



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

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

ឯកសារដើម
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18 October 2013
Trial Day 217

Before the Judges:

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YA Sokhan
Jean-Marc LAVERGNE
YOU Ottara
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List of Speakers:

Language used unless specified otherwise in the transcript

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

1

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

2 (Court opens at 0901H)

3 MR. PRESIDENT:

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

5 Today, once again, the floor will be given to the Co-Prosecutors
6 to continue their closing statements.

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

10 THE GREFFIER:

11 Mr. President, for today's proceeding, all parties are present.

12 As for Nuon Chea, he's present in the holding cell downstairs
13 pursuant to the decision of the Trial Chamber concerning his
14 health.

15 Thank you.

16 MR. PRESIDENT:

17 Thank you.

18 The Chamber would like now to give floor to the Prosecution to
19 continue their presentation on the closing statements. You may
20 now proceed.

21 [09.03.45]

22 MS. CHEA LEANG:

23 Good morning, Mr. President, Your Honours, and everyone in and
24 around the courtroom.

25 I'd like now to continue my presentation regarding the closing

2

1 statement on the second forced transfer of population.

2 On the case file, there is a telegram that relates directly to
3 the second forced transfer. It is dated 30 November 1975, and it
4 is sent by So Phim, the East Zone Secretary, using the alias
5 Chhon.

6 The telegram is addressed to Pol Pot and copied to Nuon Chea and
7 Doeun who was Khieu Samphan's fellow member of Political Office
8 870. Its subject matter was the problem of the removal of people
9 from the East to go to the North.

10 The document confirms clearly that this transfer was being
11 carried out in accordance with the Party Centre's orders.

12 [09.05.02]

13 It starts with the following words - and I quote:

14 "We would like to report the removal of people from the East to
15 the North in which there were some disagreements and the failure
16 to follow the Organization's advice and instructions at the
17 receiving destination." End of quote.

18 Later on, the document states - quote: "The removals in principle
19 entailed separations in accordance with your advice as per your
20 previous discussions with us." End of quote.

21 So Phim also confirms that, in principle, the zone was to remove
22 50,000 people and turn them over to the North.

23 The reason So Phim was sending this telegram was that he was
24 experiencing confronting a problem in implementing the Party
25 Centre's decision. The North Zone was not accepting - accepting

1 Chams; therefore, So Phim reported this problem to the Party
2 Centre and indicated: "You are requested to decide on this
3 matter."

4 [09.06.22]

5 This telegram deals with the movement of 50,000 people. There is
6 also reliable and direct evidence from other sources as to the
7 numbers of people moved.

8 Sokh Chhin, a railway worker who testified before Your Honours,
9 was asked about the thousands of evacuees he saw personally at
10 Trapeang Chong in Pursat province. He confirmed to you the truth
11 of what he told the Co-Investigating Judges - quote: "I saw
12 trains twice a week. The train had 20 to 25 wagons normally for
13 transporting goods and each wagon transported from 40 to 50
14 people." End of quote.

15 He also confirmed that this rate of forced movement continued for
16 three months; October, November and December 1975.

17 Witnesses also confirm that the victims of the second forced
18 transfer were predominantly the New People.

19 Or Ry told Your Honours - quote: "Only the New People were sent
20 away. The Base People remained." End of quote.

21 [09.07.58]

22 Sokh Chhin also stated that those people were surely the New
23 People, the newcomers. "They were evacuated all from Phnom Penh.
24 None of them was the Base People."

25 Pech Srey Phal also said: "There was no base person boarding the

1 train. They were all 17 April People. Some of them were from
2 Phnom Penh or - and others were from other provincial towns."

3 Contrary to assertions by the Defence, the second forced transfer
4 resulted in many deaths. Some new people were shot during the
5 journey. People died en route because of starvation, exhaustion,
6 illness, and disease.

7 Arrival at the new locations did not bring the deaths to an end.
8 People were dumped in jungles with nothing to eat, with no
9 shelter and no medicine. What have the Defence said about these
10 deaths? That they were an accident, an unintended consequence of
11 the pursuit of an enlightened political-economic program. The
12 evidence directly contradicts this.

13 [09.09.39]

14 It was perfectly clear to Nuon Chea, Khieu Samphan and other
15 leaders within the Party Centre that death would result. Just as
16 with the forced transfer of Phnom Penh in April 1975, they were
17 all aware of the inevitability of people dying. You do not move
18 such numbers of people in such an inhumane manner without knowing
19 what the results will be.

20 Massive numbers of death were the direct and inevitable
21 consequence. The CPK leaders knew this, but they did nothing to
22 alleviate the suffering; no food stations en route, no water
23 provided, children having to drink contaminated water, people
24 quite literally herded like cattle into railway wagons, the
25 railway tracks littered with corpses, soldiers throwing children

5

1 out of train windows, human beings cramped into carriages with no
2 facilities, people having to defecate and urinate in the crowded
3 trains. Your Honours, just step back for one moment and imagine
4 the stench, the lack of air and light, the sense of uncertainty
5 about the future, the fear at being moved yet again under armed
6 guard, the thoughts of impending death – all this, part of an
7 enlightened economic plan from Nuon Chea and Khieu Samphan?

8 [09.12.12]

9 When assessing the actions and state of mind of the two Accused,
10 we urge you to look at the totality of the circumstances
11 surrounding this forced transfer including:

- 12 1) The inherently discriminatory nature of the act;
- 13 2) The coercive and violent means to carry it out;
- 14 3) The well-established Khmer Rouge practice of mistreating urban
15 populations.

16 The systematic suffering and killings inflicted upon so many
17 people during this transfer were the direct result of the Party
18 Centre's plans. The commission of crimes was absolutely
19 inevitable. The crimes were an integral part of the criminal plan
20 and system of mistreatment supported and furthered by Nuon Chea
21 and Khieu Samphan.

22 The evidence of death comes from multiple independent sources who
23 described death in different ways.

24 [09.13.36]

25 Toeng Sokha testified before you about the death of her daughter

6

1 during the second forced transfer. It is a death for which these
2 two Accused are responsible.

3 Ms. Sokha described her daughter's death as follows - and I
4 quote:

5 "My second daughter died during the second phase of the
6 evacuation. Indeed, when we reached Battambang, she died because
7 of lack of food. Her body became swollen. She had experience
8 severe diarrhoea; and without proper medical service, she died by
9 early 1976." End of quote.

10 Each and every death that occurred during or as a direct result
11 of or in the immediate aftermath of the second forced transfer is
12 included in the scope of this trial.

13 Complaint E3/5423 was submitted to the ECCC by an evacuee from
14 Phnom Penh and one of the 17 April People. She recalls the death
15 of her daughter from starvation.

16 [09.15.16]

17 During a transfer of people from Kampong Speu province to
18 Battambang province, she said - and I quote:

19 "They ordered all of us to be guarded at Prey Totueng train
20 station to catch a train to Battambang province. As we were
21 former Phnom Penh residents, we were called 17 April People and
22 forced to work without rest. Regarding our food, only 10 cans of
23 rice were distributed per day to 30 of us. Starvation made the
24 people fall sick and die every day. My younger daughter, Hak
25 Kimly, fell sick and died of starvation that year as well." End

1 of quote.

2 Pin Yathay witnessed multiple deaths commencing just one week
3 after being dumped in a forest in Veal Vong in September 1975. He
4 confirmed his recollection as stated in his book – quote: "It was
5 not long before the dying started. Even in the first week, I saw
6 several people carrying corpses down the trail. It was hardly
7 surprising given the amount of people in the forest near us and
8 their state of health. The dead were buried in the forest at the
9 edge of our newly cut fields." End of quote.

10 [09.17.26]

11 Again, more death for which these Accused are responsible.

12 Pin Yathay had no food. He had to make his own shelter. Many
13 other New People were dumped into the jungle after he arrived.
14 Inevitably, this led to further death; still directly related to
15 the second forced transfer. As he stated – and I quote:
16 "Now, death came with increasing frequency in the forest around
17 us. The bodies were buried all around the edge of the clearings
18 by gravediggers appointed by the village chief. Gravediggers
19 became necessary because the families had become too weak to dig
20 the graves themselves. It was not a bad job for it meant being
21 exempted from work for a day. There was no relief from the
22 unrelenting labour. Time was measured now by the numbers of
23 deaths per day in the people around us; four deaths, five deaths,
24 sometimes as many as 10 deaths a day." End of quote.

25 Your Honours, please try to imagine the scene: New People

1 becoming so desensitized to death that being ordered to sweep
2 away the corpses was considered relief, because it avoided one
3 having to endure forced labour for the day. How, on any analysis,
4 can that be viewed as the justified human cost of an enlightened
5 political programme?

6 [09.20.07]

7 Pin Yathay confirmed that during his time in the jungle in Veal
8 Vong between September 1975 and the end of November 1975,
9 one-third of the total population of 5,000 people died; thousands
10 of death, not hundreds.

11 In her testimony, Toeng Sokha described death occurring when she
12 was deposited in a jungle near Battambang. She had been
13 transported by truck and train from Takeo and was then separated
14 from her parents, friends and relatives. She described her
15 situation - and I quote:

16 "And by the time I got to Battambang, the situation was so
17 serious that I was alone in the jungle. I was helpless. There was
18 no shelter, no food, no medicine and we had to collect bamboos
19 and wood to build our home. A lot of people got seriously sick
20 and died." End of quote.

21 [09.21.39]

22 The New People were fed on thin, rice gruel; hardly surprising,
23 therefore, that more people died.

24 Complaint E3/5053 submitted by a villager from the Chrouy commune
25 in Kandal province described the death of members of his family -

1 quote: "In early 1976, the Khmer Rouge evacuated my family. The
2 ration was not enough. Each of us was given only two scoops of
3 gruel; consequently, both of them fell sick and died of
4 starvation." End of quote.

5 Death also occurred during the forced transfer itself.

6 Sokh Chhin, the railway worker to whom I referred earlier,
7 described to you how he buried the corpses of evacuee victims -
8 quote: "No one could leave as they were guarded and those who
9 were sick would die there. I, myself, buried the dead bodies
10 because dead bodies along the railway tracks decomposed, so we
11 had to bury those bodies." End of quote.

12 [09.23.21]

13 He later clarified that there was a good reason for him burying
14 the bodies - and I quote:

15 "The corpses that I buried were those who died along the track
16 and because of the stink that we could not work, so we had to
17 bury those bodies. But for those other corpses further from the
18 track, we did not bury those bodies. I saw several of those
19 corpses further from the tracks. They were covered along the rice
20 dykes or along the road." End of quote.

21 Pech Srey Phal testified to Your Honours how people died in the
22 railway wagons and about the response of the Khmer Rouge guards -
23 and I quote:

24 "Nobody could run away because they guarded the door of the wagon
25 and they used wooden pole to block the door as well. Some people

10

1 died in the wagon because they were too exhausted and the wagon
2 was too packed. Although they died, the train did not stop for
3 them to be removed and placed outside. When someone died on the
4 wagon, then the soldiers would push the dead body off the wagon
5 because, to them, it was just a waste." End of quote.

6 [09.25.20]

7 Another railway worker, TCW-285, stated that: "When people moved
8 from Phnom Penh to Battambang in 1975, many people died because
9 they had no food to eat."

10 Pin Yathay also witnessed deaths in the railway wagons: "For the
11 second evacuation, we were packed into a truck and there was no
12 covered roof and in fact, on the truck that I travelled, two
13 people fainted and subsequently died."

14 So Your Honours, with all this evidence of death, how should you
15 assess the assertion by Nuon Chea that there is no testimony of a
16 numerically significant number of death during or in direct
17 connection with the second forced - forced movement? Thousands of
18 deaths are significant, highly significant.

19 The Nuon Chea defence never challenged Pin Yathay when he said
20 that thousands of people had died during the very period of the
21 forced transfer. They did not say that he had got it wrong, but
22 that people did not die.

23 Again, be aware the Defence trying to make an argument out of
24 nothing when they have not challenged this evidence of death on a
25 massive scale. People were physically forced to leave and killed

1 if they did not comply.

2 [09.27.41]

3 Sophan Sovany testified that: "We were pushed into the wagon.

4 When it was full, they closed the door with a piece of wood."

5 Other witnesses gave evidence that they were dragged from the

6 train and forced on to the tracks by Khmer Rouge soldiers

7 carrying guns.

8 Yim Sovann testified that:

9 "We wanted to ask them to stay behind, but they told us that we

10 were not allowed. If we wanted to stay, we would be asked to stay

11 in the Security Office 15, so we had to move in line with the

12 Party's direction."

13 Toeng Sokha testified that: "With the exception of a few who

14 escaped, the people who hid to evade the transfer were killed

15 because Angkar found out that they were hiding."

16 [09.29.04]

17 As with the forced transfers of the residents of Phnom Penh and

18 other cities in April 1975, the conditions under which people

19 were transferred in the CPK's second wave of movements were

20 similarly inhumane and cost great physical and mental suffering

21 to the victims. I have already addressed the death of thousands.

22 The treatment of individuals, even children, was brutal.

23 Complainant E3/4656 describes that in 1976, she was forcibly

24 transferred with her children from S'ang district, Kandal

25 province to Pursat province by train. This is what she saw - and

1 I quote:

2 "I travelled by train to Pursat with my two children. There were
3 many citizens on the train. I had no idea where they were from.
4 Some children had lost their mothers and cried non-stop. The
5 chief of squad threw them out through the train's windows. Seeing
6 this, I hugged my children to my chest. The scene was extremely
7 frightening." End of quote.

8 [09.30.46]

9 Or Ry described how even the sick was not exempt from this forced
10 transfer - quote: "I noted that a lot of sick people had to be
11 evacuated including my sister who was sick. Even though we or
12 people were very sick, they had to be moved to the direction
13 intended for us to go."

14 Aun Phally testified that: "Prior to commencing the journey to
15 the Northwest Zone, my children cried and we did not even have
16 food, nor the water and we could not bring any cooking pots or
17 anything with us."

18 Witnesses who were moved from the Southwest and the East Zones
19 testified that they were not given food or clean water on their
20 journey to the Northwest Zone. Sophan Sovany testified that -
21 quote: "When we reach a place where there was water, whether or
22 not it was contaminated, we drank the water." End of quote.

23 Upon arrival, the New People were deposited in the jungle and
24 left to fend for themselves. Nothing was provided.

25 [09.32.26]

13

1 Toeng Sokha testified – and I quote:

2 "So the memory of the hardship in Battambang still lives with me
3 and I could recall that I did not have anything to eat and
4 because I went without food, I had to eat worm – some kind of
5 worms that were not edible and were used to no human beings, but
6 monkeys. We had to eat every kind of leaves we could really lay
7 our hand on." End of quote.

8 Your Honours, the Party Centre's plan to continue the
9 suppression, subjugation and punishment of the New People had
10 certainly been achieved.

11 My colleague, Mr. William Smith will now address you on the
12 similarly brutal treatment of people associated with the former
13 Khmer Republic.

14 I'm grateful, Your Honour, and I'd like to cede the floor now to
15 my colleague.

16 MR. PRESIDENT:

17 Thank you.

18 Yes, you may proceed.

19 [09.33. 50]

20 MR. SMITH:

21 Good morning, Mr. President. Good morning, Your Honours. Good
22 morning to the civil parties that are here today, the civil
23 parties that have been brave enough and determined enough and
24 persistent enough to seek justice for themselves and for the
25 loved ones that they have lost about 40 years ago. Good morning

14

1 to the parties in the courtroom – the civil party lawyers, the
2 Defence, the Prosecution team behind me – the parties that are
3 concerned about making sure that the rule of law is applied in
4 Cambodia. And good morning to the public – to the public that are
5 concerned enough to ensure that our society protects its human
6 rights; the human rights of the victims, our human rights and the
7 human rights of the Accused. Your presence here today is
8 important and it's necessary for the process. And for those
9 tuning in worldwide on the Internet, good morning or good
10 evening. Your presence is important to ensure that justice is
11 done and seen to be done.

12 [09.35.42]

13 Mr. President, my colleague, Ms. Chea Leang, has demonstrated to
14 you how the crimes occurring in the two phases of the forced
15 transfer were the product of a long-standing, centrally-designed
16 and organized criminal plan; a plan of Nuon Chea and Khieu
17 Samphan together with other members of the CPK Party Centre.
18 Your Honours, the same is true about the events at Tuol Po Chrey;
19 the third and last criminal event we will address to you today.
20 Your Honours, you can be certain that this massacre at Tuol Po
21 Chrey would not have happened if it were not for a
22 well-established policy to persecute and kill former Khmer
23 Republic officials including soldiers; a policy disseminated
24 through an organized structure and vigorously promoted to a loyal
25 and disciplined force by these accused, Nuon Chea and Khieu

15

1 Samphan, and other senior CPK leaders.

2 [09.37.12]

3 I will now address that policy and will highlight the evidence
4 that supports the crimes of killing these Khmer Republic
5 officials, both in the evacuation of Phnom Penh and the massacre
6 at Tuol Po Chrey.

7 Your Honours, it's clear on the evidence that the Khmer Rouge and
8 the Government of the Khmer Republic were at war with each other
9 in Cambodia between 1970 and 1975. They were battlefield enemies.
10 But the enemy status of the Lon Nol Government was not only
11 because of this fact, but because of something much deeper. It
12 was not the uniform that the soldiers wore, but it was what the
13 soldiers stood for.

14 In the eyes of Nuon Chea, Khieu Samphan and other CPK leaders,
15 they stood for a corrupt regime; one that had life and death
16 contradictions; contradictions requiring resolution. And how did
17 they resolve them? The evidence is overwhelming. Resolution of
18 these contradictions was achieved through their policy of
19 persecution and murder.

20 [09.38.48]

21 This policy was already firmly established when Phnom Penh fell
22 and Khmer Republic officials were killed in a mass execution at
23 Tuol Po Chrey. This policy to persecute and kill former Khmer
24 Republic officials, civilian and military, remained in place
25 across the country throughout the three years and eight months

1 that the CPK held power. The policy required a systematic
2 identification, segregation, targeting and killing of these
3 officials.

4 My colleague, Ms. Chea Leang, has already argued that the
5 evidence demonstrates that in 1973, the CPK began to radicalize
6 its policies and became even more extreme and coercive in the
7 treatment of enemies that fell into their hands.

8 [09.39.57]

9 At that time, Security Office M-13 was a manifestation of this
10 radical policy. Duch, the prison chief of M-13, obeyed his orders
11 and executed and captured Lon Nol soldiers and monks at that
12 security office. As a faithful CPK member and teacher of CPK
13 policy, he testified before you that in 1973 "Revolutionary Flag"
14 magazine disseminated the CPK policy on the classification of
15 enemies. According to this policy, soldiers and police were
16 classified as a special class of enemy.

17 In court, Stephen Heder confirmed a passage that he published on
18 the existence of CPK policy to abolish special classes of enemies
19 - and I quote:

20 "Also to be abolished into the worker peasants as part of this
21 uprooting, socialist revolution were members of what the official
22 CPK class analysis designated separate or special class ties that
23 did not fit neatly into its broader class scheme of feudalists,
24 bourgeoisie, petit bourgeoisie, peasants and workers. In addition
25 to intellectuals, these other class types included Republican

1 soldiers and police, Buddhist monks and all nationalities -
2 national minorities."

3 [09.41.53]

4 The Party line identifying special classes of enemies was
5 recorded in the notebook of a CPK cadre attending a Party study
6 session. His notes record the instructions from the Party on
7 separate class types deemed absolutely reactionary including -
8 and I quote - "Khmer Republic soldiers, police, monks,
9 intellectuals and minorities".

10 Your Honours, the policy to kill Khmer Republic military officers
11 and officials was an extension of the Khmer Rouge's long-standing
12 policy to kill the most senior officials in the Khmer Republic
13 regime. As early as 1972, in the September-October edition of the
14 "Revolutionary Flag", the CPK identified two leaders of the Khmer
15 Republic regime; President Lon Nol and Prince Sirik Matak as
16 traitors who they must absolutely crush.

17 The CPK leadership, including Nuon Chea and Khieu Samphan, was
18 relentless in its determination to eliminate enemies and traitors
19 so that between 1970 and 1975, it issued numerous statements
20 calling for and praising the killing of Khmer Republic soldiers.

21 [09.43.31]

22 On the 24th and 25th of February 1975, six weeks before the
23 evacuation of Phnom Penh, Khieu Samphan communicated by radio a
24 resolution of the Second National Congress that it was
25 "absolutely necessary" to kill seven leaders of the Khmer

1 Republic regime.

2 Your Honours, this evidence has not been challenged. Khieu
3 Samphan has never denied this communication. It's an indelible
4 mark on his guilt and responsibility for the killings that
5 ensued.

6 In the same broadcast, Your Honours, in February 1975, Khieu
7 Samphan issued a threat to the Khmer Republic military and
8 officials that "other low or high-ranking government officials,
9 army officers, police officers, politicians" would be permitted
10 to join the National United Front of Kampuchea, but only if "they
11 immediately ceased their service to the 'seven traitors' and
12 stopped cooperating with them."

13 Does anyone believe that if Khmer Republic officers had
14 surrendered themselves to Khieu Samphan, Nuon Chea when they were
15 working with Pol Pot on the final stages of the attack on Phnom
16 Penh that they would have been invited to sign up and join the
17 ranks of the CPK? No, they would have been arrested, taken away
18 and executed.

19 [09.45.25]

20 You've already heard the two of the seven whose execution was
21 called for by Khieu Samphan, Prime Minister Long Boret and Prince
22 Sirik Matak, were captured by Khmer Rouge troops following the
23 surrender of their government; captured, then executed along with
24 scores of other Khmer Republic military officers and officials.
25 Nuon Chea confirmed the CPK orders to kill the Khmer Republic

1 leadership to Thet Sambath in 2007, a journalist who gained his
2 trust. Your Honours, this is what he said.

3 (Presentation of audio-visual document, interpreted from Khmer)

4 "[Thet Sambath:] Uncle, what were the political order to the top
5 four or five leaders?

6 [Nuon Chea:] They were to be liquidated. They deserve the
7 severest penalty. They betray the nation to foreigners. That was
8 it."

9 (End of presentation)

10 [09.46.43]

11 Your Honours, let there be no doubt, Nuon Chea is admitting to
12 murder; murders that are charged in this indictment. This is an
13 admission made under no pressure, with resolve, certainty, no
14 apology and no remorse. It is disturbingly clear from his
15 statements in interviews that Nuon Chea still believes
16 extrajudicial killings in Democratic Kampuchea were justifiable
17 and necessary.

18 Ieng Sary, Standing Committee member of the CPK, colleague of
19 Nuon Chea, also admitted that orders to murder Lon Nol officials
20 came from the Party Centre leaders and the scope of the killing
21 orders were not limited to the top Khmer Republic leadership.

22 In an interview with Stephen Heder on the 17th of December 1996,
23 Ieng Sary admitted that the order to kill Lon Nol officials was
24 widened to include low-level civil servants and military
25 personnel. In reference to Heder's questions that referred to

20

1 documentation which made it clear that those to be executed
2 "included military officers, senior officials and secret agents",
3 Ieng Sary confirmed that the CPK leadership "decided to do
4 whatever was required to keep that group from being able to rise
5 up and oppose the Revolution".

6 [09.48.48]

7 Ieng Sary said - and I quote:

8 "That decision was not made in advance. It was decided
9 afterwards, as far as I know, after the 17th of April; around the
10 20th, as far as I know, meaning they decided to do whatever was
11 required to keep that group from being able to rise up and oppose
12 the Revolution. From what I was told, that group had post-defeat
13 plans; plans to kill the Khmer Rouge after they entered the city
14 and then to take back power. I asked more and they said that when
15 they had searched the houses of the military officers, they were
16 full of grenades and all kinds of weapons. That is, they were
17 prepared to make a coup. So that's why they carried out the
18 evacuation. After clearly seeing that, they made the decision."

19 [09.49.55]

20 Your Honours, Ieng Sary's statement proves the existence of a
21 policy to target and kill lower-ranking soldiers and civil
22 servants of the Khmer Republic during - during the period of the
23 evacuation of Phnom Penh and explains what was behind the
24 organized, mass killings of Khmer Republic soldiers and officials
25 that take - took place in Cambodia in the days and weeks

1 following the 17th of April 1975.

2 These killings occurred with such similarity of means and
3 methods, on such a wide geographic and large numerical scale and
4 with such consistency with prior CPK policy towards Khmer
5 Republic officials and soldiers that they only could have been
6 carried out under central orders, approval and policy directives
7 of the CPK leadership.

8 Mr. President, I will deal with the killings of the former Khmer
9 Republic officials in April 1975 in two groups: First, those
10 personnel that were killed in Phnom Penh on evacuation, in
11 transit or on arrival at their new destination after being forced
12 out of Phnom Penh. Then, second, I will deal with the killings of
13 Khmer Republic officials and soldiers outside of Phnom Penh and
14 who were not subject to the forced transfer from Phnom Penh.

15 [09.51.48]

16 It's the Prosecution's position that both categories of killings
17 proved the existence of a policy to kill Khmer Republic personnel
18 as of the 17th of April 1975. The killings of those occurring
19 during the forced transfer of the population from Phnom Penh who
20 were Khmer Republic personnel are also part of the crimes charged
21 against these Accused in this trial.

22 Your Honours, despite the CPK victory over the Khmer Republic
23 forces on the 17th of April 1975, there were no restraints on CPK
24 leaders' desire and determination to kill. Ke Pauk, the Zone
25 Secretary of the Central Zone admitted to Stephen Heder that "the

1 executions were a necessary part of attacking the old social
2 regime".

3 Surrender of the Khmer Republic officials and soldiers did not
4 stop the CPK policy and orders to kill this group. In Phnom Penh
5 and other cities and towns, the CPK forces systematically sought
6 out, identified, segregated, detained and executed former
7 officials, military officers and their families.

8 [09.53.29]

9 The execution of this policy can be seen at the highest level in
10 the segregation and classification of Khmer Republic personnel
11 which took place at the Ministry of Information in Phnom Penh at
12 4 p.m. on the 17th of April 1975. You have seen the photograph of
13 this hopeless scene captured by Al Rockoff, who was present in
14 Phnom Penh at the time. This scene was representative of the fate
15 of many other Khmer Republic personnel during and after the
16 evacuation of Phnom Penh.

17 At two other locations in Phnom Penh, the Chrouy Changva Bridge
18 and near the Royal Palace, a North Zone Khmer Rouge soldier in
19 his statement, E3/5149, describes the executions of Lon Nol
20 soldiers he saw - and I quote:

21 "I entered on liberation day, the 17th of April 1975. I entered
22 Phnom Penh with all the soldiers of the division. They had me be
23 a security guard at Wat Phnom. That was after the fighting
24 stopped, but some locations still had soldiers hiding in the
25 concrete houses in order to fight. So they closed the city,

1 turned off the water for one month, and those soldiers came out.
2 I saw them kill those surrendering soldiers at the Chrouy Changva
3 Bridge. Of those soldiers, there were four to 10, some of whom
4 had lost their arms, some who had lost their legs, and they
5 pushed them over, down into the river.

6 [09.55.35]

7 "Another thing I saw it with my own eyes: Rum, a company chairman
8 in the 310th Division, shot three long-haired Lon Nol soldiers at
9 the dock in front of the Royal Palace. I saw them arrest electric
10 cable workers whom they had kept for use and take them to be
11 killed. But they said that they were taking them to Battambang. I
12 knew that they killed that group because Heng, a platoon
13 chairman, told me. He said that they had killed that entire group
14 at Tuol Aunh Maunh. Many in my division were also arrested."

15 Another Khmer Rouge soldier gave a statement, E3/5540, to ECCC
16 investigators. When he entered Phnom Penh on the 17th of April,
17 he said his job was to guard civilians to prevent them from
18 mixing up with Lon Nol soldiers and to find Lon Nol soldiers who
19 were disguising themselves as civilians. The orders that he
20 received were short, sharp and simple. If we found Lon Nol
21 soldiers, we would kill them right away.

22 François Ponchaud interviewed hundreds of refugees who had fled
23 from Cambodia in 1975. These interviews were used to produce his
24 book "Cambodia: Year Zero". He spoke to these witnesses, attained
25 their direct testimonies, cross checked them and confirmed them

1 with what had happened to them in the days and months after the
2 17th of April 1975. Their accounts are therefore close in time to
3 the events they describe.

4 Based on his own experiences and the experiences of the refugees
5 he interviewed, Ponchaud testified that CPK forces "aimed to
6 destroy all the people who worked for the Lon Nol regime who were
7 regarded as traitors".

8 [09.57.55]

9 François Ponchaud, in his book, used pseudonyms for the witnesses
10 that gave him testimony, so I'll use their pseudonyms in court
11 today.

12 You Kim Lanh was among the refugees interviewed by François
13 Ponchaud. He described what happened to Khmer Republic officials
14 who returned to Phnom Penh following announcements made at Preaek
15 Pnov, a location 16 kilometres north of the city. This is what he
16 said to Ponchaud:

17 "At Preaek Pnov, a loudspeaker car was inviting all officers,
18 civil servants, ministers and members of parliament and
19 technicians to return to Phnom Penh to work with the Angkar. I
20 returned with other technicians from Cambodian Electricity. We
21 were all taken to the Ministry of Information. There we had to
22 write our autobiographies before being sent to the Monorom Hotel,
23 which was the headquarters of the Special Forces. While I was in
24 the hotel, I saw more than 200 of Lon Nol soldiers, officers
25 brought in. They were taken away again the same night for an

1 unknown destination. Every day the Khmer Rouge brought in another
2 hundred or more people, mostly officers. Among them I recognized
3 General Am Rong, the former government spokesman on military
4 questions, Colonel Ly Teck and Tep Chieu Kheng, former Minister
5 of Information and ex-editor-in-chief of a newspaper, 'Dépêche du
6 Cambodge'. One after another, they all disappeared and always at
7 night. I knew a few of the Khmer Rouge at the Monorom Hotel. I
8 asked them what happened to the people who disappeared from the
9 hotel. The answer was: 'We killed them all because they're
10 traitors and deserve to be shot.' Since I had seen the sick or
11 invalid soldiers in Hospital 701 massacred with my own eyes, I am
12 sure they were telling the truth."

13 [10.00.21]

14 We see in this one statement the organized manner in which the
15 CPK processed the deaths of the former Khmer Republic personnel.

16 They were well-planned-

17 I'll slow down, Your Honour.

18 They were well-planned, managed, and disciplined.

19 The segregation of officials started at the Ministry of
20 Information and continued at the CPK Special Forces headquarters
21 where hundreds of these enemies were processed and killed.

22 General Am Rong who was detained at the Monorom Hotel is one of a
23 number of generals on a list of those executed which was
24 published by the French Press Agency on the 21st of May 1976. My
25 colleague has referred to this document earlier.

1 [10.01.21]

2 Philip Short, in his book, confirms from his research that the
3 Monorom Hotel was used as a location to gather up senior Khmer
4 Republic officials for execution. He calls it the "gathering
5 place for the doomed". And he states - I quote:

6 "Prime Minister Long Boret, Lon Nol and other senior Republicans
7 were taken out and killed in the grounds of the Cercle Sportif,
8 not far from the Information Ministry where they had been
9 detained. Altogether, in the following days, seven or 800
10 politicians, high-ranking officials, police and army officers
11 were killed."

12 Your Honours, not all of the Khmer Republic officers and soldiers
13 arrested at Preaek Pnov were sent to the Ministry of Information
14 and the Hotel Monorom.

15 [10.02.27]

16 Sum Chea, a North Zone Khmer Rouge soldier, described an
17 organized mass killing of truckloads of Khmer Republic officers
18 and soldiers only 200 metres west of Preaek Pnov - and I quote:

19 "After seven or eight days, they set up loudspeakers and
20 broadcast to the Lon Nol soldiers saying for anyone of whatever
21 rank who had worked anywhere to go back to their duty stations.
22 Although previously they had only been ordinary subordinate
23 soldiers, they said that they were captains or majors, so they
24 died. Some wanted to live and tried to hide things, but they were
25 arrested anyway because they were researched and found out

1 through their biographies. During this deception saying that the
2 soldiers would return to their duty stations when four to ten
3 trucks full were assembled, they were taken away and killed west
4 of Preaek Pnov. During that killing, they revved up the trucks to
5 make an incredibly loud noise. The reason I know that these
6 soldiers were taken and killed west of Preaek Pnov is a soldier
7 who did the killing told me. Those soldiers were killed with
8 clubs. The killing site was about 200 metres west of Preaek Pnov.
9 When the bodies swelled up and decayed, they used a tractor to
10 scrape up the soil and cover them."

11 [10.04.15]

12 Your Honours, Sum Chea testified at trial confirming the
13 statement that the executions took place only four to five days
14 after the evacuation of Phnom Penh. He also testified about
15 executions at Tuol Kork in Phnom Penh of Khmer Republic soldiers
16 who were tricked - tricked into revealing their identities
17 following a broadcast on loudspeakers in Phnom Penh.
18 Another Khmer Rouge soldier who was stationed in Phnom Penh about
19 one month after the 17th of April 1975 also confirmed his
20 statement to court investigators, E3/3962, that Lon Nol officers
21 and their subordinates were executed at Tuol Kork, and provided
22 evidence that these mass executions were carried out under the
23 orders of Son Sen, the CPK chief of general staff - and I quote:
24 "I know that the people in Phnom Penh were being evacuated.
25 However, some had not left yet. At that time in May 1975, I knew

1 there was an order from the senior Son Sen, the supervisor, to
2 arrest those who were high-ranking civil servants of the Lon Nol
3 regime who denied leaving Phnom Penh City, and the patients who
4 were Lon Nol soldiers being treated in Preah Ket Melea Hospital.
5 I protested and refused to participate, but I knew about the
6 happenings because I was the chairman of Company 3 of Division
7 310. Those who joined in arresting people told me directly that a
8 great number of Lon Nol officers and their servants were arrested
9 in Phnom Penh and killed and thrown into a well in the Tuol Kork
10 area. I saw clubs with bloodstains were brought back. Khan [...]
11 who was directly involved in the killing, showed me the clubs."

12 [10.06.46]

13 Your Honours, yet another Khmer Rouge combatant, stationed on the
14 western side of Phnom Penh during the evacuation provides direct
15 evidence of the killing of Lon Nol soldiers in his statement,
16 E3/5598 - and I quote: "They would be arrested and handcuffed.
17 After their background had been checked and confirmed, they would
18 be killed."

19 Your Honours, as I mentioned earlier, the evidence demonstrates
20 that Khmer Republic officials and soldiers who were evacuated
21 from Phnom Penh were killed in other places as well. In the
22 Special Zone, in around April 1975, TCW-162 told Investigators of
23 killings of former Lon Nol officials in this zone.
24 TCW-162, who was a resident of Thmei Khmer, in Tralach Leu
25 district, Kampong Chhang province, told the Court investigators

1 about a meeting, in April 1975, at the local cooperative in which
2 the sub-district chief, Yeay Phoeun, the deputy chief, the
3 village chief, and military chairmen discussed the execution of
4 Phnom Penh evacuees and Khmer Republic officials. This is what
5 the witness said - I quote:

6 "They met together, in the Thmei Khmer village cooperative, about
7 killing the 17 April people and the Lon Nol soldiers. I heard
8 Yeay Phoeun say that they all had to be killed at the orders of
9 the upper level. Ta Loch divided up the teams to carry out the
10 plan. That meeting was held at 4 p.m. I was about 7 metres away
11 from the meeting site. I heard them talking about carrying out
12 the plans of upper level. They did not say which upper level, and
13 I did not know what upper level meant. Next, at about 5 or 6
14 p.m., about 10 sub-district cadres took those people and killed
15 them at Prey Sre Val, north of Thmei Khmer village, Tbaeng Khpos
16 sub-district." End quote.

17 [10.09.40]

18 This meeting again demonstrates the structured, disciplined, and
19 organized way in which the killings were carried out, and that
20 such killings were in response to orders from a high level.

21 TCW-162 also told the Investigators of the methods of execution
22 and the location of mass graves. He gave evidence that the Khmer
23 Rouge killed by the most brutal of means, with the most basic of
24 objects. Everyday implements were used as the killing instruments
25 - and I quote:

1 "I saw digging-hoes, car axles, and over 1 metre-long bamboo
2 clubs. And they carried M-16 rifles on their shoulders. I heard
3 Yeay Phoeun and Yeay Nan tell them that 'upper level Angkar is
4 having you brothers and sisters go somewhere else, because you
5 had high ranks, and that location has support'.

6 "Then I saw those cadres lead all the New People away towards
7 Prey Sre Val, which was located north of Thma Khmer village. The
8 next morning, I saw them taking clothing and various materials to
9 distribute to the Base People. I did not see the killings with my
10 own eyes, but two or three days later there was an odour of
11 decaying bodies coming from Prey Sre Val half a month later. I
12 went to heard cattle at Prey Sre Val.

13 [10.11.28]

14 "I saw bodies in a one-square pit about 3 metres on each side,
15 which had not been completely buried, and which wild animals had
16 dug out. And there was a strong odour. Later on, during 1980,
17 people exhumed those pits to look for buried items, and
18 discovered many pits. I personally saw three pits, and saw human
19 bones and many skulls scattered all around. The citizens of Thmei
20 Khmer village collected and place them in Wat Tbaeng Khpos."
21 That's K-H-P-U-O-S. End quote.

22 Mr. President, Your Honours, witnesses have also provided
23 evidence of Lon Nol soldiers evacuated from Phnom Penh and being
24 killed shortly after in the Southwest Zone in 1975.

25 A complainant stated, in her written complaint to the Court,

1 E3/5403, how these Lon Nol soldiers were segregated and executed
2 around Kampot - and I quote:

3 "After taking control of Phnom Penh in 1975, the Khmer Rouge
4 evacuated me, my husband, my two sons from Phnom Penh to Ruessei
5 Dom village, Praphnum commune, Angkor Chey district, Kampot
6 province. After staying in Ruessei Dom village for half a month,
7 my husband was arrested by the Khmer Rouge at around 9 a.m. Then
8 the village chiefs escorted my husband to the Ta Man Security
9 Office in Ruessei Dom village, Praphnum commune, Angkor Chey
10 district, Kampot province. I did not know why the Khmer Rouge
11 arrested my husband and detained him. I only knew that my husband
12 was a former soldier under the Lon Nol regime and one of the New
13 People. I have not heard from him since."

14 [10.13.58]

15 To sum up the evidence before you, it proves that hundreds, and
16 up to thousands, of former Khmer Republic officials were executed
17 in Phnom Penh during their transfer or on arrival at other zones,
18 including the Special and Southwest Zone. These killings of Khmer
19 Republic officials did not just arise out of the evacuation of
20 Phnom Penh, but as I said earlier, they took place in other
21 zones, where former Khmer Republic officials and military were
22 located following the 17th of April. This evidence proves that
23 the CPK had a centralized, coordinated policy in existence to
24 persecute and kill Lon Nol officials throughout the country.
25 As to these other killings, occurring in other places, I'll

1 illustrate some of the evidence on a geographical basis,
2 commencing with the North, Northwest, Central, and East Zones.
3 Looking at the North Zones first, in Siem Reap, evidence admitted
4 in this Trial describes how Khmer Republic officials and military
5 officers were identified and executed in a strikingly similar
6 manner.

7 [10.15.25]

8 Pe Chuy Chip Se, in his statement to investigators, said it was
9 not just the males who were killed, but also their families. I
10 quote:

11 "After the 17th of April 1975, I saw them evacuate soldiers and
12 former Lon Nol government officials from Siem Reap province, and
13 put them in old concrete houses at the Chi Kraeng Market, where
14 they were guarded day and night. Later, they took all those
15 people and killed them. Those people were military officers and
16 former Lon Nol government officials, and their families, who had
17 been evacuated from Siem Reap. When they transferred them away to
18 be killed, they told them that they were going to study. But in
19 fact, they transported them away and killed them. There were
20 hundreds of those people, because transporting them away to be
21 killed continued for many days."

22 [10.16.35]

23 Pe Chuy Chip Se also provided further details regarding these
24 events in his testimony at Trial - and I quote:

25 "We saw people being transported - in particular those former

1 officials to be executed. And people were sent in from other
2 locations to execute those detained officials. The former
3 officials and soldiers of the Lon Nol regime, who had been
4 evacuated to Kampong Kdei, had not been detained. They were just
5 summarily questioned, interrogated, and sent out to be executed.
6 Lon Nol soldiers who were evacuated in 1975 were not captured and
7 sent to the Pongro security office. They were all executed
8 instantly upon capture. I heard about it from the people who had
9 transported the former Lon Nol soldiers, and who were executed at
10 Mkak location. Lon Nol officials and soldiers who were evacuated
11 to Chi Kraeng were executed by the Khmer Rouge."

12 [10.17.45]

13 Another victim gave evidence in her statement, E3/5356, of a
14 similar process of trick, segregation, execution, of Lon Nol
15 officials in the Kralanh district of Siem Reap province in April
16 '75 - and I quote:

17 "The Khmer Rouge soldiers ordered my husband and I to stay at
18 Kralanh Pagoda, because my husband was a soldier of the former
19 regime. The majority of the people who had been gathered at
20 Kralanh Pagoda at that time were former Lon Nol soldiers and
21 their families. Five days later, all of those former soldier
22 families were evacuated on to stay at Snuol Pagoda. At the
23 meeting, the Khmer Rouge cadres said, 'the first group, my
24 husband's group, will be sent for education'. Until today, I have
25 never known where this husband of mine was sent to study. I later

1 knew that my husband had been killed." End quote.

2 [10.19.02]

3 Another witness, TCCP – civil party – 152 described a meeting at
4 the provincial hall in Stueng Thmei village, where it was
5 announced that all government officials, policemen, soldiers were
6 to attend a three-day study session. Later, in 1975, he saw
7 corpses at a killing site at Baray Tuek Thla – and I quote:

8 "I saw the corpses in 1975. According to the nearby villagers,
9 civil servants, policemen, and soldiers were driven to be killed
10 in there after the Khmer Rouge's occupation at Siem Reap. I still
11 recall that, when the Khmer Rouge came in, they announced to the
12 civil servants, soldiers, and policemen to greet King Sihanouk. I
13 encountered the place when I used to collect firewood".

14 Your Honours, the deception used by the CPK cadres in inviting
15 former Khmer Republic officials and soldiers to attend study
16 sessions or to greet the King, as you have read and heard, was a
17 country-wide strategy, employed by the CPK, to lure in these
18 victims. We will see this extract – we will see the exact same
19 strategy later, when I discuss the executions at the Tuol Po
20 Chrey execution site.

21 [10.20.50]

22 Mr. President, I would like to move to the Northwest Zone, where
23 the killings of former Khmer Republic officials and civil
24 servants occurred in 1975. Multiple accounts by witnesses to
25 investigators of this Court describe these killings. For example,

1 one witness told Court investigators in document E3/5211, that he
2 saw a Khmer Rouge district leader, Ta Chham, issue an order for
3 all former Lon Nol soldiers to assemble at Wat Phnom Sampov.
4 After this assembly, he saw both officials and military members
5 arrested and taken away in trucks.

6 With regard to the civilian officials, including district and
7 sub-district chiefs, he said this - and I quote:

8 "I saw that Ta Chham's military subordinates had arrested the
9 people they had researched and found, and had put them in trucks,
10 telling them that they were being taken to study at upper-level
11 Angkar. I heard, through villagers, that those who had been
12 arrested were taken to Chamkar Peng An (phonetic), near Snoeng
13 village, Snoeng sub-district, about 10 kilometres from Phnum
14 Sampov and taken to Prey Kob. None of them returned, and all news
15 of them has been lost up until the present. Villagers saw the
16 bodies of these people three to four days later. They had been
17 shot to death."

18 [10.22.48]

19 Mr. President, further statements to investigators of this Court
20 describe the policy of systematic killings in various locations
21 in the Northwest Zone. A witness, in his statement E3/5282,
22 describes killings of former Khmer Republic civilian and military
23 authorities in Phnum Srok district in Banteay Meanchey, as well
24 as in Battambang.

25 Another witness, E3/505 provides evidence of such killings in

1 Battambang and Kampov village, Phnum Sampov sub-district, near
2 Battambang.
3 E3/5226, a different witness, describes the systematic
4 identification of Lon Nol soldiers and officials, their
5 segregation by rank, and their execution in Banan district, in
6 Battambang province.
7 Interviews of refugees in 1975 by François Ponchaud also provide
8 probative, first-hand accounts from witnesses in the Northwest
9 Zone following the evacuation. Two of the refugees describe the
10 killing of the defeated commissioned and non-commissioned
11 officers and former Khmer Republic officials in Pailin. François
12 Ponchaud testified before you. He confirmed accounts of killings
13 of Lon Nol military and high-ranked officers at Phnom Thipakdei
14 in Battambang province. The villages from Phnom Thipakdei
15 describe familiar scenes of deceit, followed by boarding onto
16 trucks and execution.
17 [10.24.48]
18 Ponchaud gathered other testimonies regarding a massacre of
19 Battambang non-commissioned officers at Thma Kaul - K-A-U-L -
20 involving about 300 men and massacres at the Mechhbar farm, which
21 he described as follows - quote: "According to a large number of
22 witnesses, this farm was the scene of atrocious happenings.
23 Hundreds, if not thousands, of soldiers were executed there."
24 Mr. President, in the Central Zone, complainant E3/5358 described
25 the death of his brother, a former Khmer Republic soldier in

1 Kampong Cham - and I quote:

2 "In 1975, the Khmer Rouge killed my sibling. He was 26 years, and
3 lived in Cheung Prey district, Kampong Cham province. He was
4 executed by Doeun, the cooperative chief, due to the fact that he
5 had been a Lon Nol soldier in 1975." End quote.

6 [10.26.06]

7 Mr. President, in the East Zone, killing of former Khmer Republic
8 officials also occurred when government and military officials
9 were segregated during the evacuation of Svay Rieng. Witness
10 E3/5260 gave a statement to Court investigators describing these
11 killings - and I quote:

12 "As for the men evacuated from Svay Rieng, and those who had
13 tendencies, like civilian or military government officials,
14 police, students and teachers, and villagers who had gone to
15 study or work with Lon Nol and had returned to the village - they
16 were arrested and taken away. Most of the people evacuated here
17 were in this category, meaning they were arrested, taken away
18 forever. In total, they were approximately 50 persons."

19 Your Honours, to conclude on this point, the evidence
20 overwhelmingly demonstrates a consistent and systematic pattern
21 of killings of former Khmer Republic officials and soldiers
22 throughout the country immediately after the 17th of April 1975,
23 and throughout the Democratic Kampuchea period. This was
24 confirmed to you by the expert evidence of Philip Short, who
25 testified before you - and I quote:

1 [10.27.48]

2 "There was a pattern, all over the country, of killing former Lon
3 Nol officers, whatever their level, and of killing officials,
4 former Lon Nol government officials above a certain level. Not
5 every Lon Nol soldier was killed. Not every high official was
6 killed. But, in general, that was the outcome throughout
7 Cambodia. It's all completely consistent that, everywhere we know
8 what happened, Lon Nol soldiers above a certain level were
9 executed, and high-ranking officials likewise".

10 Philip Short also testified that these killings were carried out
11 as a result of direct orders from the Party Centre. The Defence
12 would have you believe that undisciplined zone leaders, acting as
13 warlords, took matters into their own hands. Yet it was during
14 cross-examination by the Defence that Mr. Short gave the most
15 compelling expert evidence on the nature of the policy to kill
16 Khmer Republic officials - and I quote:

17 [10.29.14]

18 "It would not have been possible for zone commanders to act
19 against or outside the broad policy consensus which had been laid
20 down by the Centre. You are not dealing with an army which
21 descends into banditry, which on a large scale - which takes
22 matters into its own head and carries out massacres. You're
23 dealing with an army which was quite small, not an enormous
24 force, which was rigidly controlled. Yes, there were individual
25 cases of looting. There were bound to be. But large-scale,

39

1 systematic killings of particular groups? No. I find it
2 inconceivable that that would have happened outside a broad
3 policy consensus which had already been laid down."

4 I think it's time for the break, Mr. President.

5 MR. PRESIDENT:

6 Thank you.

7 The time is appropriate for a short break. We will take 20
8 minutes break and return at 10 to 11.00.

9 The Court is now in recess.

10 (Court recesses from 1030H to 1052H)

11 MR. PRESIDENT:

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

13 And, once again, the floor is given to the Prosecution to
14 continue presenting their closing statement. You may now
15 continue.

16 MR. SMITH:

17 Thank you, Mr. President.

18 Your Honours, we last left off discussing the pattern – the
19 systematic pattern of killings of Khmer Republic officials,
20 including soldiers around the country in April 1975 to
21 demonstrate the policy of the CPK to these officials. I would now
22 like to move beyond April '75, and firstly, shortly beyond, and
23 look at the evidence to see if that policy continued. And to look
24 at the evidence to prove and to show that policy existed
25 throughout the period.

1 [10.54.11]

2 In fact, the policy to kill Khmer Republic officials from April
3 '75 and before accelerated through the Democratic Kampuchea
4 period, as the CPK leaders' paranoia and obsession with
5 eliminating perceived enemies became more extreme. An explicit
6 piece of evidence that demonstrates this continued policy is a
7 CPK military order that's been admitted to this trial. Military
8 orders are powerful evidentiary documents. They are important
9 because they evidence military structure, reporting, command and
10 control, and of course the contents of the order - and in some
11 cases, the identity of the victims, if it's an order to kill.
12 The 4th of June 1975 - six weeks after the evacuation - military
13 order is confirmation of this continuing policy to kill former
14 Khmer Republic officials.

15 [10.55.38]

16 This order was issued by Comrade Pin, the commander of the
17 Special Zone Brigade seconded to the Party Centre. The order was
18 to execute 17 Khmer Republic military officers. And it's stated
19 that "all these 17 persons have been examined by the Party, and
20 the Party has decided that they are to be smashed".

21 It further states: "The Comrades are asked to implement this
22 policy of the Party", the policy of the Party, on the 4th of June
23 1975.

24 Your Honours, the authenticity of this order was confirmed by
25 Ieng Sary in his interview with Stephen Heder. He also confirmed

41

1 that the order required the Khmer Republic officers on the list
2 to be smashed. Comrade Pin, the author of the order, later was
3 appointed the secretary of Centre Division 703. Duch knew Pin
4 very well, and has described the conversations he had with Pin
5 about the executions of officers and officials from the Khmer
6 Republic - and I quote Duch:

7 "I know that, after the 17th of April, soldiers were
8 systematically eliminated. This was confirmed to me by Khoem
9 Pin," that's K-H-O-E-M, "secretary of Division 703, and by Hor,
10 my deputy. After the liberation, soldiers were hunted down and
11 fled." End quote.

12 [10.57.57]

13 Duch also said that Khoem Pin told him about the liquidation of
14 specific named generals - and I quote:

15 "Generals Chea Kim Eng and Chhim Chhuon reported to him to
16 surrender, and were liquidated afterwards. Hor told me the same
17 thing about General Deng La Yom, also adding that the general had
18 displayed great courage."

19 I would note, Your Honours, that the two generals identified by
20 Duch - Chhim Chhuon and Deng La Yom - are both on the list of the
21 executed Khmer Republic officers that I previously discussed, the
22 list that was published in Bangkok about a month later.

23 [10.59.00]

24 Your Honours, the CPK policy to execute Khmer Republic soldiers
25 and officials continued with full force and effect throughout the

1 DK period. In the August 1975 "Revolutionary Flag", it urged
2 cadres to continue with their killings of this, the former Khmer
3 Republic officials - and I quote:
4 "As for defending Phnom Penh and smashing espionage groups and
5 smashing saboteurs that want to wreck and destroy our Revolution,
6 we will continue to smash the defeated enemy remnants, to
7 consolidate our victory."
8 The minutes of the March 1976 Standing Committee meeting,
9 attended by Nuon Chea and Khieu Samphan, recorded that - and I
10 quote - "the entire feudalist regime has been permanently
11 smashed".
12 But, Your Honours, the killings continued unabated, particularly
13 at S-21, the notorious killing centre in Phnom Penh, and other
14 security officers, for which detailed records survive -
15 cataloguing the arrest, detention, torture, and killing of Khmer
16 Republic officials.
17 [11.00.33]
18 A news broadcast from May 1976 indicated that former Khmer
19 Republic soldiers were still being executed in Battambang
20 province. A July 1976 news report described the executions of 350
21 Khmer Republic soldiers who were machine gunned en masse upon
22 their return from Thailand.
23 A March 1978 telegram from the North Zone secretary to Committee
24 870 advises that - and I quote:
25 "In the dry season, the remained enemies re-emerged. We

1 systematically purged them. Right now, some policemen soldiers
2 and government officials escaped after more than 20 people were
3 purged. More actions will be taken to arrest more people."
4 So, Your Honours, the evidence certainly proves that Khmer
5 Republic personnel were killed all over Cambodia: in jungles, in
6 fields, in houses, in ditches. Everywhere they could be found.
7 Based on his extensive interview with refugees, most from the
8 Northwest Zone who crossed the Thai border, but many from other
9 areas, François Ponchaud confirmed – and I quote: "The accounts
10 in question seem credible. They also confirm what was said about
11 the massacres of civil servants and military personnel from the
12 Lon Nol regime throughout the country."

13 [11.02.43]

14 There was a consistent pattern, Your Honours, of luring large
15 numbers of victims to their deaths with false promises and
16 deceit. Killings occurred after a consistent scheme of recording
17 biographies and segregating victims. The executions were planned
18 and organized, even down to the smallest detail. The apparatus
19 and segregation and transportation which started at the Ministry
20 of Information at the Monorom Hotel was mirrored all over the
21 country.

22 The CPK prided itself on its centralized and hierarchical
23 authority structure, and the high level of discipline amongst its
24 forces. Nuon Chea was not under any pressure when he admitted
25 that the top leadership of the Khmer Republic regime was – and I

1 quote - "liquidated", pursuant to orders from the political
2 leadership of the CPK. This is a highly damaging admission by
3 him.

4 Equally, Khieu Samphan cannot hide from this order to kill the
5 seven super-traitors, nor the tone and content of the 21st of
6 April 1975 congratulatory speech. We submit that the evidence
7 leads you to one, and only one conclusion; that the killing of
8 Khmer Republic officials that took place throughout the territory
9 of Cambodia before, on, and following the 17th of April 1975, was
10 carried out pursuant to order of the Party Centre.

11 [11.04.55]

12 Your Honours, if I can move to the evidence that proves the
13 killings of at least hundreds of Lon Nol soldiers and civil
14 servants at Tuol Po Chrey, in Pursat province, in April 1975.
15 This is another event that these accused are specifically charged
16 with.

17 Your Honours, the evidence shows that these killings occurred
18 shortly after the CPK took control in Pursat. The massacre of
19 these men, as you know, Your Honours, was not an isolated event.
20 It was not an act of revenge. It was not an act caused by a rogue
21 CPK zone leader acting under his own authority. It was an event
22 embedded within a nationwide policy, the CPK policy to kill
23 former Khmer Republic officials and soldiers, which I have just
24 submitted. It was one massacre of many. It was a link in a chain
25 of events. It was ordered from the top by the Party Centre.

1 [11.06.25]

2 Your Honours, although the three witnesses, Lim Sat, Ung Chhat
3 and Sum Alat, who were called at trial, did not personally
4 observe the killings at Tuol Po Chrey, they provided key evidence
5 as how these killings were planned, organized and managed.

6 I will briefly recount their testimony as it demonstrates how and
7 why this massacre took place. You will remember the testimony of
8 Lim Sat who testified that a few days after the liberation of
9 Phnom Penh he attended a meeting where the Zone Committee ordered
10 that the Khmer Republic soldiers and policemen had to be killed.
11 He said the CPK were afraid they would revolt against them. He
12 testified that the Khmer Rouge gathered policemen and soldiers of
13 the Khmer Republic administration at a meeting at the provincial
14 hall in Pursat. At the meeting, the attendees were advised that
15 they would be sent to a study session.

16 [11.07.45]

17 He testified that immediately after this, the police and soldiers
18 were taken to Tuol Po Chrey, where they were executed. Lim Sat
19 testified that his role was to guard the main road connecting the
20 town of Pursat and Tuol Po Chrey, the execution route for the
21 former Khmer Republic personnel. Here, Lim Sat saw between 30 and
22 40 military and civilian trucks take Lon Nol soldiers to the
23 meeting at the provincial hall. Each truck held about 30 people.
24 That same day, he saw at least 15 of the trucks transporting the
25 Khmer Republic soldiers and officials to Tuol Po Chrey; two

1 trucks at a time. He testified that there were about 50 to 60
2 Khmer Rouge soldiers at Tuol Po Chrey and that he was informed
3 via radio that the soldiers and police taken to that site had
4 been killed. He testified to hearing gunshots in the background
5 during the radio communications with the CPK soldiers at Tuol Po
6 Chrey. When the trucks came back on the same road towards the
7 town of Pursat, he said they were empty. After some trucks had
8 left, Lim Sat was ordered by radio to release more trucks to go
9 to the killing site.

10 [11.09.31]

11 So, while it's true that Lim Sat did not see the killings with
12 his own eyes, is there any doubt from his testimony that
13 truckloads of Khmer Republic soldiers and officials were taken to
14 Tuol Po Chrey and killed?

15 Simply put, Your Honours, the only reasonable conclusion that can
16 be reached based on the facts testified to by Lim Sat is that
17 many hundreds of victims were killed by the CPK that day at Tuol
18 Po Chrey. And Lim Sat, of course, is not the only witness to
19 these events.

20 You also heard the testimony of Ung Chhat who was assigned as a
21 guard outside a meeting where he testified that high-level Khmer
22 Rouge leaders were in attendance. At the meeting, which lasted
23 about three to four hours, he said the former Khmer Republic
24 civil and military servants were told by the CPK leaders that
25 they would be taken to a reception or a study session. Ung

1 Chhat's testimony is corroborated by one of the truck drivers who
2 transported the Lon Nol officials and soldiers to their death,
3 and he was interviewed by Thet Sambath in his Tuol Po Chrey film.
4 That driver on that video stated he knew about the plan to kill
5 these people, explaining that the passengers on his truck had
6 been deceived and thought they were going to meet the prince.

7 [11.11.27]

8 Lastly, Your Honours, you heard the testimony of Sum Alat, a Lon
9 Nol soldier who testified that he was present at a meeting where
10 Khmer Republic soldiers were told they would be taken to Tuol Po
11 Chrey for a reception with Angkar. Fortunately for Sum Alat, the
12 trucks were so crowded with others from the meeting that he could
13 not climb on.

14 So although some of the details contained in the testimony of
15 these three witnesses may have differed, the core events relating
16 to the deaths on a mass scale of the former officials and
17 soldiers are well established by the testimonies combined.

18 Proof as to the exact method and manner of death comes from eye
19 witnesses and physical remains left at the execution site. The
20 personnel were executed en masse with no ability to defend
21 themselves. Their hands were bound. They were tied together in
22 groups and shot.

23 TCW-644 stated to court investigators that he went to the
24 execution site the day after the killings in April 1975 and he
25 saw bodies with gunshot wounds to the head and torso. He stated

1 the victims were tied together by rope with their hands tied
2 behind their back.

3 [11.13.11]

4 Ung Chhat testified that he was told by villagers that the
5 corpses were bound at the arms and tied in groups of 15 to 20.
6 A Khmer Rouge cadre on Thet Sambath's video who was present at
7 the killing site, he stated that when the Khmer Republic
8 officials got off the trucks, they were told their arms would be
9 tied because they were meeting the prince and were not fully
10 trusted yet. He stated after being tied up they were taken behind
11 the raised bank of a nearby pond and killed.

12 Another CPK soldier in the same video also confirms that the
13 victims were tied up before being killed. One of the cadres in
14 the video demonstrates how the victims' hands were tied together,
15 20 bodies per piece of rope.

16 As to the actual proof of death of the former soldiers and
17 officials killed at Tuol Po Chrey in April 1975, that proof is
18 significant. A local farmer in the Thet Sambath video stated that
19 the morning after the executions, he saw the bodies, describing
20 them as stiff, with sounds of decomposition emanating from them.

21 [11.14.47]

22 Another witness on the video stated that shortly after the
23 killings, he saw the bodies bubbling like molten tarmac.

24 A local oxcart driver gave evidence to court investigators at
25 E3/5234 that about a month after the killings, he saw traces of

1 excavators that had buried all the corpses.

2 TCW-699 visited Tuol Po Chrey after January 1979 and saw piles of
3 human remains with Khmer Republic Army uniforms next to four or
4 five big pits that had been dug up.

5 Another witness who gave the OCIJ statement, E3/5500, went to
6 Tuol Po Chrey and saw many bones sticking out of mounds of earth.

7 [11.15.54]

8 Your Honours, even 35 years later, OCIJ investigators were able
9 to find at this site bone fragments, fired cartridge casings, a
10 bullet head, metal artefacts such as belt buckles, zippers and
11 the presence of clothing in the soil. These cartridge cases were
12 found in and around the burial pits.

13 Your Honours, as to the numbers of men killed at Tuol Po Chrey,
14 the testimony of three witnesses heard by this Chamber
15 establishes that between 200 and 500 people were transported by
16 trucks from the Pursat provincial hall to Tuol Po Chrey that day.
17 Other evidence before Your Honours suggests a far greater number
18 of victims.

19 TCW-644 stated that he saw up to 1,000 bodies.

20 TCW-699 told investigators that the pond near Tuol Po Chrey was
21 full of corpses, estimating that there were approximately 5,000.

22 [11.17.16]

23 A CPK cadre from the Smashing Unit interviewed in Thet Sambath's
24 video stated that there were nearly 10,000 people killed at Tuol
25 Po Chrey.

1 Confirmation of the existence of the pond near Tuol Po Chrey was
2 done by the ECC investigators when they visited the massacre site
3 during the judicial investigation. The comprehensive report
4 corroborates the testimony of the witnesses that such a pond
5 existed and it was of a size that would hold thousands of bodies.
6 This slide is a photo from the report that shows the pond where
7 the Khmer Republic officials were killed and their bodies
8 disposed.

9 The next slide is a detailed map from the crime scene report
10 showing the pond which is seen by the GPS points forming a circle
11 at Point 3 on the map. You can also see at Point 4 and Point 5
12 the route in which the trucks took to get to that pond before
13 they were executed.

14 [11.18.38]

15 Your Honours, the crime scene investigators were left in no
16 doubt, from their examination of the execution site, that the
17 location identified to them was in fact the site of the mass
18 execution. They in fact concluded that after interviewing
19 witnesses and examining the site - I quote: "The Office of the
20 Co-Investigating Judges has not found any evidence so far that
21 any event of a similar magnitude happened after the killing in
22 1975 at the particular site of Tuol Po Chrey."

23 Your Honours, the exact number of deaths that occurred at Tuol Po
24 Chrey on that day in April 1975 will never be known. What is
25 known, however, and what has been proven beyond a reasonable

1 doubt is that hundreds of Khmer Republic personnel, truckloads of
2 victims, were taken to Tuol Po Chrey and killed in April 1975.

3 Your Honours, I've made a number of references to the video "One
4 day at Po Chrey" which was produced by Thet Sambath. This video
5 corroborates the trial testimonies heard by this Chamber and the
6 statements given to the ECCC investigators.

7 To finish, we would like to play a short eight-minute clip from
8 the film to demonstrate the powerful corroborative nature of this
9 evidence to the trial testimony, witness statements and other
10 evidence before you. Your Honours, the video will take about
11 eight minutes.

12 [11.20.49]

13 (Presentation of audio-visual document, interpreted from Khmer)

14 "At that time, everyone, all the loyal soldiers wanted to see the
15 prince because they wanted to get promotion. So, the one who was
16 not an officer also bought the officer's stripe. This is what I
17 want to say. That's why a lot of people died. Some people were
18 not the real soldiers, but they bought the officer's stripes from
19 the market. There were plenty of officers' stripes selling in the
20 market at the corner of the Pursat River. Along the corner of the
21 market, they were selling the officer stripes all along the way.
22 During the incident, they still sell the officer stripes until
23 the third day when money was abolished that they stopped selling
24 it.

25 "They told us at the meeting in the evening that we must wake up

1 at 4 a.m. and gather to attack Tuol Po Chrey. We woke up at 4
2 a.m. Everyone was there and we got into the truck. We travelled
3 from Pursat and arrived at Tuol Po Chrey at dawn. At that time,
4 Commander Klem announced on the loudspeaker from the guard post
5 to arrange soldiers in our unit and local units 18 and 19, almost
6 1,000 soldiers to cordon. Our group called Preventive Unit, they
7 told us in an incident that any target escaped from the Smashing
8 Unit, our Preventive Unit must take all necessary measures to
9 catch them back or our plan would fail. Around 7 a.m. we heard
10 the sound of trucks coming, the big truck coming first, and they
11 told us that the Special Unit be ready.

12 [11.23.22]

13 "On the third day, they drove people to Tuol Po Chrey. We already
14 was aware of the circumstances that those people were taken away
15 and killed. They were all the important people. They knew they
16 were just going away for a few nights at the most. After meeting
17 with the prince, they would be back to their old position. They
18 just said that and they did not worry about anything at all. They
19 were teasing each other. 'What are you packing along with?' They
20 were in civilian clothes. The provincial governor wore white with
21 a straw hat. They tried to look ordinary because Khmer Rouge wore
22 black with scarf on their neck, so they also tried to look like
23 farmers. They wore like an ordinary with a straw hat too. They
24 make fun in the truck to create a relaxed atmosphere which seemed
25 like nothing about to happen in the future.

1 [11.24.38]

2 "After they got off the trucks, there was an announcement that,
3 'Comrades, do not be afraid. You come to meet Angkar not because
4 Angkar does not trust you, but you will meet the prince. So we
5 need to tie you up.' After they were tied up, all the people in
6 the trucks, they walked them away. It was like this. They shot
7 one here, and then another. One by one they fell down. The brain
8 was scattered, the white brains mixed up with the red blood,
9 which looked so horrendous. They did not shoot them in the open
10 since people on the trucks would see it, only in the ponds that
11 they could not see the killing when the trucks coming across.
12 Some of them even shouted out, cussing, 'You gutless devils, you
13 animals'. As soon as they saw the dead bodies, they started to
14 curse, but others were struck dumb and could not even walk.

15 [11.26.09]

16 "When I come here, I feel as if the killing is happening right
17 now. At first, they wanted to hide all of them in the pond, but
18 it was not big enough. First, they asked them to kneel down and
19 face that direction. Some threatened by the bullets, it was hard
20 to watch. The stench of blood was too strong that I could not
21 stand it, so I moved away. It was better if you were on the
22 upwind. If you walk along here, in the morning, the corpses were
23 only in the pond and when I walked at 4 p.m., there were corpses
24 scattered everywhere, east, south, north, all scattered with
25 corpses all the places. I walked south by the fence where they

1 parked the truck.

2 "[Question:] So did you want to walk this way?

3 "[Answer:] This was covered with all the corpses, so I could not
4 walk. So I walked in that direction instead to re-join my unit. I
5 asked the unit entry, the one who shot those people, that how
6 many soldiers were killed there. He told me there were nearly
7 10,000.

8 [11.28.06]

9 "[Question:] How many bodies did you see here?

10 [Answer:] A lot. There were a lot that I can't say exactly, but I
11 asked Ta Bol (phonetic), who did the killing, who was assigned in
12 the Special Unit; I asked, 'How many people, Bol (phonetic)?' He
13 said there were some 10,000 or maybe only 1,000 less than 10,000.

14 "[Question:] Please speak louder. Whom did you ask after the
15 shooting?

16 [Answer:] I did not ask at the shooting place, but I asked him
17 when we went back at the canteen for lunch after we transferred
18 back to the province. I asked, 'Bol (phonetic), how many dead?
19 Since it's scattered everywhere and it was outside, so I could
20 not see.' And he said, according to what he did, at least 8,000,
21 maybe only 1,000 less than 10,000."

22 (End of presentation)

23 [11.29.35]

24 Mr. President, Your Honours, we submit the evidence before you in
25 relation to the extermination and murder of former Lon Nol

1 officials and soldiers is extensive and reliable. We have trial
2 testimony establishing the key facts and events relating to the
3 murders, witness statements providing further specific details,
4 corroborative forensic evidence from the court investigators. In
5 addition, you have compelling accounts of these events from the
6 actual Khmer Rouge cadres involved in the killings who admitted
7 the commission of these crimes in the "One day at Po Chrey"
8 video.

9 Your Honours, the evidence also proves the executions at Tuol Po
10 Chrey in April 1975 were committed pursuant to a policy of the
11 CPK leadership that targeted former Khmer Republic officials and
12 soldiers.

13 [11.30.50]

14 Lim Sat specifically testified that his regiment commander told
15 him the order to execute at Tuol Po Chrey – the Tuol Po Chrey
16 victims was issued "because they're afraid these policemen and
17 soldiers would revolt against the Khmer Rouge".

18 This was exactly the reason Ieng Sary, a member of the Standing
19 Committee, gave to Steve Heder for this policy – and I quote
20 again – "that they, the CPK leadership, decided to do whatever
21 was required to keep that group from being able to rise up and
22 oppose the Revolution".

23 Khieu Samphan himself has stated in a prior interview that the
24 CPK leadership feared that "remnants from the Lon Nol Army
25 throughout Phnom Penh and the countryside" might be involved in a

1 rebellion.

2 Your Honours, the killings at Tuol Po Chrey were not isolated
3 acts of revenge as argued by the Nuon Chea defence, nor were they
4 the crimes of an autonomous warlord who ruled the Northwest Zone.
5 The executions at Tuol Po Chrey, like the similar executions that
6 took place at other locations across Cambodia, were the results
7 of decisions made and policies established by the Party Centre
8 leaders.

9 [11.32.52]

10 Your Honours, if we can pause for a moment, I would like to move
11 the Prosecution's submissions away from proving the criminal
12 policies of the CPK, away from proving the crimes that resulted
13 from those policies, and towards the issue of Nuon Chea and Khieu
14 Samphan's responsibility for them, their individual criminal
15 responsibility for the criminal policies and crimes which are
16 charged in this trial.

17 Your Honours, the evidence shows that behind the charm and smile
18 of Pol Pot were the minds of a small group of men, including Nuon
19 Chea and Khieu Samphan, who were prepared to do whatever it took
20 to realize their radical vision of their Cambodia. Nuon Chea and
21 Khieu Samphan and their criminal partners were the masters and
22 the Cambodian population were their slaves. They were dictators
23 who controlled Cambodians by brutal force and fear.

24 Tragically, their act of stripping a population of all of its
25 humanity by the abuse of power of a few has not been a first in

1 world history. Totalitarian dictatorships, through the ages, have
2 used people as tools to enable them to gain and maintain absolute
3 power and absolute control. They do so in order that their
4 vision, and only their vision, can be realized.

5 [11.35.36]

6 Nuon Chea and Khieu Samphan killed for power. They spilled blood
7 for it. They brutalized and dehumanized their own people and kept
8 spilling blood for power. There is nothing beautiful about this
9 blood. It represents agony, anguish, fear, and death. It tells us
10 of victims shot, bludgeoned, tortured, starved and worked to
11 their death, often in unimaginable pain. It marks the loss of
12 meaning in life. It represents the ever-aching hearts of
13 Cambodians, of Cambodian parents who never saw their children
14 grow, the ever-aching hearts of Cambodians whose mothers,
15 fathers, husbands, wives, boyfriends, girlfriends, brothers and
16 sisters that never came home. This blood they spilled also
17 represents the ugliness, the obscenity and the inhumanity of the
18 act of killing another human being. It represents the work of the
19 killers, the young men ordered to kill their neighbours, the
20 blindfolding of victims, the tying up of their hands, the digging
21 of pits, the beating of bodies, the smashing of skulls, the
22 burying and the cleaning up, the work of butchers, human
23 butchers.

24 [11.38.23]

25 This blood is bad blood and cannot be the standard by which we

1 live. When you torture someone to death, you have to get close
2 enough to your victim to inflict pain, but although that
3 closeness allows you to kill, you also see the eyes of the
4 victim, the fear in the face and the disbelief as to what is
5 happening to them. When you prepare a victim for death, you see
6 their eyes. When another human begs you for their life, you see
7 their eyes. When you wield a club, a bar, and hold it high above
8 your head, you see their eyes. Seeing your victim's eyes makes it
9 hard to kill, as if you look close enough, you see yourself. You
10 see your own humanity in their eyes.

11 Nuon Chea and Khieu Samphan chose not to see the eyes of their
12 victims. They chose not to see their own humanity. This made it
13 easier for them, more humane for them, by urging, persuading and
14 ordering others to do the work of killing. If they saw their
15 victims' eyes, they may not have pulled the trigger, swung the
16 axe, tied them up or dug the pit. So they got others to do their
17 work, their very dirty work. They contracted out the inhumanity
18 of their work so they could feel more humane, all for their
19 vision, their unrelenting, unforgiving vision of creating a
20 society that they wanted.

21 [11.41.12]

22 They used Cambodians to kill Cambodians. They used Khmer to kill
23 Khmer. They played with Cambodians' minds and their bodies. They
24 played with them like pawns on a chessboard, causing many to kill
25 and millions to die. Whether you would kill or be killed, they

1 would decide.

2 Your Honours, a man who we'll now see on the video reminds us of
3 the tragedy, the anguish and the pain of one victim and the
4 barbaric and savage nature of the work of her killer. He reminds
5 us of the loss of our humanity and how it can happen. He makes us
6 think where should the blame for these tragic killings really
7 lie.

8 If we can play the video, please.

9 [11.42.43]

10 (Presentation of audio-visual document, interpreted from Khmer)

11 "[Question:] Can you recall what this woman has asked you?

12 "[Answer:] She had a small, thin face. It was small but long. Her
13 complexion was white. She was pretty. She was a seamstress. She
14 stayed indoors so her complexion was better than ours who worked
15 in the fields. She worked indoors and she looked beautiful, yes.
16 She was in the last batch to be sent. She grabbed my leg,
17 screaming, and asking me, 'Uncle, I beg you, please, let me live
18 with you.' Then I said, 'How can I let you live with me because
19 you are about to be - and you can't stay with me.' She said,
20 'Please, please, whatever happens, please just let me live with
21 you.' Then I said, 'Would you live with me for the whole life? If
22 you just stayed here for half of your life, you are not allowed.'
23 Then she said, 'Yes, I will stay with you for my whole life.' She
24 raised her hand like this and hugged my knees and shouted to me,
25 'You, you, what are you waiting for? What are you waiting for?

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1 Start doing your job now.' Then I started doing it. I do not like
2 it, but I did it.

3 "[Question:] By pushing her down to the ditch?

4 "[Answer:] Yes, it was a trailer from Battambang at that time.

5 When I got home, I had to wash my hands thoroughly. I had a
6 little rice. Then I stopped; I smelled my hands, and they smelled
7 of blood. At the killing site, the stench of the blood was
8 terrible. It was worse than beef flesh, but we had to get on with
9 it.]"

10 (End of presentation)

11 [11.45.35]

12 Mr. President, Your Honours, the blame for the death of that
13 young girl lies with Nuon Chea and Khieu Samphan and the other
14 CPK Party Centre leaders. It is clear in this trial they are only
15 charged with the killings arising out of the forced transfers and
16 the killings at Tuol Po Chrey, but it's not clear if this young
17 girl's death arose out of that.

18 What is clear is that for the killings and inhumane treatment for
19 which they are charged in this trial, they are to blame, blame
20 because they created the killers through their policies, their
21 orders, their indoctrination and their training, to blame for
22 without their criminal plans, that girl begging for her life and
23 millions like her could be alive today.

24 [11.46.51]

25 Mr. President, I would now like to move to the evidence to show

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1 you why both Nuon Chea and Khieu Samphan are to blame, why they
2 are legally responsible for the crimes charged in the indictment.
3 Mr. President, it perhaps would be a natural break to break here
4 or, alternatively, I can keep going. I will continue.

5 MR. PRESIDENT:

6 Well, you may move on to the new portion of your statement. Of
7 course, you are allocated with three days for this final
8 statement, but yesterday you have already used your time
9 allocated, so I suggest that you proceed now so that you will
10 save the time for your subsequent statement.

11 [11.47.59]

12 MR. SMITH:

13 Thank you, Mr. President.

14 And to understand how Nuon Chea and Khieu Samphan participated in
15 these crimes, it necessitates an understanding of how they agreed
16 to the criminal policies of the CPK, how power and authority was
17 exercised in the Communist Party of Kampuchea and what roles they
18 had within the Communist Party of Kampuchea and, finally, how
19 they individually contributed to these criminal policies and
20 crimes.

21 I will address the evidence relating to these issues under three
22 broad headings: first, the collective leadership, guiding
23 principles, structure and communication of the Communist Party of
24 Kampuchea; the role and character of the Accused and; finally,
25 their contribution to the criminal policies and crimes charged in

1 this trial.

2 [11.49.08]

3 Your Honours, the evidence you have heard over the past two years
4 has proven the role of Nuon Chea and Khieu Samphan and a small
5 group of leaders of the CPK who formed what was known as the
6 Party Centre.

7 The evidence has shown that Nuon Chea, Khieu Samphan, Pol Pot,
8 Ieng Sary and Son Sen lived and worked together, that they made
9 decisions together on a collective basis and that through a
10 hierarchical command structure and strict regime of reporting
11 from the bottom to the top, they exercised complete totalitarian
12 control over all of Democratic Kampuchea. Every zone, sector,
13 ministry and military division reported to the Party Centre. And
14 every single aspect of life of the people of Democratic Kampuchea
15 was controlled by the Party leaders, where you lived, what you
16 did for work, who you could marry, what you could eat, what you
17 could say and even what you could think and believe.

18 [11.50.29]

19 Democratic Kampuchea was a slave state and its masters were the
20 leaders who ruled over the country from the K-1 and K-3 offices
21 in Phnom Penh.

22 In our opening remarks back in November 2011, the Co-Prosecutors
23 discussed extensively the role of the Party Centre. Your Honours
24 may recall, when it was Khieu Samphan turn to respond to our
25 opening statement, he accused us of making up the term "Party

1 Centre". We would like to quote him exactly and play a video from
2 the courtroom on the 23rd of November 2011 when Khieu Samphan
3 made the following comments about the Prosecution's use of the
4 term "Party Centre".

5 (Presentation of audio-visual document, interpreted from Khmer)

6 "[Khieu Samphan:] I have noticed that the Co-Prosecutor has
7 invented the words "Centre du Parti". I have heard it since
8 Monday and Tuesday. I am concerned that you are using these words
9 in order to distinguish clearly between the Central Party and
10 Standing Committee because this disturbs you. However, at that
11 time, there was a clear distinction between the two. Therefore,
12 you want to have the public believe that everyone is like one
13 rotten fish in the basket, but it is a lie, an exaggeration of
14 the facts."

15 (End of presentation)

16 [11.53.35]

17 Your Honours - I apologize, Your Honours.

18 The evidence in this trial has conclusively proven that it was
19 not the Co-Prosecutors, but rather Khieu Samphan, who has
20 attempted to deceive this Court. You have now seen many
21 contemporaneous documents from the DK era that expressly refer to
22 the Party Centre - "Mocchim Pak".

23 We have identified numerous references to the Party Centre in the
24 "Revolutionary Flag" and other CPK publications - by this
25 Chamber. To give you just a few examples, a speech that was given

1 by Nuon Chea on the occasion of the 9th anniversary of the
2 Revolutionary Army of Kampuchea and published in the December
3 1976, January 1977 issue of "Revolutionary Flag" - they use the
4 term "Party Centre" 11 times, and the April 1978 issue of
5 "Revolutionary Flag" announced that the "Party Centre" had
6 discussed and decided that rice yields of 8 tonnes per hectare
7 could be "fully done within 10 to 15 years throughout the
8 country".

9 [11.55.06]

10 Stephen Heder testified that the reference in the "Revolutionary
11 Flag" to a June 1974 meeting that decided to mount the decisive
12 offensive to liberate Phnom Penh was to a conference of the Party
13 Centre.

14 And a CPK circular titled, "What is the Angkar's Ideology and
15 Party Discipline", summarizes the CPK hierarchy and
16 organizational principles as follows - and I quote - "The
17 individual must respect and comply with the organization; the
18 lower echelon respects the upper echelon; the entire party
19 respects the Party Centre."

20 Witnesses we have heard in this trial also have referred to,
21 describe, and identify the group known as the Party Centre. Pol
22 Pot's nephew, Saloth Ban, described Khieu Samphan as a member of
23 the Party Centre.

24 Yun Kim, a long-time CPK commune chief in Kratie who attended a
25 meeting at which Nuon Chea provided instructions on the

1 implementation of co-operatives, testified that Nuon Chea was
2 with the Party Centre, so he was at the supreme leadership level
3 of the CPK.

4 Both Suong Sikoeun and Norng Sophang described Office 870 as the
5 Party Centre Office.

6 [11.56.56]

7 In his book "Voices from S-21", David Chandler wrote that the
8 "collective leadership" was known to outsiders as "the Upper
9 Organisation (angkar loeu), the Organisation (angkar) or the
10 'upper brothers' (bong khang loeu)," but was known to members of
11 the CPK as "the Party Centre". Chandler also testified during
12 this trial that the Party Centre included both Nuon Chea and
13 Khieu Samphan.

14 In an interview Nuon Chea gave to a Japanese journalist in
15 October 2006, Nuon Chea was asked: "Who decided to evacuate the
16 people from the cities?"

17 And his response was: "The Party Centre."

18 So, Your Honours, "the Party Centre" was most certainly not a
19 term invented by the Prosecution. It was a very real group of men
20 who ruled Democratic Kampuchea, two of whom are sitting in this
21 courtroom - and one down below. It is not surprising however,
22 that Khieu Samphan feels uncomfortable whenever discussing terms
23 like the "Party Centre"; for it is this group that, true power
24 and role can be seen.

25 [11.58.31]

1 For the evidence has proven that Khieu Samphan was one of the
2 very few CPK leaders trusted by Pol Pot and Nuon Chea who allowed
3 him to be by their side at all times. In the words of his own
4 wife who he brought to this Court to testify on his behalf, Khieu
5 Samphan and the other top leaders of the Party were "close to one
6 another constantly", during the war years of 1972 to 1975.
7 This brings us to another remarkable lie that was delivered by
8 Khieu Samphan in this courtroom. On the 30th of May 2013 in
9 response to a question posed to him by a civil party, Khieu
10 Samphan denied that he was a leader of the DK regime and claimed
11 that he had joined the Khmer Rouge virtually by accident, Khieu
12 Samphan who continues to cling to an image of himself as a person
13 of integrity and honesty asked this Court and the public to
14 believe that he joined the Khmer Rouge by accident. But Khieu
15 Samphan was neither an accidental or reluctant member of this
16 organization. Whatever it was that led him to the marquis and the
17 CPK territory in 1967, Khieu Samphan seemed to like it there.
18 [12.00.21]
19 He didn't stay just a week or a month or a year; Khieu Samphan
20 stayed with the Khmer Rouge and willingly served as one of its
21 top leaders and the public face of the Party for nearly 30 years,
22 defending its murderous policies and advancing its agenda.
23 Your Honours, throughout-
24 Just one more paragraph if I can.
25 Your Honours, throughout my closing argument, I will be

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1 addressing the lies and deception of the Accused that we have
2 seen during this trial, because their lies speak volumes about
3 themselves. They reflect their consciousness of guilt and show us
4 their true character. Men who stood in the courtroom and told
5 preposterous lies, denying their roles, knowledge and involvement
6 in these crimes, not willing to have their stories tested when
7 the time came to face questioning from the Chamber, the
8 Co-Prosecutors, and counsel for the civil parties.

9 Mr. President, probably a natural break there.

10 [12.01.53]

11 MR. PRESIDENT:

12 The time is now appropriate for lunch adjournment. The Chamber
13 shall adjourn now and resume at 1.15 today, and this is the
14 information for parties to the proceeding and members of the
15 public who are observing the proceeding.

16 Security guards are instructed to bring the Accused to the
17 holding cell downstairs and have them returned to this courtroom
18 before 1.30.

19 (Court recesses from 1202H to 1330H)

20 MR. PRESIDENT:

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

22 And the floor will be given once again to the Prosecution to
23 continue their closing statement. You may now proceed.

24 MR. SMITH:

25 Good afternoon, Mr. President.

1 Shortly before lunch, we started to address the liability of the
2 Accused for these crimes, and this afternoon I'll concentrate on
3 the issue of how power was organized and how power was exercised
4 in Democratic Kampuchea, because to understand that, to
5 understand how power was exercised by the leadership, then we'll
6 understand how these Accused contributed to the crimes.

7 [13.32.04]

8 So this discussion on the organization of power, and the
9 principles by which they exercised power, and the authority
10 structure and the reporting system in the way that they
11 controlled power will be the discussion points this afternoon.
12 And then on Monday, we will talk about the particular roles of
13 the Accused and how they contributed to the crimes in the context
14 of how power was exercised in Democratic Kampuchea.

15 Your Honours, perhaps if we can look at the early story, the
16 pre-1975 story of Pol Pot, Nuon Chea, and Khieu Samphan and look
17 at the facts relating to the evidence that proves the close
18 working relationship that those three had between each other.

19 In September 1970, Khieu Samphan, Pol Pot, and Nuon Chea met at
20 the Stueng Chinit River, on the border of Kampong Thom and
21 Kampong Cham provinces, where the CPK was establishing its new
22 Party headquarters.

23 Khieu Samphan admits this himself both in his interview to the
24 Co-Investigating Judges and the books he wrote prior to his
25 arrest.

1 [13.33.45]

2 The Chamber also heard from two witnesses who were present when
3 these three leaders met in 1970, and those witnesses were Phy
4 Phuon and Oeun Tan.

5 Khieu Samphan had spent the prior year or two at Ta Mok's
6 headquarters, at Mount Aoral. Pol Pot came from his former
7 headquarters in Ratanakiri. Nuon Chea came from Phnom Penh, where
8 he had been leading the resistance in most regions of the country
9 for the seven-year period after Pol Pot fled to the maquis in
10 1963 and was geographically restricted.

11 This was, of course, not the first time that these three men had
12 met. Nuon Chea and Pol Pot were introduced by a fellow Party
13 member back in 1955. They worked together for the next five
14 years, preparing the Party's Statute and strategic lines, and by
15 1960 Nuon Chea and Pol Pot were the top leaders of the movement.

16 [13.35.07]

17 Khieu Samphan and Pol Pot had been schoolmates in Kampong Cham in
18 the 1940s. Nuon Chea testified in this trial that he first met
19 Khieu Samphan somewhere near Mount Aoral. As Khieu Samphan was
20 based at Ta Mok's headquarters on Mount Aoral from 1969 to 1970,
21 it's likely that he and Nuon Chea first met there, if not earlier
22 through the Phnom Penh City committee of the Party.

23 Your Honours, but it was in September 1970 that these three men
24 first began to live and work together at the same location, a
25 relationship that would continue for the next 28 years.

1 At the Party's new headquarters on the Stueng Chinit River, which
2 was called S-71, Pol Pot, Nuon Chea, and Khieu Samphan lived in
3 houses close to one another and worked together on a regular
4 basis.

5 Phy Phuon, who worked as a bodyguard for Pol Pot during that time
6 period, described their daily routine of meetings as follows in
7 his testimony at trial – and I quote:

8 Question: "From 1971 to 1974, did Khieu Samphan and Pol Pot meet
9 frequently?"

10 [13.36.46]

11 Answer: "From 1971 to 1974, they met rather often. There was some
12 time when they were separated because the office where they were
13 located was on different sides, but later on the offices were
14 moved close to one another. Then Khieu Samphan came to work in
15 the office adjacent to Pol Pot's office. And I also indicated the
16 other day that sometimes they worked together among three of them
17 – Uncle Number One, Uncle Number Two and Khieu Samphan. But on
18 certain occasions Pol Pot wrote – prepared notes in his house or
19 location. So, on certain occasions, they prepared their documents
20 separately in their respective locations.

21 Question: "Thank you. So when they met, in your observation, did
22 they often meet in the afternoon or late afternoon?"

23 "They met in the morning, when they had breakfast. They had gruel
24 together, and then they started meetings from, say, 8.30 to
25 11.00. And then, during lunchtime, they also met. And then they

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1 had a short break, and then the work would resume in the
2 afternoon. And then, following the conclusion of the day's work,
3 they would go back to their respective locations and they had
4 dinner separately."

5 [13.38.27]

6 Question: "So is it safe to say that they met frequently?"

7 Answer (sic): "They met subsequently to discuss matters; is that
8 correct?"

9 Sorry, that was the question.

10 Answer: "Yes, that is correct."

11 Your Honours, in addition to their daily work routine, Nuon Chea,
12 Khieu Samphan, and Pol Pot participated in meetings with other
13 Party leaders held at S-71 headquarters at least once a year,
14 where key decisions were made on CPK policy and strategy, matters
15 such as the closing of markets and establishment of cooperatives
16 in the so called liberated zones, and the Party's strategy to
17 seize or control the people by emptying out cities and towns that
18 were captured by their forces.

19 Your Honours, I will turn to some of these other meetings in more
20 detail later, but I would now like to discuss one of the first
21 big meetings that was held after Pol Pot, Nuon Chea, and Khieu
22 Samphan arrived at Stueng Chinit, the Third Party Congress held
23 in July or August 1971.

24 [13.39.50]

25 It was at the 1971 Congress that Khieu Samphan admits he was

1 appointed to the Party's Central Committee as a candidate or
2 alternate member. Phy Phuon was present, working as a guard at
3 that meeting, and he identified three photographs that were taken
4 at the congress, and we will show you two.

5 In this photograph, Khieu Samphan can be seen in the middle of
6 the back row, a little left to the hammer and sickle, where you
7 see the red circle. Pol Pot is in the middle of the front row,
8 sitting on the ground, and Nuon Chea is the last person standing
9 on the far right of the photograph.

10 The next slide is another photograph from the same location where
11 we can see a meeting in progress presided over by Pol Pot in the
12 middle, who is standing, and Nuon Chea, who's seated next to Pol
13 Pot. The role models for the revolution, whose pictures hung on
14 the wall of the CPK office, included Lenin, Marx, and Stalin.

15 [13.41.08]

16 Your Honours, the fact that Khieu Samphan was quickly promoted to
17 and made a member of the CPK Central Committee in 1971 is
18 extremely significant. His fellow ghosts, who fled with him from
19 Phnom Penh in 1967, Hou Youn and Hu Nim, were not appointed to
20 the Central Committee or allowed into the inner circle of the
21 Party leadership. While Khieu Samphan rose to the top of the
22 Party ranks, Hou Youn and Hu Nim became victims of the Party's
23 internal purges.

24 Your Honour, there's only one explanation for the remarkably
25 different fates of these three intellectuals who joined the

1 maquis in 1967. Khieu Samphan, Hu Nim, and Hou Youn all had known
2 reputations with the Cambodian public that made them valuable
3 additions to the movement. All three had worked in the Sihanouk
4 government, knew Sihanouk well, and could have served as the
5 bridge between the Communist Party of Kampuchea and the Prince,
6 but only one of the three wholeheartedly with - agreed
7 wholeheartedly with the plans and policies of the CPK. Khieu
8 Samphan was accepted into the inner circle of the CPK leadership,
9 because he agreed with them because he was willing to work and
10 contribute to their plans and their policies.

11 [13.42.54]

12 Hou Youn, on the other hand, openly disagreed with CPK policies
13 including the plan to evacuate Phnom Penh and other cities, as
14 Your Honours, heard - has heard from two witnesses who testified
15 in this trial, Nou Mao and Phy Phoun.

16 Hu Nim was also known to be opposed to certain policies of the
17 CPK. As reflected in these annotations by Son Sen and Duch found
18 in the confession of Koy Thuon, which indicates that Koy Thuon
19 followed Hu Nim's stance on the market issue and the evacuation
20 of people and that everyone knew Hu Nim was opposed to the policy
21 of the Party on purging the enemy and that this stance towards
22 the enemy was peaceful and compromising.

23 Two intellectuals who opposed the Party policy to evacuate from -
24 the people from the cities, both of whom were ultimately arrested
25 and executed.

1 [13.44.10]

2 Khieu Samphan, on the other hand, the one who supported these
3 policies, gained entry to the elite, central leadership of the
4 Party. It was through his loyalty to the CPK leadership and his
5 agreement with and promotion of their policies that Khieu Samphan
6 became a Central Committee member, a regular attendee at Standing
7 Committee meetings, and the brother-in-arms of Pol Pot and Nuon
8 Chea for 28 years.

9 Khieu Samphan's role and importance in the Revolutionary Movement
10 grew quickly over time. He soon became the public face and
11 spokesman for the Khmer Rouge, responsible for leading
12 delegations on trips to foreign countries and issuing public
13 statements on behalf of the Resistance, the National United Front
14 of Kampuchea, and the Royal Government for the National Union of
15 Kampuchea.

16 In the film footage you will see, Khieu Samphan, Pol Pot, and CPK
17 leaders together in March and early April 1973 on the occasion of
18 Sihanouk's trip to the liberated zone, where he was officially
19 greeted by Khieu Samphan.

20 (Presentation of video document)

21 Your Honours, in the next film footage, you will see Khieu
22 Samphan give a speech in China about Cambodia's great victory in
23 1975, and this video has sound.

24 [13.46.19]

25 (Presentation of audiovisual document)

1 "[Narrator, in English:] ...Khieu Samphan is received as the great
2 leader. He has now fully assumed the role as the top leader of
3 the Khmer Rouge. Pol Pot acts in the background. This play will
4 go on for 25 years or as long as the Khmer Rouge exist.

5 "[Unidentified speaker, interpreted from Khmer:] The united
6 Cambodia government has just come from one of the hottest battles
7 of our time. Our victory is the strategy for Cambodia and the
8 Cambodian people."

9 (End of presentation)

10 [13.47.10]

11 Mr. President, the evidence introduced at this trial has proven
12 the close working relationship between Pol Pot, Nuon Chea, and
13 Khieu Samphan, and that relationship continued in 1974 and 1975,
14 as the CPK prepared its plans for the final attack on Phnom Penh.
15 During this time, Pol Pot established a number of new forward
16 bases west of Udong and closer to the key battlefields, including
17 the B-5 Office in Peam commune.

18 Witnesses Saloth Ban and Phy Phuon testified that Khieu Samphan
19 and Nuon Chea spent time at the B-5 Office and participated in
20 meetings held at that location with Pol Pot and the zone leaders
21 or military commanders.

22 Phy Phuon testified that "B-5 was the command centre to attach
23 Phnom Penh, to liberate Phnom Penh".

24 When asked about the meetings at B-5, Phy Phuon said - and I
25 quote:

1 "The regular meetings at B-5 were chaired by Om Pol Pot, who
2 regularly stayed at that location. Sometimes Om Nuon Chea, Om
3 Khieu Samphan also came there. Sometimes the three of them would
4 just convene the meeting on a regular basis, and also they met
5 when people from zones, including Son Sen, Ta Mok, Vorn Vet,
6 Cheng An, Koy Thuon, Ke Pauk, So Phim, and Ta Phuong ... they would
7 meet every five days or a fortnight. It depends on the actual
8 circumstances in the battlefield." End quote.

9 [13.49.12]

10 The location shown in some film footage you'll - you're about to
11 see, in which Pol Pot, Nuon Chea, and Khieu Samphan are working
12 together, studying maps and a radio communication system is being
13 operated, was identified by Phy Phoun as the B-5 base.

14 (Presentation of video document)

15 Both Khieu Samphan and Nuon Chea have admitted that they were at
16 the CPK forward bases in the critical time period leading up to
17 and immediately after the capture of Phnom Penh.

18 In his book, "Cambodia's Recent History and the Reasons behind
19 the Decisions I Made", Khieu Samphan wrote - and I quote:

20 "By the end of March 1975, I was invited to the general
21 headquarters of the Communist Party of Kampuchea in Phum Dong,
22 west of Udong, to follow the last offensive against the capital
23 more closely. ... Every day, with a few army officers, I followed
24 the battle's progression on the radio. On April 17, at around 9
25 o'clock, our hearts filled with joy, we had heard the voices of

1 commanders of various units speak from several points inside the
2 capital." End quote.

3 [13.51.06]

4 Khieu Samphan also admitted to the Investigating Judges that he
5 was located at "the headquarters of Pol Pot to the west of Udong"
6 during the time period.

7 His wife, So Socheat testified that she joined her husband at the
8 Sdok Taol - T-A-O-L - forward base after the fall of Phnom Penh.
9 Nuon Chea admitted in his trial testimony that he went to B-5 for
10 meetings with Pol Pot.

11 The book published by Thet Sambath based on interviews and on a
12 manuscript provided to him by Nuon Chea states that prior to
13 entering Phnom Penh, "Nuon Chea had been living for the last" -
14 Nuon Chea had been living there for the last few weeks - in Peam
15 commune.

16 And in paragraph 417 of Nuon Chea's written closing submissions,
17 he admits the following - and I quote from the Defence brief:

18 "In April 1975, Nuon Chea was located at B-5, in Kampong Chhnang
19 province. Cadres present at B-5 in that period included Pol Pot,
20 Ke Pauk, So Phim, Vorn Vet, Ta Mok, and Son Sen. The subject
21 under discussion at B-5 was principally the liberation and
22 subsequent evacuation of Phnom Penh." End quote.

23 [13.52.48]

24 Your Honours, the confirmed presence of Nuon Chea and Khieu
25 Samphan at B-5 and other forward bases in the period leading up

1 to and immediately after the 17th of April 1975 is of central
2 importance to this case. I'll discuss in more detail later a key
3 meeting that took place at B-5 in early April 1975 at which both
4 Nuon Chea and Khieu Samphan approved the final plans for the
5 evacuation of Phnom Penh.

6 But it's equally important to understand the general function of
7 the B-5 base in relation to the role of the Party Centre leaders
8 and their control of the CPK military, which was then known as
9 the Cambodian People's National Liberation Armed Forces.

10 In the written notes he prepared for his testimony at trial, Nuon
11 Chea wrote that the B-5 base in Peam commune was used "in order
12 to command for the control of the liberation of Phnom Penh".

13 In a statement he gave at the start of the trial, on the 22nd of
14 November 2011, Nuon Chea stated that the Party's forward bases in
15 Peam commune were established "to ensure an effective and
16 ultimate success with the attack to liberate Phnom Penh". And he
17 also noted that the cadres battling for Phnom of Penh made "daily
18 reports".

19 [13.54.38]

20 Your Honours, Saloth Ban testified that the reason for the Party
21 establishing a mobile base near Udong was "to facilitate command
22 of the attack of Phnom Penh".

23 And Phy Phuon testified that B-5 was a command "centre to attack
24 Phnom Penh to liberate Phnom Penh" and that the reason for the
25 creation of B-5 was that "it was established to issue commands

1 for the attack on Phnom Penh. It was a kind of military
2 headquarters because that was the time that the attacks had to be
3 carried out from all spearheads towards Phnom Penh".

4 Your Honours, every time, during these closing arguments, that
5 the Defence asserts that the evacuation of Phnom Penh was
6 conducted by autonomous zone armies or that the Party Centre
7 leaders had nothing to do with the military and no control over
8 the troops that attacked and evacuated Phnom Penh, I want you to
9 remember the picture of the B-5 command base.

10 [13.56.00]

11 The command base for the CPK military where at the time Phnom
12 Penh was captured and evacuated; all the key Party leaders and
13 zone commanders were gathered in order to command the troops
14 carrying out the mission. Pol Pot was there, Nuon Chea was there,
15 and Khieu Samphan was there. Son Sen was there, the leaders of
16 each of the zone armies assigned to carry out the evacuation were
17 there. Koy Thuon from the North Zone, So Phim from the East Zone,
18 Ta Mok from the Southwest Zone, and Vorn Vet from the Special
19 Zone.

20 Your Honours, the top Party leaders gathered at a military
21 command base less than 30 kilometres from Phnom Penh, where, as
22 Phy Phuon has testified, Khieu Samphan has acknowledged, and the
23 last film clip we played shows, that - the leaders had a radio
24 communication device with sufficient power and range to monitor
25 the situation in all battlefields around Phnom Penh.

1 You have heard the testimony of CPK military commanders and
2 soldiers such as Ung Ren, Meas Voeun, Ieng Phan, Chhaom Se, and
3 Sum Chea, all of whom participated in the capture and evacuation
4 of Phnom Penh, stating that their divisions communicated and
5 received orders by radio.

6 [13.57.48]

7 Ung Ren testified that messages to and from the brigade commander
8 were relayed by a radio operator attached to the brigade.

9 Chhaom Se, a mid-level commander in the Special Zone, testified:
10 "I normally received orders from the division commander through
11 radio communication."

12 Meas Voeun stated that he "relayed information via radio
13 communication up to the division".

14 North Zone soldier Sum Chea testified that "everyone came to
15 Phnom Penh all at the same time. They communicated through radio
16 communication."

17 And Southwest Zone regiment commander Ieng Phan testified that
18 "as for the liberation forces, we communicated by radios" and
19 each battalion had a "radio operator".

20 And as my colleague has referred, on the 28th of January 23rd -
21 2013, this year, Al Rockoff provided the following information
22 about the Khmer Rouge soldiers that he witnessed in Phnom Penh on
23 the 17th of April 1975.

24 [13.59.08]

25 He was asked the question: "...did you see any Khmer Rouge soldiers

1 who were communicating by radio?"

2 He answered: "Yes, there evidently was very good radio network
3 going. Some Khmer Rouge had U.S. military radios called the
4 PRC-25. There was a Chinese radio that looked rather similar to
5 it in size. In those days you did not have cell phones, of
6 course. There were Motorola radios which you had - were rather
7 bulky. I did not see that many radios, but usually, with somebody
8 who obviously was in charge, you would have a radio operator
9 close by." End quote.

10 You may also recall this picture taken by Roland Neveu on the
11 17th of April that shows a Khmer Rouge soldier in Phnom Penh with
12 one of those radio devices. You can see in the photograph the
13 handset in which the soldier is talking and the radio box to
14 which is connected to on the ground.

15 Your Honours, it's been proved beyond any doubt that the CPK
16 troops that attacked and evacuated Phnom Penh beginning on the
17 17th of April 1975 were commanded by the CPK leaders located at
18 the forward bases near Udong. Pol Pot, Nuon Chea, Khieu Samphan,
19 and the other Party leaders who were gathered at the CPK forward
20 bases were aware of and controlled all key activities of those
21 troops.

22 [14.01.02]

23 Do not be fooled for a second by the lies of the Accused that we
24 still see in their final briefs, claiming that the Party Centre
25 lacked effective control over the CPK military in April 1975.

1 The close working relationship between Pol Pot, Nuon Chea, and
2 Khieu Samphan continued when the leaders moved into Phnom Pen
3 after the 17th of April 1975. The essential facts regarding the
4 movements and activities of the CPK leaders during this period
5 have been testified to by Phy Phuon and others and confirmed by
6 Khieu Samphan.

7 Less than a week after liberation the CPK leaders entered Phnom
8 Penh. They stayed first at the railway station, then at the
9 Ministry of Commerce or Finance, and by mid May 1975 they were
10 based at the Silver Pagoda, the Preah Keo Temple.

11 In his interview to the Investigating Judges, Khieu Samphan
12 testified as follows – and I quote:

13 "Nuon Chea and Pol Pot brought me to Udong to Phnom Penh. They
14 brought me to buildings of the railway station. I was at the
15 railway station with Pol Pot, Nuon Chea, and the other persons
16 who frequently visited the place to get instructions from Pol
17 Pot." End quote.

18 [14.02.48]

19 Phy Phuon described the situation during the CPK leader's initial
20 weeks in Phnom Penh as follows:

21 Question: "Can you describe for us a little bit what Pol Pot,
22 Nuon Chea, Khieu Samphan, Ieng Sary, and the other leaders were
23 doing during the period that they were based at the railway
24 station and the Ministry of Commerce? Can you tell us a little
25 bit about what was going on during that time period?"

1 Answer: "I saw them working at the train station and at the
2 former Ministry of Commerce. They met and had meetings – they met
3 a lot, they met days and nights..."

4 Question: "Who is it that you saw meeting with military leaders
5 either at the train station or the Ministry of Commerce?"

6 Answer: "Just now, I just stated that at the train station
7 military commanders from each respective battlefield – for
8 example, Ta Mok, Vorn Vet, Koy Thuon, So Phim battlefields –
9 these people kept coming to work with them on a regular basis and
10 also their commanders from divisions who came to meet at the
11 train station. Then we relocated to the Ministry of Commerce, and
12 at that location cadres from each battlefield would come and go.
13 They came to meet then so they worked on a regular basis, they
14 worked every day and night at the train station and at the
15 Ministry of Commerce. When it was necessary, they had to continue
16 working until late at night.

17 [14.04.38]

18 Question: "And was Nuon Chea a regular participant in these
19 meetings?"

20 Answer: "Indeed, when they met, they came all together to meet."

21 Question: "Was Khieu Samphan a regular participant in these
22 meetings?"

23 Answer: "Yes, he was. These people came to work on a regular
24 basis, including Pol Pot, Nuon Chea, Khieu Samphan, Ieng Sary,
25 Son Sen, who worked on a daily basis. They worked together

1 there." End quote.

2 Phy Phuon also identified which of the CPK leaders lived together
3 at these locations - quote: Question: "During this period that
4 the leaders were together in the train station and then the
5 Ministry of Commerce, were they living and working together day
6 and night or did they have separate places where they were going
7 to sleep at night?"

8 Answer: "What I saw was that Om Pol Pot, Nuon Chea, Khieu
9 Samphan, Ieng Sary lived close to one another, except Son Sen and
10 Ta Mok, Vorn Vet and Koy Thuon, who lived separately. So Phim
11 also had his own separate place to live."

12 [14.06.08]

13 Your Honours, my colleague Chea Leang has already discussed some
14 of the key meetings that were held during this time period and
15 the decisions that were made by the CPK leaders at those
16 meetings, including the 10-day meeting of the Central Committee
17 held at the Silver Pagoda in May 1975. I will talk some more
18 about the significance of that meeting later.

19 Mr. President, later in 1975 the CPK leaders in Phnom Penh moved
20 to their permanent offices and residences known as K-1 and K-3,
21 where Nuon Chea, Khieu Samphan, Pol Pot, and Ieng Sary continued
22 to live and work together on a daily basis for the remainder of
23 the DK regime.

24 Your Honours have heard extensive testimony from the guards and
25 messengers who worked at K-1 and K-3, witnesses such as Oeun Tan,

1 Sa Vi, Saut Toeung, Pean Khean, and Leng Chheoung, all of whom
2 confirmed the Accused lived and worked at K-1 and K-3 with the
3 other members of the Party Centre.

4 [14.07.40]

5 Khieu Samphan himself acknowledged this fact in the following
6 testimony from his interview with the Co-Investigating Judges -
7 quote:

8 "As for myself, I lived in K-3 after I had stayed at K-1 for two
9 or three months, after we moved from the Silver Pagoda in the
10 Royal Palace. In fact, most of the leaders lived in K-3 - Ieng
11 Sary, Son Sen, Nuon Chea. As for Pol Pot, once and a while he
12 stayed in K-3 because he had to be careful and cautious all the
13 time. It was not uncommon for him to change his house from one
14 place to another. He also lived in K-1. The meetings of the
15 Standing Committee were often held at the K-1 Office, but
16 sometimes at the K-3 Office, Pol Pot's house, and it could be
17 held in the kitchen." End quote.

18 Khieu Samphan also described his daily interaction with Pol Pot
19 and Nuon Chea in the following video recorded interview.

20 (Presentation of audio-visual document, interpreted from Khmer)

21 "[Khieu Samphan:] For living every day, eating, including Pol Pot
22 and Nuon Chea, we were eating together, nothing separate."

23 (End of presentation)

24 [14.09.20]

25 Your Honours, similarly, it's clear that Nuon Chea and Khieu

1 Samphan, with other Standing Committee and senior members of the
2 CPK, including Pol Pot, would work and interact closely together
3 for meetings with overseas delegations and, of course, internal
4 Party events.

5 You will see in the following videos a series of six different
6 events where footage has been recovered from the democratic
7 Kampuchea period, showing the very close camaraderie and working
8 relationships between Nuon Chea, Khieu Samphan, and other members
9 of the Standing Committee.

10 (Presentation of video documents)

11 Your Honours, the first clip will show the Vietnamese Communist
12 Party delegation top leaders arriving at Pochentong Airport
13 likely on the 2nd of August 1975. You will see Party Centre
14 members Pol Pot, Nuon Chea, Vorn Vet, and Khieu Samphan welcoming
15 them very warmly, hugging and kissing them. The Vietnamese
16 delegation had come to discuss boarder issues.

17 [14.11.06]

18 The next clip you will see, Your Honours, shows the Vietnamese
19 top leaders departing from Cambodia around the 10th of August
20 1975. You'll see there Pol Pot, Nuon Chea, Ieng Sary, Khieu
21 Samphan, and Vorn Vet coming to the airport to bid them farewell,
22 looking very healthy.

23 The next clip, Your Honours, will show the CPK leaders Khieu
24 Samphan, Nuon Chea, Ieng Sary, and Vorn Vet waving at a Laos
25 delegation or President Souphanouvong on his arrival on the 7th

1 of December 1977. And this clip shows Khieu Samphan discussing
2 with the Laos President, with Nuon Chea and Ieng Sary at his
3 side.

4 This clip, Your Honours, shows the arrival of a Chinese leader at
5 Pochentong. Party Centre members Pol Pot, Nuon Chea, Ieng Sary,
6 Khieu Samphan, Vorn Vet, Son Sen, and Ieng Thirith welcomed him
7 at the airport.

8 The last clip, Your Honours, will show all Party Centre leaders,
9 including Pol Pot, Nuon Chea, Ieng Sary, Khieu Samphan, Son Sen,
10 and Vorn Vet, clapping at a mass CPK rally held at or in the
11 Olympic stadium of Phnom Penh during the regime.

12 (End of presentation of video documents)

13 [14.13.00]

14 Your Honours, only one witness in the entire two-year trial
15 sought to dispute that Khieu Samphan lived and worked with Nuon
16 Chea, Pol Pot, and the other Party Centre leaders on a daily
17 basis: his wife, So Socheat, who claimed that later in the DK
18 period the other leaders moved out of K-3. Her testimony is
19 inconsistent with that of every other witness and with the
20 statements of Khieu Samphan himself. They were the words of a
21 loyal wife trying to distance her husband from the other CPK
22 leaders. Her testimony lacked any credibility and must be reject
23 by this Chamber.

24 Your Honours, the close relationship and unbreakable bond between
25 these three men – Pol Pot, Nuon Chea – Nuon Chea, and Khieu

1 Samphan - is beyond dispute. You just heard the words of Khieu
2 Samphan: "We did nothing separately." The evidence also shows
3 that these three leaders supported and protected one another.
4 [14.14.14]

5 When Khieu Samphan was implicated in an S-21 confession in 1978,
6 it was Nuon Chea who took action to protect him.

7 You have heard the testimony from S-21 chairman Duch, that he was
8 threatened by Nuon Chea when he learned Khieu Samphan had been
9 implicated and instructed that Brother Hem, who is Khieu Samphan,
10 was never again to be mentioned in an S-21 confession. This
11 incident is also discussed extensively in Thet Sambath's book,
12 where Nuon Chea admits he had a meeting with Duch in which he was
13 told "a confession points to Bong Hem", which is Khieu Samphan,
14 and explains his reaction to that news as follows - and I quote
15 Nuon Chea:

16 "I felt that if they now accused Khieu Samphan, that means later
17 they would accuse all the people, and I would be one of those
18 people. If Khieu Samphan betrayed Angkar, then it means everyone
19 is betraying Angkar." End quote.

20 This is telling you, Your Honours, that Nuon Chea had both the
21 will and the power to save his loyal brother, Khieu Samphan. At
22 the same time, he allowed thousands of others to be tortured and
23 killed, based on the same unreliable S-21 confessions.

24 [14.15.53]

25 Your Honours, the bond between Nuon Chea, Khieu Samphan, and Pol

1 Pot continued in the post-January 1979 period, during which time
2 they stayed in the mountains of the Thai border, continuing to
3 work together as the top leadership of the Khmer Rouge until the
4 final days and the very bitter end of their Revolutionary
5 Movement.

6 In 1997, after other Khmer Rouge leaders had placed Pol Pot under
7 house arrest, Nuon Chea refused to turn - to turn him over to the
8 Cambodian or international authorities for prosecution, stating
9 to the "Bangkok Post" - I quote: "We have to be moral. We have to
10 protect him from being taken." End quote.

11 In Thet Sambath's book, Nuon Chea describes how he and Khieu
12 Samphan went on long walks and had secret conversations after Pol
13 Pot's death in 1998 and eventually decided that it was time to
14 leave the Khmer Rouge and surrender to the Cambodian government.

15 [14.17.10]

16 When they arrived in Phnom Penh, Nuon Chea and Khieu Samphan held
17 a press conference together on the 29th of December 1998 where
18 they made clear to the entire world their lack of remorse and
19 disregard for the victims of the Khmer Rouge period.

20 We can now play that video-clip.

21 (Presentation of audio-visual document, in English)

22 "[Unidentified speaker:] 'Let bygones be bygones' is the best
23 solution for our country."

24 (End of presentation)

25 [14.18.01]

1 And if we can play the next clip, it's from the same press
2 conference but taken from a different camera. And this is what
3 Nuon Chea has to say.

4 (Presentation of audio-visual document, interpreted from Khmer)

5 "[Unidentified speaker:] We express deep regret, not only for the
6 life of the population, but also for the lives of animals that
7 have been victims of war. We are really sorry."

8 (End of presentation)

9 [14.18.46]

10 Your Honours, given their close relationship together as members
11 of the inner circle of the Khmer Rouge leadership for 28 years,
12 Khieu Samphan and Nuon Chea clearly know each other very well.
13 That brings me to another one of the big lies we have heard from
14 the Accused during this trial. Despite having worked side by side
15 with Khieu Samphan from 1970 to 1998, virtually every time he was
16 asked a time a question about Khieu Samphan in this trial, Nuon
17 Chea claimed to know nothing of the man.

18 On the 14th of December 2011 in this courtroom, Nuon Chea stated
19 - I quote:

20 "I was not close to Mr. Khieu Samphan. I only knew that he was
21 from France and he was a member of the Party." End quote.

22 A few minutes later, Nuon Chea was asked by Judge Lavergne
23 whether he was aware that Khieu Samphan was a member of the
24 Central Committee. His response - quote: "Your Honour, I don't
25 know." End quote.

1 [14.20.06]

2 Nuon Chea was equally evasive when he was questioned by the
3 Prosecution about Khieu Samphan. When asked whether Khieu Samphan
4 was the chairman of the State Presidium, Nuon Chea responded –
5 quote: "Mr. President, I was not related to the administrative
6 affairs; I was concerned with the education." End quote.

7 He claimed that he did not know when Khieu Samphan joined the
8 Party and that he knew nothing at all about Khieu Samphan fleeing
9 from Phnom Penh and joining the maquis in 1967. Nuon Chea claimed
10 to be unable to tell the Chamber that Khieu Samphan's role – what
11 his role was in the FUNK or GRUNK. When asked if he knew where
12 Khieu Samphan was located during the period from 1970 to April
13 1975, he responded: "No, I don't, because it was part of the
14 secret affairs."

15 Nuon Chea also claimed that he never attended meetings with Khieu
16 Samphan, apparently unaware that Khieu Samphan himself had
17 already admitted to being a regular participant in Standing
18 Committee meetings where Nuon Chea attended.

19 [14.21.40]

20 Many of these preposterous lies by Nuon Chea were accompanied by
21 the assertion that he rarely talked too or had contact with Khieu
22 Samphan because he belonged to the "intellectuals group".

23 Your Honours, we would submit that the explanation for this
24 incredulous testimony of Nuon Chea is rather simple: Like he did
25 back in 1978 when Khieu Samphan's name appeared in an S-21

1 confession, Nuon Chea is trying to protect his long-time friend
2 and brother-in-arms from prosecution and he's willing to tell any
3 lie, however farfetched, to do so.

4 I will return to the issue again later, when we talk about the
5 meetings at which the CPK leaders decided to evacuate Phnom Penh,
6 a subject on Nuon Chea – which Nuon Chea has admitted his own
7 involvement but lied about the participation of the co-accused
8 Khieu Samphan.

9 Mr. President, Your Honours, to understand how the CPK, how these
10 Accused exercise power, we also must look at the process of
11 decision making in the Communist Party of Kampuchea to see how
12 the roles and contributions of the Accused in these crimes fit.

13 [14.23.25]

14 The principles of democratic centralism and collection decision
15 making are core principles of the Communist Party of Kampuchea –
16 Democratic Kampuchea. It is inevitable in trials like this that
17 the Accused, at some point, will try to point the finger at other
18 persons as the ones who were responsible for the crimes that they
19 are being prosecuted for: "It was not me it was Pol Pot. It was
20 not me, it was the zone secretary."

21 Your Honours, the Accused here, however, have a major problem in
22 making this argument because, in the Communist Party of
23 Kampuchea, decisions were not made by individuals; they were made
24 collectively by the Party Centre and leadership committees in
25 which Nuon Chea and Khieu Samphan participated and played central

1 roles. This fundamental principle is laid out in black and white
2 in the most important document that governed the members of the
3 Communist Party of Kampuchea: the Party Statute.

4 [14.24.42]

5 Chapter III of the Party Statute is titled "Organizational
6 Principles of the Party", and Article 6 provides as follows - I
7 quote:

8 "The Communist Party of Kampuchea takes the principle of
9 democratic centralism at its organizational foundation, that is:
10 (1) All Party leadership organizations must implement collective
11 leadership and have specific persons holding responsibility; (2)
12 All the various decisions of the Party must be made
13 collectively." End quote.

14 Article 3A of the Party Statute recognized the right of every
15 full-rights members of the Party to "consider and discuss and
16 join in decision making on all Party affairs, doing this
17 according to the principle of democratic centralism".

18 Nuon Chea was asked about the Party Statute and the principle of
19 collective decision making at the very start of this trial. His
20 testimony and admissions on the subject matter are of such
21 importance to the core issues of this case, the existence of a
22 common criminal plan agreed by the Accused, that I'd like take
23 Your Honours through that testimony in detail.

24 [14.26.18]

25 In the first part of his testimony, that I will read, which is

1 from the 15th of December 2011 in this courtroom, Nuon Chea was
2 asked to describe in general the principles of democratic
3 centralism and collective decisions.

4 Answer, Nuon Chea - quote: "Mr. President, the democratic
5 centralism refers to collection of ideas, and visions, and
6 knowledge from the Party members and also the Central Party, and
7 this democratic centralism was practised broadly, or generally.
8 That applied also to the Party branches in the villages and the
9 communes. They also practised this democratic centralism that is
10 to gather all the ideas of the Party members, and if there was no
11 - if there was wrong ideas, the Party members at the district
12 levels might correct or might add to that ideas."

13 Question: "I would also like you to refer to Article 6.2 which
14 provides 'all of the various decisions of the Party must be made
15 collectively'. Was the principle of collective decisions part of
16 the principle of democratic centralism?"

17 [14.27.48]

18 Answer, Nuon Chea: "Mr. President, Article 2, 'all of the various
19 decisions of the Party must be made collectively', that means all
20 decisions of the Party must be made collectively, and not
21 individually."

22 Question: "Was the principle of collective decisions and
23 democratic centralism part of the Party Statute that was adopted
24 at the First Party Congress, in 1960?"

25 Answer: "Mr. President, the democratic centralism was part of the

1 collective leadership, and the collective leadership was part -
2 also part of the democratic centralism. [...] The principle was
3 adopted and implemented in every meeting of the Party's congress.
4 The Party held on to that principle firmly."

5 Question: "So this was a principle that was in effect the entire
6 time that you were Deputy Secretary of the Party; is that
7 correct?"

8 Answer: "Mr. President, that is correct." End quote.

9 [14.29.10]

10 Nuon Chea was then asked to confirm whether the principle of
11 collective decisions was followed at meetings of the Communist
12 Party of Kampuchea's Standing and Central Committee - I quote:

13 Question: " Was the principle of collective decisions followed at
14 the meetings of the Standing and Central Committee that you
15 attended?"

16 Answer: "Yes, Your Honours, it was implemented."

17 Question: "And could you describe or explain to the Chamber the
18 process by which Party organizations such as the Standing or
19 Central Committee made collective decisions?"

20 Answer: "Your Honour, 'collectivity' means everybody would
21 participate in a meeting to express the ideas. Every meeting
22 adhered to this principle, and not only at the Central Committee
23 or Standing Committees' level. And then the Secretary of the
24 Party would consolidate all those ideas and opinions, and if
25 members of the Party are not satisfied, then all together would

1 be able to express their objections or opposition until they reach a
2 unanimous agreement, then it would become official. Otherwise, if
3 there is no complete agreement, discussion needs to continue."

4 [14.30.52]

5 Question: "This practice that you've described, of reaching
6 collective decisions, this was a practice that was followed by
7 the Standing and Central Committee during the time that you were
8 Deputy Secretary of the Party; is that correct?"

9 Answer: "Not only during the time that I was the Deputy
10 Secretary, it was at every stage, at all times. It was
11 implemented generally. It was a universal principle of the Party.
12 It was implemented from the Party's branch up to the Central
13 Committee..." End quote.

14 Your Honours, while there are some individuals and some authors
15 of books who have questioned whether the Party leadership
16 followed the practice of collective decisions, they were not
17 informed by the detail and clear testimony that you heard from
18 the Deputy Party Secretary of the Communist Party of Kampuchea.
19 In one of his moments of candour at trial, Nuon Chea could not
20 have been any clearer: decisions made collectively, and not
21 individually; a universal principle that the Party held on to
22 firmly and implemented at every level; a principle that required
23 discussion to continue until there was unanimous agreement - the
24 very essence of a joint criminal enterprise.

25 [14.32.42]

1 While Nuon Chea's lawyers still attempt to quibble with this
2 point in paragraph 189 of their final written submission, arguing
3 that it would not have been possible all the time for discussions
4 to "carry on ad infinitum until all present were in agreement",
5 they do not dispute that the requirement of collective decisions
6 was a core principle of the CPK. No matter how skilled or clever
7 their lawyering may be, even they cannot avoid the unequivocal
8 admissions that their client has made in the courtroom.

9 Your Honours, Khieu Samphan has also acknowledged the requirement
10 of collective and unanimous decisions by the CPK leadership
11 bodies. In an interview which he discussed the evacuation of
12 cities, Khieu Samphan stated that "if there had been a single
13 voice against the evacuations, there could have been no
14 evacuations".

15 And, Your Honours, we have some video of that statement by Khieu
16 Samphan which we would like to now show.

17 [14.34.11]

18 (Presentation of audio-visual document, interpreted from Khmer)

19 [Khieu Samphan:] But the evacuation of people led to many
20 problems. It caused many deaths and it also affected the cadres'
21 relatives, which led to the conflict. Members of the Standing
22 Committee who agreed to the evacuation of people also felt
23 hesitated about their decision. At that time, if there was a
24 voice to object to the evacuation, then the evacuation would
25 never take place. The agreement on the evacuation was to consider

1 about people who died due to food shortage, so we agreed to
2 evacuate the people, and after the evacuation we established the
3 cooperatives. And for high level cooperatives..."

4 (End of presentation)

5 [14.35.32]

6 Mr. President, this may be an appropriate time for me to break,
7 so I would ask if that was possible.

8 MR. PRESIDENT:

9 Thank you.

10 The time is appropriate for a short break. We will take a short
11 break and return at five to 3.00.

12 (Court recesses from 1436H to 1456H)

13 MR. PRESIDENT:

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

15 And the floor will be given again to the Prosecution to continue
16 their closing statement. You may continue.

17 MR SMITH:

18 Thank you, Mr. President.

19 We left off talking about the principle of democratic centralism
20 and how decisions were made in the Communist Party of Kampuchea,
21 and I'd like to continue with that topic for a few more minutes
22 before we start to look at the structure of the Communist Party
23 of Kampuchea and the reporting rules for information going up and
24 down, from the top to the bottom of the Communist Party of
25 Kampuchea.

1 [14.57.40]

2 Your Honours, the principle – the principle and requirement of
3 democratic centralism and collective leadership are also
4 emphasized in the Party's "Revolutionary Flag" publication.

5 The September–October 1972 issue of the publication instructed
6 that "plans must be proposed by the collective in accordance with
7 democratic centralism", and criticized local Party secretaries
8 who did not follow the principle as follows – and I quote:

9 "In procedures, each level does not hold collective meetings for
10 discussion, and decision-making, and conferences that draw out
11 experiences. It focuses on isolation, which refers to the leader.
12 Sometimes, the appearance of a collective meeting is held, but
13 comrade secretary does not promote democracy or encourage members
14 to take problems into account in order to give some comments; the
15 meetings are to mostly 'agree with the comrade secretary's
16 report', with little or no discussion at all; just to 'kill the
17 time.' This also leads to weakness of the Party's leadership
18 quality.

19 "We must overcome these weaknesses. As our stance, we must be
20 aware that leadership does not allow – that does not follow the
21 collective disrespects the collective, distrusts the collective,
22 and disrespects the assignments. We must build a habit of
23 respecting the collective and a stance of abiding by the
24 assignments." End quote.

25 [14.59.38]

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1 So, Mr. President, Your Honours, it's clear that the requirement
2 of collective meetings and decisions was not a mere formality or
3 something that was done just for appearances.

4 The November 1976 issue of the "Revolutionary Flag" warned that -
5 I quote: "When only one or two persons lead or only one committee
6 leads, every aspect of every matter is not seen." End quote.

7 The CPK circular entitled "What Is the Angkar's Ideology and the
8 Party's Discipline?" contained the following explanation of the
9 meaning of democratic centralism - quote:

10 "During the assembly meeting, every Party member has the right
11 and freedom to express opinion, discuss, criticize, challenge,
12 and give input to the political line, policy, slogan, objective,
13 and the entire plan of the Party leadership, or you have the
14 power to ask to review anything, if he/she does not agree with
15 the collective decision." End quote.

16 [15.01.00]

17 Your Honours, the evidence before you proves beyond a reasonable
18 doubt that both Nuon Chea and Khieu Samphan participated as
19 member of the Party Centre in collective decisions on CPK policy
20 and plans. The evidence includes numerous statements by Khieu
21 Samphan and Nuon Chea themselves, expressing their admiration,
22 support, and agreement with Pol Pot and the Party decisions.

23 In his book, "Cambodia's Recent History and the Reasons behind
24 the Decisions I Made", Khieu Samphan praises Pol Pot, his -
25 praises his analysis of problems, stating that "his suggested

1 solutions usually proved to be correct" and that "Pol Pot
2 represented the historical leader who was never wrong when it
3 came to making important decisions".

4 And in the excerpts I would now like to play, from the film
5 "Facing Genocide", Khieu Samphan further describes his
6 relationship and support of Pol Pot.

7 [15.02.40]

8 (Presentation of audio-visual document, interpreted from French)

9 "[Khieu Samphan:] I followed him all the time like my shadow.

10 "[Question:] What did he say at these meetings?

11 "[Answer, Khieu Samphan:] He talked about the present political
12 situation and patriotic awareness, in combination with awareness
13 of class and the Party, sacrifice, heroism. He expected of all
14 the cadres that they should live and think like peasants. And I
15 tried very hard, but I couldn't. Then there was the problem of
16 the Marxist contradiction: 'Everything is static, yet everything
17 changes; the Party is everything.

18 "[Question:] Do people think like that now?

19 "[Answer, Khieu Samphan:] In general, you are not meant to react
20 when something happens. You shouldn't feel any joy or any regret.
21 Try to analyze the event coldly. Find what is negative and what
22 is positive for the Movement and try to take action. I can see
23 him, in the Cardamom Mountains, here and there. I have always his
24 image in my head.

25 "[Question:] Do you miss Pol Pot?

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1 "[Answer, Khieu Samphan:] Because he had such an exceptional
2 mind. For us... That's it.

3 (End of presentation)

4 [15.05.29]

5 Mr. President, the next statement from Khieu Samphan demonstrates
6 his absolute support for the leadership of Pol Pot.

7 (Presentation of audio-visual document, interpreted from French)

8 "[Khieu Samphan:] They present Cambodia, Pol Pot, demonize Pol
9 Pot, so that people can forget that. They accuse Pol Pot of being
10 a dictator and use the word 'genocide'. It's wrong. A great
11 leader of such a movement could not act like that. If he did, he
12 wouldn't have been able to have created this movement. And I'm
13 going to shout that out at the trial."

14 (End of presentation)

15 [15.06.43]

16 Mr. President, so far, we haven't seen any shouting from Khieu
17 Samphan in this trial. It remains to be seen whether Khieu
18 Samphan will ever stand up in this courtroom and reveal his true
19 self: the man who supported, agreed with, and stood by the side
20 of Pol Pot for nearly 28 years.

21 While the real Khieu Samphan remains hidden, we at least see
22 glimpses, at times, of the real Nuon Chea: the uncompromising
23 revolutionary, willing to sacrifice anything or anyone in the
24 name of Angkar.

25 In his interviews with Thet Sambath, Nuon Chea spoke relatively

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1 openly about his relationship with Pol Pot.

2 In the clip you're about to see, you'll see Nuon Chea discussing
3 how Pol Pot became Party Secretary but they decided to work as a
4 team and always discussed issues of importance.

5 [15.08.00]

6 (Presentation of audio-visual document, interpreted from Khmer)

7 "[Nuon Chea:] Let me tell you the truth about when Pol Pot became
8 Party Secretary - was that, actually, I was supposed to become
9 Party Secretary after Ta Tou. Ta Tou was the former secretary,
10 and I was his deputy at the time. Since I noticed that Pol Pot
11 was an independent person with analytical mind and at the time we
12 needed some intellectuals to join the revolution, so I thought
13 that I was not. But other people thought I was one of the
14 intellectuals, but I was not. I was a low - I was intellectual in
15 a lower level. So I told Pol Pot that at such situation, I became
16 Party Secretary, I would not be appropriate and would not benefit
17 the Party. I requested comrade to take the duty, requested Pol
18 Pot to become Party Secretary. He considered for a while, and he
19 accepted, but we needed to coordinate the work. That was the
20 case. So he became Party Secretary since that time. That was one
21 thing. And one more thing I forgot..."

22 (End of presentation)

23 [15.09.36]

24 Mr. President, the next clip describes the very close working
25 relationship he had with Pol Pot. In relation to Nuon Chea's

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1 remarks that he wasn't intellectual enough to be the Party
2 Secretary, we'll make some comments on that further in our
3 submissions.

4 (Presentation of audio-visual document, interpreted from Khmer)

5 "[Question:] Uncle, since 1960s, when Pot Pot wanted to do
6 something, he always discussed with you. So did he keep his
7 promise with you?

8 "[Answer, Nuon Chea:] Well, he did for some issues. Sometimes it
9 was not meetings; it was just like a consultation in order to
10 exchange ideas, rather than formal meetings. It was not a picture
11 of meeting. But if there was a meeting, it should have a
12 comfortable seat, but it seemed just a normal meeting because he
13 said, 'Comrade, come on, I have a problem and I would like to
14 discuss with you.' So it was called 'consultation', which aims to
15 compare opinions outside a meeting. To do that consultation, it
16 can settle the problem more quickly. If there were problems, we
17 could connect to each other even more - as quickly as possible.
18 As I said, no need to have a proper meeting; just come, and meet,
19 and share, and exchange ideas."

20 (End of presentation)

21 [15.11.29]

22 Your Honours, the next clip, Nuon Chea was asked whether there
23 were any areas of disagreement between him and Pol Pot.

24 (Presentation of audio-visual document, interpreted from Khmer)

25 "[Question:] Did you and Pol Pot ever have any harsh discussion

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1 when you were in power during 1975 through 1979?

2 "[Answer, Nuon Chea:] There was none. There was none, between
3 1975 and 1979. There was no serious problem."

4 (End of presentation)

5 [15.12.22]

6 Mr. President, also in an interview Nuon Chea gave in October
7 2006, he again made it clear that Party decisions were made
8 collectively, according the principals of democratic centralism -
9 and I quote:

10 Question: "So did Pol Pot have sufficient capability to control
11 the entire movement?"

12 Nuon Chea: "On that, it was not him by himself. Everyone worked
13 together. He made his contribution, we made ours."

14 Question: "During the Democratic Kampuchea era, did Pol Pot have
15 a monopoly over power or..."

16 Answer: "No. The collective, democracy concentration [Democracy
17 Centralism]." End quote.

18 Your Honours, the next subject I would like to discuss is at the
19 heart of the Accused's criminal responsibility, and in this case,
20 it's the authority and reporting structure of the CPK and the
21 Democratic Kampuchea regime.

22 [15.13.34]

23 The evidence before this Chamber proves beyond a reasonable doubt
24 that in the years preceding the 17th of April 1975 and throughout
25 the entire DK period, the Party Centre leaders received regular

1 and detailed reports from the zones, military, and other
2 organizational units. While the Khmer Rouge destroyed many of
3 these records before fleeing into the mountains in January 1979,
4 a significant collection of reports and telegrams survived, from
5 which a clear picture emerges of:

6 1) The nature of the information that the Party leadership
7 received from the base;

8 2) The control and authority of the Party Centre over all
9 regional and military organizations; and

10 3) The criminal plans and policies of the Party Centre that were
11 systematically implemented by those organizations.

12 Simply put, any claim by the Accused that they were unaware of
13 the arrests, the killings, the food shortages, the problems of
14 disease and starvation throughout Cambodia, or that zones acted
15 autonomously and without direction from the Party Centre is shown
16 by the surviving records to be a gross distortion of the truth.

17 [15.15.10]

18 During this trial, the Court has heard extensive testimony from
19 CPK cadres who were responsible for the reporting and
20 communication of information, the transmission and decoding of
21 telegrams, and the delivery of those telegrams and other reports
22 and messages to and from the Party leaders, both before and after
23 the 17 April 1975. The evidence has proven that an organized
24 system of reporting began in the early 1970s, when the Party
25 leaders were based at the S-71 headquarters, on the Chinit River.

1 Witness Norng Sophang began working at the Telegram Unit at the
2 CPK headquarters in 1973. He testified that "each base, zone, and
3 sector and every unit of a division" was required to have a
4 "communications section and telegrams". He described both the
5 incoming telegrams that came from the base and the "frontlines",
6 which included reports on the situation in the battlefields and
7 the outgoing telegrams, which were "directives from the upper
8 authority for the lower authority to implement", including
9 "measures, instructions, circulars for implementation at the
10 base".

11 [15.16.45]

12 Norng Sophang specifically testified, in this period prior to
13 April 1975 the telegram communications included "instructions [...]
14 to attack particular targets" and requests from the base for
15 "ammunition and weaponry so that the attacks could be done
16 effectively".

17 Kim Vun, who also worked at the Party's Chinit River headquarters
18 in the pre-75 period, confirmed that the Party leaders received
19 telegrams reporting on the "practical situation in each
20 respective battlefield" including the "battlefields surrounding
21 Phnom Penh".

22 Your Honours, with regard to the frequency of telegrams -
23 telegram communications in the pre-17th of April period, Norng
24 Sophang testified that he sometimes had to "work the whole day
25 and night in order to send those telegrams out", and further

1 explained - I quote:

2 "As far as the telegrams were concerned, the frequency of
3 telegram communication depended on the actual situation of the
4 respective zones. For example, if there were contentious battles,
5 then the telegrams were sent 24 hours around the clock. But for
6 zones that were already liberated, then the telegram
7 communication was less frequent. For example, the East Zone had
8 to communicate very often; it had to operate 24 hours a day." End
9 quote.

10 [15.18.32]

11 The testimony of these witnesses that a reporting structure was
12 already in place in the early 1970s is confirmed by the
13 September-October 1972 issue of the "Revolutionary Flag", in
14 which the Party provided instructions to improve the quality of
15 reporting from the base to the upper level. The publication
16 specified that a mandatory "work principle" was to "report on a
17 clear and regular basis" and that reports from the base should
18 not be limited to "military activities".

19 It listed four subjects that were to be included in the reports:

- 20 1) The enemy;
21 2) People;
22 3) All working activities; and
23 4) Resolutions and directions.

24 This appears to have been the origin of the standard reporting
25 format that we consistently see in the reports from the DK

1 period, which begin with a section on the enemy situation,
2 following (sic) by a section on the livelihood of the people and
3 the status of work activities such as rice production and the
4 building of dams and canals.

5 [15.20.01]

6 Your Honours, the 1972 issue of the "Revolutionary Flag"
7 concluded as follows – and I quote:

8 "Reports have two forms: simple and special. In order for us and
9 the senior levels to take hold of a situation clearly and to
10 provide practical instructions, we must report in clear terms and
11 cite short and concrete examples. [...] A report must be
12 systematic. Disorderly information must be avoided. Clear and
13 regular reports to the upper levels help them grasp and master
14 the situations, resulting in direct and timely advice. We must
15 practice indoctrination within and outside the Party; communicate
16 this line of reporting that is our work procedure. Without
17 reports, we cannot lead and work." End quote.

18 Your Honours have heard testimony from Phy Phuon and other
19 messengers who delivered messages and letters from the Party
20 leaders based at the Chinit River headquarters to the zones in
21 the pre-1975 period.

22 [15.21.27]

23 Phy Phuon accompanied Pol Pot and Nuon Chea on trips to the
24 zones, where they would meet with the zone committees, conduct
25 study sessions, and give "detailed instructions regarding the

1 specific situation in a particular zone or sector or district and
2 what measures needed to be done".

3 The CPK leaders also used written circulars during this time to
4 communicate Party lines and policies. The September 1972 issue of
5 "Revolutionary Flag" instructed zone, sector, and district
6 committees how to implement circulars in their regions so as to
7 ensure "countrywide unity of the Party line".

8 Your Honours, this evidence proves that a centralized reporting,
9 communication, and organizational structure was already in place
10 well before April 1975. It proves that the Party Centre leaders
11 were receiving reports 24 hours a day on the situation in the
12 battlefields, as CPK troops fought towards and entered Phnom
13 Penh. And, most importantly, it proves that the Party Centre had
14 effective control of the zone military divisions and authority to
15 implement Party lines and policy decisions in all zone
16 organizational units.

17 [15.23.16]

18 The same basic reporting and authority structures continued after
19 the CPK leaders took power on the 17th of April 1975. The Party's
20 Statute required all branches, districts, sectors, committees to
21 maintain a "system of reporting to the upper echelon" on their
22 situation and work and required zone committees to report "to the
23 Central Committee on the situation and the work of the zone".
24 The 30th of March 1976 decision of the Central Committee refers
25 to a "regime of weekly reporting to Office 870".

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1 In regards to the reporting structure or system that was in place
2 during the DK period, the Trial Chamber heard detailed testimony
3 from Norng Sophang regarding the K-18 telegram office in Phnom
4 Penh, testimony from Suon Kanil regarding the Central Zone
5 telegram office, and testimony from Phan Van alias Kham Phan
6 regarding the receipt and transmission of telegrams by the Sector
7 105 office in Mondulkiri. Each of these witnesses authenticated
8 telegrams and reports that have been admitted by this Chamber, as
9 did other zone and sector cadres who were able to confirm the
10 accuracy of information discussed in the telegrams and reports
11 sent to the Party Centre.

12 [15.25.03]

13 The Chamber has also heard from several witnesses who authored
14 these telegrams and reports, including Sector 105 Secretary Sao
15 Sarun and Division 801 Deputy Secretary Ung Ren.

16 Norng Sophang and other cadres who worked at the K offices in
17 Phnom Penh also testified to the procedures by which telegrams
18 and reports were distributed to the Party leaders. In general,
19 copies of telegrams were prepared for all members of the Standing
20 Committee and for Office 870.

21 Oeun Tan, who worked as a chief of security at K-1, testified in
22 this trial that at least two or three times each day he received
23 and delivered an envelope of documents to Pol Pot, who would
24 forward the documents to Nuon Chea after he had read them.

25 Your Honours have also seen that many of the telegrams from the

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1 DK period have a "c.c.", or distribution list, in which Uncle
2 Nuon is regularly included as one of the recipients. Here is one
3 example of the standard distribution list that we can see in many
4 of the DK telegrams.

5 (Presentation of document)

6 As you see in this distribution list, one of the copies of the
7 telegram was provided to Office, Brother Nuon, Brother Khieu,
8 Brother Van, Son Sen, and Ieng Sary. Norng Sophang testified that
9 the copy marked for "Office" was received by Brother Doeun and
10 maintained at Office 870, while the copy marked for "Archive" or
11 "Documentation" was kept at the K-18 telegram office.

12 [15.27.10]

13 Your Honours, the evidence before you proves that Khieu Samphan
14 either received or had access to the copies of telegrams and
15 reports that were maintained by Office 870.

16 Khieu Samphan admitted in his interview with the Co-Investigating
17 Judges that he and Doeun were the only two members of the Office
18 870 Committee, also known as Political Office 870, and that Doeun
19 was arrested and disappeared in 1977.

20 In a 2005 interview, Khieu Samphan admitted that one of Doeun's
21 functions at Office 870 was to "receive zone reports that were
22 sent to 870".

23 The only reasonable conclusion from these facts is that Khieu
24 Samphan had access to the telegrams and reports sent to Office
25 870 during the period he and Doeun were the only two members of

1 Office 870 Committee and that it was Khieu Samphan who took over
2 for the responsibility for the receipt and maintenance of such
3 documents at 870 after Doeun's arrest in February 1977.

4 [15.28.43]

5 Your Honours, this conclusion is supported by the testimony of
6 Duch, who stated that "all documents were in the hands of Khieu
7 Samphan". It's also confirmed by an important – by an important
8 piece of evidence: testimony that was provided by Phy Phunon
9 during this trial. Like Duch, Saloth Ban, David Chandler, and
10 Philip Short, Phy Phunon testified that it was Khieu Samphan who
11 replaced Doeun as the Chairman of Office 870.

12 Phy Phunon's testimony was based on his day-to-day work
13 experiences as the head of administration at the Ministry of
14 Foreign Affairs. From time to time Phy Phunon's boss, Ieng Sary,
15 needed to send letters or other communications to the provinces.
16 Communications from Phnom Penh to the zones, as well as
17 communications from zones to the leaders in Phnom Penh, all went
18 through Office 870. After the arrest and disappearance of Doeun,
19 Phy Phunon was instructed by Ieng Sary that Doeun had been
20 replaced by Khieu Samphan and that Phy Phunon was henceforth to
21 contact Khieu Samphan when the Ministry of Foreign Affairs had
22 letters to send to the zones. Phy Phunon testified that he
23 delivered such letters to Khieu Samphan at K-1 or K-3 and that
24 Khieu Samphan told him he would arrange for the delivery or
25 transmission of the letters to the zones.

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1 [15.30.38]

2 Your Honours, this evidence proves two critical issues in this
3 trial: first, that Khieu Samphan succeeded Doeun as the Chair of
4 the Office 870 Committee; and, second, that Khieu Samphan's
5 responsibilities at Office 870 included the receipt and delivery
6 of communications between Phnom Penh and the zones.

7 In addition to his role at Office 870, where copies of telegrams
8 and reports were sent and maintained, Khieu Samphan was one of
9 the Party Centre leaders, along with Nuon Chea and Pol Pot, who
10 regularly participated in Standing Committee meetings where
11 reports from the zones would be discussed and meetings between
12 the Party Centre and leaders from those zones and sectors where
13 oral reports were made on the same matters.

14 The guards from K-1 and K-3 who have testified in this trial have
15 consistently identified Khieu Samphan and Nuon Chea as two of the
16 Party leaders who regularly participated in meetings with zone
17 and sector leaders when they came to Phnom Penh.

18 [15.32.08]

19 That testimony, Your Honours, is corroborated by the minutes of
20 the 8th of March 1976 Standing Committee meeting on base work, a
21 document that records Khieu Samphan and Nuon Chea's presence at a
22 meeting at which the secretaries of Siem Reap – Sector 106 – and
23 Preah Vihear – Sector 103 – and the Deputy Secretary of the North
24 Zone reported to the Party Centre leaders on the situation in the
25 regions, including the arrest of enemies, rice production, the

1 construction of paddy dykes, and the health and livelihood of the
2 people.

3 Your Honours, the evidence that is before you proves beyond a
4 reasonable doubt that both of the Accused received reports and
5 participated in meetings at which they were informed of the
6 situation in the zones and autonomous sectors that formed
7 Democratic Kampuchea.

8 If I can now turn to the content of those reports, in paragraph
9 203 of the written closing submission of Nuon Chea, he does not
10 dispute that he received reports from the secretaries of the
11 zones and autonomous sectors, but claims that the information
12 contained in those reports was limited or incomplete because the
13 information had passed through multiple levels on its way to the
14 Party Centre.

15 [15.33.49]

16 This is an argument that can be assessed and dismissed rather
17 easily, simply by looking at the telegrams and reports that were
18 actually sent to Nuon Chea and the Party Centre.

19 Let us start with a telegram that was sent by East Zone Secretary
20 So Phim, using his alias Chhon, to Pol Pot on 21 March 1976.

21 (Presentation of documents)

22 The distribution list at the bottom of the telegram indicates
23 that copies were provided to Brother Nuon and to the Office. In
24 the first paragraph of the telegram, the Party Centre leaders
25 were informed that an East Zone unit had captured five Vietnamese

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1 who were hiding in the forest. Two of them were shot dead and the
2 other three were being detained at security. The second paragraph
3 of the telegram discusses the interrogation of an individual who
4 had allegedly thrown a grenade and sought to oppose the
5 construction of a rice paddy dyke. The telegram reports - I
6 quote: "We beat him up during interrogation about his
7 organizational links and got on to more than 20 more of them in
8 the grass roots of Preah Sdach district." End quote.

9 [15.35.20]

10 Your Honours, this is a rather short telegram, and yet it reports
11 executions, detentions, and the use of torture in an
12 interrogation of a detainee in order to discover his
13 organizational links. It is completely at odds with Nuon Chea's
14 claim that the North Zone leaders concealed from the Party Centre
15 what was going on in their regions. And as we will see, this
16 telegram was not an isolated exception. Rather, it is
17 representative of the types of reports that were sent to the
18 leaders in Phnom Penh on a daily basis throughout the DK regime.
19 If we can look at another region, the Mondulkiri province, or
20 Sector 105, another autonomous sector that reported directly to
21 the Party leaders in Phnom Penh.

22 This is a telegram from Chhan to Office 870. It was sent on 20
23 May 1977 by Sector 105 Secretary Laing, under his alias, Chhan.
24 We heard testimony in this trial from Laing's son, Kham Phan, who
25 worked at his father's office for a period of time, sending and

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1 receiving telegrams. As you may recall, Kham Phan testified that
2 his father reported to and received instructions from Nuon Chea
3 on matters relating to security.

4 [15.36.56]

5 In this telegram, Sector Secretary Laing reports, in paragraph 2,
6 on the arrests of two "Yuon". In paragraph 3, he reports on a
7 suspected internal enemy, noting that "activities continue one
8 after the other, but we are making arrest and (sic) arrest, too".
9 Your Honours may recall that Sector 105 Secretary Laing died in
10 the Fall of 1977, allegedly shot by his deputy during a trip to
11 Phnom Penh. He was replaced as sector secretary by Sao Sarun, a
12 witness who appeared and testified in this trial and who
13 identified a number of telegrams that he sent to Office 870.

14 This is a telegram that was sent by Sector Secretary Sarun on the
15 9th of April 1978. It describes in full detail an incident in
16 which two boats were lost due to a gasoline fire. Despite this
17 being an apparent accident, two of the crew members from the boat
18 were arrested, along with a third man identified as the
19 "contemptible Lean", who had been implicated in interrogations of
20 the crew members.

21 [15.38.25]

22 The evidence before Your Honours includes a statement from the
23 Brother of Sector 105, cadre Kang Lean, who describes how Lean
24 disappeared after a boat fire on these boats, and a prisoner list
25 from S-21, recording that Sector 105 commerce assistant, Kang

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1 Lean, was imprisoned at S-21 as of June 1978.

2 The next telegram, Your Honours, is another telegram – was sent
3 by Sector 105 Sector Secretary on the 23rd of April 1978. The
4 distribution list for this telegram includes Uncle Nuon and
5 Office, and this copy of the telegram also contains a written
6 annotation, "Uncle Nuon", in the upper left-hand corner. Norng
7 Sophang testified that this is how the head of the K-18 marked
8 telegrams that were of particular importance to a specific
9 leader. In the third paragraph of this telegram, Sector Secretary
10 Sarun seeks instructions from the Party Centre regarding a sector
11 cadre who had an affair with a woman, indicating that both the
12 man and the woman had been arrested. Sarun also reports that the
13 cadre had been "previously implicated in the confession of the
14 traitor A Chuon", at which time "the sector monitored his
15 activities".

16 [15.40.04]

17 Your Honours, Chuon was the former head of the Commerce Office in
18 Sector 105. He was arrested and sent to S-21. And, as reflected
19 in the telegram and admitted by Sao Sarun, the names of Sector
20 105 cadres implicated in his S-21 confession were communicated to
21 the sector for them to follow-up. This telegram concludes with a
22 request for Angkar's opinion on the penalty and where the
23 arrested cadre should be sent.

24 Your Honours, as with other documents we've just seen, this
25 telegram completely refutes the assertion of the Nuon Chea

1 defence that zone and sector secretaries did not fully inform the
2 Party Centre of events in their regions. The last two telegrams
3 we looked at reported to the Party leaders in Phnom Penh in
4 detail about a fire on a boat and an extra-marital affair. This
5 is the level of scrutiny that was exercised by the Party Centre
6 over the people of Democratic Kampuchea. Everything was closely
7 watched and monitored by Angkar. The slightest of mistakes -
8 knocking over of a kerosene lamp on a boat - was viewed as an act
9 of treason and reported to the top leaders in Phnom Penh. This,
10 Your Honours, was the harsh reality of the society that was -
11 that was created and presided over by Nuon Chea, Khieu Samphan,
12 and the other leaders of the CPK.

13 [15.41.50]

14 Reports from other zones contain the same level of detail and the
15 same disclosure of arrests, interrogations, killings, and
16 witch-hunts for networks of enemies, spies, and traitors.

17 If we look at a telegram from the Northeast Zone dated the 15th
18 of June 1977, the distribution list includes Uncle Nuon and
19 Office. It describes the arrest and questioning by Division 801
20 of 209 Vietnamese soldiers of Jarai ethnicity, one of the
21 minority groups that lives in the mountains between Cambodia and
22 Vietnam.

23 The second part of the telegram reports the confessions of
24 "contemptible persons burrowing within rubber and cotton
25 plantations" accused of being parts of networks of various

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1 traitors. The telegram concludes by requesting a "decision of the
2 highest level".

3 Chaom Se, the chief of the Division 801 Security Office,
4 testified in this trial that this large group of Jarai detainees
5 was later brought to his prison and executed en masse, pursuant
6 to orders conveyed through the Northeast Zone Office.

7 [15.43.18]

8 Your Honours have seen many of the telegrams, reports from the
9 North Zone Secretary, Kang Chap alias Sae over the course of this
10 trial, and they contain similar detailed reports to the Party
11 describing events in that zone. I'll be discussing a few of those
12 telegrams in more detail later, but for the time being, I will
13 simply note that - the 10th of April 1978 telegram from Zone
14 Secretary Sae to Committee 870, copied to Uncle Nuon and Office,
15 as another example of the subject matters that were routinely
16 reported to the Party Centre leaders.

17 This telegram discusses in detail the external and internal enemy
18 situation in the North Zone, as well as the livelihood of the
19 people. In Section 3 of the telegram, the zone secretary
20 describes the ongoing purge of Sector 103, Preah Vihear province,
21 including "those who oppose our revolution openly and secretly".
22 He then describes the arrest of one of those cadres, reporting as
23 follows - and I quote:

24 "We would like to specify and report about female comrade
25 [TCW-547], who is the wife of comrade. This female comrade was

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1 implicated by many enemies, so I decided to remove this female
2 comrade and brought her to stay at the Zone Office 801 so that
3 she will not be able to continue her traitorous activities
4 anymore." End quote.

5 [15.45.10]

6 Your Honours, after the Party Centre was notified of her arrest,
7 the female cadre described in this telegram, TCW-547, was
8 transferred to Phnom Penh and held at the temporary detention
9 offices on the riverside. Fortunately for her, the Khmer Rouge
10 were chased out of Phnom Penh the following week, before she
11 could be transferred to S-21. Her interview with investigators
12 from the Co-Investigating Judges' Office is part of the record
13 and has been admitted by this Chamber.

14 Your Honours, the documents we've been looking at so far
15 represent shorter - shorter reports that were sent by telegram.
16 We know from the testimony of the cadres who worked at the
17 telegram offices in Phnom Penh and the zones that each region
18 would generally send one telegram per day to the Party Centre.
19 The frequency of the telegram communications can also be seen -
20 can be confirmed by looking at a series of telegrams sent from a
21 particular region, which telegrams are numbered sequentially.
22 In addition to the daily telegrams, the zones also sent weekly
23 and monthly reports to the Party Centre, which described in even
24 more detail the situation in their regions.

25 [15.46.38]

1 E3/1094 is the monthly report from the West Zone for July 1978.
2 The original Khmer report is 14 pages long, and the English
3 translation is 16 pages. The first half of the report is
4 dedicated solely to reports on the "enemy situation" and
5 purported "enemy activities" in the West Zone, describing in
6 detail, sector by sector by sector, district by district, and
7 even by individual cooperatives, individuals who had been
8 arrested, interrogated or executed in those regions, as well as
9 persons suspected of being enemies.

10 E3/179 is a report from the Northwest Zone for the period of the
11 4th to the 29th of May 1977, and E3/1179 is a Northwest Zone
12 report for the period 24th of May to the 7th of June 1977. Like
13 the report from the West Zone, they contain detailed information
14 on enemies, rice production, available food supplies, and the
15 health of the people for the various sectors in the Northwest
16 Zone.

17 [15.48.07]

18 Because these reports are lengthy, I won't go through them in
19 detail, but they are important documents to examine when you
20 consider the claim of the Nuon Chea defence that the information
21 reported to the Party Centre by the zones was limited in nature.
22 I do wish to direct Your Honour's attention to Section II of the
23 29th of May 1977 report from the Northwest Zone which discusses
24 the "People Situation" in the Zone.

25 Contrary to what we have heard from the Accused throughout this

1 trial, the Northwest Zone made very clear in its reports the food
2 shortages and health problems of the people who were living
3 there. In this document, the Northwest Zone reports as follows –
4 and I quote: "People's living standard is a shortage in many
5 regions. Now, people in Regions 1, 2, 4, 6, and 7 are the most
6 needy. Most people at support bases eat thin rice soup." End
7 quote.

8 In the next paragraph, the zone reported that shelters for people
9 had finally been built so that "there have now been no people
10 without lodging and sleeping on the ground as there were in 1975
11 and 1976".

12 [15.49.42]

13 Your Honours, this is hardly the picture of a zone that concealed
14 food shortages or livelihood problems from the Party Centre. When
15 Nuon Chea and Khieu Samphan claim that they did not know that the
16 hundreds of thousands of people they sent to the Northwest Zone
17 lacked sufficient food, shelter, and medicine, they are clearly
18 lying.

19 Your Honours, the entire purpose of the detailed reporting to the
20 Party Centre leaders was so that they could provide advice and
21 instructions to the zones, military, and other organizations.
22 As stated in the September 1972 issue of the "Revolutionary
23 Flag", "clear and regular reports to the upper levels helped them
24 grasp and master the situations, resulting in direct and timely
25 advice".

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1 This fundamental directive to the base was reiterated at the end
2 of the Standing Committee – the Standing Committee's 8th of March
3 1976 meeting with the leaders of the North Zone and Sectors 103
4 and 106 – and I quote:

5 "Send general reports. Send reports through various spearheads.
6 Propose short reports by telegram, all this so the Standing
7 Committee knows the situation in order to provide timely
8 instructions." End quote.

9 [15.51.26]

10 Your Honours, we've seen that many of the telegrams sent to the
11 leaders in Phnom Penh ask for instructions or advice, and the
12 witnesses have testified before this Chamber, confirming that the
13 Party leaders responded to the telegrams.

14 Sector 105 Secretary Sao Sarun testified that his telegrams were
15 always responded to, usually by Pol Pot or Nuon Chea.

16 Norng Sophang – Norng Sophang described the outgoing telegrams
17 sent by Office 870 as directives from the upper authority to the
18 lower levels that covered all aspects of the country.

19 Your Honours, the basic authority structure of the CPK, including
20 the relationship between the Centre and the zones was defined in
21 the Party Statute which designated the Central Committee as the
22 "highest operational unit throughout the country".

23 If we look at Article 23 of the CPK Statute, it assigned to the
24 Central Committee the responsibility to:

25 "1) To implement the Party political line and Statute throughout

1 the Party; and

2 "2) Instruct all zone and sector city organizations to carry out
3 activities according to the political line."

4 [15.53.04]

5 If we look at Article 27 with respect to the military, it
6 provides that the Revolutionary Army of Kampuchea must be "under
7 the absolute leadership monopoly of the Communist Party of
8 Kampuchea".

9 As members of the Central Committee and as part of the small
10 group of the Party Centre leaders that govern the country on a
11 day-to-day basis, both Nuon Chea and Khieu Samphan had authority
12 over and responsibility for the zone and military cadres who
13 carried out the crimes that are the subject of this trial.

14 The Defence theory that zones acted autonomously is also refuted
15 by the documents that record the decisions and policies of the
16 Party Centre - circulars issued by the Central Committee, the
17 "Revolutionary Flag" publication, and meetings of Standing
18 Committee. These documents show an authority structure in which
19 the Party Centre made decisions and oversaw the implementation of
20 Party lines and policies by the zones, military, and other DK
21 organisations.

22 [15.54.23]

23 A clear example of the authority of the Central Committee is the
24 circular it issued on the 20th of June 1978, revising the Party
25 policy towards enemies. In this document, the Central Committee

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1 identified a number of groups who would no longer be considered
2 enemies. It also made clear that the Party would still
3 "eliminate" persons who refuse to "chang[e] their minds" and
4 continue to be "resolute" in opposing the CPK. This document
5 alone conclusively refutes the Defence assertion that zones acted
6 autonomously when conducting arrests and executions of enemies
7 and proves that this was a matter over which the Party Centre
8 exercised control.

9 The authority and control of the Party Centre can also be seen in
10 the monthly "Revolutionary Flag" publication, which provided
11 instructions and guidance to Party members on the implementation
12 of the Party lines and policies. Some of the issues of
13 "Revolutionary Flag" contain speeches that were given by
14 representatives of the Party Centre at zone congresses, in which
15 it is crystal clear who was the superior and who was the
16 subordinate.

17 [15.55.55]

18 A good example of this is the August 1977 issue of "Revolutionary
19 Flag", which published a speech given by a Party Centre
20 representative on the 25th of July 1977 at the West Zone Cadre
21 Conference. The authority relationship is clear from the very
22 opening remarks of the speech. I quote:

23 "I wish to make a presentation regarding the instructions of the
24 Party on a number of important matters for implementation in the
25 second semester of 1977. These are important issues that must be

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1 implemented from now until late 1977. As I have learned from the
2 reports of the zone these past several days, the comrades in
3 every sector have already studied these Party instructions.
4 However, on the opportunity to learn from the model district
5 (Kampong Tralach Leu), the zone committee joins me in seeing that
6 it is necessary to further disseminate and clarify these
7 instructions. [...] Therefore, the instructions which we clarify at
8 this time are to absolutely achieve 3 tons and 6 tons, to achieve
9 attacking and cleaning out the enemy, and to absolutely build
10 Party leadership." End quote.

11 [15.57.32]

12 This speech included a detailed discussion of the ongoing purge
13 of the West Zone, in which purged cadres were described as
14 "germs" and "rotten flesh" that had to be shed. The Party Centre
15 representative complained about the people in the West Zone and
16 the presence of no good elements and traitors, stating - and I
17 quote:

18 "Take the example of the West Zone, where 50 per cent are not
19 good. It seems like all of them, but in truth only 50 per cent
20 are not good. Among that 50 per cent, they are not all traitors;
21 only 15 to 20 per cent are traitors." End quote.

22 So, in describing the enemies in the zone, the Party Centre
23 representative noted that many cooperatives were controlled by
24 "former regime soldiers" and "Kampong Som businessmen". He
25 directed zone cadres to look for "embedded enemies" by reviewing

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1 the background and class composition of cooperative committees,
2 and he instructed that – and I quote:

3 "It is imperative to prepare forces to attack, attack and smash
4 the enemy and the no-good elements embedded inside and
5 controlling the cooperatives. Use which forces to attack? This
6 problem is not just in the West Zone; every zone throughout the
7 country is like this. Therefore, it cannot be ignored. It is
8 imperative to see that the cooperatives are still controlled by
9 the enemy and other classes."

10 [15.59.21]

11 And he specifically instructed that at least 50 per cent of the
12 cooperatives in the zones were to be "clean in accordance with
13 the class line" by the year end and that 100 per cent were to be
14 clean by 1978.

15 And the issue of the "Revolutionary Flag" concluded with the
16 following notice – and I quote:

17 "Propose that every leadership echelon in the Party concentrate
18 on examining, discussing, and studying this presentation
19 conscientiously in order to take it for implementation in their
20 respective zones."

21 MR. PRESIDENT:

22 Thank you, Prosecutor.

23 Today's proceeding has come to a conclusion, and we will resume
24 it on Monday, the 21st of October 2013, commencing from 9 a.m.

25 [16.00.30]

1 We also would like to inform the parties and the general public
2 that on Monday next week, the floor will be again given to the
3 Prosecution to conclude – to conclude their closing statement.
4 And this information is also applied to the support staff.
5 Security guards, you are instructed to take the two Accused –
6 that is, Khieu Samphan and Nuon Chea – to the detention facility
7 of the ECCC and return them to participate in the proceedings on
8 Monday morning, before 9 a.m. And Nuon Chea shall be taken – Nuon
9 Chea shall be taken to the holding cell downstairs which is
10 equipped with audio-visual equipment for him to follow the
11 proceeding remotely.

12 The Court is now adjourned.

13 (Court adjourns at 1601H)

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