



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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CMS/CFO: Krystal THOMPSON

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

17 October 2013
Trial Day 216

Before the Judges:

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YA Sokhan
Jean-Marc LAVERGNE
YOU Ottara
THOU Mony (Reserve)
Claudia FENZ (Reserve)

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Language used unless specified otherwise in the transcript

Speaker	Language
MS. CHEA LEANG	Khmer
THE PRESIDENT (NIL NONN, Presiding)	Khmer

1

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

2 (Court opens at 0902H)

3 MR. PRESIDENT:

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

5 As the Trial Chamber scheduled and announced yesterday, today the
6 floor will be given to the Co-Prosecutors to make their closing
7 statements in Case 002/01.

8 And before I hand over the floor, the Greffier, Ms. Se Kolvuthy,
9 could you report the attendance of the parties to today's
10 proceeding?

11 THE GREFFIER:

12 Mr. President, all parties to the proceedings are present.

13 It is also noted that Nuon Chea is in the holding cell downstairs
14 due to the decision took by the Trial Chamber concerning his
15 health.

16 Thank you.

17 MR. PRESIDENT:

18 Thank you.

19 The floor is now given to the Co-Prosecutors to present their
20 closing statements in Case 002/01. You may now proceed.

21 (Short pause, technical problem)

22 The IT Unit – the AV unit, could you please check the microphone
23 on the Prosecutor's desk?

24 (Short pause, technical problem)

25 (Court recesses from 0913H to 0951H)

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1 MR. PRESIDENT:

2 Please be seated. We will now resume our session.

3 And before I hand the floor over to the Co-Prosecutors, I would
4 like to remind all the parties to the proceedings: Through our
5 email on the 14th of October 2014, all witnesses, civil parties,
6 and experts who have testified before this Chamber in Case
7 002/01, their names can be used in your closing statements. As
8 for other individuals who have not yet appeared before this
9 Chamber and who will be testified (sic) in the near future,
10 please use their pseudonyms only, and not their real names.
11 The floor is now given to the National Co-Prosecutor. You may
12 proceed.

13 MS. CHEA LEANG:

14 Good morning, Your Honours, and good morning, everyone in and
15 around the courtroom.

16 My colleague Williams Smith and I will make our closing
17 statements for Case 002/01.

18 During our closing statements presentation, at some point, we
19 will make on the screen some video-clips, some text, as well as
20 some photos.

21 [09.54.54]

22 This trial is about the criminal responsibility of Nuon Chea and
23 Khieu Samphan for crimes that shocked the conscience of humanity.
24 In the next three days, I and my colleague will outline how the
25 evidence in this case has proven that Nuon Chea and Khieu Samphan

1 each played a unique and critical role in a criminal enterprise
2 that prosecuted, tortured, and killed their fellow Cambodians,
3 millions of innocent civilians, including women, children, the
4 elderly and most vulnerable.

5 Even today, countless Cambodian families carry a heavy burden
6 from the four-year period that the Khmer Rouge ruled Cambodia.
7 Memories of mistreatment, starvation, and torture of loved ones
8 lost, who were killed or simply disappeared. The nation still
9 suffers from lost opportunities for education and development. A
10 generation of the most educated and skilled Cambodians was almost
11 wiped out, killed, or forced to flee the country. The effects are
12 still felt today.

13 [09.56.52]

14 This trial is important for Cambodia, but not just Cambodia. It
15 is important for the entire world. It demonstrates that crimes of
16 such magnitude and severity will not be forgotten and that those
17 responsible will be held to account.

18 The United Nations and the Royal Government of Cambodia joined
19 together to build this Court, to bring life to justice, to bring
20 justice to life, and to make justice relevant and accessible for
21 all. Of course, in accordance with Your Honours' Severance Order,
22 you will determine the guilt or innocence of the Accused in the
23 first phase of the trial on only a portion of the crimes of the
24 indictment and the crimes of that regime.

25 In this first portion of the trial, we are addressing the crimes

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1 associated with the forcible evacuation of the cities and towns
2 of Cambodia following the Khmer Rouge victory on 17 April 1975,
3 crimes associated with subsequent forcible transfers of
4 populations between rural areas, principally to the North and
5 Northwest later in 1975 and 1976, and the mass execution of
6 former Lon Nol soldiers at Tuol Po Chrey in April 1975.

7 [09.59.06]

8 But even these limited sections of the indictment include
9 widespread crimes against humanity affecting millions of victims,
10 including forcible transfers, persecutions and forced
11 disappearances, murder, and exterminations. Moreover, the
12 evidence that has been presented in this phase of the trial has
13 shown that the crimes committed were the result of criminal
14 policies and in furtherance of a criminal plan that preceded and
15 extended throughout the period of the Democratic Kampuchea
16 regime.

17 The Accused Khieu Samphan, Nuon Chea, and the rest of the most
18 senior leadership of the regime formulated and furthered the plan
19 and these policies, knowing these crimes would result. What
20 happened is what they planned.

21 In order to understand the Accused's knowledge and intent and the
22 genesis of the criminal plan and policies, we must go back and
23 examine some of the history of the Khmer Rouge and the role of
24 these Accused, Khieu Samphan and Nuon Chea.

25 [10.00.46]

1 The case before you is one of the most factually complex criminal
2 cases ever prosecuted. The judgement in this case will require an
3 analysis of a vast body of evidence that shows the development of
4 a criminal plan over a period of many years. However, even in the
5 most complex of cases, criminal intent and criminal acts can be
6 demonstrated by a small number of key events.

7 In this case, those key events are the following: a meeting of
8 the CPK Party Centre in June 1974 which the leaders of the Party,
9 including these Accused, decided collectively to evacuate by
10 force the city of Phnom Penh and every other urban centre; a
11 meeting of the battlefield committees in early April 1975, at
12 which the leaders, again including these Accused, affirmed that
13 decision and issued orders to the military to ensure the
14 evacuation of Phnom Penh; a series of decisions by the Party
15 leaders to execute captured military officers and officials of
16 the Khmer Republic regime, including a decision publically
17 communicated by the Second National Congress on the 26 February
18 1975; and decisions of the CPK Party Centre in August and
19 September 1975 forcibly to transfer more than half a million
20 people to the north and northwest regions of the country.

21 [10.03.03]

22 The question is whether these Accused knew about them. These
23 Accused participated in and supported the above decisions. They
24 decided to commit the crimes with which they are charged. They
25 intended those crimes and they ensured, through their acts and

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1 authority, that those crimes were committed. We submit that these
2 acts alone are sufficient evidence to prove their guilt.

3 But we have also put before you a mass of evidence from a
4 multitude of sources, documentary and testimonial, which paints a
5 detailed picture of the planning and execution of the crimes.
6 That evidence proves that these crimes were not committed in an
7 unexpected or rapid turn of events. The crimes were not
8 coincidental. Instead, they were orchestrated and implemented
9 with precision, through a highly hierarchical, disciplined, and
10 organized force commanded by these Accused.

11 Let me say at the outset, Your Honours, that this case is not
12 about Communist ideology or about competing political ideas.
13 Neither Communism, nor Socialism, nor any other political system
14 or philosophy is on trial before this Court. This is a case about
15 violence, enslavement, and death on a mass scale. It is about
16 crimes inflicted on the people of Cambodia, crimes that were
17 committed by forces and cadres commanded by Nuon Chea, Khieu
18 Samphan, and other leaders of the Communist Party of Kampuchea.

19 [10.05.48]

20 The evidence shows each and every crime committed by those forces
21 was intended by these Accused. Those crimes were integral to the
22 common criminal plan which they devised and carried out.

23 On 17 April 1975, Nuon Chea, Khieu Samphan, and their
24 co-perpetrators created the first slave state in the modern era.
25 They ordered and orchestrated the emptying out of every city and

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1 urban centre in Cambodia. They broke up homes and families and
2 herded millions of evacuees into rural cooperatives in which they
3 were imprisoned, stripped of their most fundamental rights as
4 human beings, subjected to psychological and physical abuse, and
5 forced to live in appalling conditions. They ordered the complete
6 abolition of an entire way of life, the closing down of schools,
7 markets, and courts of law, the elimination of religion and
8 property. They ordered and oversaw the systematic elimination of
9 those groups whom they perceived as their enemies.

10 [10.07.37]

11 There is the essence of the common plan that is described in the
12 indictment, a plan that is steeped in criminal intent. This plan
13 was criminal in its core, its purpose, its design, its methods,
14 and its means. In three years, eight months, and 20 days, it
15 caused the deaths of at least 1.7 million and as many as 2.2
16 million people or a quarter of the Cambodia's population at the
17 time.

18 The crimes committed in pursuance of this plan devastated a
19 country and its people.

20 As I said at the start of this trial, no court could ever address
21 every crime these Accused are ultimately responsible for. This
22 trial is therefore an attempt to provide justice for some of the
23 victims by addressing certain important crimes.

24 In this first trial in Case 002, the Accused are facing charges
25 for crimes committed against hundreds of thousands of people in

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1 the course of two force transfers of the population and the mass
2 execution of the officials and officers of the fallen Khmer
3 Republic regime at Tuol Po Chrey. They are on trial for the
4 crimes against humanity, murder, extermination, political
5 persecution and forced disappearance, and other inhuman acts
6 through attacks on human dignity and forced transfer.

7 [10.09.48]

8 This trial has also enabled the Court to set these crimes in the
9 broader context of the history, authority structures, and
10 policies of the Communist Party of Kampuchea. It has additionally
11 examined the role of these Accused in the regime they lead, in
12 addition to their responsibilities for the crimes included in
13 this first trial.

14 Your Honours will recall that at the start of this trial the
15 Accused welcomed these proceedings as an opportunity to set the
16 record straight, from their point of view, to put forward their
17 version of the facts, and to answer the allegations against them
18 before the Court and before the people of Cambodia.

19 During the trial, they gave limited testimony and confirmed that
20 they would testify again before the close of the proceedings.

21 Khieu Samphan said he wanted to hear all the evidence before
22 answering questions from the Prosecution.

23 [10.11.21]

24 Then, in the final stages of this trial, as the evidence mounted
25 against them, both Accused reversed course. They chose not to

1 subject themselves to questioning by the Judges, the
2 Co-Prosecutors, or counsel for the civil parties. They thus made
3 a strategic decision to shield themselves from further scrutiny
4 and incrimination. They chose not to continue testifying because
5 they had no defence that would stand up to scrutiny. They have,
6 nevertheless, elected to make additional statements that will not
7 have been tested by Judges and Counsel.

8 We anticipate that in those statements and in the statements of
9 their counsel, Nuon Chea and Khieu Samphan will seek refuge from
10 criminal responsibility in a whole array of excuses. They will
11 argue that they acted with the best of intentions, that all power
12 was vested in only one man, Pol Pot, whom they supported because
13 they had no knowledge of the widespread terror being perpetrated
14 under their collective orders, that they would have acted
15 differently if they had known that such horrific atrocities were
16 being committed by people under their joint command. In putting
17 forward these excuses, they will embrace a template that has been
18 adopted by every despot who has stood trial for committing mass
19 crimes against his people: "It was not my fault, others are to
20 blame."

21 [10.13.48]

22 We also anticipate that in order to explain away the evidence
23 that shows their direct personal contributions to the crimes,
24 they will invoke historical injustices from Cambodia's colonial
25 history to past wars and actions of Cambodian governments that

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1 preceded Democratic Kampuchea. They will put forward conspiracy
2 theories about the intention of neighbouring countries. They will
3 say that on 17 April 1975 they had no option but to act the way
4 they did. As Nuon Chea did in his written brief, they will ask
5 you to accept that evacuating the cities and subjecting the
6 people of this country through a regime of enslavement and terror
7 was lawful, reasonable, and necessary. As Nuon Chea claims in his
8 brief, not only were their actions correct, they were ahead of
9 their time and they were extremely progressive.

10 The evidence that has been put before this Court lays bare the
11 wholly and tenable nature of these claims. Those claims amount to
12 nothing more than demonstrable lies. The evidence you have heard
13 over the course of this trial establishes that these Accused were
14 the architects, directors, supervisors and willing participants
15 in the crimes with which they are charged. These crimes were
16 perpetrated under the watchful eye of a collective leadership in
17 which these Accused played key roles. The evidence shows that
18 these Accused acted wilfully and with intent to commit the
19 crimes.

20 [10.16.18]

21 My colleague William Smith and I will present these closing
22 submissions in three parts.

23 Firstly, I will make submissions on the evidence relating to the
24 crimes of the first and second forced transfers and the plan
25 which led to their commission.

1 My colleague will then present submissions on the criminal policy
2 of killing Khmer Republic military and officials and the crimes
3 at Tuol Po Chrey, and he will then make submissions on the
4 responsibility of each Accused through their participation in and
5 significant contributions to the common criminal plan. He will
6 also deal with the responsibility of the Accused for planning,
7 ordering, aiding and abetting, and instigating these crimes, as
8 well as for their failure, as superiors, to prevent the
9 commission of the crimes or to punish the direct perpetrators.
10 Finally in the third part, I will make submissions regarding
11 sentencing.

12 The events which took place on 17 April 1975 were not isolated.
13 They did not happen in a vacuum. They were a continuation of
14 well-established CPK policies of forcibly evacuating captured
15 urban areas, enslaving their residents, and killing members of
16 the Khmer Republic regime and other perceived enemies.

17 [10.18.25]

18 Evidence of these acts in the late 1960s and throughout the early
19 1970s is important. It is important because it proves that the
20 events of April 1975 were part of a continuous system of
21 violence, brutality, and oppression that the Accused had created
22 long before. That evidence proves that in agreeing to evacuate
23 the cities upon victory, the Accused knew that mass crimes would
24 be committed. They knew it because they had done it before and
25 seen the suffering that ensued. It is compelling evidence of

1 their intention, their motive, their premeditation, and their
2 state of mind.

3 The policies of forced transfer and execution of targeted groups
4 are linked in a key respect: They are both driven by the view of
5 these Accused that is necessary to treat everybody who is outside
6 the revolutionary ranks as a real or a potential enemy. Aware of
7 their own serious mistreatment of the population, virtually the
8 entire population was viewed with suspicion and treated as
9 enemies, particularly those from urban areas, those who were
10 educated, those with connections abroad, members of ethnic
11 minorities, those who practiced any religion, and especially
12 those who had been in any way associated with the prior regime.

13 [10.20.48]

14 Rather than seeking to win political support from the population,
15 the paranoia of the DK leaders led them to coerce support through
16 terrorizing of those who lived under their rule. Those whom they
17 perceived to be against them were liable to suffer and to die.

18 Violence was at the very core of everything they did. It defined
19 how they came to power, how they exercised that power, and how
20 they sought to enforce that power against those outside their
21 ranks.

22 This violence has its origins in the Party's class struggle
23 against its enemies. That struggle started from the Party's
24 inception in 1960. The Party circular - that is, the
25 "Revolutionary Flag" - confirms that.

1 At the Party's First Congress in September 1960, the Party
2 leaders, including Pol Pot, Nuon Chea, and Ieng Sary, determined
3 that there was a life-and-death contradiction between Cambodian
4 peasants and the landowners. This marked the beginning of what
5 they called the National Democratic Revolution.

6 [10.22.35]

7 The concept of life-and-death contradictions was powerful and
8 enduring. It was not just a philosophical abstract; it was a
9 practical, hard-edged principle that was put into practice.

10 At S-21, Kaing Guek Eav alias Duch was responsible for the deaths
11 of more than 12,000 people perceived by the Party Centre as
12 enemies. He's therefore a man very well qualified to explain what
13 having a life-and-death contradiction meant. When he testified,
14 he explained it in a very simple way:

15 "In the philosophy of the dialectical materialism, there were
16 contradictions. The contradiction between us and our enemy is the
17 life-and-death contradiction, which means that for one to
18 prosper, the other one must die."

19 Yet, despite this, the Accused will argue that this was not a
20 fight against people, but rather against a system of oppression.
21 You must not be fooled by this lie. Thousands of people died as a
22 result of the decision to use revolutionary violence long before
23 April 1975. In order to carry out armed violence against the
24 enemies, the Party leaders setup the so called secret defence
25 units from 1961. These armed militias eventually grew into the

1 Khmer Rouge Army. In his 2004 book, Khieu Samphan admitted that
2 the functions of these units in the 1960s included killing people
3 caught spying on Party's meetings.

4 [10.25.10]

5 In the countryside, aside from the developing peasant
6 associations, the first self-defence units were taking shape. The
7 local authorities' secret agents who were caught spying on
8 important Party meetings were sometimes tied up and physically
9 eliminated.

10 CPK's smashing of enemies was never limited to self-defence or to
11 killings in the heat of battle. Party cadres and militias
12 executed captured soldiers from the very beginning of CPK's
13 rebellion against the regime of Norodom Sihanouk in 1968.

14 Philip Short described the early instances of the implementation
15 of this policy. He said - quote:

16 "During that period, when prisoners were captured, if the soldier
17 captured was a local person and was known, then he might be
18 released unharmed. If he was not known, he would be killed. So
19 there was a 'take no prisoners' policy from the beginning." End
20 of quote.

21 [10.26.48]

22 Mr. Short was then asked if his research indicated that these
23 killings were done under a written directive. He said the
24 following - quote: "There was no written instruction. It was just
25 what you did, what you knew you had to do, what you knew the

1 Party would want you to do. It was clearly understood to be the
2 case." End of quote.

3 By 1971, CPK's use of terror against those perceived enemy agents
4 and spies became more systematic. The case file contains evidence
5 of several security centres established in this period. Most
6 directly, Your Honours have heard evidence of the establishment
7 of Security Centre M-13 in July 1971 in Amleang commune, in the
8 CPK Special Zone.

9 Kaing Guek Eav alias Duch ran M-13 from July 1971 until April
10 1975. In his testimony, he described how the Khmer Rouge military
11 sent people suspected of being spies to the security centre for
12 interrogation and execution. He said - quote:

13 "The people who were sent by the soldiers to M-13 for
14 interrogation and smash, they were part of the Party's policies.
15 No matter if they were poor or rich, they would be sent to M-13,
16 and they were accused as spies, and they were later to be
17 smashed." End of quote.

18 [10.29.06]

19 Thus Duch confirms that prisoners at M-13 were tortured and
20 killed in accordance with Party policy.

21 These early crimes were not committed under the orders of local
22 commanders removed from the Party Centre as the Defence would you
23 have you believe.

24 Duch worked under the immediate supervision of Vorn Vet, who was
25 the Secretary of the Special Zone and Nuon Chea and Khieu

1 Samphan's fellow member of the CPK Central Committee. Duch said -
2 quote: "Vorn Vet himself instructed me the way to torture those
3 people. The best way he liked was to use a plastic bag to cover
4 the heads of those people. He said, 'You, comrade, need to look
5 at their neck and see if it's shaking or it's vibrating - or,
6 rather, the pulse at the neck.' If it was vibrating very
7 strongly, they would be considered as spies." End of quote.

8 [10.30.19]

9 This example demonstrates the absurd, twisted logic of the Khmer
10 Rouge leaders. Their perceptions of enemies was grounded in a
11 deep and abiding paranoia, and with no basis in reality believed
12 in a world of visceral, illogical, irrational hatred.

13 A little later Duch, describing the masses of torture in more
14 detail, said - quote:

15 "At M-13 we were allowed to first meet the prisoners, secondly
16 use the telephone - electric telephone as the method of torturing
17 and water boiling and plastic bag to cover the detainees' face to
18 suffocate them." End of quote.

19 Duch testified that the categories of enemies who were sent to
20 M-13 for interrogation and execution included captured Lon Nol
21 soldiers, cadres who had been sent to study in Vietnam, and other
22 people inside CPK ranks.

23 This evidence proves systematic and organized use of
24 extra-judicial executions by CPK cadres who were under the direct
25 authority of the CPK Party Centre. It is highly reliable because

1 Duch has not only proved himself to be a man of extraordinarily
2 detailed memory, but also because at the time he gave this
3 evidence, he had no motive to lie or to embellish; he was at that
4 stage already convicted and sentenced by the Supreme Court
5 Chamber to life imprisonment. He had already admitted his own
6 role in torturing and murdering innocent people at both M-13 and
7 S-21.

8 [10.32.21]

9 Duch also confirms that the methods of interrogation and torture
10 developed at M-13 pursuant to instructions by the Party leaders
11 were later used at S-21 and other DK-period security offices.
12 Nuon Chea has himself admitted to the existence of CPK security
13 centres before 1975. In his interviews with Thet Sambath, he
14 described a security office called S-39 which, according to him,
15 was created by Pol Pot in 1971 to root out traitors and detect
16 spies who had infiltrated their movement. According to Nuon Chea,
17 S-39 was charged with investigating and following suspected
18 enemies. Captured Lon Nol soldiers were executed by Duch.
19 In 1972, TCW-349 was a villager in a liberated zone in Preah Veng
20 province, and his family were farmers. In his OCIJ statement, he
21 described the killing of Khmer Republic officials in that year.
22 He said - quote: "At that time - at this same time, the
23 sub-district chiefs and Lon Nol government officials were being
24 killed. For example, the Svay Antor sub-district chief, Peou Pin,
25 and his children were killed." End of quote.

1 [10.34.25]

2 In his testimony, Philip Short described an intensification of
3 the CPK policy of killing those deemed to be enemies of the
4 Party. He confirmed his finding that from 1973 Khmer Rouge forces
5 systematically disembowelled prisoners and executed suspected
6 collaborators as well as deserters. His evidence is entirely
7 consistent with a written instruction issued by the Party Centre
8 in the July 1973 "Revolutionary Flag", which stated - quote:
9 "If the spies are arrested to be executed in the meeting before
10 the people, some people may be frightened of us; they think that
11 we are extremely cruel. The stance to smash the spies is correct,
12 but it is inappropriately carried out." End of quote.

13 In commenting on this instruction, Philip Short testified saying
14 that "they dealt at various times with the question of how
15 executions should be carried out and who had the authority to
16 authorize executions. The guiding principle behind all of them
17 was: executing people is right when they are
18 counter-revolutionary, when they are against the revolution, but
19 it must be done in a way which does not harm the revolution's
20 goals. This is an example: you don't execute people in front of
21 others. And that, through the Khmer Rouge period, was pretty
22 general." End of quote.

23 [10.36.37]

24 Yet another instance of organized and systematic elimination of
25 perceived enemies in this period is the killing of hundreds of

1 Khmer Communist cadres who had returned to Cambodia from Vietnam,
2 where for many years they had received training in Communist
3 doctrine and remained devoted revolutionaries.

4 When the Communist Movement in Cambodia strengthened in the early
5 1970s, they returned to Cambodia to help the revolution.

6 Initially, they were given positions of authority within the CPK
7 administration. However, from 1972 this CPK leadership ordered a
8 purge of these people. Almost all of the Hanoi returnees were
9 arrested and killed. Only a few survived. The basic reaction -
10 reason for the decision to remove and kill them was that they
11 were associated with Vietnam and, therefore, distrusted by the
12 CPK leaders. In a 1996 publication, Ieng Sary admitted the
13 executions of some 2,000 Khmer returnees from Hanoi, using the
14 only appropriate term, a "massacre".

15 [10.38.31]

16 You have heard evidence from a number of witnesses about the fate
17 of this group. Witness Nou Mao was a sub-district cadre in the
18 Udong district in 1973. He estimated that some 2,000 to 3,000
19 Khmer cadres had returned from Vietnam. He said - quote:

20 "And later on the Upper Echelon asked that people at base, at all
21 level, be gathered up so that they could attend study sessions.
22 But these people would never return after attending such
23 sessions. I presumed that they could have been - disappeared or
24 they could have died after these sessions. So, again, I am still
25 convinced that they all died." End of quote.

1 Witness Chhouk Rin, who was a platoon commander in the CPK
2 Southwest Zone in 1973, also recalled the purge of the Khmer
3 cadres returning from Hanoi in his testimony – quote:
4 "During 1973, these people were the target for arrest. In Kampot
5 Province alone, I could say that these people who went to Vietnam
6 during Issarak time returned home at a later date, were arrested,
7 and they were regarded as the Khmer Hanoi citizens. The arrest
8 did happen." End of quote.

9 [10.40.22]

10 Steven Heder spoke to one of the people who helped carry out the
11 purge in Sector 13 of the CPK's Southwest Zone. This interview
12 took place in 1980, shortly after the fall of the Democratic
13 Kampuchea regime. The interviewee said – quote:
14 "By early 1972, the Khmer from Hanoi were completely cleaned out.
15 This process started with trying to break out the Khmer and the
16 Vietnamese units. This had been the plan from the very beginning
17 but it was not implemented until early 1972. Our organization
18 dealt with this problem in the following manner: recalled those
19 Khmer from Hanoi to come to study, and someone led them away. So,
20 really, we were expelling them. When we began pulling them out,
21 the others did not realize what was happening, and so we were
22 able to get rid of almost all of them. Very few realized what was
23 happening in time and escaped to Vietnam." End of quote.

24 [10.41.53]

25 Philip Short undertook research into the fate of the Hanoi

1 returnees. He found that they were executed under Pol Pot's
2 orders. In Court he said - quote:

3 "Many had married Vietnamese women. They were suspected of having
4 a lot of sympathy for the Vietnamese. So, in 1973, relations
5 between the CPK and the Vietnamese became more intense. The CPK
6 needed the Vietnamese less because it was becoming stronger. Its
7 forces were becoming stronger. The suspicion of the returnees
8 increased and they were packed in a camp and many killed."

9 In our submission, the evidence of the purge of the Khmer cadres
10 returning from Hanoi is extremely important. It is yet another
11 demonstration of the fact that years before 1975, Nuon Chea and
12 Khieu Samphan adopted a policy of extra-judicially executing
13 those they perceived to be their enemies.

14 This tragic episode also shows their criminal intent. The Khmer
15 cadres from Hanoi were committed Communists. They wanted to have
16 the revolution. They were not Accused or suspected of
17 collaborating with imperialists, capitalists, or other so called
18 oppressive classes. Their only fault was their perceived
19 association with another country. In the eyes of the CPK
20 leadership, that was enough to condemn them to death.

21 [10.44.06]

22 Khieu Samphan has admitted his knowledge of the removal of the
23 Hanoi cadres in a book published in 2004, but he said that he did
24 not know what happened to them. This is a blatant lie. Knowing
25 the history and culture of the CPK, the consistent execution of

1 perceived enemies, did he think that they had been sent on
2 holiday? Khieu Samphan was a member of the Party Centre
3 throughout 1970 to 1975 period and was inseparable from Pol Pot
4 and Nuon Chea. He took part in deliberations and decisions on
5 Party policy at the highest level. By his own admission, he
6 attended the 1971 congress, at which the Party determined that
7 Vietnam is a friend with whom there is a contradiction. Khieu
8 Samphan issued numerous statements endorsing the smashing of the
9 Party's enemy. But even taking his statement on its face, it
10 contains an important admission: he knew that the Khmer cadres
11 were pulled aside and did not disagree.

12 There were also purges within the Party itself. These purges were
13 justified, in the eyes of the leaders, because Party ranks had
14 been infiltrated by enemy elements who were conducting
15 pacification activities. In other words, Party members who led
16 revolutionary zeal were a target.

17 [10.46.05]

18 This is confirmed in the February-March 1976 issues of the
19 "Revolutionary Flag".

20 I would like to take Your Honours to the 1974 issues of the
21 "Revolutionary Youth" magazine. This is a document addressed by
22 the Party leadership to members of the Revolutionary Youth
23 League, in other words the youth who had joined Khmer Rouge
24 ranks. This document acknowledges in unambiguous terms that a
25 Party was executing those who entered the liberated zones and

1 were suspected of spying. It stated – quote: "They are arrested
2 by our armed forces and people in the liberated zones, and
3 subsequently smashed dishonourably." End of quote.

4 In another extract, this document confirms that even those
5 suspected of entering the so-called liberated zones to take
6 people with them were being killed by the local militia.

7 The evidence I just quoted demonstrates that people who were
8 suspected of spying or undermining the CPK in other ways were
9 first captured and then smashed. They were not killed in the heat
10 of battle. They were not put on trial, prosecuted, and sentenced.
11 Instead, they were summarily executed – to use the words from the
12 Party's circular, "smashed dishonourably".

13 [10.47.56]

14 This document also demonstrates that these killings in the
15 liberated zones were official Party policy endorsed from the very
16 top of the leadership. It ties in perfectly with the evidence of
17 actual executions at M-13. The forced evacuations of the cities
18 in April 1975 were themselves driven by Nuon Chea and Khieu
19 Samphan's determination that this was the only way to bring down
20 the urban classes and break up enemy networks in the cities.

21 The identification and smashing of enemies went hand in hand with
22 the use of violence against civilian populations who were forced
23 into Khmer Rouge cooperatives.

24 The cooperatives were introduced in 1971. In 1972, the CPK
25 introduced forced collectivization. By May 1973, the Party was

1 moving people into high level cooperatives where their rights
2 were suppressed even more severely.

3 Khieu Samphan has admitted in a recent interview that
4 cooperatives were imposed on Cambodian people by force – quote:
5 "There had to be – there had to be coercion for a while, coercion
6 to join cooperatives, because nobody would voluntarily take part
7 in cooperatives. There had to be coercion first." End of quote.

8 [10.49.52]

9 The Defence will argue that the establishment of cooperatives was
10 part of a legitimate program directed at addressing social
11 inequality and exploitation of peasants by the oppressive
12 classes, but the manner in which the cooperatives actually
13 operated belies this claim.

14 From the resolution of the Central Committee in May 1972,
15 collectivization was implemented by force. From that point
16 forward, opposing the CPK programs in the liberated zones meant
17 death. The real, principal purpose of the cooperatives was to
18 maintain the Party leadership's grip on power by enslaving the
19 civilian population.

20 Prior to 1975 there was, contrary to the Defence's assertions, a
21 CPK policy to kill both military and civil servants or the Khmer
22 Republic. A witness said in an OCIJ statement, at document
23 E3/5636, that in 1974 he was the head of Kaev Seima district
24 office. He was therefore well placed to describe the operation of
25 cooperatives in 1974 and the killings of ranking Lon Nol

1 officials, civil servants, and people who opposed the imposition
2 of cooperatives. He said – quote: "In 1974, people were brought
3 into cooperatives, and the killing started. Not many ordinary
4 people were killed, only the former ranking soldiers, or majors,
5 or captains were killed." End of quote.

6 [10.52.12]

7 Philip Short testified about the use of violence against ordinary
8 people which accompanied forced collectivization. Mr. Short said
9 – quote:

10 "There was an intensification. It was part of what we've been
11 discussing. The fundamental reason was that the growth in Khmer
12 forces had reached a point where it was no longer quite so
13 necessary to win over the peasantry, to win over support by
14 gentle means." End of quote.

15 In his testimony, Steven Heder confirmed an extract from his book
16 on Cambodian Communism, which deals with CPK's widespread use of
17 violence and execution in the pre-1975 period. The extract stated
18 that "in 1971 to 1972, much of the population remained cynical,
19 distrustful, and fearful of a revolution that maintained its
20 position through threats and executions. As the CPK expelled
21 Vietnamese armed forces in 1972, 1973, it replaced their military
22 domination with increasingly extreme coercion to ensure peasant
23 compliance with its demands. The CPK became even more violent and
24 repressive after mid-1973, when it radicalized its policies."

25 [10.54.07]

1 We have put before you contemporaneous evidence of the brutality
2 of the Khmer Rouge administration in the so-called liberated
3 zones.

4 A U.S. cable confirms that in 1974, the venerable Phra Kou Ath,
5 chief of Wat Tha Paeuy, fled to Laos, where he was interviewed.

6 The report states - quote:

7 "According to the monk, he was able to flee from that area during
8 the night, but during the day a permanent surveillance was
9 maintained. As to the military problem, it comes uniquely from
10 Mr. Khieu Samphan's order, which forbade the population in the
11 zone bordering Laos from respecting Prince Sihanouk. Those who do
12 not obey this order are executed miserably." End of quote.

13 The cooperatives were also used as a tool to attack and smash
14 enemies, both those in the rural areas and those in the cities.

15 [10.55.37]

16 A May 1976 CPK document entitled "Third Anniversary of the
17 Organization of the Peasant Cooperative" states - quote:

18 "Through the peasant cooperatives, the Party not only attacked
19 and demolished the feudal landowner class, the Party also
20 attacked capitalists in cities and rich peasants in rural areas.
21 Feudal landowners, rich peasants, and the like were attacked and
22 smashed." End of quote.

23 I will now address the evidence which establishes the criminal
24 intent underlying the CPK's use of forced transfers.

25 Here again, the evidence of criminal acts and motives before 1975

1 is crucial. These events were the precursors to the forced
2 evacuation of Phnom Penh. As such, they show a consistent course
3 of criminal conduct.

4 As Professor Chandler testified, the repetitive pattern of the
5 forced evacuations of towns before 1975 reached its climax in the
6 evacuation of Phnom Penh.

7 [10.57.20]

8 The evidence before the Court establishes that the CPK practice
9 of forcibly moving civilian populations out of urban areas and
10 into areas controlled by the revolutionary forces was adopted
11 from the early 1970s onwards. In that period, whenever the CPK
12 forces captured an urban centre controlled by their enemy – that
13 is, the Khmer Republic regime – they forcibly evacuated the
14 population. The CPK's forcible evacuations of urban centres
15 before 1975 were designed to drain the Khmer Republic of any
16 support base and forcibly relocate the evacuated civilian
17 population to CPK controlled rural cooperatives in the liberated
18 zones, where that population would be enslaved and used as a
19 production base for the revolution.

20 The evacuations were also accompanied by executions.

21 These evacuations were criminal acts directed against thousands
22 of people, undertaken in an organized and coordinated manner, and
23 ordered from the very top of the Party.

24 [10.59.10]

25 In a speech published in the December 1976–January 1977

1 "Revolutionary Flag" magazine, Nuon Chea described a number of
2 pre-1975 forced transfers of civilian populations and explained
3 the Party line of seizing the people and drying out the people
4 from the enemy. He wrote that - quote: "Attacking the enemy
5 politically - taking just one example, fighting to seize the
6 people. Throughout the world they never fought to seize the
7 people. Our line was to fight to seize the people. One, we took
8 him; two, we took them; one hundred, we took them; one thousand,
9 we took them; and so on, until we fought for and seized the
10 people from Phnom Penh too. The line of drying out the people
11 from the enemy was very correct. This never happened in the
12 world. An example: the fighting in Banam in 1973. We took
13 everyone in Banam town, expelling the ethnic Vietnamese, the
14 ethnic Chinese, the military, the police - we took everyone,
15 drying out the people from the enemy." End of quote.

16 Steven Heder lived in Phnom Penh from 1973 to early April 1975.
17 He confirmed in his testimony that the phrase "drying up the
18 people from the enemy" was used frequently in Khmer Rouge radio
19 broadcasts before the fall of Phnom Penh.

20 [11.01.02]

21 There is an important parallel between these pre-'75 events and
22 the evacuation of the city in April 1975. They were carried out
23 by force and without any regard for the suffering inflicted on
24 the victims. The Party Centre acknowledged this in the July 1973
25 issue of the "Revolutionary Flag", which stated - I quote:

1 "For example, in the evacuation of people from the areas under
2 the control of the enemy to the liberated zones, we took strong
3 and optimistic views of mass population to successfully send them
4 away to the countryside with no worry that they could be fraught
5 with difficulty due to the lack of everything. In addition, we
6 were not afraid that people in the liberated areas could not help
7 the evacuated people. With strong, popular views, we believed
8 that our people could do everything, although we were in the
9 situation that we were lack of rice as we are now, we dared to
10 evacuate many more people." End quote.

11 [11.02.30]

12 Your Honours, in other words, the Party recognized the inevitable
13 human cost and suffering that would - caused by these forced
14 evacuations and took no steps to minimize that suffering. Human
15 suffering was never a consideration, nor did the Party leaders
16 ever reconsider or change their practices in light of the harm
17 being caused.

18 The severe harm inflicted on the civilian populations during the
19 pre-1975 evacuations was illustrated by the testimony of witness
20 Nou Mao. Mr. Mao was a member of a sub-district committee in
21 Udong district in 1974. He said - and I quote:

22 "At the time, I was living in Cheung Roas commune, Udong
23 district. Then the superior at the upper level told us that we
24 had to receive people from Udong. They captured some soldiers,
25 and then they evacuated some people all the way through Amleang.

1 There was nothing over there. The land was barren; we had nothing
2 to eat but wild potatoes and some wild plants, so there were a
3 lot of casualties. Some people died of starvation, some died of
4 diseases because they did not have access to medicines."

5 [11.04.23]

6 Describing pre-1975 evacuation generally, Nou Mao testified as
7 follows - quote:

8 "At the time, wherever the soldiers arrived, people were
9 evacuated. When they evacuated people, actually, they did not -
10 or they were not prepared for the people. People had nothing to
11 eat, so some of them eventually died of starvation, and some
12 disappeared mysteriously, and some barely survived."

13 CPK's treatment of urban populations was inherently violent and
14 discriminatory. Nuon Chea, and Khieu Samphan, and the other CPK
15 leaders determined that the cities were a new - were a natural
16 base for the enemies of the revolution. In a 1978 interview with
17 a Danish delegation, Nuon Chea said that "the condition in the
18 cities and the countryside were quite different. In rural areas,
19 living conditions were very bad, but there were few enemies. In
20 the cities, living conditions were better but there were many
21 enemies."

22 [11.06.10]

23 In the eyes of the CPK, the people in the cities became the
24 natural political enemy. Professor Chandler testified that "the
25 people in the cities were, by definition, enemies. Feudalism and

1 imperialism were located, in the eyes of the leaders of the CPK,
2 in the cities. The cities were where the bad things were
3 happening."

4 Witness Thuch Rin, the Southwest Zone Khmer Rouge commander to
5 whom I referred earlier, confirmed that, as a military man, he
6 knew well before 1975 that people who occupied the cities were
7 enemies.

8 The CPK indoctrinated its cadres and members of the military that
9 the cities were riddled with moral turpitude and filth and that
10 they were inhabited by the enemy. Describing this ideological
11 delineation, Philip Short wrote - quote: "Soldiers were urged to
12 cut off their hearts towards potential enemies, a category which
13 included all urban deportees." End quote.

14 [11.07.40]

15 He expanded on this in his testimony before the Chamber, stating
16 that - quote:

17 "It's consistent with everything. We have been describing about
18 the ends justifying the means, making a clear line of demarcation
19 between the enemy and ourselves, about those who chose to vote
20 with their feet and stay in the cities rather than joining the
21 revolution being untrustworthy."

22 This discriminatory treatment of the urban population is a theme
23 to which I will be returning throughout my remaining submissions.
24 It is essential to understanding the criminal intent behind CPK's
25 forced evacuations of urban areas, and especially the evacuation

1 in April 1975.

2 In September 1973, the Khmer Rouge forces captured a part of the
3 provincial town of Kampong Cham and immediately proceeded to
4 forcibly transfer some 15,000 people into areas controlled by
5 them.

6 [11.09.07]

7 Steven Heder visited Kampong Cham and interviewed people there
8 after the Khmer Republic forces reasserted control of the town.
9 His interviewees reported that people had been evacuated by the
10 Khmer Rouge to the West and that some were killed on the spot.
11 Mr. Heder also testified that he learned from his interviewees
12 that those executed were the Khmer Republic civil servants and
13 military personnel in particular.

14 Ke Pauk, the Deputy North Zone Secretary, confirmed in his
15 autobiography, which has been placed on the case file, that he
16 and his superior, Koy Thuon, coordinated the attack on Kampong
17 Cham under the orders of the Central Committee.

18 [11.10.11]

19 François Ponchaud, who lived in Cambodia until April 1975,
20 confirmed the 1973 forced evacuation of Kampong Cham in his OCIJ
21 statement. He also testified to the Khmer Rouge forced evacuation
22 of Bos Khnaor, which is in the vicinity of Kampong Cham. He said
23 the following - I quote:

24 "We know very well that when the Khmer Rouge soldiers capture a
25 village, then the houses in the village would be set on fire. The

1 commune chief would be executed, and people would be evacuated to
2 the forest. People were evacuated, and then the heads of the
3 groups were killed. And this thing is not new. That happened
4 already since 1973, and this was well known to everyone." End
5 quote.

6 Your Honours have also heard expert and eyewitness evidence of
7 the mass forced evacuation of the city of Udong in March 1974.
8 This forced evacuation was a seminal event and it occurred at a
9 time when the CPK forces were closing in on Phnom Penh and when
10 the fall of the Khmer Republic was only a matter of time. The
11 forced evacuation of Udong became the template which the CPK
12 Party Centre decided was to be followed in the case of Phnom
13 Penh.

14 [11.12.08]

15 When asked about the significance of the forced evacuation of
16 Udong, Professor Chandler testified that - quote:

17 "In 1975, it seems to us, observers of Cambodia, that this was an
18 unprecedented move. We now find from things that came to light
19 after 1975, documents and so on, that this had been predicted, if
20 you like, in - both in Takeo and in Udong, but also in the town
21 of Kratie, which was also evacuated when the Khmer Rouge took it
22 over, and Stung Treng to the further north." End quote.

23 The Khmer Rouge forces from the Southwest and North Zones overran
24 Udong on the 18 of March 1974. The attack was coordinated by Son
25 Sen, the Chief of General Staff and a member of the Central

1 Committee. As in Kampong Cham, Ke Pauk was a direct participant
2 in the attack on Udong. As soon as the city of Udong fell, it was
3 forcibly evacuated by the Khmer Rouge troops, who herded some
4 20,000 people out of the city while executing scores of Khmer
5 Republic soldiers.

6 [11.13.58]

7 In his testimony, Philip Short confirmed the following vivid and
8 compelling description of the event, which was based on his
9 interviews of eyewitnesses - I quote:

10 "Several thousand government soldiers and civilian refugees were
11 massacred. It was said afterwards that many turned their guns on
12 their own families before killing themselves to avoid capture and
13 torture. The population of that town, some 20,000 people, were
14 rounded up and marched to the forest of Palhel before being
15 resettled in cooperatives in the Special Zone and the Southwest.
16 Officials and uniformed soldiers were separated from the rest,
17 led away, and killed." End quote.

18 The direct consequences of the attack were witnessed by Steven
19 Heder, who travelled to Udong shortly afterwards. He described
20 the city as being virtually empty. Witnesses Mr. Heder
21 interviewed on that day today him that "the Khmer Rouge troops
22 who had entered Udong killed certain people and took most, if not
23 all, of the rest of the population out to the countryside."

24 [11.15.45]

25 Mr. Heder also clarified that the categories of people who

1 suffered were Khmer Republic, civil servants, and military
2 personnel in particular. The execution of Khmer Republic
3 officials in Udong was, according to Philip Short, consistent
4 with what had been happening before and with, of course, what
5 happened afterwards.

6 This is all compelling evidence of the CPK's entrenched policies
7 of forced transfer and the systematic targeting and murder of
8 Khmer Republic officials. This evidence refutes all defence
9 assertions to the contrary.

10 In a speech given in North Korea in early April 1974, Khieu
11 Samphan proudly endorsed the annihilation of Udong, boasting to
12 the international media present that - quote:

13 "On 18 March, our people's national liberation armed forces
14 liberated another city, Udong, by annihilating all the puppet
15 soldiers there, along with their reinforcement. In other words,
16 over 5,000 enemies were eliminated, 1,500 of whom were captured."
17 End quote.

18 [11.17.39]

19 Witness Nou Mao also confirmed that local communes celebrated the
20 success of the evacuation and the movement of the population to
21 the jungle.

22 The evacuation of Udong is also confirmed by the evidence of
23 witness Rochoem Ton, alias Phy Phuon, Pol Pot's aide who
24 travelled through the area approximately one week after the
25 evacuation and saw that the city was empty. This is what he said

1 in his evidence - quote:

2 "When I entered the area, it was very quiet. There was no one,
3 mainly to the west of the river - that is, the way to Amleang or
4 Trapeang Chour, Aoral. They went that way. So they evacuated from
5 the town centre and they spread to the nearby villages and
6 assembled on the way." End quote.

7 Like Nou Mao, Phy Phuon participated in meetings at which the
8 evacuation of Udong was declared to be a good example. He was
9 told by these Accused this example would be followed when Phnom
10 Penh is occupied by the Khmer Rouge.

11 [11.19.23]

12 Phy Phuon was then asked how it was he knew this information. He
13 said the following - quote:

14 "As I stated earlier this morning, I learned it through his
15 presentation at each study session. Either Nuon Chea, Pol Pot, or
16 Khieu Samphan presented this idea to us, and that was the
17 experience they learned, and they were good experiences, and we
18 should draw the good points from it in order to finally liberate
19 Phnom Penh. And that is how I learned it." End quote.

20 In my opening remarks, I referred to the Party Centre meetings in
21 June 1974 and April 1975, at which the leaders resolved to
22 forcibly evacuate Phnom Penh upon victory. The forced evacuation
23 of Udong was discussed at both of those meetings. The accused
24 Nuon Chea and Khieu Samphan were present at both meetings and
25 took part in the decision to evacuate the cities. My colleague

1 will deal with these meetings in detail when he addresses Nuon
2 Chea and Khieu Samphan's liability for the crimes.

3 [11.21.00]

4 As I discussed earlier, the forced evacuations of urban centres
5 by the CPK prior to 1975 are crucial to an understanding of the
6 criminal intent underlying the forced evacuation of Phnom Penh.
7 Even cadres several levels below the leaders knew of the forced
8 evacuation of other cities. Even they knew that Phnom Penh would
9 be evacuated upon victory. This is illustrated well in the
10 evidence before you.

11 In his testimony before the Chamber, Steven Heder confirmed the
12 following statement given to him by a CPK cadre named Lonh aka
13 Lorn, a member of the Kampong Som Standing Committee. I quote:
14 "If he had captured Phnom Penh in 1974, it would also have been
15 an evacuation. This had been a longstanding plan. Slogan was 'dry
16 up the people from the enemy'."

17 In his 1977 speech, Nuon Chea used this very phrase, "drying up
18 the people from the enemy".

19 [11.22.38]

20 Another witness to whom I referred earlier, the Sector 13 cadre
21 interviewed by Steven Heder, confirmed that the evacuation of the
22 cities were a longstanding practice of the Khmer Rouge and he
23 stated the following - quote: "I feel that the plan to evacuate
24 Phnom Penh was part of a general longstanding policy because that
25 was what we had always done before - before, when we liberated an

1 enemy zone." End quote.

2 Nou Mao described meetings in the Southwest Zone at which Ta Mok,
3 the Secretary of the Southwest Zone and a member of the Communist
4 Party of Kampuchea Standing Committee, and Chou Chet, alias Si,
5 member of the CPK Central Committee, debated the plan to evacuate
6 Phnom Penh upon victory. Nou Mao confirmed that he attended
7 another meeting in 1974 at which Hou Youn spoke out against a
8 planned evacuation and at which he learned that Khieu Samphan was
9 in favour of it. At that time, Nou Mao was a mere member of a
10 commune committee, and yet he was appraised of the Party's plan
11 to evacuate all cities.

12 [11.24.20]

13 François Ponchaud has testified that the evacuation was part of a
14 systematic Khmer Rouge policy. In his statement before OCIJ, he
15 said - quote: "I believe that the decision to evacuate was part
16 of a systematic policy by the Khmer Rouge, who had already
17 evacuated all the towns or villages they had previously
18 occupied." End quote.

19 You Honours, we submit that this evidence alone established that
20 Khieu Samphan is lying when he says that he had no knowledge
21 whatsoever of the plan to evacuate Phnom Penh.

22 At this point, I will address the specific reasons for the
23 evacuation of Phnom Penh.

24 At paragraph 12 of his closing brief, Nuon Chea stated that the
25 purpose of the evacuation was to implement an economic policy

1 that, under the extraordinary circumstances in which Cambodia
2 found itself in 1975, Nuon Chea genuinely believed was in the
3 best interest of the Cambodian people. If that was his belief,
4 why has he chosen not to explain that belief in this courtroom?

5 [11.25.57]

6 He also argues that the evacuation was necessary in light of the
7 dire humanitarian conditions in Cambodia in April 1975, as well
8 as what he describes as a withdrawal of humanitarian aid just
9 days prior to the liberation.

10 Your Honours, these claims have absolutely no basis in reality.

11 We will expose them for what they are: dishonest, deceitful,
12 self-serving assertions designed to mislead this Chamber, and to
13 justify crimes of enormous proportions, and to shield Nuon Chea
14 and Khieu Samphan from his - from their criminal responsibility.

15 The decision of the CPK leaders to evacuate Phnom Penh and all
16 other cities in Cambodia had absolutely nothing to do with
17 addressing a genuine humanitarian crisis. It was an inherently
18 punitive act directed at the people whom the CPK leaders view as
19 their real or potential enemy. The evacuations were designed to
20 suppress, subjugate, and punish the urban population, to identify
21 within that population those who qualified for immediate
22 execution, and to enslave those who survived so they can be
23 stripped of their rights.

24 MR. PRESIDENT:

25 Madam Prosecutor, please hold on because we need to change and

1 replace the audio cassette.

2 (Short pause)

3 [11.28.31]

4 You may resume, Madam Prosecutor.

5 MS. CHEA LEANG:

6 Thank you, Mr. President. I shall resume now.

7 The evacuations were designed to suppress, subjugate, and punish
8 the urban population, to identify within that population those
9 who qualify for immediate execution, and to enslave those who
10 survive so they can be stripped of all their rights and turned
11 into mere objects subsisting under the CPK's rule of terror. They
12 were about enforcing the CPK rule and protecting their leaders,
13 including these Accused, from any real or perceived enemies.
14 These evacuations were therefore about power. They were about
15 punishment. The evacuations were about Nuon Chea, Khieu Samphan,
16 and the other Party Centre members eliminating people they
17 labelled as enemies. They have said so by their own admission.

18 [11.29.50]

19 In a September 1973 speech, Pol Pot said that the victory was due
20 to the smashing of all sorts of enemy organizations.

21 Nuon Chea admitted in a 1978 interview in relation to the
22 supposed U.S.A., KGB, or CIA plan that - quote: "We smashed the
23 plan immediately after liberation. We evacuated the cities." End
24 quote.

25 In recent interview, Khieu Samphan also sought to justify the

1 evacuation as necessary to avoid the spread of rebellion by CIA
2 and Khmer Republic agents which would have supposedly enabled the
3 Vietnamese to invade. I quote: "And if, in addition, there was
4 incitement by the CIA, more rebels, and the remnants of the Lon
5 Nol army throughout Phnom Penh and the countryside, there would
6 be rebellion." End quote.

7 In – the July 1975 issue of the "Revolutionary Youth" magazine
8 confirms that the CPK leadership carried out the forced
9 evacuation in order to deal with enemies that might have attacked
10 the Party.

11 Similarly, Philip Short testified that the policy reason for the
12 evacuation included "breaking up the network among city dwellers
13 so that they were no longer in the position to resist the
14 regime."

15 [11.31.28]

16 The April 1975 evacuations were also designed to destroy and
17 eliminate CPK's class enemies.

18 The CPK document entitled "Third Year Anniversary of the
19 Organization of the Peasant's Cooperatives" asserts that the
20 evacuations attacked and demolished the feudal landowner class,
21 capitalists in cities.

22 Members of the former Khmer Republic regime were marked for
23 immediate elimination. The rest of the population was to be
24 suppressed and imprisoned in CPK cooperatives. Many were – were
25 executed. The rest were subjected to systematic physical and

1 psychological abuse, including: being forced to write biographies
2 so that the remnants of the Khmer Republic regime could be
3 identified and eliminated; being denied freedom of movement and
4 security of person; being separated from their families and
5 forced to perform hard manual labour; being subjected to
6 starvation rations and denied the right to feed themselves or
7 forage for food; being subjected to threats, torture, and
8 detention in security centres.

9 [11.33.20]

10 Evacuees were executed for showing capitalist tendencies, failing
11 to comply with orders, objecting to oppressive treatment, or even
12 falling ill.

13 In summary, all urban evacuees who survived the first wave of
14 identification and elimination of enemies were subjected to a
15 regime of persecution and terror.

16 The systematic persecutions against the urban evacuees were
17 reflected in their levelling as New People or 17 April People.

18 Within the new world order the CPK put in place on 17 April 1975,
19 all New People were classified as depositees or parasites.

20 Denise Affonço, a French national, testified before this Court
21 that in April 1975, following her evacuation from Phnom Penh to
22 Kaoh Tuk Veal, she, her family, and all other evacuees on this
23 island had to attend a meeting in a pagoda where a Khmer Rouge
24 representative stated - quote: "You are now our prisoners. We are
25 not going to simply point a gun at you and shoot you. We are

1 going to have you work for us and we are going to kill you
2 otherwise.' That is what we were told literally, the words that I
3 will never forget."

4 [11.35.28]

5 Denise Affonço also confirmed that from the day of the
6 evacuation, it was made crystal clear that the evacuees were the
7 property of Angkar. This institutionalized - this
8 institutionalized their persecution and ensured that they were
9 treated differently from those whom the CPK deemed loyal to its
10 course.

11 During his testimony, Professor Chandler was asked to expand on
12 the reason for the - for the creation of the depositee group. He
13 stated - quote: "I think the purpose seems fairly obvious. It is
14 to again separate the 'clean Cambodians' from the 'dirty
15 Cambodians', and the 'dirty' ones are the ones who have been sent
16 out, exiled, and was called 'pnhao'."

17 In his testimony, Stephen Heder confirmed a passage from his book
18 "The Seven Candidates for Prosecution" in which he analyzed the
19 three-tier categorization of the population under CPK rule and
20 confirmed that depositees were last on distribution lists, first
21 on execution lists, and had no political rights.

22 Philip Short confirmed the treatment of the urban population in
23 April 1975. He said that "different leaders with a different
24 ideology might have chosen a policy of national reconciliation.
25 Pol Pot decided otherwise. To him, the city dwellers and the

1 peasants who had fled to join them in the dying months of the war
2 were ipso facto collaborators and had to be dealt with as such."

3 [11.38.00]

4 Mr. Short also said in his testimony – and I quote:

5 "I would simply say it's consistent with everything we have been
6 describing about the ends justifying the means, about making a
7 clear line of demarcation between the enemy and ourselves, about
8 those who choose to vote with their feet and stay in the cities
9 rather than joining the Revolution being untrustworthy." End
10 quote.

11 In one of his books, Professor Chandler described the evacuation
12 decision as a brutal order and stressed the persecutory intent on
13 the part of the CPK leaders. He wrote – quote:

14 "This brutal order, never thoroughly explained, added several
15 thousand deaths to the approximately 500,000 in the civil war.
16 Perhaps the overriding reason, however, was the desire to assert
17 the victory of the CPK, the dominance of the countryside over the
18 cities, and the privileged position of the poor. Saloth Sar and
19 his colleagues had not spent seven years in the forest and five
20 years fighting a civil war to take office as city councillors."
21 End quote.

22 [11.39.40]

23 To demonstrate the CPK's leaders' intent to suppress and
24 subjugate the urban population, I will read from one of their own
25 publications. This is a passage from the August 1975

1 "Revolutionary Flag" magazine, which, as Nuon Chea acknowledges,
2 was a document for use by the Party Centre. Quote:
3 "Now the colonists and imperialists have been overthrown. The
4 landowners and the feudalists have been overthrown. The
5 capitalists have been overthrown and the petty bourgeoisie has no
6 one to rely upon. Therefore, they are subjugated to the state
7 power of the worker-peasants. Their class has been overthrown,
8 their economic foundations have been overthrown, but their
9 outlook and their desires remain the same. Therefore, they
10 continue to be in conflict with the Revolution." End quote.
11 So, even after the urban classes were overthrown and subjugated
12 to CPK rule, in the eyes of the leaders they continued to be in
13 conflict with the Revolution and, therefore, they were deserving
14 of punitive treatment.

15 [11.41.24]

16 Now, I wish to review the evidence that deals with the condition
17 in Phnom Penh in the months preceding the evacuation. This
18 evidence is relevant because it further refutes the Defence
19 argument that the evacuations were ordered to feed the people and
20 to respond to a humanitarian crisis.

21 The evidence shows that in the months leading to the fall of
22 Phnom Penh, the CPK leadership deliberately caused a humanitarian
23 crisis in Phnom Penh, placing the city under siege, blocking the
24 delivery of food and medical supplies, killing civilians in
25 shelling raids on residential areas, and terrorizing the

1 capital's entire civilian population. These actions are entirely
2 inconsistent with any intent on the part of the Accused to avoid
3 or reduce suffering. They show that the intention of the Accused
4 were in fact the exact opposite.

5 [11.42.36]

6 The final offensive against Phnom Penh was announced by Khieu
7 Samphan in a statement broadcast on the Khmer Rouge radio at 11
8 a.m. on the 31st of August 1974. In the statement, Khieu Samphan
9 noted that the area around Phnom Penh under the control of the
10 Khmer Republic had been reduced to 10 square kilometres and was
11 under constant siege by the Khmer Rouge troops. Khieu Samphan
12 noted that food supplies in the capital had become scarce and
13 that the city's only hope for the delivery of aid was the Mekong
14 River. He boasted how Khmer Rouge troops were already launching
15 heavy attacks on various enemy positions along the waterway,
16 causing worse difficulties to the transportation of U.S.
17 imperialist aid to Phnom Penh.

18 He then called on the troops to launch the most vigorous and most
19 powerful offensive against the enemy around Phnom Penh and in
20 Phnom Penh and at various provincial capitals. The offensive
21 began on the 1st of January 1975 with the CPK forces firing
22 rockets into the city of Phnom Penh.

23 [11.44.30]

24 The evidence demonstrates that in the period between the 1st of
25 January and the 17 of April, the Khmer Rouge forces tightened

1 their grip on the city, deliberately causing a dire humanitarian
2 situation. The radio broadcasts by the Khmer Rouge and the Khmer
3 Republic Government, which were recorded and transcribed by the
4 Foreign Broadcast Information Service, FBIS, provided a
5 compelling day - a compelling day-by-day account of the
6 deteriorating situation in Phnom Penh.

7 As described in those broadcasts as well as in the diary and
8 testimony of Sydney Schanberg, in order to effectively strangle
9 the city, the Khmer Rouge carried out attacks on convoys which
10 were attempting to deliver food and fuel supplies to Phnom Penh
11 up the Mekong River, from South Vietnam. By early February 1975,
12 the Khmer Rouge had laid floating mines in the Mekong to prevent
13 any aid from reaching the city.

14 [11.46.06]

15 A 9 February 1975 article by Sydney Schanberg reported that the
16 Khmer Rouge fire and mines had destroyed 19 delivery ships which
17 were attempting to supply aid to the capital. These events were
18 confirmed by Mr. Schanberg in his testimony.

19 By early February, the Mekong waterway was completely closed,
20 leaving the capital entirely dependent on an airlift. However,
21 the Khmer Rouge proceeded to shell the Pochentong Airport and
22 civilian planes flying much needed aid into the city, another
23 fact recorded in FBIS, in Sydney Schanberg's contemporaneous
24 articles, his diary, and his testimony before the Chamber.
25 Describing the effect of the shelling of the airport, Mr.

1 Schanberg testified – quote:

2 "It reduced the amount of supplies and as the insurgents – the
3 Khmer Rouge assault continued, less and less food and other needs
4 – fuel – was getting in. And that's all it was, it was like a
5 noose tightening around the city." End quote.

6 The same treatment – strangulation by siege, shelling,
7 terrorizing of the civilian population – was meted out to the
8 population of Neak Loeang, the town located south of Phnom Penh.
9 Neak Loeang was overrun by the Khmer Rouge on the 1st of April
10 1975. Throughout these months, CPK leaders made absolutely no
11 allowance for food and medical supplies to be brought in to help
12 the civilian population which was not taking part in any
13 hostilities.

14 [11.49.10]

15 The bad living condition caused by the siege was made
16 significantly worse by the Khmer Rouge shelling of residential
17 areas of the city. Throughout the January to the 17 April period,
18 CPK forces regularly and indiscriminately fired rockets into
19 residential areas of Phnom Penh, killing and wounding hundreds of
20 civilians, and inflicting terror on the city's population. These
21 attacks were reported extensively in FBIS – January, February,
22 March and April 1975. They are also reported in witness
23 testimonies and other written records.

24 For example, both FBIS and Sydney Schanberg's diary describe how
25 a Khmer Rouge rocket hit a primary school in Phnom Penh on the

1 6th of February 1975, killing and wounding numerous young
2 children.

3 The Khmer Republic Government sought negotiations with the Khmer
4 Rouge for a peaceful end to the war, negotiations which the CPK
5 leadership rejected explicitly on numerous occasions.

6 [11.51.18]

7 For example, on the 8th of April 1975 statement by - Khieu
8 Samphan responded to unconfirmed reports of negotiations between
9 the Khmer Rouge and the Khmer Republic government - I quote:
10 "According to some western sources a few days ago, the
11 contemptible Long Boret said that there was a contact for
12 negotiation with the other side. As they have previously done on
13 several occasions, the NUFC and RGNUC would like to make it clear
14 again to national and international opinion that they have
15 absolutely never negotiated with nor will they ever accept
16 negotiations with the traitorous clique." End quote.

17 Another illustrative example of the terror being inflicted by the
18 Khmer Rouge forces on the civilian population of Phnom Penh is
19 recorded in Mr. Schanberg's diary in the entry for the 3rd of
20 March 1975 - quote:

21 "A rocket lands on the capital's busiest downtown street, in
22 front of the Monorom Hotel. Five people were killed immediately,
23 and eight others lie wounded. The street is strewn with bodies
24 and pieces of bodies. Such slaughterhouse spectacles have become
25 everyday scenes here." End quote.

1 [11.53.43]

2 Two days later, Sydney Schanberg noted that in the nine weeks
3 since the offensive began, about 1,000 rockets have fallen on the
4 capital, killing more than 150 civilians and wounding nearly 600
5 others.

6 Stephen Heder, who, like Sydney Schanberg, lived in Phnom Penh in
7 that - in this period, also described CPK shelling of the capital
8 from late 1974 to April 1975. He had to dig a bunker under his
9 house and sometimes had to live in the bunker due to regular
10 Khmer Rouge shelling of the part of the city in which he was
11 living. Heder testified that "the CPK artillery and rocket fire
12 fell primarily in residential areas." He also described an
13 incident in which "a whole neighbourhood went up in flames."

14 [11.55.06]

15 As confirmed by expert witness Philip Short, the shelling of
16 residential areas reflected the Khmer Rouge leaders' view that it
17 was acceptable to inflict harm on the population which had sought
18 refuge in the city. Mr. Philip Short says - I quote:

19 "The shelling attacks were basically psychological warfare. They
20 were to show that the Lon Nol regime was incapable of defending
21 anybody. But the fact that the shelling was indiscriminate and,
22 therefore, given the range of the artillery, was going to fall
23 very often on the poorer suburbs, that was acceptable because
24 those people had chosen to be with Lon Nol rather than staying
25 with the revolutionaries. So, the two went together."

1 The statements on the Khmer Rouge radio both by leaders such as
2 Khieu Samphan and by the Khmer Rouge information agencies confirm
3 the leaders' approval of shelling of the city and the blockage of
4 humanitarian aid. As early as August–September 1974, the
5 "Revolutionary Youth" magazine confirmed that the Khmer Rouge
6 forces were shelling Phnom Penh.

7 [11.57.07]

8 Now, I will read two related extracts, first referring to
9 counteroffensive by the Khmer Republic forces. The circular
10 states – quote: "They wanted to push us away from the Phnom Penh
11 entrances so that we would not be able to fire rockets into Phnom
12 Penh anymore." End quote.

13 Then, on the next page, the circular boasts – quote: "On the
14 contrary, we still keep our position firmly around Phnom Penh and
15 are able to fire rockets at will into Phnom Penh from any
16 direction, even into the Pochentong Airport." End quote.

17 Moving forward in time, on the 19th of February 1975, Khmer Rouge
18 radio broadcasts boasted about the closure of the Mekong waterway
19 – quote:

20 "Since the beginning of February, no enemy river convoy has been
21 able to sail through our gauntlet on Mekong River. Thus, the
22 Mekong River, blocked in January and early February, will be
23 forever cut. This means that the enemy will be deprived of his
24 rice and fuel supplies forever. Consequently, the already
25 deteriorating situation in Phnom Penh will become even worse."

1 End quote.

2 [11.58.59]

3 A 5th of March 1975 Khmer Rouge broadcast stated that - quote:

4 "The enemy is now in agony because the Mekong River has been cut
5 for two months and the air route and all other communication
6 routes will be completely cut off in the very near future." End
7 quote.

8 In this period, Khieu Samphan made a number of statements over
9 the Khmer Rouge radio addressed to the Khmer Rouge troops and to
10 the population of Phnom Penh. My colleague will be referring to
11 those statements in more detail. I will read from just two.

12 First, a 24 February statement by Khieu Samphan - quote:

13 "Phnom Penh is subject to our forces' most active artillery
14 attacks. Worse still, the Mekong route, which is the sole vital
15 transportation route left to the enemy for transporting supplies
16 to Phnom Penh, is now completely cut. Thus, in Phnom Penh and
17 other enemy-held provincial capitals, the shortage of rice, which
18 has always been extremely scarce, will become even more acute in
19 the future."

20 [12.00.32]

21 And secondly, an excerpt from a 22nd of March 1975 statement by
22 Khieu Samphan - I quote: "We have blocked almost all of the
23 transportation routes of the enemy. The Mekong is blocked. All
24 overland routes are cut and Pochentong is subject to our constant
25 shelling attacks." End quote.

1 MR. PRESIDENT:

2 Thank you, Madam Prosecutor.

3 The time is now appropriate for lunch adjournment. The Chamber
4 will adjourn now and resume at 1.15 this afternoon. This is a
5 notice for parties and information for members of the public who
6 are following the proceedings.

7 Security guards are now instructed to bring Mr. Khieu Samphan
8 down to the holding cell and have him returned to this courtroom
9 by 1.15.

10 (Court recesses from 1201H to 1319H)

11 MR. PRESIDENT:

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

13 Once again, the floor is given to the Co Prosecutors to continue
14 their presentation on the Closing Statement. You may now proceed.

15 MS. CHEA LEANG:

16 Thank you, Mr. President. Allow me to continue.

17 In a speech published in the "Revolutionary Flag" of September
18 1977, Pol Pot confirmed that the CPK had a specific strategy to
19 cut off all the enemy's food supplies.

20 [13.20.39]

21 Your Honours, we submit that the evidence of the actions and
22 statements of these Accused in directing and encouraging
23 atrocities against the civilian population of Phnom Penh
24 demonstrates their intent to harm that population. The evidence
25 of the massive suffering which they were causing knowingly and

1 intentionally for months before 17 April 1975 discredits entirely
2 the Defence's claims that the Accused actually intended to help
3 the population. To state the obvious, this evidence demonstrates
4 beyond any doubt that the Accused bear responsibility for the
5 dire humanitarian situation in Phnom Penh.

6 They intended to cause that suffering because, as I demonstrated
7 earlier, they deemed the population of the city to be the real or
8 potential enemy. And yet, before you today, they seek to invoke
9 that very suffering to construct a false reason for the forced
10 evacuation of the city.

11 A further relevant event in this period is the decision of the
12 Khmer Rouge leadership to execute senior members of the Khmer
13 Republic regime.

14 [13.22.49]

15 On 24th and 25th February 1975, Khieu Samphan presided over the
16 second FUNK and GRUNK National Congress, which declared that
17 senior Khmer Republic officials, namely Lon Nol, Sirik Matak, Son
18 Ngoc Thanh, Cheng Heng, In Tam, Long Boret, and Sosthene
19 Fernandez, were the chieftains of the traitors and that it was
20 absolutely necessary to kill them. Two of these seven
21 individuals, Prime Minister Long Boret and Prince Sirik Matak,
22 remained in Phnom Penh and were arrested and executed with
23 numerous other senior representatives of the Khmer Republic
24 regime.

25 The evidence shows that on 17 April 1975, the Khmer Rouge

1 officials on the ground were fully aware of this order. My
2 colleague will present evidence of numerous public statements by
3 the leadership affirming their call for the execution of the top
4 leaders of Khmer Republic regime.

5 It is also important to note the effect of the resolution of the
6 Second Congress on other officials or representatives of the Lon
7 Nol government and military. The Congress proclaimed that either
8 low or high ranking government officials, army officers, police
9 officers from the Khmer Republic regime could join the FUNK, but
10 only provided they immediately ceased their service to the seven
11 traitors and stop cooperating with them.

12 [13.25.21]

13 As noted by Philip Short, the implication of this statement,
14 first: "If you don't join the Revolution immediately, you will be
15 in the same category as the 'super traitors'."

16 As we will see, in the days following the fall of Phnom Penh,
17 thousands of Khmer Republic military and civilian officials were
18 murdered in cold blood by Khmer Rouge forces in an organized and
19 systematic operation.

20 Your Honours, I will now move on to deal with the entry of Khmer
21 Rouge troops into Phnom Penh, the surrender of the Khmer Republic
22 regime, and the arrest and execution of senior members of that
23 regime. In this manner, we will set the scene for the crimes
24 committed during the forced evacuation, which I will address in
25 detail later in my submissions.

1 [13.26.45]

2 In this part of my presentation, I will refer to the diary and
3 testimony of Sydney Schanberg, the diary of Jon Swain, and the
4 testimony of Al Rockoff. The accounts of these men are
5 significant because they record the events throughout the capital
6 in the dying days of the Khmer Republic and in the first hours
7 and days of Khmer Rouge rule. As journalists, these individuals
8 had an eye for detail and sought to record the key events that
9 were taking place around them.

10 On 16th April 1975, the Khmer Rouge continued to shell the city
11 throughout the day and into the night. The Khmer Republic Army's
12 main ammunition dumps were surrounded. The Khmer Rouge announced
13 in a radio broadcast that they had occupied the airport at
14 Pochentong. Some of the victims of the attack were being treated
15 at the Preah Ket Mealea Hospital, which Sydney Schanberg
16 described in his diary as a slaughterhouse.

17 The sick and wounded were also being treated in - at other
18 locations, including at an impromptu medical surgery established
19 at Hotel Le Phnom, the site of the current Raffles Hotel, which
20 was declared a protected neutral area and draped with large Red
21 Cross banners. Staff from the Red Cross admitted hundreds of
22 refugees into the hotel in the early evening of 16 April.

23 [13.29.07]

24 CPK military divisions from the North, Southwest, East, and
25 Special Zones had surrounded Phnom Penh.

1 Shortly before midnight, Sydney Schanberg spoke on the telephone
2 with Long Boret, the Prime Minister of Khmer Republic. Mr. Boret
3 was one of the seven traitors targeted for execution on the order
4 of Khieu Samphan. The prime minister told Mr. Schanberg: "We feel
5 completely abandoned. We have no more material means."

6 He confirmed that the government had met and agreed to surrender.
7 Victory for the Khmer Rouge was therefore imminent and
8 inevitable.

9 Before dawn on 17 April, the President of the Supreme Council of
10 the Khmer Republic, Lieutenant General Sak Sutsakhan, transmitted
11 an offer of surrender to the advancing forces, committing to an
12 immediate transfer of power. He asked only for no reprisals. His
13 offer was not accepted. There was no transfer of power; only
14 terror was to follow.

15 [13.30.55]

16 Much of the evidence you have heard about this day is
17 corroborated by transcripts of radio broadcasts produced by the
18 Foreign Broadcast Information Service - that is, the FBIS. One
19 such report recalls a Khmer Rouge broadcast at 9 a.m. confirming
20 that advancing Khmer Rouge forces had poured in and fanned across
21 the city, encountering little resistance.

22 Jon Swain, who was staying at Hotel Le Phnom, wrote about how
23 sections of the Khmer Republic military and the civilian
24 population were making preparations to welcome the incoming
25 troops - quote:

1 "White flags were beginning to sprout everywhere: on armoured
2 personnel carriers, drawn up outside our hotel, on houses in the
3 northern sector of the city that the Khmer Rouge had just
4 penetrated. The Cambodian Army was about to pack up after five
5 years of war. Troops took out the clips of their M 16 rifles and
6 waited quietly in the sunlight for the insurgents." End of quote.

7 And here is the video-clip to follow:

8 (Presentation of video document)

9 [13.33.16]

10 Conscious of the need to avoid bloodshed, senior religious
11 figures made a broadcast for calm and peace on the Phnom Penh
12 radio. Within minutes, Mr. Mey Sichan, Chairman of the Khmer
13 Republic Army General Staff, ordered all his forces to cease
14 fire. He asked the population to remain calm. Referring to Khmer
15 Rouge as brothers, he stated - quote:

16 "I and the special committee of army officials will make
17 arrangements with representatives of the organization of brother
18 Cambodians of the other side to achieve safety an order and to
19 find peace for our blood brothers from this moment onward." End
20 of quote.

21 General Sichan invited the Khmer Rouge to come to Phnom Penh and
22 other provincial capitals which are "open to you", but the Khmer
23 Rouge had not attacked the city in order to accept invitations or
24 to undertake negotiations. The Khmer Rouge officers had arrived
25 at the radio station and made their own broadcast immediately

1 after the general's appeal. Their message was direct,
2 unambiguous, and abrupt – quote: "We inform the contemptible
3 treacherous Lon Nol clique and all its commanders that we are not
4 coming here for negotiations. We are entering the capital through
5 force of arms of the CPNLAF." End of quote.

6 [13.35.24]

7 In the same broadcast, the Khmer Rouge officers summoned all
8 CPNLAF commanders to meet at the National Ministry of
9 Information. Jon Swain described the Khmer Rouge soldiers as well
10 armed and disciplined. This is corroborated by Sydney Schanberg,
11 who stated in his diary that the Khmer Rouge soldiers he saw were
12 an army of battle-hardened, disciplined, all business soldiers.
13 In an article published on 9 May 1975, Mr. Schanberg wrote that –
14 quote:

15 "The troops we saw in Phnom Penh did include women soldiers and a
16 boy militia, some of whom seemed no more than 10 years old, but
17 all looked healthy, well-organized. They were heavily armed and
18 well-trained." End of quote.

19 Al Rockoff, a United States Army veteran who had served in the
20 Vietnam War, was working in Phnom Penh as a freelance
21 photographer. He spent hours in the morning at the junction of
22 Sihanouk Boulevard and Monivong Boulevard. He testified that
23 there was a very good radio network among the Khmer Rouge
24 soldiers.

25 [13.37.16]

1 Mr. Rockoff testified that he saw soldiers of the Khmer Republic
2 surrendering their weapons and then hundreds of them being
3 marched in a westerly direction from the intersection of Monivong
4 Boulevard and Sihanouk Boulevard. He also confirmed that a
5 photograph taken by Roland Neveu showed the same movement of
6 Khmer Republic prisoners that he saw on the day.

7 Mr. Schanberg, Swain, Rockoff, and Dith Pran, Schanberg's friend
8 and interpreter, went to Preah Ket Mealea Hospital and witnessed
9 patients bleeding to death in the corridors. As they were leaving
10 the hospital, the three foreigners were arrested by Khmer Rouge
11 soldiers. They were held by the Khmer Rouge for several hours
12 before they were released. Due to the limited time, I will not
13 discuss this incident in detail, but one key aspect of the event
14 is how Khmer Rouge military command exercised control over their
15 soldiers on the ground.

16 [13.38.58]

17 Mr. Schanberg and Mr. Rockoff were certain that they would be
18 executed by the Khmer Rouge. Their lives were saved by the pleas
19 of their Cambodian friend and colleague, Mr. Dith Pran. To secure
20 the release of his friends, Mr. Pran had to go to Khmer Rouge
21 headquarters together with a Khmer Rouge official. That evidence
22 demonstrates that on 17 April 1975, Khmer Rouge soldiers were
23 neither out of control nor unruly; instead, they were disciplined
24 and organized and they followed their chain of command. They
25 sought and obtained the orders of their superiors as to what to

1 do with the foreigners.

2 Mr. Schanberg also testified that while he and the other
3 foreigners were released, the Khmer Republic military men, whom
4 the Khmer Rouge had captured, were not set free.

5 Later, Mr. Schanberg and his colleagues went to the Ministry of
6 Information and, there, saw senior Khmer Republic officials whom
7 they described as prisoners of the Khmer Rouge. According to
8 Sydney Schanberg's diary - and I quote:

9 "We head for the Information Ministry because of the earlier
10 broadcast asking high officials of the old regime to report
11 there. When we arrive, about 50 prisoners are standing outside
12 the building, which seems to be the insurgent's temporary
13 headquarters. Among the prisoners are: Brigadier General Lon Non,
14 younger brother of Marshall Lon Nol; Brigadier General Chhim
15 Chuon, who was close to the Marshall. Other generals and cabinet
16 ministers are also there. Very uneasy, but trying to appear calm.
17 [13.41.46]

18 "We learned that the chief monks of the two main Buddhist sects
19 have already been there and been sent back to their pagodas.
20 There was a toughness to the atmosphere. A platoon of young Khmer
21 Rouge soldiers slipped into foxholes on the lawn and behind trees
22 and pillars. Training machine guns and rocket launchers on the
23 scene."

24 Jon Swain's detailed observations were recorded in his article
25 published in "The Times". He saw with his own eyes the Khmer

1 Rouge policy of segregation and targeting, of which you will hear
2 more when I deal with the killing of Khmer Republic officials. He
3 wrote - and I quote:

4 "Back at the Ministry of Information, a man in black, about 35,
5 and clearly a leader, bawled through a bullhorn at the prisoners,
6 dividing them into three groups: military, political, and
7 ordinary civilians. The Khmer Rouge training their guns on them
8 were tough, strong-looking. To us standing there, they looked
9 like people from another planet." End of quote.

10 Sydney Schanberg described the same situation. In his testimony,
11 Mr. Schanberg summed up his observations of the Khmer Republic
12 officials at the Ministry of Information as follows: "They were
13 clearly frightened and I think most of them knew they were going
14 to be killed." End of quote.

15 [13.44.13]

16 He also confirmed the following passage from his diary - and I
17 quote:

18 "As the conversation continues, Lon Non slips forward and quietly
19 asked a French newsman to ask the insurgent leader if the
20 prisoners here today or other Cambodian officials can leave the
21 country if they wish to. A few moments later, the newsman gets a
22 chance to ask the question. The military leader laughs softly.
23 'It will depend on the government', he says, 'They will make the
24 regulations.' He says he is only a military leader, adding that
25 some of the top political and governmental leaders are not far

1 from the city but that they had let the military enter first to
2 organize things." End of quote.

3 Al Rockoff took a photograph outside the Ministry of Information
4 at approximately 4 p.m. that day, when he was there together with
5 Jon Swain and Sydney Schanberg. Thirty-eight years later, he came
6 to testify before you. He knew precisely how important his
7 photograph was when he explained - quote: "But this is my
8 photograph. I consider that a very important historical
9 photograph, a transition." End of quote.

10 [13.46.24]

11 As to what exactly was happening when he pressed the shutter to
12 take this photograph, Al Rockoff said - and I quote:

13 "One of the Lon Nol regime officers was discussing, trying to
14 make a point or two to the Khmer Rouge. Khmer Rouge were
15 watching. One Khmer Rouge was taking a photo of the journalists
16 getting off the truck. I had a camera hanging around my neck and
17 I didn't raise it to my eye. I had a wide-angle lens. I took a
18 photo just as a person was coming over to grab my camera
19 equipment from me." End of quote.

20 The photograph proves that the Khmer Rouge were, within hours of
21 their arrival in Phnom Penh, targeting and segregating Khmer
22 Republic officials. This evidence exposes the myth being peddled
23 by the Defence that no such policy existed.

24 The Defence myth is further exposed by evidence you have heard
25 about generals in the Khmer Republic regime, including General

1 Thach Sary. You heard testimony from his cousin, Ms. Thouch
2 Phandarasar, explaining that the general went to the Ministry of
3 Information in response to the Khmer Rouge broadcast.

4 [13.48.40]

5 General Thach Sary was executed along with the other Khmer
6 Republic officials who had presented themselves at the Ministry
7 of Information. His death is corroborated by a subsequent French
8 Press Agency report listing the names of 54 generals executed by
9 the Khmer Rouge. Brigadier General Chhim Chuon, who was also
10 detained at the ministry at the same time as General Thach Sary,
11 is also on the list of those reportedly executed.

12 At the ministry, Sydney Schanberg also witnessed the arrival of
13 the Prime Minister of the former Khmer Republic, Long Boret. Long
14 Boret was later executed, after authorization for his death had
15 been issued from the very top level of the CPK leadership, the
16 Committee for Wiping out Enemies. According to Philip Short, the
17 circumstances were - quote: "Prime Minister Lon Boret, Lon Non,
18 and other senior republicans were taken out and killed in the
19 grounds of the Cercle Sportif, not far from the Information
20 Ministry, where they had been detained." End of quote.

21 [13.50.20]

22 Mr. Schanberg described his departure from the Ministry of
23 Information as follows - quote: "As we leave the Information
24 Ministry, the prisoners are being taken inside the building. It
25 is the last we saw of them." End of quote.

1 After Sydney Schanberg and his colleagues left the Ministry of
2 Information, they observed that the forced evacuation of the city
3 was in full flow.

4 In this courtroom, Sydney Schanberg described the population as
5 being driven out of the city - not driven in cars, but driven
6 like you drive cows - out of the city into the countryside.

7 Within the hour, Schanberg arrived at the French embassy, which
8 became a refuge for him and other foreigners for the next 13
9 days. He was confronted by a chaotic situation recorded in his
10 diary - and I quote:

11 "At the French embassy, there is pandemonium; the gates are shut
12 and locked to prevent the mob from surging in, but people by the
13 dozens, including Cambodians, are coming in anyway, passing their
14 children over the tall iron-spiked fence, then hurling their
15 belongings over, and finally climbing over themselves." End of
16 quote.

17 [13.52.35]

18 Prince Sirik Matak had gained access to the French embassy
19 despite the fact that he had been condemned to death by the order
20 of Khieu Samphan. The Khmer Rouge were, though, intent on finding
21 him and killing him. The order had to be implemented. A number of
22 other Khmer Republic officials also entered the French embassy,
23 seeking asylum. They were all to be handed over to the Khmer
24 Rouge.

25 And I would like now to show another video-clip.

1 (Presentation of video document)

2 [13.54.25]

3 Throughout the following days, the Khmer Rouge Committee, which
4 communicated with the French Consul – that is, Mr. Jean Dyrac –
5 demanded that all Cambodians leave the embassy and head north
6 into the countryside. According to Mr. Schanberg, some 500
7 Cambodians had sought refuge within the compound. Mr. Schanberg's
8 diary also recorded the separation of families which followed as
9 the Cambodians were forced out of the embassy compound.

10 A telegram sent by the French Consul to the French Foreign
11 Ministry in Paris on 21st April described the separation of
12 families and the expulsion of Cambodians from the compound. It
13 states – quote:

14 "The pain is unbearable for all. Some are parting ways after 15
15 or 20 years of living together. Here, even the men cry.
16 Yesterday, a little boy was born at the embassy. His mother must
17 leave today. The little boy became my son today. We adopted him."
18 End of quote.

19 While the ordinary Cambodians were forced to leave the embassy
20 under Khmer Rouge orders, the high-ranking Khmer Republic
21 officials were to be – rather, Mr. Schanberg also describes how,
22 once the large group of Cambodians left the embassy on 21st
23 April, Khmer Rouge officials swept the compound to expel any
24 remaining Cambodian nationals.

25 [13.56.57]

1 While the ordinary Cambodians were forced to leave the embassy
2 under Khmer Rouge orders, the high-ranking Khmer Republic
3 officials were to be handed over to Khmer Rouge forces. Telegrams
4 from the French Embassy record this.

5 A telegram on the 18th April 1975 entitled "Political Asylum"
6 confirms that several senior personalities were in the embassy
7 compound. They included Sirik Matak, Princess Mom Manivong, Ung
8 Boun Hor, the Khmer Republic President of National Assembly, and
9 Mr. Loeung Nal, Khmer Republic's Ministry - Minister for Health.
10 In the telegram, Dyrac stated - quote: "Barring expressed and
11 immediate order from the Department requesting me to grant
12 political asylum, I will be compelled to turn these names in
13 within 24 hours." End of quote.

14 [13.58.22]

15 As confirmed in another telegram dated 20 April, on that day
16 Sirik Matak and the other people mentioned in the previous
17 telegram were handed into the custody of the Khmer Rouge. This
18 evidence demonstrates the Khmer Rouge organized and systematic
19 searches for Khmer Republic officials who were destined for
20 execution.

21 As recorded by the organization Amnesty International, Ieng Sary
22 confirmed publicly at a press conference in Bangkok in November
23 1975 that Lon Boret, Sirik Matak, and Lon Nol had been executed.
24 The evidence before the Court also establishes the organized
25 executions of hundreds of other Khmer Republic military officers

1 and officials in the course of and immediately following the
2 evacuation of Phnom Penh.

3 Your Honours, I will now deal with the evidence of the crimes
4 committed in the course of forced transfer of the population from
5 Phnom Penh in April 1975 and the forced movements of the civilian
6 population to the North and Northwest Zones starting from
7 September 1975.

8 [14.00.04]

9 The evidence before you demonstrates beyond any reasonable doubt
10 the existence of a joint criminal enterprise to commit these
11 crimes, the criminal intent of Nuon Chea and Khieu Samphan to
12 commit the crimes, as well as the violence and brutality with
13 which the crimes were committed. As I stated in my opening
14 remarks, the common theme that runs through these events is the
15 use of extreme violence against a civilian population.

16 On 17 April 1975, and the days and weeks following, tens of
17 thousands of people were killed by the infliction of inhumane
18 conditions during the forced marches and shortly upon arrival in
19 CPK administered cooperatives and worksites. Many were executed
20 during the evacuations, and millions were victimized by forced
21 transfer under inhumane conditions from their homes.

22 [14.01.35]

23 The forced transfer of the inhabitants of Phnom Penh was a
24 cataclysmic event. Human suffering on a devastating scale was a
25 direct and inevitable result of the order to evacuate the city

1 without exception.

2 Expert witness Philip Short captured this in his book – and I
3 quote:

4 "To move more than two and a half million people out of a crowded
5 metropolis at a few hours' notice, with nowhere for them to stay,
6 no medical care, no government transport, and little or nothing
7 to eat, was to invite human suffering on a colossal scale." End
8 of quote.

9 And I'd like to present another video-clip here.

10 (Presentation of video document)

11 [14.03.53]

12 Philip Short also testified that the enormous suffering inflicted
13 on the civilians during the forced evacuations of the cities in
14 April 1975 was not an exception. Instead, it was characteristic
15 of CPK's treatment of the civilian population throughout their
16 rule. Mr. Short stated – and I quote:

17 "The ruthlessness and single-mindedness and the lack of concern
18 for human values, for human suffering, for individual values that
19 were shown during the evacuation, in everything the same approach
20 and, in many cases, the same finalities – that is, large numbers
21 of dead along the way – were how those programs were
22 characterized. And you will – and you find all that in the very
23 first stage, which was the evacuation of the cities." End of
24 quote.

25 The evacuation was carried out swiftly. The statement before this

1 Court of civil party Chan Sopheap described the result and speed
2 with which the Khmer Rouge soldiers forced the civilians out of
3 their homes. She stated – and I quote:

4 "On the 17th April 1975, I, as the rest of the Phnom Penh
5 residents, was immediately forced to evacuate from Phnom Penh. I
6 had 13 blood brothers and sisters. Including my parents, there
7 were 15 of us in total. The war was ended, and I hoped that peace
8 would come, but on the contrary, at around 9 a.m., Khmer Rouge
9 soldiers with weapons entered our house and they told us to leave
10 the house for three days, as they needed to get rid of the enemy.
11 At that time, my parents had prepared our meal, and we could not
12 even eat the meal yet. And another group of soldiers came to
13 force us to leave." End of quote.

14 [14.07.04]

15 The Khmer Rouge soldiers who expelled the residents out of the
16 city were heavily armed, disciplined, and well-organized. In his
17 diary of the events, Sydney Schanberg described how they went
18 about their business – quote:

19 "Teams of insurgent soldiers, waving pistols and rifles, some
20 shouting and some using bullhorns, were ordering people to leave
21 their homes instantly. The rebels fired shots in the air to
22 demonstrate they meant business." End of quote.

23 In expanding on this passage in his testimony, Mr. Schanberg
24 stated: "It was clear that they were trying to get them out of
25 their houses and get them on the road quickly, and it worked."

71

1 Sum Chea was one of these Khmer Rouge soldiers. His testimony to
2 you was detailed and sharp, and I will refer to it repeatedly.
3 With a soldier's plain words, he testified as to what his job
4 really was - quote: "Our mission was to evacuate all people out
5 of the city. We had to do whatever we could to make sure the
6 people left the city." End of quote.

7 According to Sum Chea, it took five days to empty the city of
8 most of its population.

9 And I'd like to present another short video-clip.

10 (Presentation of video document)

11 [14.11.01]

12 As Sum Chea indicated, no exceptions were made to the execution
13 of this brutal order. Everyone had to go. Every home, every
14 school, every hospital, every workplace, every place where people
15 were was to be emptied.

16 Denise Affonço testified - and I quote: "If we hadn't left, they
17 would have taken us for traitors, and imperialists, and people
18 who were in the pay of the old regime and they would have
19 massacred us." End of quote.

20 Describing the actions of the Khmer Rouge forces later in her
21 testimony, Ms. Affonço said - quote:

22 "They went through the streets. They were shouting the orders in
23 the streets. And then, individually, they went to each house and
24 each apartment to repeat the order that we had to evacuate the
25 city. We had absolutely no choice whatsoever." End of quote.

1 [14.12.36]

2 Consistent with Ms. Affonço's evidence, witnesses uniformly
3 testified that there was no choice but to leave the city. From
4 what they were told by the Khmer Rouge soldiers and from seeing
5 their conduct, the residents knew that refusing to comply with
6 the order would lead to beatings, abuse, or death. They left
7 their homes because they feared for their lives. I will quote
8 only a few additional accounts of witnesses and civil parties
9 which demonstrate this.

10 Po Dina said: "They warned us that if we failed to leave
11 immediately, they would destroy everything. They threatened our
12 life too."

13 And Ms. Yim Sovann also stated: "As we receive a severe threat,
14 we had to prepare and pack our things and leave."

15 Mr. Aun Phally stated that: "Everyone had to follow the orders by
16 the Khmer Rouge. Where they wanted us to go we had to go."

17 As for Ms. Chheng Eng Ly, she stated that: "I had no choice but
18 to leave my house."

19 And Ms. Bay Sophany stated: "I did not leave my house on my own
20 free will."

21 [14.14.22]

22 Mr. Chau Ny also stated that: "Khmer Rouge soldiers made an
23 announcement asking people to leave Phnom Penh. At that time, I
24 heard gun fire. I also heard screaming of people looking for
25 their relatives and friends in their preparation to leave Phnom

1 Penh. At that time, the Khmer Rouge people were armed. They
2 approached the front of my brother's house and shouted that we
3 all had to leave."

4 As Chau Ny's account demonstrates, armed force was used to ensure
5 the population complied with the evacuation order.

6 Ms. Mom Sam Oeurn gave a vivid illustration of this. On 17 April
7 1975, she was living with her large family in Phnom Penh. She
8 described what happened when the Khmer Rouge soldiers entered her
9 home - and I quote:

10 "It was the time when the Khmer Rouge soldiers came to threaten
11 me to ask me to leave our home. That's why I rushed to the safe
12 to insert the combination, and I was about midway through when I
13 was pointed the gun at and forced to leave the home. And my
14 husband had to go with my youngest daughter with some luggage,
15 where he had to be laid to another direction from ours." End of
16 quote.

17 [14.16.06]

18 Ms. Or Ry also describes being threatened by armed Khmer Rouge
19 soldiers - and I quote: "They carried guns and they used the guns
20 to chase away the people. They threatened to kill anyone who did
21 not want to leave and that we all had to leave." End of quote.

22 Ms. Bay Sophany testified that: "They fire shots into the air and
23 chased us to go away."

24 And Aun Phally stated that: "I say people fire and pointing guns
25 at others. I think my family saw this, and other families also

1 saw this."

2 Mr. Yim Roumdoul describes how Khmer Rouge soldiers shot
3 repeatedly at his home in order to expel the residents - and I
4 quote:

5 "In the evening, my grandfather, who was partly paralyzed, was in
6 bed, and we did not leave Phnom Penh yet. The Khmer Rouge shot
7 into our house. It could be from the M16 or the AK-47, but we
8 still remained in the house. And a little bit before that, my
9 grandfather lit the light, and then the Khmer Rouge shot again
10 into the house. All of us, including my parents and my uncle,
11 then decided to leave." End of quote.

12 [14.17.45]

13 Ms. Pech Srey Phal described threats and beatings she witnessed -
14 and I quote: "Khmer Rouge soldiers beat the people who refused to
15 leave Phnom Penh. The scene of beating the people with a
16 gun-butt, I witnessed that near Khleang Rumsev Market." End of
17 quote.

18 Khmer Rouge soldiers were also deployed to prevent people from
19 returning to their homes.

20 In the words of Sum Chea "there were soldiers, groups of soldiers
21 who were deployed to protect the city and to make sure people
22 could not re-enter the city, and it was true that people could
23 never come back to the city after leaving it."

24 In sum, the city was to be emptied immediately, at any cost. All
25 residents had to leave, without exception, mercy, or compassion.

1 I ask Your Honours: Would any Cambodian willingly leave a family
2 member to die by the roadside? That is what the Khmer Rouge
3 forced our people to do.

4 The evidence also demonstrates that Khmer Rouge forces murdered
5 the residents of the city who were not quick to comply with their
6 orders.

7 [14.19.29]

8 We submit that all of the crimes committed against the evacuees,
9 the imposition of inhumane treatment, torture, killings, and mass
10 death along the way were an inherent part of the common criminal
11 plan to evacuate the cities. These crimes are a direct and
12 immediate result of the orders issued by the CPK Party Centre, as
13 Sum Chea testified: "Without mistreating some of the people, we
14 would not manage to empty the city."

15 The crimes committed during the evacuation are consistent with
16 everything the CPK leaders, including these Accused, had done and
17 authorized before this event and they were consistent with
18 everything they did afterwards.

19 As I said earlier, Khmer Rouge soldiers were trained and
20 indoctrinated to view the people in the cities as their enemies.
21 Importantly, former Khmer Rouge soldiers who testified before
22 Your Honours confirmed that there were no rules that prohibited
23 soldiers from mistreating or killing the evacuees.

24 [14.21.20]

25 Mr. Kung Kim testified that: "There was no rule or regulation on

1 not shooting people rendered to us."
2 Khieu Sampan argues in his brief that the forced evacuation was
3 justified because of an imminent threat of an American
4 bombardment. This is a blatant lie; it is the same lie that the
5 Khmer Rouge forces told the evacuees on 17 April. The claim that
6 the city was about to be bombed had no basis in reality on 17
7 April 1975 and it has no basis in reality today. It was a
8 deliberate invention obviously designed to render the population
9 more compliant and make it easier for CPK troops to complete
10 their mission. The same invention is now being put before you.
11 There was no prospect of bombing, and Your Honours have heard
12 that stated from numerous witnesses. It is also plainly obvious
13 from the documentary evidence before you. The American shelling
14 of Cambodia had stopped in 1973, earlier, as a result of a law
15 passed by U.S. Congress. The Khmer Republic regime was toppled,
16 and its air force, destroyed. There was absolutely no threat of a
17 bombing. There was no enemy in the sky. In truth, as far as the
18 CPK leaders were concerned, the only real enemies were those in
19 the cities, and the way to deal with them was by breaking them
20 up, suppressing and subjugating them to CPK's rule of terror.
21 [14.24.10]
22 The utterly inhumane treatment of the civilian population during
23 the evacuation itself belies any notion that the evacuations were
24 designed to protect - as opposed to punish - the population.
25 In assessing the Defence's utterly ridiculous claim regarding the

1 fear of bombardment, you may ask yourself the following
2 questions:

3 One, if they thought the bombing was imminent, why did the
4 leaders go into Phnom Penh themselves with their entire
5 entourage?

6 Two, why did they have all senior people of the Party in the
7 capital within days of its evacuation?

8 Three, if Phnom Penh was going to be bombed, why did they
9 evacuate every single city and urban centre?

10 And, four, why did they not allow to people to stay near the city
11 and return within days of April - of 17 April?

12 [14.25.41]

13 Do not let yourselves be fooled.

14 Even some of the evacuees recognized on 17 April that the claim
15 as to the supposed imminent bombardment was untrue.

16 Mr. Pin Yathay shared with Your Honours his thoughts at the time
17 - and I quote:

18 "Why Americans bother to drop bombs on Phnom Penh when they
19 already left the city and the country? They left this country as
20 early as of April, and the war was over. Why should they bomb
21 us?" End of quote.

22 Of course, all came to know the truth in due course. Many,
23 including former Khmer Rouge soldiers, had the courage to tell
24 the truth before this Chamber. I will refer to a few.

25 Chau Ny: "I never heard any bombs dropped by the American war

1 planes."

2 Meas Saran also said: "No bomb was dropped, and I was thinking
3 that, in fact, they told us a lie."

4 And Mr. Chum Sokha stated that: "When we reached our village, we
5 knew that the plan was not that the people had to be evacuated
6 because we were to be bombed."

7 [14.27.30]

8 As for Mr. Sum Chea, the former Khmer Rouge soldier, he stated
9 that "that was part of their plan to deceive people by saying
10 that soon the fighting would explode and everyone would die. By
11 doing so, they believed that people could leave the city
12 quickly."

13 I will now turn to examine in more detail the evidence of the
14 inhumane conditions imposed on the evacuees.

15 From the moment the residents of Phnom Penh left their homes and
16 embarked on this forced journey into the unknown, they were
17 virtual slaves and prisoners of the armed Khmer Rouge forces who
18 escorted them.

19 Pech Srey Phal stated - quote: "The atmosphere was very tense,
20 and the Khmer Rouge soldiers did not allow us to walk freely. We
21 were escorted by armed Khmer Rouge soldiers all along." End of
22 quote.

23 [14.28.54]

24 The evacuees crowded the streets. They included men, women,
25 children, the elderly, amputees, people in wheelchairs, and

1 hospital patients. The vast majority travelled on foot, some
2 pushing rickshaws, bicycles, or wheelbarrows carrying their
3 belongings or sick family members. Some had cars which ran out of
4 petrol quickly and were abandoned or confiscated by the Khmer
5 Rouge.

6 The conditions imposed on the evacuees caused enormous suffering.
7 This included having to travel at an excruciatingly slow pace,
8 exposed to the elements during the hottest month of the year,
9 without shelter, water, food, or medical assistance. They were
10 deprived of liberty and subject to constant threats and abuse.
11 The march continued for days, and for many evacuees, for weeks.
12 Death was inevitable and, indeed, followed in thousands of cases.
13 It is impossible, in the course of this address, to provide a
14 comprehensive account of the suffering, so what I will describe
15 are small clips of an enormous picture of human misery and death.
16 While each and every individual within the millions of evacuees
17 suffered, those whom the evacuation affected most severely were
18 the sick, the injured, the elderly, pregnant women, and the very
19 young.

20 [14.31.05]

21 Chheng Eng Ly's testimony highlighted the horrific effect of the
22 evacuation order on the elderly people - and I quote: "The
23 elderly people at large and my mother was no exception to this.
24 They were shocked and they had no choice but to leave their home
25 because they were actually forced to leave at gunpoint." End of

1 quote.

2 François Ponchaud, who saw wounded and sick people on Monivong
3 Boulevard forced to leave the hospitals in the height of hot
4 season, testified that the foreseeable consequences were: "Sooner
5 or later they would die."

6 That was the only eventual result. Those who physically could not
7 leave and had no relatives to help them were abandoned to die.

8 Sydney Schanberg testified that those who were too sick to move
9 at all were left along in the hospitals to starve and die.

10 [14.32.30]

11 Yim Sovann witnessed the sick left to die at Borei Keila
12 Hospital.

13 Meas Saran, who was a nurse there, testified in Court that
14 medical personnel were ordered to abandon hundreds of wounded and
15 sick people behind, including an eight-year-old girl whose
16 stomach was cut open and intestines were coming out of her body.

17 The girl grabbed onto his shirt and begged him to carry her to go
18 with him, but he had to leave her behind with the others. He said

19 - and I quote:

20 "Frankly speaking, I felt uncomfortable to leave the patients
21 behind. I could not do anything more. In my mind, if I left them
22 behind, one, they would die and, two, if the Khmer Rouge would
23 come to help them, then they would survive." End of quote.

24 And Sum Chea confirmed the same at what is today Calmette
25 Hospital.

1 Sydney Schanberg also saw many sick patients on the road leaving
2 the city, including those being pushed on beds and all kinds of
3 things, with bottles of serum hanging from the bed, and they were
4 all being forced out of the city. But he added: "I saw no medical
5 care being given by any doctors or nurses."

6 [14.34.26]

7 Mr. Nou Hoan gave a vivid account of the suffering and death that
8 surrounded the evacuees - quote:

9 "There was a huge crowd of people en route, and it was in the
10 middle of the dry season, and the weather was very hot. People
11 were shocked. They did not bring much belongings with them. Some
12 of them did not have any thongs or shoes, so they resorted to
13 using banana stock for their feet. Some of them lost their
14 children and their families, and the situation was chaotic. We
15 did not know where we would go and obtain some food. And there
16 were flies; flies were everywhere like a cloud of bees. Some
17 people died and left along the street. And those who were sick
18 could not seek any help from anyone, and we were forced by Angkar
19 to just keep going, so some of us would have to leave their
20 family - their sick family members behind."

21 [14.35.51]

22 Chau Ny testified that - quote: "There were sick people to fell
23 and were sitting on the side of the road, and there were dead
24 people, and nobody would help anybody else." End quote.

25 François Ponchaud testified that he saw cripples who were

1 crawling like worms.

2 Mom Sam Oeurn saw hospital patients struggling with IV drips on
3 the road.

4 Bay Sophany saw patients with oxygen masks on.

5 Lay Bony saw women giving birth and miscarrying in the street.

6 Seng Sivutha, nine years old at the time, testified that she
7 could not hold back her tears at having to walk among dead bodies
8 and at seeing a misery of a man near death in the street, crying
9 as ants crawl all over his body.

10 Pin Yathay saw two women who had hanged themselves at two
11 different locations.

12 Pech Srey Phal, a mother who had just given birth, described her
13 grief at watching her baby die of hunger and thirst - quote:

14 "I had no breast milk to feed my young baby. I did not have
15 medicine and I did not also have milk. My baby died during the
16 evacuation, and I did not know what to do with my dead body. I
17 was instructed to burry my bay in the forest. It was like an
18 animal." End quote.

19 [14.38.03]

20 She further described the Khmer Rouge soldiers' complete lack of
21 regard for human life - quote:

22 "While en route, when those people who - were trying to return to
23 Phnom Penh to collect their belongings or other things, they were
24 stopped by the Khmer Rouge. And also en route, when a family
25 member was sick and they wanted to accompany them, they were

1 forced, threatened by the Khmer Rouge soldiers, and they also
2 fired into the air to threaten them to leave."

3 Mom Sam Oeurn further describes the abuse which Khmer Rouge
4 soldiers meted out to the civilians - quote:

5 "Khmer Rouge soldiers kept threatening people to move faster, and
6 they were always pointed guns at. I would see dead bodies,
7 pregnant women with difficulties. We were under strict
8 surveillance by the Khmer Rouge soldiers."

9 Kim Vanndy was a 12-year-old evacuee travelling out of the city
10 toward Chrouy Changva Bridge. He saw a man who was separated from
11 his children. He testified as follows - quote:

12 "I saw one man. He was shouting that he lost his children. And
13 when he approached the Khmer Rouge soldier who was standing, he
14 asked for permission to return to find his children, but the
15 Khmer Rouge soldier shouted back at him to move ahead, otherwise
16 he would be dead, and he used the word 'dead'. And then that man
17 was on his knees, begging the Khmer Rouge soldier. And the Khmer
18 Rouge soldier hit his back with his rifle, and then the man fell
19 onto his face on the ground." End quote.

20 [14.40.47]

21 As the roads were crowded with people, there were frequent
22 instances of the separation of family members. Many people did
23 not know where they were being marched to nor how long the
24 journey would last, and this added to their fear.

25 Denise Affonço told Your Honours - quote: "We had no idea where

84

1 we were going. That was even worse." End quote.

2 The CPK leaders, highly educated and sophisticated people, knew
3 that the forced movement of such a mass of people would
4 inevitably cause tremendous human misery and death on a mass
5 scale, yet they did not provide any support or assistance to the
6 evacuees, even to those who were visibly ill or struggling.

7 [14.42.24]

8 Sum Chea, the former Khmer Rouge soldier who testified before
9 Your Honours, said that soldiers were not told how, where, or
10 when the evacuees would obtain food and water. In fact, he said
11 everyone had to be left to his or her own, and there was no such
12 policy as to providing any assistance to any of them. Experts
13 confirm this fact.

14 David Chandler described the conditions of the forced transfer as
15 collusively harsh from the start.

16 Philip Short discussed this in more detail before Your Honours.

17 He says - and I quote:

18 "In more normal circumstances, a population movement of that kind
19 would have been very carefully prepared. There would have been
20 medical stations or at least some kind of medical assistance
21 available along the way. There would have perhaps been some kind
22 of transport organized. There would have been food supplies along
23 the way. But none of that was done."

24 MR. PRESIDENT:

25 Thank you, Madam Prosecutor.

85

1 The time is now appropriate for the afternoon adjournment. The
2 Chamber shall adjourn now and resume at 3.00 this afternoon.
3 The Court is now adjourned.

4 (Court recesses from 1444H to 1501H)

5 MR. PRESIDENT:

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

7 I hand over the floor now to the Co-Prosecutor to resume her
8 closing statement. You may proceed.

9 MS. CHEA LEANG:

10 Thank you, Mr. President. I would like to now resume my
11 statement.

12 Faced with such a massive suffering, the CPK leaders refused all
13 offers of international assistance and prevented the Red Cross
14 from assisting the evacuees.

15 Former cadre Ieng Phan testified in this Chamber that "at the
16 time, they used the phrase 'you have to rely on yourself'."

17 On the ground in Phnom Penh, the UN representative in Cambodia,
18 Fernand Scheller, offered the Khmer Rouge real, practical

19 humanitarian resistance. He described to Sydney Schanberg how he
20 was met with a swift and negative response. He says - quote:

21 "They are like people from another planet. I told them that I am
22 at their disposal if they wish us to help. I said I had 42
23 experts waiting in Bangkok to come back and help, and they
24 laughed." End quote.

25 [15.04.23]

1 Mr. Schanberg also recorded in his diary a conversation he had on
2 the 18 of April with Murray Carmichael, a Red Cross surgeon who
3 could not contain his anger at witnessing the human catastrophe
4 which was emerging - quote:

5 "'They haven't got a humanitarian thought in their heads,' says
6 Murray Carmichael, a doctor on the Red Cross surgical team who
7 describes the emptying of one of the hospitals yesterday. He
8 continued, 'They threw everyone out, even paralytics, critical
9 cases, people on plasma. Many will die. It was just horrible.'
10 The insurgents had forced Carmichael to abandon a patient in
11 mid-operation at the Red Cross surgery, in the Hotel Le Phnom."
12 End quote.

13 In such conditions, the deliberate lack of assistance could only
14 mean intentional mistreatment. In such circumstances, the death
15 of thousands was not only foreseeable, but inevitable and, as I
16 said earlier, inherent in the very decision of the Party Centre
17 to evacuate the city.

18 [15.06.33]

19 And for this Khieu Samphan praised the concurring forces as
20 liberators of the people, in a victory speech he broadcast in the
21 early morning hours of the 22nd of April 1975. In his words, "the
22 enemy died in agony".

23 I have already described some of the evidence before Your Honours
24 which demonstrates the large numbers of deaths that resulted from
25 the extreme conditions to which the evacuees were subjected. Now

1 I will address the evidence of death in more detail.
2 The forced evacuation of the population of Phnom Penh caused some
3 20,000 deaths in total. In his empirical study, Ben Kiernan
4 concluded that over 10,000 sick and ill people were likely to
5 have died en route from Phnom Penh to their initial destinations.
6 He estimates that another 10,000 died from executions during the
7 evacuations.

8 [15.08.28]

9 Your Honours have heard evidence of numerous instances of
10 killings of civilians by Khmer Rouge troops. Residents were
11 killed for refusing to leave their homes or not leaving fast
12 enough, for bringing too many personal belongings, or simply for
13 disregarding orders of the Khmer Rouge forces.

14 Madam Yim Sovann described one such an event - I quote:

15 "They were armed, including men and women, with the red scarf.
16 They told us that the Upper Angkar asked us to leave. They gave
17 us only 15 minutes. If we refused to leave, they will enforce
18 their measure. I saw in Orussey Market one of the houses was
19 locked when I returned from the market. When they knocked the
20 door and the door was not opened, they shot the lock, and when
21 the people came out, they shot the people to death. And I ran
22 away from the scene." End quote.

23 Pin Yathay, to whom I have referred earlier, confirmed to you the
24 following account from his book - quote:

25 "We had covered no more than half a mile when I heard a gunshot.

1 Up the street lay the body of a young man. He was about 18. Some
2 15 yards away from him, a soldier stood, smoke still wafting
3 lazily upwards from his AK-47. Within a minute, word reached us
4 that the boy had forgotten something in his house; he had turned
5 back, in defiance of the soldiers order, and was about to
6 re-enter his house when the soldier shot him. The soldier had
7 exclaimed, 'This is what happens to recalcitrants.'

8 [15.11.15]

9 Khmer Rouge troops also murdered people who resisted their
10 looting of the few belongings that the evacuees took with them.
11 Though Phandarasar described this in her testimony before Your
12 Honours, as follows - quote:

13 "And then, suddenly, I heard a voice saying, 'Give me the watch!'
14 A very aggressive voice. And since - I was afraid of losing my
15 children, whom I had tied together. Then I heard a gunshot, and
16 then I saw a man who had just been killed. And that is when I
17 stood that - I understood that things were very, very serious,
18 and we were all very very afraid." End quote.

19 Khmer Rouge soldiers even murdered new born infants who were
20 crying from hunger.

21 Chheng Eng Ly told Your Honours what she saw - quote:

22 "When we were leaving Phnom Penh and we were travelling along
23 National Road Number 1, crossing Monivong Bridge, I saw a crying
24 baby. He was actually crawling over the dead body of his mom. I
25 wanted to carry that baby. I wanted to take the baby. From the

1 time when I wanted to carry the baby and the soldier carried this
2 baby was so brief that I could not actually do anything. But all
3 of a sudden, when the soldier carried this baby, they just tore
4 the baby apart. It was a very horrifying scene. I could not
5 imagine any human being who would do that." End quote.

6 [14.13.12]

7 The total contempt of city residents and human life was
8 inculcated in Khmer Rouge troops. The soldiers were authorized
9 and permitted to kill at their discretion.

10 I referred earlier to the evidence of Kung Kim, a former Khmer
11 Rouge soldier who stated that Khmer Rouge troops faced no
12 punishment for killing civilians. Here is another pertinent
13 excerpt from his OCIJ statement - quote: "When we arrived in
14 town, if we wanted to shoot people, we just did it. We would not
15 be punished for doing that because they were our enemy." End
16 quote.

17 Kung Kim also revealed in Court how the CPK forces determined
18 that people were enemies after they had already been killed - I
19 quote:

20 "Many ordinary people were also killed because combatants, who no
21 longer had such respect for life, could basically shoot anybody
22 they like, except fellow combatants, and there was no punishment
23 for such killings of ordinary people who, once shot, were
24 enemies."

25 [15.15.07]

1 I referred earlier to the deaths of the most vulnerable during
2 the evacuation. Numerous eyewitnesses have confirmed in this
3 Chamber that the most vulnerable - infants, children, the
4 elderly, the disabled, the sick, pregnant woman - starved to
5 death during the transfer.

6 Pe Chuy Chip Se stated - quote:

7 "As for those who died along the roads, they died of, one,
8 starvation, two, because of diseases and they did not have
9 medicines or they did not have anyone to look up to. For example,
10 children - young children had no breast milk to feed, so they
11 starved to death. And that was the misery. I cannot describe them
12 all." End quote.

13 An account from Dr. Vann Hay describes how, on his march from
14 Phnom Penh, he saw the body of a child about every 200 metres.
15 Bay Sophany saw the road lined with dead bodies, the bodies of
16 Lon Nol soldiers, the bodies of elderly - elder people, the
17 bodies of children and pregnant women.

18 [15.16.51]

19 Pin Yathay, whose account I have already referred to, testified
20 before Your Honours - quote:

21 "The further we had travelled from the capital, the more
22 exhaustion claimed the sick, the injured, the lame, and the old.
23 Increasingly, we began to see bodies left beside the highway,
24 until we were no longer shocked by the sight." End quote.

25 Numerous evacuees were also executed upon arrival at rural

1 destinations or succumbed to the harsh conditions of the travel,
2 compounded by the inhumane condition in which they were placed
3 upon arrival.

4 Aun Phally testified that her uncle was sent to study within 10
5 days of his arrival and was never seen again.

6 In our submission, one fact is established beyond any reasonable
7 doubt: each and every death on a massive scale was a direct and
8 inevitable consequence of the Party Centre's decision to evacuate
9 the cities and to search for and eliminate enemies during the
10 immediately - during and immediately after the evacuations.

11 [15.18.48]

12 The evidence of the actions of these Accused before, during, and
13 after the events establishes that they intended those deaths and
14 that they knew that those deaths would occur.

15 I would now like to address Your Honours on the second forced
16 transfer.

17 During the course of this trial, we have all referred to the
18 first forced transfer and the second forced transfer. This can
19 give an impression that there were only ever two incidents of
20 forced transfer carried out by the CPK. The truth is that the CPK
21 policy of forced transfer was a continuing policy and that people
22 under CPK control were being moved consistently from the early
23 1970s onwards. Even in 1975, people were moved consistently in
24 the months after victory. So the second forced transfer was the
25 continuation of a series of crimes.

1 New People, who were already the victims of crimes committed by
2 the CPK leadership on and after the 17 of April 1975, were again
3 those targeted for systematic discrimination and mistreatment.
4 They had already suffered from being exploited through forced
5 labour in inhumane conditions. They had already suffered from
6 enslavement. Many of them had also been murdered in a pattern of
7 extrajudicial executions nationwide. Thousands had already died
8 from overwork, starvation, and disease. As a group, they had
9 already been subjugated, suppressed and punished.

10 [15.21.50]

11 The New People were a mere resource to serve the criminal designs
12 of Khieu Samphan, Nuon Chea, and their Party. They were not flesh
13 and bone; they were units of production to be systematically
14 exploited.

15 Professor Chandler testified - quote:

16 "These people were not considered to have any value whatsoever as
17 human beings. These were not people that the victors respected.
18 These were people who had chosen not to join their ranks." End
19 quote.

20 Your Honours heard testimony from a man called Pin Yathay, who
21 wrote a book about his experiences called "Stay Alive, My Son".
22 He was one of the New People. I will refer to him later because
23 he is an important witness. He was a victim of a forced transfer
24 from Samar Leav to a forest in Veal Vong in September 1975. He
25 described the second forced transfer as "nothing more than

1 another step in our destruction as New People".

2 [15.23.45]

3 The Party Centre, including Nuon Chea and Khieu Samphan, had
4 therefore already put in place an organized system of ill
5 treatment.

6 The decision to move the New People once again was not justified
7 on humanitarian or economic grounds. The second forced transfer
8 was intended to further the pre-existing crimes. It did not bring
9 suffering to an end; it extended and magnified suffering. The
10 criminality was on a grand scale. In imposing by force the Party
11 line to achieve three or more tons per hectare of rice harvest,
12 the Party Centre was relentless and committed to achieving that
13 objective at all cost.

14 Khieu Samphan and Nuon Chea and other members of the Party Centre
15 ordered its rank and file to advance at all cost their plan of
16 building the country which went in tandem with defending the
17 country.

18 The CPK were masters at couching their language in such a way as
19 to disguise their real intentions and motives. "Building the
20 country" did not mean consolidating a voluntary paid labour
21 force, improving living conditions, attracting investment, or
22 seeking to sell for use on regional markets. Neither did it
23 reinforce social solidarity, a meaningful sense of community or
24 enriched the material and spiritual life of the nation. No, it
25 meant continued enslavement, forced labour, and deaths.

1 [15.26.21]

2 The Party Centre talked of entering a stage of "Socialist
3 Revolution" as if this was an egalitarian program with the aim of
4 alleviating suffering.

5 Khieu Samphan's defence asserts that the second forced transfer
6 was an economic program to manage the food crisis. It was not,
7 just in the same way that the "new democratic revolution" the
8 Party Centre had pursued before coming to power was not about
9 democracy, but rather about coercion, subjugation, and deaths.
10 One has to look at the reality of what happened to the victims,
11 not the disingenuous rhetoric used by the Party Centre to hide
12 their true mission. Equally, the Party Centre's plan of defending
13 the country became the all-encompassing justification for
14 executing thousands of innocent victims killed because of their
15 perceived associations.

16 The second forced transfer arose out of a series of meetings. The
17 Party line of "building the country" became a priority after it
18 achieved power. At these meetings, the Party Centre explained
19 this policy and ordered that it would be followed and implemented
20 nationwide.

21 [15.28.32]

22 The second forced transfers started very soon after the Standing
23 Committee visit to the Northwest Zone in August 1975. CPK
24 documents first discussed rice yield quotas, and then the CPK
25 leadership ordered the transfers to start. The goal of increasing

1 production at break-neck speed was not a minor item on their
2 collective agenda. Together with killing enemies, it was a
3 predominant objective.

4 These meetings and the Standing Committee's visit are important
5 because they demonstrate how the Party leadership planned,
6 decided on, and executed their criminal plan. They show that both
7 Accused were active participants and knew what was going on.
8 Nuon Chea's defence have stated that Nuon Chea maintains that the
9 decision to implement the second population movement was taken by
10 zone leaders, not by the Party Centre.

11 [15.30.15]

12 First, this is merely an assertion; it is not supported by any
13 actual evidence from Nuon Chea. He could, of course, have
14 continued to testify and explain his position, but he chose not
15 to do so.

16 We urge you, Your Honour, to consider the evidence of the second
17 forced transfer, and not the unsupported assertion argued on
18 paper at the last minute in a closing brief. When Your Honours
19 assess the evidence, you will be sure that plan came from the
20 Party Centre and was implemented by the Party Centre through a
21 highly centralized and disciplined hierarchy, not some isolated,
22 errant behaviour by zone leaders.

23 In May 1975, the Central Committee met for 10 days at the Silver
24 Pagoda to discuss the "post-liberation situation" and to make
25 plans for achieving the Party's next goal of "Socialist

1 Revolution". The meeting was presided over by Pol Pot and Nuon
2 Chea, with Pol Pot presenting the Party documents and Nuon Chea
3 leading the discussions. Khieu Samphan and Ieng Sary participated
4 in the meeting, which was attended by people from all zones. The
5 Central Committee discussed the evacuation of Phnom Penh,
6 building and defending the country, building the progressive
7 cooperatives, and speeding up the process of the construction of
8 dams and channels.

9 [15.32.31]

10 Khieu Samphan testified in this trial that the main agenda of the
11 May 1975 meeting was to "urgently rebuild" the country through
12 socialist revolution and reconstruction, which meant that all
13 land was to be placed under cooperatives.

14 The Central Committee decided that "the country must be built"
15 and that "socialism must be built as rapidly as possible". This
16 was not a case of building agriculture from a base of freedom of
17 choice. It was not about harnessing a willing and energetic,
18 well-fed and cared-for workforce to achieve social change. It was
19 crude, brutal, and criminal. It was about building agriculture
20 through forced transfers, mistreatment, continued enslavement,
21 and death.

22 After the Central Committee had decided upon its plan, it was
23 necessary for it to be communicated to representatives, right
24 down to those at the district level, those who would have to
25 ensure that the plans were implemented.

1 [15.34.12]

2 So, from the 20th to the 25th of May 1975, the CPK leaders held a
3 large conference in Phnom Penh. This conference was attended by
4 the secretaries of every district, sector, and zone and
5 representatives of all military units. This conference was highly
6 significant. It lasted five days and was attended by many leaders
7 from all levels of the CPK and across the entire country. This
8 was the meeting where the Party Centre would order the
9 implementation of its post-victory Party lines. The speakers at
10 the conference were Pol Pot and Nuon Chea. They both instructed
11 the CPK cadres on the Party lines and policies that were to be
12 implemented throughout the country.

13 One of the CPK cadres present at the conference was witness Sao
14 Sarun, then a district secretary in Mondulkiri. He testified that
15 the subjects discussed by Pol Pot and Nuon Chea at this meeting
16 included cooperative organization, currency prohibition, market
17 and monastery closings.

18 The CPK cadres were significantly instructed to organize
19 cooperatives in their regions, encompassing 30 to 40 families per
20 each cooperative. They were also informed that the Party Centre
21 had decreed that all private property was to be eliminated, and
22 Pol Pot talked about driving all the "Yuon" from Cambodia.

23 [15.36.35]

24 In August 1975, the CPK Standing Committee made a five-day trip
25 to the Northwest Zone. The minutes of that tour prove that Party

1 leaders received reports on the people situation, enemy
2 situation, border activities and internal activities, military
3 situation, and the status of rice planting and various
4 industries. The document reflects how the Party leaders were
5 keeping an eye on the implementation of their policy to smash
6 enemies. The minutes state - quote:
7 "There exist within our ranks those who have not yet been purged.
8 They make use of them to lead people to flee. We have been able
9 to arrest them one after the other and are now continuing to
10 search them out." End quote.
11 The Standing Committee learned from this visit that the New
12 People in the Northwest Zone were experiencing shortages -
13 shortages of food supplies as well as shortages of medication.
14 [15.38.00]
15 This is important. Here you have the Standing Committee
16 confirming in its own report that people in the Northwest Zone
17 did not have enough food. The Defence would have you believe that
18 the CPK leadership was misled by their subordinates in the
19 cooperatives as to the true situation on the ground. This
20 document proves otherwise. It also shows the Party Centre knew
21 that the area to which they were about to transfer forcibly half
22 a million people already had pressing food shortages.
23 The report reveals that although the New People in the Northwest
24 were suffering badly, the Base People were in a comparatively
25 better position. For them, there were not yet shortages of

1 livelihood, as the Party had directed that Base People be
2 continually supplied war booty from the towns previously occupied
3 by the New People.

4 Based on its tour of the Northwest Zone, the Standing Committee
5 made a number of decisions and provided a number of instructions.

6 The most important decision was to move large numbers of New
7 People to the North and Northwest - quote:

8 "Workforce must be allocated to those who have free land to plant
9 and diversify crops, while in the meantime defending the country.

10 Besides, the workforce must be provided to any place with more
11 work ability." End quote.

12 [15.40.25]

13 The CPK leaders decided that the labour force in that region must
14 be increased, including (sic): "Three or four hundred thousand
15 more would not be enough. The current strength of one million
16 persons can only work 50 per cent. It is imperative to add four
17 or five hundred thousand more." End quote.

18 In this document, the Party Centre once again headlined its plan
19 to continue persecuting the New People in order to punish the
20 supposed bad elements among them. The words of the committee are
21 chilling and unambiguous - quote:

22 "The function of cooperatives since the total liberation is to
23 absorb all the new people coming out of all the cities and towns,
24 especially Phnom Penh city and, in the Northwest, Battambang.

25 Every time (sic) of horrible element exists among the hundreds of

100

1 thousands of new people in Battambang, but the cooperatives have
2 absorbed them completely. Things are okay with the Base People,
3 but be vigilant against no-good elements among the New People
4 taking advantage of things, because these contemptibles would not
5 stay with us even if we were to give them sufficiency."

6 [15.42.02]

7 Your Honours, the evidence proves the Party leaders'
8 determination to move four or five hundred thousand people. The
9 Nuon Chea defence argue that this passage evidences nothing more
10 than a vague desire. But as Your Honours have seen from the
11 evidence throughout this trial, the Standing Committee was not a
12 body interested in theoretical expressions. When the Standing
13 Committee or the Party Centre orders a measure as an imperative,
14 that measure is implemented throughout the Party structures. Of
15 course, the best evidence of this, in relation to the second
16 forced transfer, is the event itself: they ordered the transfer,
17 and the transfer took place.

18 In September 1975, the CPK leaders distributed a policy document
19 that discussed the "implementation of the Party's agricultural
20 line to push agriculture to expand in a great leap to the maximum
21 according to the instructions of the Party" and assessed the
22 situation during the past four to five months since the Party
23 disseminated the line in May 1975. The document stressed the
24 importance of building dams, paddy dikes, and channels, noting
25 that dams could be built in large groups and by hand. It

101

1 effectively ratified the Standing Committee's decision to move
2 half a million people to the North and the Northwest Zones.

3 [15.44.21]

4 In this document, the Party Centre discussed a rice harvest quota
5 of 3 tons per hectare and the need to export rice in order to
6 raise capital. The September 1975 document demonstrate the
7 knowledge of the Party leaders of shortages in all aspects of
8 life, including: shortages of supplies to produce food; shortages
9 of medicines, leading to sickness and pain, malnourishment and
10 malaria. The document also recognizes that the people with the
11 greater shortage are those who were evacuated from Phnom Penh and
12 the surrounding areas. It further records the leaders' knowledge
13 that people were working 15 hours a day due to the lack of
14 sufficient machinery, which, as the document confirms, was
15 "having an impact on health of our people".

16 Your Honours, we submit that the August 1975 minutes of the
17 Standing Committee and the September 1975 policy document should
18 be read together. They both confirm significant decisions. They
19 both recognize the severity of the shortages afflicting the New
20 People. They both recognize that the leaders were fully aware of
21 these conditions. And they both record that it was the CPK's
22 central leadership that determined to initiate the second forced
23 movement.

24 [15.46.22]

25 According to the September document - I quote:

1 "In the Northwest, we must add an additional force of 500,000
2 people. Preah Vihear has requested 50,000 first. In Preah Vihear
3 there is the possibility of solving food supplies. Preah Vihear
4 has 70,000 old people already. So send 20,000 first as we go
5 along. In the North, they need people to be given to Kampong Thom
6 province. The East also needs forces to be given to Sectors which
7 are short of people. So each zone must make appropriate
8 preparations and not let things sway back and forth, allocating
9 how many to upper level and moving how many to other locations."
10 End quote.

11 Your Honours, this extract I have just read refers specifically
12 to the North Zone and the East Zone having to make preparations
13 to receive and send people. In due course, I will discuss a
14 telegram sent in November 1975 which discusses the difficulties
15 these zones were experiencing with transferring so many people
16 and illustrate that both zones were under the Party Centre's
17 direction.

18 [15.48.02]

19 Contemporaneous evidence confirms the Party Centre resolutions to
20 rapidly increase production through the use of forced labour,
21 resolutions which are intricately connected with the decision to
22 implement the second forced transfer.

23 The October–November 1975 issue of the "Revolutionary Flag"
24 confirms that the Party Centre's quota of rice production of the
25 3 tons per hectare was endorsed at the first countrywide economic

1 congress in early November 1975. The language used makes it
2 abundantly clear that the Party Centre was ordering his Party
3 line to be an absolute priority by declaring that 3 tons per
4 hectare quota was the common resolution for the entire Party, the
5 whole population, and the whole Revolutionary Army.
6 The evidence demonstrates clearly that these decisions and orders
7 were transmitted through the organized structure of power of the
8 CPK to the very lowest levels, and this is corroborated by the
9 accounts of the victims, who have described what they were told
10 by the Khmer Rouge cadres.

11 [15.49.38]

12 Your Honours will notice how the reasons mirror exactly the
13 orders from the Party Centre.

14 In Kandal province, in the Southwest Zone, TCCP-45 was told by
15 the Khmer Rouge that - quote: "They move us to Battambang
16 province because soil was more fertile and there was more land
17 for cultivation." End quote.

18 In Svay Rieng province, in the East Zone, a villager who provided
19 a statement to the investigator of the ECCC, in document E3/5258,
20 was told by Khmer Rouge cadres at a village meeting for New
21 People that "based on the super greatly leap forward line,
22 brothers and sister New People had to go to live in Pursat
23 province".

24 In light of this evidence, Your Honours, it is untenable for Nuon
25 Chea to assert in his closing brief that the order to forcibly

1 transfer the population did not originate from the Party Centre.
2 Yes, the zone was involved, but they were not acting
3 autonomously. They were carrying out the plans, policies, and
4 decision as tools to implement the plans of the Centre.

5 [15.51.27]

6 In their closing brief, the Khieu Samphan defence assert that the
7 forced movement of population to an apparently fertile region
8 demonstrates that there was an economic reason justifying such
9 movement. They say that this was an attempt to remedy food
10 shortages, even if it failed in part. Again, like his comrade
11 Nuon Chea, Khieu Samphan fails to offer a scintilla of evidence
12 to support his claim. He also makes this claim after the end of
13 the evidentiary proceedings in which he withdrew from testifying
14 before he could be questioned by the Judges, prosecutors, and
15 other counsel.

16 But Khieu Samphan's submission also completely misses the point.
17 Irrespective of what disingenuous reason the CPK leaders put
18 forward for the transfer, the evidence shows that this was a
19 wholly criminal enterprise - criminal because it effected through
20 crimes: persecution of the New People; enslavement; imprisonment;
21 murder; utterly inhumane treatment. In other words, it was a
22 continuation of the common criminal plan.

23 [15.53.07]

24 The CPK leadership knew that the movement of such a large number
25 of people in such a short time to the Northwest Zone would

1 exacerbate the food crisis and that people would inevitably die.
2 There were simply not enough food to feed the half a million
3 people who were marked for transfer, often to the remote jungle.
4 The New People had no skills, experience, or tools for farming.
5 How could anyone have expected them to survive? Indeed, Your
6 Honours, they did not survive.

7 Ieng Thirith admitted in an audiotaped interview in 1980 that she
8 conducted an inspection tour to the Northwest Zone in the second
9 quarter of 1976. She observed inhumane conditions in the areas
10 where hundreds of thousands of people had been relocated. She
11 stated - quote:

12 "In Battambang, I saw something very clear, that they make
13 people, all people going to the rice fields, very far from the
14 village, and they have no home. They are all ill. I saw everybody
15 there in the rice fields, in open air, nothing, and with the sun,
16 very hot sun. I saw many people ill of diarrhoea and malaria."
17 End quote.

18 [15.55.10]

19 It is essential to a proper understanding of the facts to recall
20 that this trip took place several months after the forced
21 transfer had started, and yet there was still no shelter, people
22 were suffering, people - they were suffering because they were
23 slaves, indispensable from start to finish. There is no - there
24 is absolutely no evidence before you that Centre took any steps
25 at any point to improve the condition of the evacuees or

106

1 alleviate their sufferings.

2 The strident orders of the Party Centre were put into effect, and
3 the second forced transfer began in September 1975. The evidence
4 shows that the inevitable crimes that formed part of the plan
5 were well under way by November 1975.

6 Mr. President, I observe that we are quite close to 4 o'clock
7 now. I don't know whether or not you wish – you want me to
8 continue or I shall pause here and resume tomorrow. I need around
9 half an hour to go to complete this.

10 [15.56.50]

11 MR. PRESIDENT:

12 Well, since the prosecutor will have two more days to go, then we
13 can pause here and resume tomorrow.

14 The time is now appropriate for the day adjournment. The Chamber
15 shall adjourn now and resume tomorrow, the 18 of October 2013,
16 starting from 9 o'clock. And the Chamber wishes to advise the
17 parties and inform the public that tomorrow the Chamber will
18 grant the floor to the Prosecution to resume their closing
19 statement.

20 Security guards are now instructed to bring Mr. Khieu Samphan and
21 Mr. Nuon Chea back to the detention facility and have them return
22 to this – to participate in the proceeding before 9 o'clock
23 tomorrow morning. Mr. Khieu Samphan is to be brought to this
24 courtroom, whereas Mr. Nuon Chea is to be brought to the holding
25 cell downstairs where audiovisual equipment is installed for him

107

1 to follow it remotely.
2 The Court is now adjourned.
3 (Court adjourns at 1558H)
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