with the other key members of the CPK for  
5 many years. During the CPK regime, he regularly associated with  
6 other senior leaders of the CPK. He lived and worked with Son  
7 Sen, Ieng Sary, Nuon Chea, Pol Pot, and Vorn Vet (until Vorn Vet  
8 was arrested and sent to S-21) at K-1 and K-3 for the majority of  
9 the regime. Witnesses regularly saw Khieu Samphan associating,  
10 meeting with, and working with other senior leaders and heard  
11 announcements on the radio about their work together. Duch gave  
12 evidence that Khieu Samphan "had Pol Pot's trust" and was given  
13 "privileged information".

14 Paragraph 1152. Khieu Samphan chaired, presided over, and  
15 presented at major Party gatherings and study sessions with Pol  
16 Pot, Nuon Chea, Ieng Sary, and Ieng Thirith. Khieu Samphan and  
17 Ieng Sary received foreign delegations together and travelled  
18 overseas together. Khieu Samphan and Ieng Sary also travelled to  
19 the countryside and inspected cooperatives and worksites  
20 together. Ieng Sary regularly communicated with Khieu Samphan  
21 when preparing for visitors and before travelling to the zones.

22 [11.35.22]

23 Participation in the common purpose.

24 Movement of the population.

25 Paragraph 1153. Through his various roles in the CPK, Khieu

1 Samphan participated in the movement of the population from towns  
2 and cities to rural areas, as well as from one rural area to  
3 another.

4 Phase One.

5 Paragraph 1154. [Redacted] states that Khieu Samphan attended a  
6 meeting to decide on the movement of the population of Phnom Penh  
7 in early April 1975. The meeting was at Office B5, the office of  
8 Pol Pot, at Tang Poun village, Kampong Tralach Leu district --  
9 sub-district and district, Kampong Chhnang province. [Redacted]  
10 stated that Khieu Samphan took notes and "gave his opinions and  
11 impressions and agreed to the plan to evacuate the people".

12 Paragraph 1155. Another witness gave evidence that Khieu Samphan  
13 entered Phnom Penh on or around the 20th of April 1975. On 17  
14 April 1975, this witness travelled to Phnom Ath Ros to rest and  
15 to prepare to enter Phnom Penh with a group of CPK cadres. She  
16 stated that Khieu Samphan, Hu Nim, and Son Sen travelled to meet  
17 each other at Phnom Ath Ros and were "getting ready to enter and  
18 occupy" Phnom Penh. She stated that Khieu Samphan, Hu Nim, and  
19 Son Sen stayed at Phnom Ath Ros for three nights before  
20 travelling to Phnom Penh.

21 [11.37.54]

22 Paragraph 1156. Khieu Samphan stated that he entered Phnom Penh  
23 from the seventh to the 10th days after - rather, seven to 10  
24 days after the 17 April 1975. He stated that he was not aware of  
25 the plan to move the population from Phnom Penh until he entered

1 Phnom Penh and overheard a group of soldiers talking about it. He  
2 has publically stated that he does not think that the population  
3 of Phnom Penh should have been moved.

4 Paragraph 1157. Khieu Samphan issued a number of statements over  
5 the radio, in the months leading up to the movement of the  
6 population, relating to the situation in Phnom Penh. Between  
7 January and April 1975, Khieu Samphan repeatedly broadcast  
8 details of what was happening in Phnom Penh, claimed that the  
9 "traitorous Lon Nol clique" was on the brink of collapse, and  
10 ordered and appealed to the population of Phnom Penh to fight  
11 them in order to liberate the nation. He also called for all  
12 foreign embassies and foreign organizations in Phnom Penh to  
13 evacuate their personnel in order to avoid suffering casualties.  
14 Pursuant to CPK policy, he urged the population of Phnom Penh to  
15 relocate to the countryside, calling on it to "cross over to our  
16 liberated zone," declaring there was no rice in Phnom Penh and  
17 promising them that cadres and combatants in CPK-controlled  
18 territory were standing by to assist them with their "new lives"  
19 in rural areas, and in particular would be provided with -- "with  
20 adequate supplies and adequate means of production" for  
21 agricultural production.

22 [11.40.33]

23 Paragraph 1158. He also called on Party cadres and its  
24 "combatants" to "sweep the enemy pacification activities from the  
25 entire liberated zone" and generally further uphold their

1 "revolutionary vigilance against enemy schemes". On the 26th of  
2 February 1975, Khieu Samphan released a communiqué on behalf of  
3 the FUNK, stating that the "seven traitors in Phnom Penh [...] Lon  
4 Nol, Sirik Matak, Son Ngoc Thanh, Cheng Heng, In Tam, Long Boret,  
5 and Sosthene Fernandez" should be killed and calling for the  
6 people of Phnom Penh to contribute to the nation's liberation by  
7 "turning your guns against them". He noted that the "traitorous  
8 Phnom Penh clique is now [...] on the verge of total collapse" and  
9 ordered the people to "attack the enemy more vigorously and  
10 incessantly, both at the forefront and in the rear, in order to  
11 fulfil the duty of completely and permanently liberating our  
12 nation and people". On the 13th of April 1975, he declared in a  
13 broadcast speech that although Lon Nol and other "supertraitors"  
14 had fled the country, other traitors in addition to the seven he  
15 had named in February were attempting "to continue the treachery  
16 of the last bunch of traitors", and called for their overthrow.  
17 [11.42.51]

18 Paragraph 1159. On the 13th of August 1975, Khieu Samphan  
19 explained on the radio that "immediately after [the] liberation"  
20 the FUNK was confronted with the question of how to solve the  
21 problem of having a starving population in Phnom Penh and that  
22 they "solved" this problem by mobilizing the people to increase  
23 production throughout the country. He repeated these assertions  
24 during his 18 August 1976 speech at the Fifth Non-aligned Summit  
25 Conference in Colombo, stating that "we have fundamentally solved

1 the problems of livelihood for our Cambodian people since  
2 liberation, notably with regard to food". Khieu Samphan has  
3 subsequently given a number of statements endorsing and defending  
4 the movement of the population of Phnom Penh on the basis that  
5 the population was starving.

6 Paragraph 1160. [Redacted] has stated that Khieu Samphan told him  
7 by letter not to return to Phnom Penh in April 1975, as the CPK  
8 needed to evacuate the city as a precaution due to the  
9 development of a deadly contagion. Khieu Samphan stated in an  
10 interview with the Co-Investigating Judges that he does not  
11 remember exactly but that it is possible this letter may have  
12 been dictated by Pol Pot.

13 [11.44.53]

14 Paragraph 1161. A newspaper article dated the 28th of April 1975  
15 asserts that Khieu Samphan had entered Phnom Penh the week  
16 before, dressed in a simple black pyjama suit and a krama and  
17 "proclaiming the triumph of his new leftist regime".

18 Additionally, a "New York Times" report dated 9 July 1982 details  
19 an interview with Khieu Samphan in Kuala Lumpur, in which he  
20 purportedly admitted to participating in the collective decision  
21 to forcibly transfer the population of Phnom Penh.

22 Phase Two.

23 Paragraph 1162. The decision to move people from the Central (Old  
24 North), Southwest, West, and East Zones was made by the Standing  
25 Committee after they visited the Northwest Zone between the 20th

1 and 24th of August 1975. While there is no record of who  
2 participated in this visit, even if Khieu Samphan was not part of  
3 this mission, Ieng Sary has stated that Khieu Samphan attended an  
4 enlarged Standing Committee meeting in September 1975 to discuss  
5 implementing the dictatorship - a dictatorship and strengthening  
6 agriculture and industry. A Party document coinciding with the  
7 date of the meeting specified the need to relocate "New People"  
8 to the North and Northwest zones.

9 [11.47.15]

10 Part Four: Character information.

11 I. Nuon Chea.

12 Paragraph 1580. Nuon Chea's political activities until 1979 are  
13 set out in the section of the Closing Order regarding the role of  
14 the Accused Person.

15 Paragraph 1581. When the Vietnamese arrived in January 1979, Nuon  
16 Chea and Pol Pot met Ieng Sary and Khieu Samphan in Pursat  
17 province. In the Central Committee meeting of February and (sic)  
18 March 1979, Nuon Chea urged Pol Pot to remain Party Secretary. He  
19 toured Cambodia and distributed supplies to cadres and  
20 combatants. In December 1979, the Standing Committee of the  
21 People's Representative Assembly unanimously decided to maintain  
22 Nuon Chea as its Chairman. He hosted a conference on the 15 of  
23 February 1981 with Khieu Samphan, where it was decided to form a  
24 united front against the Vietnamese with the Khmer People's  
25 National Liberation Front and the Royalists. Nuon Chea and Khieu

1 Samphan also distributed circulars on behalf of the DK  
2 Representative Assembly, urging military, civilians, and  
3 compatriots to remain patriotic in their struggle against the  
4 Vietnamese. In October 1981, Nuon Chea was the head of the DK  
5 delegation to the Asian Parliamentarian Conference in Beijing.  
6 After the official dissolution of the CPK in late 1983 or early  
7 1984, Nuon Chea held a political education session in Samlaut,  
8 where he declared that "communism was only a means towards  
9 patriotism".

10 [11.50.20]

11 Paragraph 1582. Nuon Chea surrendered to the Phnom Penh  
12 Government together with Khieu Samphan in December 1998, about  
13 six months after Pol Pot's death. At the time of his arrest on  
14 the 19 of September 2007, Nuon Chea was living with his wife in  
15 Psar Prum village, Pailin district.

16 Paragraph 1583. After declaring at his initial appearance and the  
17 adversarial hearing prior to his detention that he denied all  
18 charges and that he wanted to "enlighten the world about the  
19 truth", Nuon Chea made no substantive statements, arguing that he  
20 was in poor health. He also elected to exercise his right to  
21 remain silent.

22 Paragraph 1584. Nuon Chea refused to meet with the psychiatric  
23 experts who were supposed to examine him and offer an opinion on  
24 his fitness to stand trial. The experts, therefore, only observed  
25 that a review of his medical files revealed no past history of

1 mental disorder.

2 [11.52.15]

3 II. Ieng Sary, alias Van.

4 Paragraph 1589. Ieng Sary's political activities between 1975 and  
5 1979 are set out in the section of the Closing Order regarding  
6 the role of the Charged Person.

7 Paragraph 1590. When the Vietnamese Army entered Cambodia at the  
8 beginning of 1979, Ieng Sary escaped towards Thailand and joined  
9 Pol Pot and Nuon Chea near Pursat. It was then decided that he  
10 should travel to China in order to negotiate assistance.

11 Paragraph 1591. On the 19th of August 1979, Ieng Sary was found  
12 guilty in absentia of "genocide", together with Pol Pot, by the  
13 Phnom Penh Popular Revolutionary Court and was sentenced to death  
14 and confiscation of his property.

15 Paragraph 1592. Ieng Sary continued to exercise official  
16 functions in the exiled DK Government, representing the  
17 government abroad, in particular before the United Nations, and  
18 was identified as a leading member of the "Khmer Rouge" by  
19 foreign media. In 1982, Ieng Sary participated to the creation of  
20 the Coalition Government of the DK, which was composed of members  
21 of the Khmer Rouge as well as partisans of Norodom Sihanouk and  
22 Son Sen. Khieu Samphan took over Ieng Sary's position as Minister  
23 for Foreign Affairs.

24 [11.54.20]

25 Paragraph 1593. In his role as leader of the Coalition Government

1 of Democratic Kampuchea Economic and Financial Committee, Ieng  
2 Sary was the exclusive interlocutor with the Chinese authorities  
3 regarding military and financial assistance provided by Beijing  
4 to the Khmer Rouge.

5 Paragraph 1594. Ieng Sary was progressively marginalized within  
6 the movement and was relieved of some of his responsibilities. In  
7 August 1996, he left the movement and joined the government.  
8 Thousands of partisans joined as well. On the 14th of September  
9 1996, a Royal Decree pardoned him for his 1979 conviction, and he  
10 received an amnesty from prosecution under the "Law [of 1994] to  
11 Outlaw the Democratic Kampuchea Group".

12 Paragraph 1595. In 1997, Ieng Sary announced the creation of the  
13 Democratic National United Movement, which he considered  
14 presenting at the 1998 elections but renounced.

15 Paragraph 1596. Until his arrest, Ieng Sary lived in Phnom Penh  
16 and Pailin with his wife.

17 Paragraph 1597. In the context of a psychiatric assessment  
18 ordered by the Co-Investigating Judges, the psychiatrists  
19 concluded as follows: "Ieng Sary presents as an 85-year-old man  
20 whose cognitive functioning appears consistent with his age, and  
21 his longer-term memory appears to be significantly intact. He  
22 does not demonstrate any signs of current mental disorder,  
23 although it does appear clear that he has suffered a degree of  
24 psychological trauma through his life experience over many years.  
25 Nevertheless, he does not appear to meet diagnostic criteria for

1 any mental disorder and is, in our view, in robust mental health  
2 for a man of his age. [...] We have identified mild cognitive  
3 impairment, especially in the area of recent memory, which we  
4 believe to be consistent with the Accused's age. On examination  
5 we do not believe that this will impair Ieng Sary to the point  
6 where he would not be fit to stand trial."

7 [11.58.23]

8 III. Khieu Samphan.

9 Paragraph 1601. Khieu Samphan's political activities between 1975  
10 and 1979 are set out in the section of the Closing Order  
11 regarding the role of the Charged Person.

12 Paragraph 1602. Following the fall of the CPK regime in 1979, the  
13 flight of CPK leaders, and the advance of Vietnamese troops,  
14 Khieu Samphan continued to support the activities of the CPK.  
15 Khieu Samphan remained in Cambodia with Pol Pot and assisted in  
16 directing the conflict with the Vietnamese. His involvement  
17 included visiting and distributing supplies to troops and  
18 representing Democratic Kampuchea as the President of the State  
19 Presidium. As President and Prime Minister of Democratic  
20 Kampuchea and Provisional President of the Patriotic and  
21 Democratic Front, Khieu Samphan instigated efforts to establish a  
22 coalition between other resistance groups, namely the Khmer  
23 People's National Liberation Front and the Royalists. With the  
24 formation of the Coalition Government of the Democratic Kampuchea  
25 in 1982, Khieu Samphan became Vice President in Charge of Foreign

1 Affairs of Democratic Kampuchea. Between 1979 and 1986, he  
2 conducted diplomatic missions and represented Cambodia at the  
3 United Nations, representing Khmer Rouge interests. In August  
4 1985, when it was decided to create the Party of Democratic  
5 Kampuchea, Khieu Samphan was named as President. In 1989, he  
6 attended the Paris International Conference representing  
7 Democratic Kampuchea and, in 1991, he was present, along with Son  
8 Sen, at the signing of the Paris Peace Agreements. As such, he  
9 carried out an official visit to Phnom Penh in 1991, during which  
10 he was attacked by a group of demonstrators. He maintained  
11 political alliances with Pol Pot until his arrest in 1997 by the  
12 Khmer Rouge. Although generally denying any association with the  
13 crimes committed under the regime of Democratic Kampuchea, Khieu  
14 Samphan admitted that the CPK "made some mistakes", in April  
15 1986.

16 [12.02.15]

17 Paragraph 1603. Khieu Samphan lived along the Thai-Cambodian  
18 border until his inclusion in the Cambodian Government, together  
19 with Nuon Chea, in December 1998. At the time of his arrest, he  
20 was living in Pailin.

21 Paragraph 1604. Khieu Samphan refused to meet the psychiatric  
22 experts in charge of examining him to issue an opinion on his  
23 fitness to stand trial. Instead, he informed them that he was not  
24 suffering from any psychiatric problems and that he refused to  
25 undergo any examination. The experts were therefore only able to

1 note that his medical records did not show any history of mental  
2 disorder.

3 That is all, Mr. President. Thank you.

4 MR. PRESIDENT:

5 The time is now appropriate for lunch adjournment. The Chamber  
6 will adjourn from now until 1.30.

7 And this afternoon, the Chamber will hear the testimony of one  
8 witness, TCW-248 (sic).

9 And due to certain objections by certain parties in relation to  
10 the hearing of the testimony TCW-428, the Chamber would like to  
11 issue the ruling as follows.

12 [12.04.11]

13 The Trial Chamber is seized of a request from the Co-Prosecutors  
14 to place on the case file an interview of TCW-428 from the 11th  
15 of December 2010 as a new document.

16 Pursuant to Internal Rule 87(4), the Chamber may admit new  
17 evidence deemed conducive to ascertaining the truth where that  
18 evidence also satisfies the prima facie standards of relevance,  
19 reliability, and authenticity required under Rule 87(3).

20 In accordance with Internal Rule 87(4) and reflecting  
21 jurisprudence at the international level, the Chamber has also  
22 generally required the requesting party to satisfy the Chamber  
23 that the proposed evidence was unavailable before the opening of  
24 the trial and/or could not have been discovered with the exercise  
25 of due diligence -- document E190.

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1 Although this document was created after the opening of trial, it  
2 was available when the Trial Chamber notified the parties, on the  
3 25th of October 2011, that witness TCW-428 may be called to  
4 testify during the first trial segment of Case 002 - document  
5 E131/1.1. Therefore, the OCP request comes almost one year after  
6 being notified that this witness may testify, and on the eve of  
7 his testimony.

8 [12.06.55]

9 Furthermore, the document was only available in Khmer until the  
10 28th of September 2012, the Friday before the witness was  
11 scheduled to testify, providing little notice to the parties and  
12 Trial Chamber to gather the substance of the 40-page document.  
13 For these reasons, the Trial Chamber does not consider the  
14 Co-Prosecutors' request to be timely, pursuant to 87(4).

15 I note the international defence counsel for Mr. Nuon Chea is on  
16 his feet. You may proceed.

17 MR. IANUZZI:

18 Thank you, Mr. President. Good morning, everyone. I have two  
19 brief applications this morning.

20 The first relates to what's -- what's just happened, the reading  
21 out of the segments of the Closing Order. Our client, Mr. Nuon  
22 Chea, would very much like to publicly comment on those passages.  
23 He would like to do those - to do that, excuse me, in open Court.

24 [12.08.06]

25 Unfortunately, I've also been informed that he's suffering from a

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1 headache, a backache, and a general lack of concentration.

2 I would propose the following: that we, perhaps, take an extra 15  
3 minutes during the lunch break so that he could rest; he could  
4 come back after the lunch break – and I'm informed that his  
5 comments would take approximately five to 10 minutes; he could  
6 make those submissions, and then he could retire to the holding  
7 cell for the rest of the afternoon.

8 If that's acceptable for everyone, that's our application for  
9 this morning.

10 (Judges deliberate)

11 [12.15.11]

12 MR. PRESIDENT:

13 Responding to the application made by Mr. Nuon Chea through his  
14 defence lawyer, the first of which is the application to respond  
15 to the various paragraphs read by the greffiers alleging the  
16 Accused – and, according to the defence counsel, he may need 15  
17 minutes or so to make such a statement – the Chamber will take  
18 that into consideration and issue a ruling afterwards.

19 And this afternoon the Chamber will hear the witness TCW-428.

20 And the Chamber also notes the request by Mr. Nuon Chea through  
21 his defence lawyer to follow the proceeding remotely from the  
22 holding cell, due to his health reason.

23 The Chamber grants this request. Mr. Nuon Chea may follow the  
24 proceeding from the holding cell, where the audio-visual  
25 equipment is connected for him to follow the proceeding for the

1 remainder of the day.

2 [12.16.30]

3 The Chamber notes that Mr. Nuon Chea has waived his right not  
4 (sic) to be present directly in this courtroom. The Chamber  
5 requires the defence team for Mr. Nuon Chea to submit immediately  
6 the waiver with the thumbprint and signature of Mr. Nuon Chea.  
7 And AV assistants are instructed to connect the audio-visual  
8 equipment to the holding cell downstairs, where -- Mr. Nuon Chea  
9 will observe the proceeding from the holding cell for the  
10 remainder of today's proceeding.

11 Security guards are instructed to bring the Co-Accused to the  
12 holding cell downstairs. Mr. Nuon Chea shall remain in the  
13 holding cell for the rest of the day, where he will follow the  
14 proceeding remotely through audio-visual means, and Mr. Khieu  
15 Samphan is to be brought to this courtroom before 1.30.

16 [12.17.25]

17 Is there any other matter, Counsel? You may proceed.

18 MR. IANUZZI:

19 Thank you, Mr. President. As a matter of fact, there is one more  
20 thing I would like to raise. It has nothing to do with this  
21 issue. It has to do with the next witness who's being called.

22 Given the hour, I think it's appropriate that I make that  
23 application after lunch.

24 However, I also think it's essential that the application be made  
25 outside of the hearing of the witness, so I would appreciate it

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1 if the witness were not immediately brought in. I think I'll need  
2 about five minutes to make my application this afternoon.

3 Thank you.

4 (Judges deliberate)

5 [12.19.13]

6 MR. PRESIDENT:

7 Counsel, can you summarize your position and application? Because  
8 we have so far made it clear that you should make your  
9 application as clear as possible so that we can arrange the time  
10 allotted to you for any particular purpose.

11 MR. IANUZZI:

12 Your Honour, I'll be more than happy to make the application now.  
13 As I said, it shouldn't take more than five minutes. I do note  
14 it's 20 past 12.00 and I assume people are hungry, but I'm happy  
15 to make it now.

16 MR. PRESIDENT:

17 You may proceed, but you have to be precise on the substantive  
18 issue you want to raise and you have to mention the subject  
19 matter of your application before you make any detailed  
20 application. So, you have to summarize the substance - the  
21 subject matter of your application. Then, that will form the  
22 basis for the Chamber to decide as to how much time we may allot  
23 to you to make such an application.

24 [12.20.43]

25 MR. IANUZZI:

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1 Thank you, Mr. President. It's a - it's a very brief - what we  
2 would call, in my jurisdiction, a motion in limine - l-i-m-i-n-e  
3 - and that is typically an oral application made prior to the  
4 testimony of a witness to exclude certain segments of the  
5 testimony. It's a well-established procedure.

6 It relates in particular to a witness statement. I think this is  
7 probably the best opportunity to do it now, while the witness is  
8 not here.

9 I'm referring to document E3/80, and that is one of the OCIJ  
10 witness statements, one of the statements taken by the OCIJ  
11 investigators of Mr. Meas Voeun, TCW-428. And my concern - my  
12 concern relates to a small portion of this document.

13 And just for the record, let me read out those ERNs very quickly  
14 - this won't take long. It's the fifth page of the English  
15 version - that's ERN 00491657, and that's Khmer ERN 00486472, and  
16 the French ERN 00509787 through 788.

17 [12.22.10]

18 And I think - I think if I just read out one line it will become  
19 obvious -- the thrust of my application will become obvious. So,  
20 let me just read. And this is a question by one of the  
21 investigators - and I'm not naming any names, and I do not intend  
22 to cast any aspersions; I'm simply reading from the statement:  
23 "The confession of Chou Chet alias Si stated that '...' -- and then  
24 a substantive portion of that statement - that confession, that  
25 torture-tainted material - was put to the witness by an agent of

1 the OCIJ.

2 So, I think it should be clear, what I'm complaining about. Here,  
3 we have a judicial body relying on the substance of  
4 torture-tainted evidence.

5 Now, again, I assume that problem is immediately apparent.

6 However, just let me make it very clear for the record, in this,  
7 perhaps, you know, despite the categorical prohibition of the CAT  
8 - the Convention Against Torture - again, we have a judicial  
9 officer relying on the substance--

10 Now, I don't think I need to remind the Bench - and I probably  
11 should just mention very briefly for the public that that kind of  
12 - that kind of exercise, that kind of reliance on torture-tainted  
13 evidence for its substance is categorically, absolutely  
14 prohibited, and this Chamber has concurred with that position on  
15 several occasions.

16 [12.23.37]

17 So, it appears in the face of this document that a member of the  
18 OCIJ has deviated from that accepted position.

19 Again, this perhaps for the benefit of Judge Lavergne especially,  
20 but for the others, I'm not making a complaint about a procedural  
21 defect. The CAT - the Convention Against Torture - as we're all  
22 aware, does not concern itself with procedural defects; it  
23 concerns itself with substance, and this, in my submission - in  
24 our submission, is a substantive problem - yet another  
25 substantive problem with the manner in which the judicial

1 investigation was handled.

2 So, just turning to my application, then, to be clear: not a  
3 motion for an annulment; it is, in fact, as I said earlier, a  
4 motion in limine – and, again, for the interpreters, that's  
5 l-i-m-i-n-e. It's a motion to exclude portions of this statement  
6 that relate to the substance of a confession.

7 So, I hope as a starting point we can all agree that that is in  
8 fact a problem.

9 [12.24.48]

10 Now, what to do about it -- the solution? In our submission, the  
11 passage – that passage that I've read at the beginning of page 5  
12 and the several subsequent questions that follow from that  
13 passage, that relate to that substance should be stricken from  
14 this Court – it should be not discussed in Court by the Judges,  
15 by any parties. The Prosecution is free to ask questions on  
16 topics. However, it is our submission that this material, this  
17 portion – and I would say that goes from question and answer 16  
18 on that page through question and answer 20. That should be  
19 excluded. And I would hope – I assume I expect that the rationale  
20 is obvious. This is -- again, referring to my own jurisdiction,  
21 this is what we would call the "fruit of the poisonous tree" –  
22 that is, we have an illegal act, illegal violation, the use of  
23 illegal material -- so, that in itself is the poisonous tree --  
24 the fruit – let me slow down – the fruit being the material that  
25 comes as a result of that.

1 So, it all needs to be--

2 MR. PRESIDENT:

3 How much time do you need to make these oral applications?

4 Because we - all we wanted to know was the subject matter of your  
5 application. And your time is up for this application because I  
6 am not expecting that you are making an oral application for  
7 that.

8 [12.26.27]

9 So please advise the Chamber as to how much time do you need. We  
10 need to understand your subject matter of application first.

11 MR. IANUZZI:

12 That was, in a nutshell, my application.

13 And I'll just say - I'll - to use another - perhaps a musical  
14 analogy, Duke Ellington has famously said: "There are two kinds  
15 of music; good and bad." I think there are two kinds of evidence,  
16 and this is clearly bad evidence and it should not be used before  
17 this Chamber.

18 And that is my application in limine--

19 MR. PRESIDENT:

20 Thank you. The Chamber notes your application, even though you  
21 argue that it is not meant to challenge the procedural defect of  
22 the investigation, and we note this application. And so far we  
23 have also encountered these similar applications, as well. And  
24 you, of course, have the right to challenge the procedure in  
25 relation to such investigation.

1 But the Court is adjourned.

2 (Court recesses from 1227H to 1346H)

3 MR. PRESIDENT:

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

5 Before we invite the witness, TCW 428, into the courtroom, I  
6 would like to hand the floor to Judge Cartwright to respond to  
7 the request by the international counsel for Nuon Chea, who --  
8 made at a later stage of the morning session this morning. The  
9 Chamber actually adjourned the proceeding already, but the  
10 international counsel still insisted on making that motion. So,  
11 Judge Cartwright will make a ruling on that.

12 You may proceed.

13 (Short pause)

14 [13.48.02]

15 JUDGE CARTWRIGHT:

16 Thank you very much, President. I couldn't get my microphone to  
17 work.

18 Yes, as the President has indicated, it appears that after the  
19 President had adjourned for the lunch break, further comments  
20 were made by you, Mr. Ianuzzi, and we simply wish to make it very  
21 clear that this oral application that you have made has been  
22 considered by the Chamber, that there is no need to impute any  
23 impropriety on the part of the Chamber -- and I see you're  
24 nodding, so presumably you did not intend to do that.  
25 The Chamber has considered the oral argument raised by you

1 concerning one of the S 21 confessions which was quoted in the  
2 written statement taken by the Co Investigating Judges of TCW  
3 428, document E3/80.

4 First, the Chamber notes that this was a very much -- very much a  
5 last minute application. Presumably, counsel knew of this concern  
6 some time in advance of lunchtime today.

7 [13.49.28]

8 Secondly and more importantly, however, as you have yourself  
9 noted, the Trial Chamber has consistently and unanimously ruled  
10 that confessions obtained contrary to the provisions of the  
11 Convention Against Torture cannot be used as evidence or for the  
12 basis for questioning.

13 Therefore, the Chamber will remind the parties that it will  
14 permit no questions on the content of the confession and nor will  
15 it use such information in its verdict. This is simply  
16 reiterating what the Chamber has consistently ruled.

17 As an addendum -- because, clearly, you don't fully understand  
18 the procedures under which we're working here -- the applicable  
19 legal framework that this Court operates under does not provide  
20 for striking out as a remedy, so that is not an application that  
21 can be seriously considered by the Chamber.

22 [13.50.45]

23 And, finally, it's implicit in what the Chamber has unanimously  
24 ruled that it requires no submissions from any other party today  
25 on this matter.

1 Thank you.

2 MR. IANUZZI:

3 Thank you, Judge Cartwright. If I could just briefly make three  
4 points?

5 First, with respect to my nodding, let's just say that was a  
6 neutral head nodding.

7 Secondly--

8 JUDGE CARTWRIGHT:

9 If you're -- excuse me, just a moment please.

10 You know that the other consistent rule that we have is that you  
11 don't question rulings of the Bench; there are other avenues that  
12 you might take.

13 [13.51.26]

14 But I note the neutrality of your nodding. Thank you.

15 MR. IANUZZI:

16 Thank you very much. I'm just trying to make my record for the  
17 appeal.

18 It is our submission--

19 JUDGE CARTWRIGHT:

20 There is no need to make a record for the appeal. The ruling has  
21 been given. You have been given the opportunity to make a  
22 submission, and you can make such submissions again, should you  
23 choose to do so, on appeal. That is always open to you.

24 Thank you, President. Was there anything you wished to add?

25 MR. IANUZZI:

1 Given that this is an immediate issue, the witness is not here  
2 before us, it's an interim application -- it's not something  
3 that, appealing six months, one year, two years from now, we'll  
4 be able to cure. So, for that reason, I would like to make two  
5 brief points.

6 Number one, I believe -- I believe -- it is our submission that  
7 the legal framework, as you put it, of this Court clearly --  
8 clearly -- can encompass something as general as a motion in  
9 limine. That is an established procedure, and it is not  
10 prohibited by any rule. So I take exception to that.

11 [13.52.32]

12 The -- as for eliciting responses and replies, that is standard  
13 motion practice. That allows all of the parties to put their  
14 positions on the record -- the Prosecution, the civil parties, my  
15 colleagues on this side of the stage. That's a transparency  
16 issue.

17 I understood the President's final comment before the lunch break  
18 to dismiss the application, as it was, I believe he characterized  
19 it, a procedural defect, an application for annulment. I want to  
20 make it very clear -- very clear -- that that was not what I was  
21 asking for. So that's why I continued to speak. And I took it  
22 from the President's comment that there was going to be no  
23 further debate and that there would not be a written or an oral  
24 ruling.

25 So, I'm grateful for the oral ruling, I appreciate that, and I

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1 would just like to say that, again, the motion that I've made  
2 clearly would fit into the legal framework, and everyone in the  
3 Court should be engaged in the debate. Thank you.

4 MR. PRESIDENT:

5 I think you need to review the transcript again. I made my  
6 observation regarding your submission. I did not say that you  
7 request for the nullification. What I said is that you should  
8 have done that even during the investigative stage, prior to the  
9 issuance of the Closing Order.

10 [13.54.08]

11 And the Chamber has seen this kind of issue since in Case 001,  
12 and you have had ample opportunity to respond to any questions  
13 based on the written record of interview or confession obtained  
14 via torture so that you can prove your stand appropriately. And  
15 it's been -- we all have had such experience and issues already.  
16 Of course, the issue of confession under torture has been raised  
17 on a number of occasions.

18 And I did not rule this morning, as we did not deliberate yet. I  
19 only made observation regarding your submission.

20 MR. IANUZZI:

21 Thank you, Mr. President. You've just said it again, that it was  
22 an issue that we should have raised at the judicial  
23 investigation.

24 [13.55.07]

25 That was precisely the point I was trying to make: This was not

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1 an issue to be made during the judicial investigation; it's a  
2 motion in limine with respect to a particular witness that Your  
3 Chamber has called to give evidence. We didn't know--

4 MR. PRESIDENT:

5 You probably misunderstood it because the Chamber already ruled  
6 on this issue. We did not issue two rulings on the same issue.  
7 We observed and noted your submission, so you are not allowed to  
8 speak on this topic again.

9 Court Officer, could you invite the witness, TCW-428, and the  
10 witness duty counsel into the courtroom?

11 (Witness enters courtroom)

12 [13.57.41]

13 QUESTIONING BY THE PRESIDENT:

14 Good afternoon, Mr. Witness.

15 Q. What is your name?

16 MR. MEAS VOEUN:

17 A. My name is Meas Voeun.

18 Q. Do you have any alias?

19 A. (Microphone not activated)

20 MR. PRESIDENT:

21 Mr. Witness, you need to wait and you pause a little bit until  
22 you see the red light on the microphone on the console. When it  
23 is red, it means today system is operational, so you can speak,  
24 and the voice will go through the interpretation system. Here at  
25 this Court, we use three languages.

1 [13.58.44]

2 BY THE PRESIDENT:

3 Q. Question again to you: Do you have any alias, Mr. Meas Voeun?

4 MR. MEAS VOEUN:

5 A. Yes, it is Svay Voeun.

6 Q. Thank you. Meas Voeun, how old are you?

7 A. I am 68 years old.

8 Q. Thank you. Where is your current address?

9 A. I live in Banteay Meanchey province.

10 Q. Thank you. What is your current occupation?

11 A. I am a rice farmer.

12 Q. What is your father's name?

13 A. My father's name is Svay Meas.

14 Q. And your mother's name?

15 [14.00.07]

16 A. Her name is Pen Im. She is deceased. And my father is also  
17 deceased.

18 Q. What is your wife's name?

19 A. Her name is Nim Yim.

20 Q. Thank you. How many children do you have?

21 A. I have eight children, but one passed away.

22 Q. What is your religion?

23 A. I am a Christian.

24 Q. Thank you.

25 As reported by the greffier this morning, to the best of your

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1 knowledge, you do not have any relation, by blood or by law, to  
2 any of the civil parties recognized in this case nor to any of  
3 the three Accused, namely: Nuon Chea, Ieng Sary, and Khieu  
4 Samphan. Is that correct?

5 [14.01.25]

6 A. I do not have any relationship with any of them.

7 MR. PRESIDENT:

8 Ms. Se Kolvuthy, could you give instruction to the witness Meas  
9 Voeun regarding the swearing according to his religion.

10 THE GREFFIER:

11 Mr. Meas Voeun, you see a Bible before you. Please place your  
12 left hand on the Bible and raise your right hand, and please  
13 repeat after me: I solemnly and sincerely declare that I speak  
14 the truth, the whole truth, and nothing but the truth.

15 MR. MEAS VOEUN:

16 I solemnly and sincerely declare that I speak the truth, the  
17 whole truth, and nothing but the truth.

18 MR. PRESIDENT:

19 Thank you. Please sit.

20 [14.02.48]

21 Mr. Meas Voeun, the Chamber would like to inform you of the right  
22 and obligation as a witness to the proceeding before this Trial  
23 Chamber.

24 You may refuse to respond to any question or to make any comment  
25 or affirmation which could incriminate you. That is your right

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1 against self-incrimination -- this means if you believe that your  
2 response or comment or affirmation could incriminate you or that  
3 you would be prosecuted.

4 And at the same time, as a witness to the proceeding before this  
5 Chamber, you must respond to any questions put to you by any of  
6 the parties or the Bench, except in the cases where you believe  
7 that your response or comment would incriminate you. Again, that  
8 is your right against self-incrimination.

9 And, as a witness, you must only speak of the truth that you have  
10 heard, have known, have remembered, or experienced, or observed  
11 directly regarding the events related to the questions put to you  
12 by any of the parties or the Bench.

13 [14.04.10]

14 BY THE PRESIDENT:

15 Q. Mr. Meas Voeun, have you ever been interviewed by the  
16 investigators of the Office of the Co-Investigating Judges? If  
17 so, how many times, when, and where?

18 MR. MEAS VOEUN:

19 A. I met with the investigators at my house. I was interviewed  
20 three times. I cannot recall the first time that I was  
21 interviewed.

22 Q. Thank you.

23 And before you entered this courtroom to testify, had you read or  
24 reviewed or were you read out the record of interviews that you  
25 made previously -- that is, the three interviews -- in order to

1 refresh your memory?

2 A. I read some of them, but I cannot recall them all.

3 [14.05.25]

4 Q. To the best of your recollection, can you tell the Chamber  
5 whether the written records of interviews that you have read to  
6 refresh your memory are consistent with the statements that you  
7 made during the three interviews?

8 A. They are rather consistent.

9 MR. PRESIDENT:

10 Thank you.

11 Today, you also requested for a duty counsel, and as that, a duty  
12 counsel has been assigned to you.

13 Duty Counsel, could you tell the Chamber your name and your ID  
14 card or your law office?

15 MR. SENG RETHY:

16 My name is Seng Vuthy (sic). My ID is 470. I'm a member of the  
17 Bar.

18 [14.06.45]

19 MR. PRESIDENT:

20 Thank you.

21 The Prosecution, you are advised that for the hearing of the  
22 testimony of this witness, you are given the floor first. You may  
23 proceed.

24 And the Prosecution and the Lead Co-Lawyers have one-and-a-half  
25 day time allocation.

1 You may proceed.

2 QUESTIONING BY MR. VENG HUOT:

3 Good afternoon, Mr. President. Good afternoon, Your Honour, and  
4 good afternoon colleagues in and around the courtroom, and Mr.  
5 Meas Voeun, good afternoon. I am the representative of the  
6 Prosecution.

7 Before I begin my lines of questioning, I would like to remind  
8 you that if you do not catch the question I ask, feel free to ask  
9 me to repeat the question.

10 [14.08.30]

11 Q. I would like to begin my first question with the -- your work  
12 history in the Revolutionary Movement.

13 When did you first join the Revolutionary Movement?

14 MR. MEAS VOEUN:

15 A. Good afternoon, Mr. President. I first joined the Revolution  
16 in 1968.

17 Q. Thank you, Mr. Meas Voeun. When you first joined this  
18 Movement, what was your position? And what did you do, really, in  
19 the Movement?

20 A. At the time, I was a country youth. There was a person who  
21 inducted me to the Revolution.

22 Q. What were your roles at the time in the countryside?

23 A. In the initial days, I joined the Youth Movement in the  
24 countryside. At that time, Cambodia did not gain full  
25 independence.

1 [14.10.47]

2 Q. I wanted to know your main roles in the Revolutionary  
3 Movement.

4 A. I was the representative of youth in my village.

5 Q. Thank you. When you first joined the Movement, did you know  
6 any other cadres -- senior cadres or -- and did you assist them  
7 in any way?

8 A. Back then, there was one cadre. He is deceased now. I do not  
9 recall his name either.

10 Q. Prior to 1970, you said the joined the Movement in 1968, did  
11 you ever hear of Khieu Samphan who were involved in the  
12 Revolutionary Movement in your location?

13 A. Before 1978, I heard the name of Mr. Khieu Samphan on radio  
14 broadcast, but I did not meet him in person. He was campaigning  
15 against Samdech Sihanouk.

16 Q. Besides hearing his name on radio broadcast, did you ever  
17 receive any written documents from Mr. Khieu Samphan?

18 A. No, none.

19 [14.13.33]

20 Q. Thank you.

21 In your interview before the investigator of OCIJ -- document  
22 E3/424; Khmer ERN 00418518; English, 00784178 (sic); French,  
23 00784186 -- you then told the investigator that in 1970 you  
24 joined the Patriotic Youth League in order to liberate Cambodia  
25 from capitalism and colonialism and at that time you were the

1 bodyguard of the cadres.

2 I would like to ask you, when you were working as the bodyguard  
3 or messenger, who did you work for?

4 MR. PRESIDENT:

5 Witness, please hold on.

6 I note the defence counsel is on her feet. You may proceed,  
7 Counsel.

8 [14.15.04]

9 MS. GUISSÉ:

10 Yes. Thank you, Mr. President. I apologize for interrupting, but  
11 I believe that there was a little problem in the ERN references  
12 in French.

13 So could the Co-Prosecutor please repeat the ERN numbers? Thank  
14 you.

15 BY MR. VENG HUOT:

16 I would like to read out French ERN number again: 00784186.

17 Q. Mr. Meas Veoun, do you still remember my question to you? If  
18 you don't, I am happy to repeat it.

19 MR. MEAS VOEUN:

20 A. I'm afraid I have forgotten your question.

21 Q. Thank you. I would like to now read out a portion of your  
22 interview.

23 According to the document I identified earlier, you told the  
24 investigator that in 1970 you joined the Patriotic Youth League  
25 in the resistance to liberate Cambodia from the French

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1 colonialism and capitalism and at that time you were the  
2 bodyguard and the messenger of cadres.

3 And I -- my question is: Do you still recollect the past events  
4 when you were working as the bodyguard for cadres? Which cadres  
5 did you work for?

6 [14.17.30]

7 A. Before I was the bodyguard of the cadres who left Phnom Penh  
8 to reside in the countryside, they were resisting in the forest,  
9 and my role was to provide security protection to these cadres.

10 Q. I would like to know the actual name of those cadres back in  
11 1970.

12 And then, after 1970, you also provided security protection to  
13 other cadres. Could you enumerate the names to your recollection?

14 A. Those cadres include Vorn Vet, Brother Suong (phonetic), to my  
15 recollection, and Mr. Khieu Samphan as well.

16 MR. PRESIDENT:

17 Defence Counsel, you may proceed.

18 MS. GUISSÉ:

19 Yes, Mr. President. I apologize once again for interrupting, but  
20 I prefer interrupting before there are further references  
21 mentioned.

22 [14.19.22]

23 If I understood properly, the Co-Prosecutor is referring to a  
24 document E3/424, and in French my ERN reference for this document  
25 E3/424 -- I have a document that starts with 00455266 and that

1 ends at 00509789.

2 So I just wanted to make sure, if there are any further  
3 references, that we're speaking about the same documents, because  
4 the ERN numbers that were given by the Co-Prosecutors do not  
5 correspond to what I have.

6 MR. PRESIDENT:

7 (No interpretation)

8 MS. SIMONNEAU-FORT:

9 Yes. Just to confirm what my colleague said, I think that the ERN  
10 that is mentioned now is the ERN in this document, E3/424, but  
11 the French ERN is at answer number 1 and it's ERN 00455267. So--

12 BY MR. VENG HUOT:

13 That is the correct ERN numbers. My apology; I referred to the  
14 wrong ERN number.

15 [14.21.11]

16 Q. Mr. Witness, you asserted that you were the bodyguard  
17 providing security protection to Khieu Samphan, Vorn Vet, and  
18 Suong. Aside from guiding them or escorting them, did you ever  
19 receive any documents from Mr. Khieu Samphan?

20 MR. MEAS VOEUN:

21 A. Never had I received any letters or communication message from  
22 him.

23 Q. Thank you. I would like to expand on this topic a little bit  
24 further.

25 In the same testimony you provided to the investigators, you made

1 mention that you were struggling to liberate the country, in the  
2 Patriotic Youth League. Who actually introduced you to this  
3 league?

4 A. The cadre who was my direct superior, by the name of Moeun  
5 (phonetic). But he was dead.

6 (Short pause)

7 Q. My apology, Mr. President; I would like to move on.

8 In document E3/424 -- ERN in Khmer, 00418518; in English,  
9 00784179; French, 00455267 -- you told the investigator that in  
10 1971 you joined the armies and you were trained with military  
11 techniques.

12 [14.24.20]

13 I would like to ask you to enlighten the Court in relation to the  
14 military training techniques. I would like to know whether or not  
15 you -- in the course of this training, you were also instilled  
16 with certain ideology, particularly the political ideology?

17 A. Before the training was conducted, I had been trained on the  
18 political situation of the country. They told us that Cambodia  
19 was not independent. Economically, we were under the colonialism  
20 of France.

21 Q. In the same document, you told investigators that Ta Soeung  
22 was promoted to the zone military committee, and then you were  
23 also promoted to the Commander of Battalion 136 in Regiment 16 of  
24 Division 1. If we look at the structure of the Southwest Zone at  
25 the time, who had the most authority? Was it the chairman of

1 Division 1 or the chairman of the zone?

2 A. I do not quite catch your question. Could you please simplify  
3 your question?

4 Q. I would like to know the structure -- the hierarchical  
5 structure in military committee. You know that there was  
6 secretary of the zone and there was chairman of the division. Who  
7 had the most authority between these two bodies?

8 [14.26.55]

9 A. Zone had more authority than division.

10 Q. Who was the zone military committee at the time?

11 A. The chairman of the zone military committee back then was Ta  
12 Si.

13 Q. It was in the Southwest Zone, it was not in the West Zone.  
14 Could you please help clarify -- or who was the Chairman of the  
15 Southwest Zone Military Committee?

16 A. The Chairman of the Southwest Zone was Ta Mok, initially.

17 Q. Who was the Commander of Division 1?

18 A. Ta Soeung was the Commander of Division 1.

19 Q. In that same document, you told the investigator that you were  
20 a regiment commander in Division-1.

21 My question is the following: When were you promoted to become a  
22 regiment commander?

23 A. I was promoted to regiment commander in 1975.

24 Q. Can you tell us how many soldiers were under your command?

25 A. There were about 600 soldiers within that regiment.

1 Q. Who actually promoted you to become a regiment commander?

2 [14.29.37]

3 A. It was Soeung.

4 Q. Can you tell us what happened to the previous regiment  
5 commander?

6 A. He passed away.

7 Q. Within your regiment, who actually gave weapons or arms to  
8 your whole regiment?

9 A. It was Ta Soeung.

10 Q. Now I'd like to know about the chain of command.

11 Based on the real situation, did you receive order from the zone  
12 secretary or did you receive orders from the Commander of  
13 Division 1?

14 A. I received orders from the Commander of Division 1.

15 [14.31.16]

16 Q. Can you explain to us who had the authority to form a  
17 battalion or who had the authority to form a regiment? How were  
18 they established?

19 A. Regarding the establishment of the regiment, from the  
20 battalion to the regiment, it was within the authority of the  
21 zone as well as the division secretary.

22 Q. Between the zone secretary and the division commander, did you  
23 know who had the authority to appoint them?

24 A. These two bodies actually met and discussed about the  
25 arrangement.

1 Q. My question to you is that: When a person was promoted to a  
2 zone secretary or a division commander, who actually had the  
3 authority to appoint them? That is my question.

4 A. I don't quite get your question.

5 Q. Let me repeat my question: In order for someone to be promoted  
6 to a division commander, who had the authority to appoint that  
7 person within each zone? Did the zone secretary have that  
8 authority to appoint that person to become a division commander,  
9 or was it appointed by the General Staff or by the Centre?

10 A. I could not grasp that situation; what I knew was only up to  
11 the zone level.

12 [14.33.55]

13 Q. Thank you.

14 My question is regarding the criteria for the selection of  
15 soldiers: In order to be promoted a regiment, like yourself,  
16 during the Democratic Kampuchea regime, did they screen people  
17 based on their social status?

18 A. Before someone was selected to become a commander of a  
19 regiment, a battalion, or a division, they would screen for a  
20 loyal person.

21 Q. Did they consider the social status for that selection?

22 A. If the person engaged in good conduct in society, that person  
23 would also be considered.

24 Q. Thank you.

25 [14.35.27]

1 Before the commencement of the attack on Phnom Penh, did you  
2 engage in other battlefields?

3 A. Before the attack on Phnom Penh, I was at Road Number 5 --  
4 that was in 1970 -- from Krakor to Kampong Chhnang, and then to  
5 Phnom Penh.

6 Q. Actually, who issued commands for the attack?

7 A. Ta Mok was the one who issued direct orders.

8 Q. At the conclusion of a battlefield -- of that battlefield, for  
9 instance - subsequently, did you receive orders from somebody  
10 else?

11 A. It was Ta Soeung after that.

12 Q. Regarding that point, I have a question for you. You said, for  
13 all the commands for your attack or your fight against the Lon  
14 Nol soldiers, the orders were issued by Ta Mok. Why did then you  
15 report to Ta Mok and instead you reported to Ta Soeung?

16 A. Direct orders were issued by Ta Mok to Ta Soeung, and then  
17 from Ta Soeung to a regiment or to a brigade while we were  
18 engaged in the battlefield.

19 [14.38.08]

20 Q. Thank you.

21 You stated that there were fighting along National Road Number 5,  
22 near Kampong Chhnang. For each clash or when a victory was won,  
23 were people evacuated from that fighting area?

24 A. During the fighting, there were all kinds of bombardment,  
25 shelling, and bullets from the infantry on the ground, so it is

1 natural that people tried to hide themselves and to flee from the  
2 battlefield.

3 Q. Thank you.

4 In your statement before the OCIJ -- that is document E3/424; ERN  
5 in Khmer, 00418519; and in English, 00784179; and in French,  
6 00455268 -- you told the investigators that "before the attack on  
7 Phnom Penh, the target or the spearhead from the Southwest  
8 convened a meeting with the General Staff, including Ta Son Sen  
9 and Ta Nuon Chea, who chaired the meeting with the commanders of  
10 divisions from all zones, and those division commanders later  
11 disseminated that information to the regiments".

12 [14.40.12]

13 My question is the following: Where was that meeting held?

14 A. Regarding the meeting by the General Staff, I did not know  
15 where that meeting took place. I was only informed later by the  
16 division commander.

17 Q. When were you informed by the division commander -- how many  
18 months prior to the attack on Phnom Penh?

19 A. It was not long; it was about one week prior to the attack, as  
20 they were preparing plans for the attack.

21 Q. You said that the division commander told you about the attack  
22 on Phnom Penh as he relayed information from the meeting by Son  
23 Sen and Nuon Chea.

24 My question is: Did the division commander tell you about the  
25 agenda of that meeting?

1 A. I received plans for the attack from the division commander.  
2 He told us we prepared our forces from all spearheads. I was  
3 responsible for the spearhead at the Southwest that need to  
4 attack from West -- that is, from Pochentong, from Stueng Mean  
5 Chey, and Boeng Prayap, and the Tonle Sap as well -- that is,  
6 from the West.

7 [14.42.38]

8 I knew about this plan to attack. However, actually, the main  
9 forces were not used as they were in the trenches; only smaller  
10 forces were first mobilized.

11 MR. PRESIDENT:

12 The time is now appropriate for a - for a break. We will have a  
13 20-minute break and resume at 3 p.m.

14 Court Officer, could you assist the witness and the duty counsel  
15 during the break and have them return to the courtroom at 3 p.m.?

16 The Court is now adjourned.

17 THE GREFFIER:

18 (No interpretation)

19 (Court recesses from 1443H to 1503H)

20 MR. PRESIDENT:

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

22 I hand over to the prosecutor to continue his line of  
23 questioning. You may proceed.

24 BY MR. VENG HUOT:

25 Good afternoon again, Mr. Meas Voeun. I would like to follow-up

1 with the question before we broke.

2 [15.03.44]

3 Q. In the agenda of the meetings, there was one item concerning  
4 the attack on Phnom Penh. Did they discuss the evacuation of  
5 people out of Phnom Penh in that meeting?

6 MR. MEAS VOEUN:

7 A. In this meeting, there was no indication in relation to the  
8 evacuation of people out of Phnom Penh, but we discussed mainly  
9 on the attack on Phnom Penh. And it was our expectation that we  
10 would be able to capture Phnom Penh on the 18 of April 1975, but  
11 we actually could capture Phnom Penh on the 17 of April.

12 Q. On the same document, you said that there was a meeting to  
13 plan the attack on Phnom Penh and you also mentioned the  
14 evacuation of people. When you were fighting your way to Phnom  
15 Penh, did you lead an army of 6,000 to 7,000 soldiers, or the  
16 composition of the army was changed?

17 A. At that time, they designated one regiment to attack from one  
18 direction, and it was under the supervision of the division  
19 commander.

20 [15.06.02]

21 Q. I would like to know how many soldiers were under your direct  
22 command at that time. You told the investigator that there were  
23 three targets you fought your way into Phnom Penh: one from  
24 Pochentong, the other one from -- the other two from Stung Mean  
25 Chey and Ou Baek K'am. So, how many -- how many soldiers were

1 under your direct command when you were fighting your way into  
2 Phnom Penh?

3 A. At that time, I commanded one regiment, and the other two  
4 regiments from Stueng Mean Chey and others were under other  
5 people's command. I was leading the regiment from Pochentong.  
6 There was another regiment fighting their way from Boeng Prayap.

7 Q. In your document -- in document E3 (sic), you mention in  
8 question 3 that your superior told you that you must not attack  
9 the enemy if they surrender or retreated. In the actual  
10 situation, did you ever hear any broadcast on the radio or by any  
11 other means that Lon Nol soldier surrendered or retreated?

12 A. At that time, I did not listen to the radio broadcast. We were  
13 engaged in fierce fighting. We only received instruction from the  
14 division commander, and then we executed the order.

15 [15.08.34]

16 Q. So, in reality, did you ever see any soldiers -- your opponent  
17 -- raise the white flag -- surrendering?

18 A. When we got into Phnom Penh, at that time, we saw white flag  
19 raising in many houses, and the city was at that time empty and  
20 quiet.

21 Q. When the red (sic) flag was hoisted, did your soldiers capture  
22 any Lon Nol soldiers?

23 A. When we conquered Phnom Penh, we did not arrest any soldiers.  
24 At least I could say for my own regiment, we did not arrest any  
25 soldiers.

1 Q. I would like you to enlighten the Court on one term. You said  
2 that the instruction from your superior -- that we must not harm  
3 the surrendered opponents; was that correct?

4 A. Yes, that is correct.

5 [15.10.11]

6 Q. Was there any instruction from the superior at the upper  
7 level, if any soldiers from Lon Nol administration were capture,  
8 where would they send those soldiers to?

9 A. Upon capture of soldiers, they would refer those soldiers to  
10 the decision -- into the hand of the commander of the division,  
11 and I did not know how he would deal with those captured  
12 soldiers.

13 Q. In document E3/424, in question 3, you told the investigator  
14 that, three days after the liberation of Phnom Penh, you saw  
15 people were being evacuated out of Phnom Penh city. So, when you  
16 first got to Phnom Penh, what was your impression of the city  
17 overall?

18 A. When I first got to the city, I found that the city was quiet;  
19 there were no people walking or loitering in the streets. The  
20 situation was quiet.

21 [15.11.54]

22 Q. How about your soldiers? What did they do?

23 A. The soldiers under my command withdrew backward a little bit,  
24 and we stationed somewhere west of Stueng Mean Chey.

25 Q. In the same document, particularly in the -- in the same

1 question I just mentioned to you, you said that you saw people  
2 being evacuated out of Phnom Penh city. Do you know whether or  
3 not this was the assignment given to soldiers or civilian  
4 organization?

5 A. In evacuating civilians out of Phnom Penh, I never received  
6 any order from anyone and I did not know how this was executed. I  
7 only heard that people were required to leave the city, and those  
8 who left through my area, we simply let them leave the city.

9 Q. In the same document, E3/424, question 3, you told the  
10 investigators that your -- the soldiers under your command  
11 withdrew entirely. Did you do this at your own will, or it was  
12 the instruction from your superior?

13 A. In withdrawing my forces out of Phnom Penh, there was a direct  
14 instruction from Ta Mok that we had to withdraw our troops out of  
15 Phnom Penh within a week.

16 [15.14.32]

17 Q. Was this a decision handed down directly from Ta Mok or was it  
18 the decision of a meeting?

19 A. There was no meeting at that time, but it was the direction of  
20 the division commander.

21 Q. When you received the order to withdraw your troops out of  
22 Phnom Penh, do you still recall whether or not people had already  
23 been evacuated out of the city?

24 A. No. At that time, people were being evacuated; some had  
25 already left, and others were still in the city.

1 Q. In the same document, E3/424, question-answer 2 -- and that  
2 should be read in conjunction with question and answer 6 -- you  
3 say that you were the Commander of Battalion 136 in Regiment 16  
4 of Division 1 and you provided security protection to Ta Soeung.  
5 And in your answer to question number 6, you said that the upper  
6 authority transferred your regiment to be stationed in Koh Kong  
7 province. You mentioned the upper echelon. Did you refer to the  
8 zone secretary or the division secretary?

9 [15.16.23]

10 MR. PRESIDENT:

11 Witness, please hold on.

12 The National Defence Counsel for Mr. Khieu Samphan, you may  
13 proceed.

14 MR. KONG SAM ONN:

15 Thank you, Mr. President. I will be very brief. I note that the  
16 prosecutor might have confused. Actually, he assisted Ta Soeung;  
17 he did not provide security protection for Ta Soeung.

18 BY MR. VENG HUOT:

19 That is correct, Mr. President. I might have misstated that.

20 Q. So I would like to repeat my question again. You -- you  
21 referred to the upper echelon. Who, specifically, you were  
22 referring to? Did you refer to the zone secretary or division  
23 secretary?

24 MR. MEAS VOEUN:

25 A. "Upper echelon", in this context, was referred to both, the

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1 commander of the division as well as the zone secretary.

2 [15.17.39]

3 Q. In this structure, there were two zones: the Southwest Zone  
4 and the West Zone for Koh Kong province. Why could you lead one  
5 regiment to the West Zone safely and easily?

6 A. That was the arrangement of the division and zone.

7 Q. Can you explain a little bit further whether or not that was  
8 approved by the General Staff? Because you said that there were  
9 6,000 -- some 6,000 soldiers under your command. To your  
10 knowledge, do you think that the General Staff was informed of  
11 this transfer of regiment?

12 A. I do not really understand this question.

13 Q. This is based on your statement in the record of interview.  
14 You said that you were attached to the Southwest Zone and you  
15 were in charge of one regiment, and then, later on, you were  
16 transferred to the West Zone in Koh Kong province. And according  
17 to your testimony earlier, you said that there were some 6,000  
18 soldiers under your command. So, if you had to bring those many  
19 soldiers from the Southwest Zone to the West Zone, did it have to  
20 be approved by the Centre or by the General Staff?

21 [15.20.06]

22 A. Following the liberation -- the liberation, the Southwest Zone  
23 and the West Zone were not yet separated. It was after the  
24 liberation. Particularly, some five or six months after the  
25 liberation, the zones were divided into two: Southwest Zone and

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1 West Zone. And once the zones -- the two zones were separated,  
2 there were soldiers attached to -- or armies attached to the two  
3 zones, as well.

4 And they transferred me and my entire regiment to the West Zone,  
5 and I did not know whether or not there was consultation at the  
6 upper level between zones secretary or the Centre because I did  
7 not know the decision at the Centre level; I only knew up to the  
8 zone level.

9 So, once I learned that there were two armies attached to  
10 different zones and -- I was then transfer to the West Zone. At  
11 the time, they actually transferred one and a half regiment to  
12 the West Zone, and we joined the zone military structure in the  
13 West Zone.

14 Q. (Microphone not activated)

15 [15.22.00]

16 MR. PRESIDENT:

17 Please make sure that your mic is activated before you speak.

18 BY MR. VENG HUOT:

19 Q. Thank you very much for your clarification. And you made it  
20 clear that you did not know the decision at the -- at the Centre  
21 level.

22 I would like to follow up on this issue. When you were  
23 transferred to the West Zone, then you were promoted to be the  
24 deputy chief or deputy chairman of a division, and you were also  
25 tasked to safeguard the coastline of Cambodia, and you were also

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1 trained with the Thai troops for a week. That was in your answer  
2 to question 7 -- not "training", rather, [corrects interpreter],  
3 the fighting with the Thai soldiers.

4 [15.23.13]

5 So, my question is: Who commanded that you fight with the Thai  
6 soldiers?

7 MR. MEAS VOEUN:

8 A. I was designated to safeguard the coastline, and there was  
9 conflict with Thailand, and I receive an order from the division  
10 commander. And I know for sure that the commander of the division  
11 also receive an order from the General Staff. And the reason why  
12 he order that attack was because Thailand encroached on the  
13 Cambodian territorial water. Particularly, they fished in the  
14 Cambodian water, using illegal equipment.

15 Q. During the fighting with the -- with Thai soldiers, did you  
16 capture any foreign soldiers?

17 A. In the course of the fighting, no side captured any soldiers.  
18 And the Thai soldiers used their air force to bombard on some of  
19 the islands in Cambodian territory water, and then we used  
20 artillery to attack their airplanes. So, we eventually withdrew a  
21 week after that.

22 [15.25.42]

23 Q. Did you arrest any or capture any soldiers?

24 A. No, we did not capture any.

25 MR. VENG HUOT:

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1 Thank you very much, Mr. Meas Voeun, for endeavouring to answer  
2 to all my questions.

3 That is all for me, and I would like to hand over to my esteemed  
4 colleague to continue putting questions to the witness.

5 MR. PRESIDENT:

6 Thank you.

7 You may proceed, International Prosecutor.

8 QUESTIONING BY MR. ABDULHAK:

9 Thank you, Mr. President. And good afternoon, Your Honours, and  
10 good afternoon, Counsel, and a very good afternoon to you, Mr.  
11 Meas Voeun. My name is Tarik Abdulhak, and I will ask you more  
12 questions about your experiences before and during the Democratic  
13 Kampuchea period.

14 [15.27.30]

15 And I want to thank you for coming here to help the Trial Chamber  
16 find the truth about the events which you -- which you witnessed.  
17 We're very grateful for you -- to you for your time and efforts.

18 Q. I'll start by just asking a few follow-up questions about the  
19 period that you discussed with my colleague, the early period of  
20 your activities as part of the Revolution.

21 You told my colleague that you joined the Revolution in 1968 and  
22 that you were a representative of the youth in your village.

23 Could you tell us a little bit more about what work that  
24 involved? What did you do as a representative of youth in your  
25 village?

1 MR. MEAS VOEUN:

2 A. I represented the youth in the village. I provided them  
3 education about the situation in the country, about the lack of  
4 independence, and about the colonization, economically, by  
5 France. In that way, the Cambodians did not enjoyed dependence -  
6 independence. And I disseminated such information so that the  
7 youth could understand about the current situation in the country  
8 back then.

9 [15.29.28]

10 Q. Thank you. And now, staying with that period before the coup,  
11 you told my colleague that you became a bodyguard for cadres who  
12 fled Phnom Penh to resist in the countryside. Do you recall  
13 approximately when that was? I think you said it was before the  
14 coup. Do you recall whether that was 1968, or 1969, or some other  
15 year?

16 A. Those cadres who left Phnom Penh, it was in 1968 -- I believe  
17 it was either in mid or late 1968. And they went to the forest,  
18 and I provided them with protection.

19 Q. Thank you.

20 Now, your birth village is in Kampong Speu province and in Phnum  
21 Sruoch district. Did you work as a bodyguard for the cadres in  
22 that -- in that village, or was it somewhere else?

23 A. At that time, I was a youth, not a cadre.

24 Q. I'm sorry; there's probably a translation error. I was  
25 referring to cadres that you were protecting as a bodyguard.

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1 [15.31.51]

2 So, my question is simply: When you did that work as a bodyguard,  
3 was that in your commune, in your village of birth, or was it in  
4 a different location?

5 A. I provided the protection to the cadres partly in my village  
6 and partly in other villages or provinces -- namely, Kampong Speu  
7 and Kampong Chhnang, which are the two adjacent provinces.

8 Q. Now, you mentioned Vorn Vet and Khieu Samphan. During this  
9 period, were you staying -- staying with them while you were  
10 providing them protection?

11 A. During the time that I provided them protection, I  
12 occasionally saw them; I did not stay with them every day.  
13 Sometimes I actually guarded the road, as well, for their  
14 journeys. I did not stay with them every day.

15 Q. Thank you. And just to clarify that one minor point, were they  
16 staying in Kampong Speu and Kampong Chhnang? Is that where Vorn  
17 Vet and Khieu Samphan were when you were providing them  
18 protection?

19 [15.34.14]

20 A. Sometimes they stayed in Kampong Speu, but they did not stay  
21 in the village; they stayed in the forest. It was known as the  
22 "Big Forest" -- or "Prey Thom", in Khmer -- in Kampong Speu.  
23 Also, in Kampong Chhnang, sometimes they stayed at the Aoral  
24 Mountain.

25 Q. And were you responsible for protecting anyone else, apart

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1 from Vorn Vet and Khieu Samphan? Were there other people that you  
2 were protecting in that period?

3 A. Yes, I provided protection to those who left Phnom Penh or  
4 those who could not -- who could no longer stay in their  
5 villages. There were about 30 to 40 of them. So, sometimes I also  
6 escort them on the road.

7 Q. Did those people include Hu Nim or Hou Youn?

8 A. Yes, they included Hu Nim, Hou Youn, Khieu Samphan, Pok  
9 Deuskomar, and various other people whose names I can't recall.

10 [15.36.12]

11 Q. Thank you.

12 If we just look at the -- the group that you were a member of,  
13 how many -- how many people were involved? How many bodyguards  
14 were there, apart from yourself?

15 A. In 1968, there was just one group of us -- about 20 -- but by  
16 1970, there were about 150 of us.

17 Q. And could you tell the Court who was the head of that unit of  
18 20 people -- who was in charge of that unit?

19 A. The person in charge was Moeun; he was a cadre. But he passed  
20 away. And there was another person by the name of Boun  
21 (phonetic), and I can't recall another name. But that person  
22 already died.

23 Q. Thank you. Could you also tell the Court who assigned you to  
24 this particular unit of 20 people?

25 A. At that time, it was Ta Mok.

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1 [15.38.35]

2 Q. In that period, what did you understand to be the position of  
3 Mr. Khieu Samphan?

4 A. I did not know his real position while we were in the forest.  
5 I only knew that he was a patriotic, but I did not know his real  
6 position or function.

7 Q. Apart from that, can you tell us what Mr. Khieu Samphan was  
8 doing in that period, 1968-1969, before the coup?

9 A. I knew that -- at that time, I did not know him well, but I  
10 heard on the radio, when he had a conference with Samdech Euv, he  
11 was in charge of the economy.

12 Q. And in the time that you were a member of his bodyguard unit,  
13 what sort of work was he -- was he doing?

14 A. Could you please repeat your question?

15 [15.40.55]

16 Q. Thank you. In that period before the coup, while you were in  
17 his bodyguard unit in the forest, what was Mr. Khieu Samphan  
18 doing?

19 A. In the forest, he didn't do much, but I heard on the radio  
20 that he was the head of the FUNK.

21 Q. I just want to make sure we're discussing the same period of  
22 time. I'm interested in the time in the forest before the coup --  
23 and I know it was a long time ago. Do you recall what Khieu  
24 Samphan was doing in the forest before the coup?

25 A. He didn't do much work as he stayed at his own place. And I

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1 did not stay with him every day, so I could not tell you much  
2 about what work he did.

3 Q. Thank you. Were there any meetings between Mr. Khieu Samphan  
4 and Ta Mok and any of the other people that you were protecting?

5 A. I couldn't tell you about their meetings; it was their  
6 business, and I was not involved.

7 Q. As a bodyguard, were you ever asked to deliver any messages?

8 A. No.

9 [15.43.59]

10 Q. And what was the purpose of the movements? You told us that  
11 sometimes you were in Kampong Speu, and then sometimes you were  
12 in Kampong Chhnang and also at Aoral Mountain. Why did you move  
13 between these locations?

14 A. The movement was to avoid enemy from locating him.

15 Q. And who made these decisions to move from one location to  
16 another?

17 A. It was Ta Mok.

18 Q. So, do I understand correctly that Ta Mok continued to command  
19 your unit while you were protecting Mr. Khieu Samphan and other  
20 people?

21 A. Ta Mok managed everything from the work as well as the  
22 organization of the forces.

23 Q. Thank you.

24 And how long did you continue to provide protection for Mr. Khieu  
25 Samphan and the other people that he was with? How long did that

1 continue?

2 A. It was from 1968 through 1969. And by 1970, I became a  
3 soldier.

4 [15.46.43]

5 Q. When you became a soldier in 1970, where were the people such  
6 as Mr. Khieu Samphan, Vorn Vet, Hu Nim? Where were they when you  
7 became a soldier?

8 A. I did not know where Ta Mok took them to because I left them  
9 and then I joined the military, and I only focused on my work and  
10 I did not know about their whereabouts.

11 Q. Thank you. When you say you don't know "where Ta Mok took  
12 them", does that mean that they were at that time with Ta Mok?

13 A. I did not see them, but I thought they were still with Ta Mok  
14 at the time.

15 Q. Thank you very much.

16 Now, we heard earlier your descriptions of some of the battles  
17 and battlefields that you were involved in, and I just want to  
18 first clarify one thing.

19 [15.48.10]

20 In your first statement with the prosecutors (sic) -- for the  
21 record, this is E3/424, and it's question and answer number 1 --  
22 you described how "in 1973 the Southwest Zone increased to three  
23 regiments", "Ta Soeung was promoted to be the zone military  
24 commander", and you were "promoted to be the Battalion 136  
25 commander in Regiment 16".

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1 I just want to make sure that we have that correct, that as at  
2 1973 you were a battalion commander because I -- you mentioned  
3 earlier, also, you were a regimental commander at one point. So,  
4 I just want to check if we have the right facts. In 1973, were  
5 you a battalion commander or a regiment commander?

6 A. I did not know about the name of Ta Sung (phonetic); I only  
7 knew Ta Soeung. In 1970, I was still with the battalion. By 1975,  
8 I was promoted to the regiment commander and I was appointed by  
9 Ta Soeung, not Ta Sung (phonetic).

10 Q. Thank you for correcting my poor pronunciation. I intended to  
11 say "Soeung". So we're discussing the same person.

12 You were promoted to be a regimental commander in 1975. And do I  
13 understand correctly from your previous answers that happened  
14 sometime before the attack on Phnom Penh?

15 A. Yes.

16 [15.51.47]

17 Q. Do you recall the month that happened? Or if you don't, that's  
18 fine.

19 A. I can't recall the date because at that time I was in the  
20 battlefield.

21 Q. Thank you.

22 Another topic which you discussed with my colleague -- and I just  
23 want to touch upon briefly -- was the fighting along National  
24 Road 5. And if I note correctly, I think you said you engaged in  
25 battles from Krakor to Kampong Chhnang, and then on to Phnom

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1 Penh. Were you engaged in any battles around the area of Udong?

2 A. Yes, I did.

3 Q. And could you tell the Court -- or could you describe for the  
4 Court those battles? When was it that you were fighting around  
5 Udong? And when did the Khmer Rouge troops take control of Udong?

6 A. During the fighting along National Road Number 5, at that time  
7 there were the Southwest soldiers to the east of Krakor up to  
8 Kampong Chhnang and Udong. We were under the overall charge of Ta  
9 Mok, then Ta Soeung, so we fought along the road up to Udong.  
10 But at that time, sometimes we won, sometimes we lost. And by the  
11 time we reached Udong, there were many casualties from the  
12 bombardment as well as from the shelling by the artillery. , by  
13 the time we reached Udong, I cannot recall the exact date, but it  
14 was in 1973 or '74.

15 [15.55.00]

16 Also, we kept fighting consistently along National Road Number 5.  
17 We fought along the -- during the rainy season, and when the dry  
18 season commenced, we started fighting again. So we fight all  
19 around, during both the rainy seasons and the dry seasons.

20 Q. When, ultimately, you were able to take control of the City of  
21 Udong, do you recall what happened with the population living in  
22 that city? Did they continue to live there, or did they go  
23 anywhere else, or -- or what do you recall about that?

24 A. In the battlefields along National Road Number 5, the people  
25 actually fled to the liberated zones. They no longer stayed along

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1 that national road. There were only the Khmer Rouge soldiers and  
2 the Lon Nol soldiers fighting one another. But I cannot tell you  
3 the exact date or the period.

4 [15.56.41]

5 Q. That's -- that's fine. So, do I take it that people from Udong  
6 had fled to the liberated zones during these battles for the  
7 city?

8 (Short pause)

9 Would you like me to repeat the question?

10 A. Please.

11 Q. I do realize you must be very tired. We're almost done for  
12 today.

13 We were discussing the situation of people fleeing to the  
14 liberated zones so that there were only soldiers in the  
15 battlefield, and I just was asking whether the population of  
16 Udong -- people living in Udong -- also fled to the liberated  
17 zone as the city fell?

18 A. Yes, that is correct.

19 Q. How large was the population of that city, or town?

20 A. I could not put a figure to the number of the population  
21 living there. There were those who controlled and take charge of  
22 the people living there, at the real battlefield, but I was at  
23 the front battlefield, so I could not know the exact number.

24 [15.59.04]

25 Q. Was anyone in charge of taking these people to the back of the

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1 battlefield and making arrangements for them? Was anyone in the  
2 military in charge of that work?

3 A. There were division commanders, there were village chiefs.  
4 They cooperated with one another. But I could not know all of  
5 those village chiefs. And they were the ones who were ready to  
6 receive the people in the liberated zones. All I knew was that  
7 after Ta Soeung, those people would be brought to the liberated  
8 zones, and then the chief of the villages there would take charge  
9 of them.

10 MR. ABDULHAK:

11 Mr. President, I'm mindful of the time. I can continue if you  
12 prefer me to continue, or if you prefer to take a break now --  
13 we're in your hands.

14 MR. PRESIDENT:

15 Thank you.

16 The hearing today has come to a conclusion, and we shall adjourn  
17 and resume tomorrow morning, commencing from 9 a.m.

18 [16.01.04]

19 And tomorrow we will continue hearing the testimony of this  
20 witness, who will be questioned by the prosecutor and by the  
21 Co-Lead Lawyers (sic) for civil parties.

22 Mr. Meas Voeun, the hearing of your testimony has not yet  
23 concluded, and you -- you will be invited to come again to this  
24 Court, starting from 9 a.m. Likewise, the Duty Counsel, you're  
25 invited to return tomorrow.

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1 Court Officer, please assist in the transport arrangement and for  
2 the return of the witness to his residence and have them returned  
3 tomorrow morning.

4 Security guards, you are instructed to take the accused Nuon Chea  
5 and Khieu Samphan, to the detention facility and have them  
6 returned to this courtroom prior to 9 a.m.

7 The Court is now adjourned.

8 THE GREFFIER:

9 (No interpretation)

10 (Court adjourns at 1602H)

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