



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

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

ឯកសារដើម
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TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

18 July 2012

Trial Day 79

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

The Accused: NUON Chea
IENG Sary
KHIEU Samphan

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Andrew IANUZZI
Jasper PAUW
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Michael G. KARNAVAS
KONG Sam Onn
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Trial Chamber Greffiers/Legal Officers:

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DUCH Phary

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List of Speakers:

Language used unless specified otherwise in the transcript

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

1

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

2 (Court opens at 0906H)

3 MR. PRESIDENT:

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

5 Greffier, Mr. Duch Phary, please report the parties' status and
6 that of the witness whom the Chamber has called to participate in
7 today's proceedings.

8 [09.07.57]

9 THE GREFFIER:

10 Mr. President, all parties are present except the accused Ieng
11 Sary, who is now in the holding cell below this courtroom. The
12 accused Ieng Sary, through his defence counsels, has submitted
13 his waiver not to be present directly in the courtroom for the
14 whole day today. His waiver has already been received by the
15 greffier.

16 The greffier notes the presence of Ms. Beini Ye, international
17 lawyer for the civil parties who has not yet been recognized by
18 the Chamber.

19 The expert called to testify today is David Chandler. The expert
20 is now present in the waiting room awaiting call by the Chamber.
21 The witness has reaffirmed that to the best of his knowledge, he
22 does not have any blood relationship or relationship by marriage
23 with the Accused or the recognized civil parties. The expert
24 shall take an oath before the Chamber.

25 Thank you, Mr. President.

2

1 [09.09.24]

2 MR. PRESIDENT:

3 Thank you, Mr. Duch Phary.

4 Now, the Trial Chamber has received the request by Ieng Sary,
5 through his defence counsel, to waive his right not to be present
6 in the courtroom but instead follow the proceeding by remote
7 means from the holding cell due to his health reasons that he
8 cannot participate directly in the courtroom.

9 The Chamber has also received the recommendation by the physician
10 who has recommended that Ieng Sary should be granted permission
11 to follow the proceeding from the holding cell through
12 audio-visual means because his health condition is not good
13 enough. Particularly, he gets tired very easily even if he only
14 steps a few steps to this courtroom. So Mr. Ieng Sary has
15 expressly waived his right to follow the proceeding directly in
16 this courtroom, so the Chamber grants permission for him to
17 follow the proceeding from the holding cell downstairs, where the
18 audio-visual equipment is installed for him to communicate
19 directly to the courtroom and his defence counsel.

20 [09.11.16]

21 So Mr. Ieng Sary may follow the proceeding by remote means from a
22 holding cell down below this courtroom for the entire day today.
23 And the audio-visual technicians are instructed to connect the
24 audio-visual means for Mr. Ieng Sary to follow the proceeding for
25 the whole day today.

3

1 Just now, the Chamber received the report from the greffier that
2 the international lawyer representing the civil parties is
3 present in this courtroom, and that lawyer has not yet been
4 recognized in accordance with the Internal Rules of the
5 Extraordinary Chambers in the Courts of Cambodia. So the Chamber
6 will proceed to arrange the formality for the recognition of this
7 lawyer before we proceed to the examination of the expert David
8 Chandler, pursuant--

9 So, Mr. Pich Ang, the National Lead Co-Lawyer for the civil
10 parties to submit his request for recognition of his
11 international counterpart, you may proceed.

12 [09.13.20]

13 MR. PICH ANG:

14 Good morning, Mr. President. Good morning, Your Honours, members
15 of the Bench. Right behind me there is an international lawyer,
16 Ms. Beini Ye, an "Autriche" -- Austrian nationality, and we would
17 like to request that the Court recognize her as the international
18 lawyer because she is representing 95 civil parties together with
19 Ms. Sin Soworn, and we have already prepared every necessary
20 document for her recognition and she was also admitted by the Bar
21 Association of Cambodia and she also -- she also took an oath
22 before the Appellate Courts in Cambodia. So for this reason, we
23 would like to submit to the Chamber that she be recognized to
24 present the interests of civil parties in these proceedings.

25 [09.14.37]

1 MR. PRESIDENT:

2 Thank you.

3 Ms. Beini Ye, you are now recognized as the international lawyer
4 for the civil parties to the proceedings in Case 002. Upon this
5 recognition, you will enjoy the same rights and privileges as
6 your national counterpart.

7 Please be seated.

8 Before we proceed to the examination of the expert witness, the
9 Chamber wishes to advise the parties and members of the public
10 that, according to the schedule, the Chamber invites or calls the
11 international expert, Mr. David Chandler, to testify before the
12 Chamber, but the Trial Chamber regrets the delayed resumption of
13 this trial session which we could not resume in accordance with
14 the schedule of the examination of Mr. David Chandler, which was
15 -- and this delayed resumption which was caused by the
16 Co-Prosecutor's inability, due in part to the illness of one of
17 its prosecutors, to proceed either with the examination of expert
18 David Chandler or with a substitute witness.

19 [09.16.36]

20 All the parties are reminded of the need to be ready, where
21 necessary, to examine witnesses, experts or civil parties out of
22 sequence. This is necessary to enable the Chamber to avoid
23 needless interruptions to the trial schedule.

24 And the Chamber wishes to announce the ruling on two
25 applications. The first application was filed by the

5

1 Co-Prosecutors. The other one was filed by the defence team for
2 Nuon Chea, an overall decision on the requests by the
3 Co-Prosecutors in their Motion E216.

4 [09.17.49]

5 The Chamber is seized of a request by the Co-Prosecutors in their
6 motion E216 to put two documents before the Chamber and to allow
7 the use of these documents during the questioning of witness
8 TCW-694. The Chamber has previously held, in its decisions E142/3
9 and E96/7, that all prior statements of the witness who is heard
10 at trial may be put before the Chamber. The two documents that
11 the Co-Prosecutors seek to put before the Chamber were used by
12 the Co-Investigating Judges during their interviews with the
13 witness. The documents D154.2 and D154.3, therefore, form part of
14 the prior statements of the witness TCW-694 and they may be put
15 before the Chamber on this basis, subject to their conformity
16 with the criteria of Internal Rule 87.3.

17 In that same motion, the Co-Prosecutors further request the
18 Chamber to make an order to the witness or to the OCIJ to
19 disclose missing sections of a document. Further directions will
20 follow on this in due course.

21 [09.19.43]

22 And here is the oral ruling on the request by the defence team
23 for Nuon Chea. The Trial Chamber is seized of a request from the
24 Nuon Chea defence to put 20 documents before the Chamber and to
25 be afforded the opportunity to use these materials during the

1 examination of expert David Chandler pursuant to Rule 87.3 and 4
2 in order to test the credibility of the expert witness.

3 The three documents, attachments A to C, are included in the case
4 file and only attachment A on document lists of other parties.

5 Therefore, attachment A may be used in Court and need not have
6 formed part of a Rule 87.4 request. The remaining attachments, D
7 to T, are not on the case file.

8 The Chamber has previously indicated that any document the
9 parties intend to use in Court and which has not been accorded an
10 E3 classification or which is not mentioned on any list of
11 documents proposed to be put before the Chamber must satisfy the
12 requirements of the Internal Rule 87.4.

13 [09.21.57]

14 The Chamber has also previously stated that in accordance with
15 recognized fair trial principles, the minimum condition for
16 in-Court reference to a document not already before the Chamber
17 or proposed to be put before it is therefore a timely application
18 to place that document on the case file and/or to seek its
19 admission pursuant to this subrule.

20 Most of the documents now sought by the Nuon Chea defence are not
21 available in Khmer or French. The Trial Chamber notes that the
22 list of documents intended to be used during the examination of
23 David Chandler are publications authored by the expert or as an
24 interviewee as early as 1979 and as late as March 2012.

25 Professor Chandler's testimony before the Trial Chamber was

7

1 scheduled on the 25th of May 2012, document E172/24. The Defence
2 request cannot therefore be considered as timely in accordance
3 with the Trial Chamber's decision in E199. Moreover, the Nuon
4 Chea defence does not explain with sufficient detail when and by
5 which means it discovered the documents, therefore preventing any
6 analysis of whether efforts to discover the documents could have
7 been made at an earlier juncture. The Nuon Chea defence has
8 therefore not satisfied the requirements of Rule 87.4 and the
9 Trial Chamber rejects the Nuon Chea defence request with respect
10 to documents B to T. This constitutes the formal ruling on the
11 requests filed by the defence team for Nuon Chea, document
12 E172/27.1 dated the 12th of July 2012.

13 [09.25.06]

14 Court officer is now instructed to bring in the expert and usher
15 him to the stand.

16 (Witness enters courtroom)

17 MR. IANUZZI:

18 Good morning, Your Honours.

19 I think I need to register an objection for the record on the
20 ruling that was just delivered. The documents on that list are of
21 obvious relevance to Professor Chandler. No one has objected--

22 [09.26.05]

23 MR. PRESIDENT:

24 The issue has already ruled upon, and if you have any objection,
25 then you may appeal to the Supreme Court Chamber. The Trial

8

1 Chamber is not vested with power to review its decision, and that
2 is the ruling.

3 MR. IANUZZI:

4 That's exactly what I'm doing. I'm trying to make a record for
5 the appeal. You are indeed vested with the power to revisit your
6 own rulings. Any court--

7 MR. PRESIDENT:

8 You are not allowed, but of course you are permitted to file your
9 appeal with the Supreme Court Chamber, and that is provided by
10 the law.

11 Counsel Michael Karnavas, you may proceed.

12 [09.27.04]

13 MR. KARNAVAS:

14 Good morning, Mr. President. Good morning, Your Honours. And good
15 morning to everyone in and around the courtroom.

16 Perhaps, if the Nuon Chea team were provided with the opportunity
17 to make an offer of proof as to the shortcomings of their
18 application and thereby try to cure--

19 MR. PRESIDENT:

20 This is an issue raised by the defence team for Nuon Chea. It is
21 not your business and you are not supposed to make any motion on
22 this. And it was the ruling by the Chamber, so this is not
23 subject to review by the Trial Chamber.

24 Please be seated.

25 MR. KARNAVAS:

1 (Microphone not activated)

2 [09.28.22]

3 MR. PRESIDENT:

4 Do you have any issue to raise?

5 MR. VERCKEN:

6 Most certainly, yes. I think it's vitally important that here --
7 that we say that a question raised by a defence team may concern
8 the Defence as a whole, and it consequently seems to me to be
9 logical that we should all be entitled to speak.

10 MR. PRESIDENT:

11 The matter has already been ruled upon.

12 [09.29.10]

13 Good morning, Mr. David Chandler.

14 Now, before we proceed to examine the expert, I shall put some
15 preliminary questions concerning your personal biography.

16 QUESTIONING BY THE PRESIDENT:

17 Q. Mr. David Chandler, can you tell the Court your full name?

18 MR. CHANDLER:

19 A. My name is David Porter Chandler.

20 Q. Thank you. How old are you this year?

21 A. Seventy-nine.

22 Q. What is your nationality?

23 A. I have two passports, an Australian and a US -- an American
24 one.

25 Q. Where is your current residence now?

10

1 A. (Microphone not activated)

2 Q. Could you please answer the question again, as your microphone
3 was not switched on? And I would like to remind you that you
4 pause a bit before the mic was activated.

5 A. Okay. I live in Melbourne, Australia.

6 MR. PRESIDENT:

7 Yes, Judge Cartwright, you may proceed.

8 [09.30.49]

9 JUDGE CARTWRIGHT:

10 Thank you, President.

11 Just for your benefit, Professor Chandler, your microphone will
12 be activated remotely, so you don't need to try and activate it.
13 Just wait till you see the red light come on. Thank you.

14 MR. CHANDLER:

15 Okay. Thank you.

16 BY THE PRESIDENT:

17 Thank you, Judge Cartwright.

18 Q. Mr. Witness, what is your present occupation?

19 MR. CHANDLER:

20 A. I'm presently retired, but I was a professor of history at
21 Monash University in Melbourne, Australia.

22 Q. Thank you.

23 Do you have any blood relationship or relationship by marriage
24 with any party in this Case 002?

25 A. No, I do not.

11

1 [09.31.57]

2 Q. Pursuant to Rule 31.2 of the Internal Rules of the
3 Extraordinary Chambers in the Courts of Cambodia, Mr. David
4 Chandler, as an expert, the Chamber requires you to take an oath
5 before you provide your testimony. Do you agree to this?

6 A. Yes, I do.

7 MR. PRESIDENT:

8 I now instruct the international greffier, Mr. Andrew, to prepare
9 the oath for David Chandler.

10 [09.32.45]

11 THE GREFFIER:

12 Professor Chandler, please repeat after me: "I solemnly declare
13 that I will assist the Trial Chamber honestly, confidentially,
14 and to the best of my ability."

15 MR. CHANDLER:

16 I solemnly swear that I will assist the Trial Chamber honestly
17 and--

18 THE GREFFIER:

19 "--confidentially, and to the best of my ability."

20 MR. CHANDLER:

21 --confidentially, and to the best of my ability.

22 MR. PRESIDENT:

23 Thank you.

24 Now that Mr. Witness has already taken an oath, I will put a
25 number of questions to you as a witness -- expert witness,

12

1 rather. First of all, the Chamber would like to express its
2 gratitude for your time being here to provide your testimony as
3 an expert, as a significant contribution to ascertaining the
4 truth.

5 BY THE PRESIDENT:

6 Q. Mr. David Chandler, could you tell the Court about your
7 tertiary education?

8 [09.33.56]

9 MR. CHANDLER:

10 A. Yes, I was educated at Harvard College, later at Yale
11 University and the University of Michigan in the United States.

12 Q. Thank you. How long did you practise your profession at Monash
13 University before you retired?

14 A. From 1972 to 1997. I guess that's 25 years.

15 Q. Thank you. Do you read, write or speak the Khmer language?

16 A. I speak Khmer. My writing is really not very good, so I don't
17 call myself able to write Khmer.

18 [09.35.01]

19 Q. Thank you. Did you study the history of Cambodia, especially
20 the history during the Khmer Rouge period from 17 April 1975 to
21 the 6th of January 1979?

22 A. Yes, I did. As part of my general career interest in Cambodian
23 history from its very beginnings, I studied the Khmer Rouge
24 period pretty much from the time it started in 1975 right up to
25 the present day.

13

1 Q. Thank you. Have you written any books regarding the Democratic
2 Kampuchea regime?

3 A. It's mentioned in my "History of Cambodia", which the 4th
4 edition is just out in 2007 in the chapter. It also figures in my
5 book - 1992 -- "The Tragedy of Cambodian History" -- oh, that's
6 1991, sorry. Then, in 1992, it figures in my biography of Pol
7 Pot, called "Brother Number One". And in 1998, it's exclusively
8 dealt with in my book called "Voices from S-21", a book about the
9 prison in Tuol Sleng.

10 [09.36.37]

11 Q. Thank you. Have you also written any other articles on
12 Cambodia or on the Democratic Kampuchea regime at the university
13 where you taught?

14 A. Yes, I wrote -- I've written several articles. I can't cite
15 them all at once, but through the 1990s, particularly on various
16 aspects of Cambodian history, and since the 1990s, I've also
17 written now and then about Cambodian history in article form.

18 Q. Thank you. Can you tell the Chamber why you are interested in
19 the study of Cambodia, especially the focus on the Democratic
20 Kampuchea regime?

21 A. My interest in Cambodia dates back to 1960, when I was posted
22 here as a young diplomat at the American Embassy, having already
23 taken Khmer language training. And those two years that I was
24 here basically changed my life in the sense that when I resigned
25 from the Foreign Service, I decided to take up an academic career

14

1 and, inside that career, I decided to specialize in Cambodian
2 history.

3 [09.38.00]

4 To start with, I specialized in pre-colonial history,
5 nineteenth-century history, and then, once my thesis was done,
6 and so on, I gradually shifted over into a focus on more modern
7 periods of history, particularly after the Khmer Rouge came to
8 power.

9 Q. Thank you. I also have another -- other questions concerning
10 four books that you have written and published. The first book is
11 entitled "The Tragedy of Cambodian History: Politics, War, and
12 Revolution since 1945"; the document D108/50/1.75. Can you tell
13 us when you began the research for this book, when was it
14 published, and have you published any revision of the original
15 book?

16 A. Thank you. I began work on that book in 1985. It was published
17 in 1991. A revised -- slightly revised paperback edition came out
18 in 1992, but I have not revised the book in any way since then.

19 [09.39.52]

20 Q. Now, the next book is "Pol Pot Plans the Future: Confidential
21 Leadership Documents from Democratic Kampuchea"; document number
22 IS 6.4 (sic). Was this book written in collaboration with Ben
23 Kiernan and Chanthou Boua? Is this book an analysis of documents
24 that you have, all of which were written during the -- the regime
25 of Democratic Kampuchea and, in particular, between 1976 and

1 1977; is this the case?

2 A. Yes, thank you. Yes, I co-edited that book with Ben Kiernan
3 and Chanthou Boua. I did some of the translations myself -- they
4 did the others -- wrote some of the introductions to the parts of
5 the book, and -- but I read all the documents involved that were
6 coming in, that were going to be part of the book. That book was
7 written, I guess, between 1984 and 1987, I think -- quite slowly
8 -- published in 1988.

9 Q. Thank you. The third book, which is very well-known, entitled
10 "Brother Number One: A Political Biography of Pol Pot"; document
11 number E3/17. When did you begin your research for this book? Did
12 you revise this book or update this book in any way?

13 [09.41.46]

14 A. Thank you. Let me think. I guess I started work on that book
15 -- let me think -- about the same -- yes, in the late eighties --
16 1987, I think, writing it parallel with "The Tragedy of Cambodian
17 History". It was published first in 1992, and then, in 1999, I
18 prepared a revised edition which covered events up to Pol Pot's
19 death and also revised and improved some of the writing in the
20 earlier parts of the book. I have not -- well, that's the last
21 edition of that book. Many of the facts in Mr. Philip Short's
22 biography, of course, were not available to me at the time, and
23 I'm a -- I'm an admirer of that later biography.

24 Q. Thank you.

25 In your book entitled "Voices from S-21," document number

16

1 D108/50/1.4.6, which you published, can you tell the Court when
2 you started your research for this book and where you did your
3 research in order to write this book?

4 [09.43.21]

5 A. I started work on that book in 1993 in Melbourne, when I had
6 access to the microfilm copies of the -- many of the confessions
7 from S-21. I worked on it there, in Washington DC in 1994, in
8 Cambodia -- '95, '96 and '97 -- at various points just on short
9 visits, and also back in the United States in 1998, and it was
10 published in 1999. The documentation of that book is almost
11 entirely -- no, put it another way, the Cambodian documents for
12 that book are almost entirely documents that I studied in the
13 DC-Cam or at the S-21 museum. The other materials, secondary
14 materials, I studied from various libraries, but the research was
15 done, as I say, in Australia, Cambodia, and the United States.

16 Q. Thank you. And during your research, does your research for
17 your book "Voices from S-21" -- did you analyze and examine all
18 the archives in addition to more than 4,000 confessions at S-21
19 presently known as Tuol Sleng Prison; is this the case?

20 [09.45.01]

21 A. I -- no, I did not examine all 4,000 of those confessions; I
22 read as many of them as I could and scanned many of the others. I
23 was concentrating -- once I had a certain amount of confessions
24 that I had worked on and translated on the administrative
25 documents from Tuol Sleng, which I studied in detail to try and

17

1 find how the prison worked, who was working there, what kinds of
2 policies were followed in interrogation, what the views were on
3 torture, and so on. So I think the more interesting
4 documentation, from an analytical point of view, was the
5 documents of administration of the prison, but of course the
6 title of the book itself suggests - and, I think, correctly --
7 that what I was most interested in passing on to readers was the
8 -- or were the voices of victims and perpetrators from S-21.

9 Q. Thank you.

10 Did you ever conduct any interview with the survivors or those
11 who maintained the archives at S-21 and those survivors who knew
12 well about the Democratic Kampuchea regime during your research?

13 [09.46.36]

14 A. Okay. Yes, I did. I interviewed Vann Nath. I interviewed a
15 couple of the guards. I interviewed the -- Him Huy, who was --
16 who gave many, many interviews; I've interviewed him. I saw
17 transcripts of interviews with other survivors from the prison,
18 like Bou Meng and -- I forget the other man's name. Yes. I mean,
19 I did -- and I've talked to the photographer, Nhem Ein, when he
20 came out in 1997 or '98, I forget -- '97, I think -- interviewed
21 him several times. So, yes, I did conduct some interviews, but
22 not as many, by any means, as the amount of interviews I
23 conducted for my previous books, which were more historical than
24 analytical.

25 Q. Thank you.

18

1 My other question is: Did you interview any of the three Accused
2 -- Nuon Chea, Khieu Samphan, or Ieng Sary -- when you conducted
3 your research for this book or any other book?

4 A. No, I did not, but I've been -- been very grateful for some of
5 the transcripts of other people's interviews with these -- with
6 these figures, which have been useful to me.

7 Q. Thank you.

8 Previously, you were summoned to give testimony before the Trial
9 Chamber during the trial of Case 001 where Kaing Guek Eav, the
10 Chairman of S-21, was the accused; is this the case? And is it
11 true that "Voices from S-21" was discussed thoroughly?

12 [09.48.42]

13 A. Yes, I did indeed testify in this courtroom in April, I think
14 -- no, August 2009, and that book was discussed in detail.

15 Q. Thank you. Have you ever interviewed Kaing Guek Eav while
16 researching material for any of your books or articles?

17 A. No, I did not.

18 Q. I thank you, Mr. David Chandler.

19 Does any Judge of the Bench would like to -- wish to put
20 questions to this expert?

21 Yes, Judge Cartwright, you may proceed.

22 QUESTIONING BY JUDGE CARTWRIGHT:

23 Thank you, President.

24 [09.49.41]

25 Q. I join the President in thanking you for returning to provide

19

1 expert testimony before this Chamber, and I want to return,
2 briefly, to your academic career. I want to know your primary
3 academic qualifications, the most important ones, please, so that
4 we have them on the record.

5 MR. CHANDLER:

6 A. Okay, I -- if it -- if you mean my academic degrees, I have my
7 bachelor's degree from Harvard College, my MA - master of arts
8 degree from Yale University, and my PhD from the University of
9 Michigan.

10 I've taught at Monash University, as I've mentioned. I've also
11 taught as a visiting professor at Cornell University, University
12 of Michigan, University of Wisconsin, University of Oregon, and
13 the Johns Hopkins School of Strategic Studies in -- in
14 Washington, DC.

15 Q. Thank you. Professor Chandler, before I ask you some specific
16 questions, I would like to set out the parameters under which
17 your expert views will be sought today.

18 [09.51.05]

19 The current trial represents only a portion of the complete case
20 file and indictment in relation to the three Accused, Nuon Chea,
21 Ieng Sary, and Khieu Samphan. Earlier, the Trial Chamber severed
22 the case into smaller trials and, in this trial, we hear -- are
23 hearing evidence in relation to the historical background and, in
24 particular, the formation and development of the Communist Party
25 of Kampuchea before 1975.

20

1 We are -- we are examining the administrative structures of the
2 CPK including an examination of the Central Committee, the
3 Standing Committee, the offices of 870 and their work.

4 The national structures are also a subject for examination; for
5 example, the zones and districts. And, of course, the Statute of
6 the CPK, as it existed during the period 1975 to 1979, will also
7 be the subject of examination.

8 [09.52.22]

9 We are also considering the communication structures and practice
10 within the centre, the zones, districts, and externally, and the
11 part that each Accused might have played in the communication of
12 orders, policies, and the like.

13 We're looking at the propaganda aspect of communications
14 including consideration of written material such as
15 "Revolutionary Flag" magazines.

16 We're examining the military structure and its communication
17 lines and also the policies developed for the early stages of the
18 Democratic Kampuchean regime and the part that each Accused may
19 have played in their development.

20 Finally, in this trial, we're considering the first and second
21 phases of population movements during the regime which are said
22 to have taken place approximately from the beginning of the
23 regime until mid to late 1976, so that's the chronological
24 period, 1975 to mid to late 1976.

25 And, of course, the parties have been asked to focus primarily on

21

1 these matters during this trial.

2 [09.53.58]

3 You will be asked many questions by the parties, during the
4 course of your examination, concerning your books and your
5 scholarly articles. I want to ask questions about just one of
6 those books, today, because I am interested in your examination
7 of documents that survived the regime.

8 So the book "Pol Pot Plans the Future" to which the President has
9 already referred -- and, for the record, it has a number of E3
10 numbers, it's E3/8, E3/213, and E3/735. Now, as you have
11 confirmed, this book was based on eight documents selected,
12 translated, and discussed by you and your co-editors and was
13 published in 1988. In an introduction or preface to that book --
14 and, as I understand, the preface, itself, has not been
15 translated into Khmer or English so I will give, for the record,
16 only the English ERN which is 00103994 to 998 -- you suggested,
17 in this preface, that during the period with which this -- this
18 trial is concerned -- that is, 1975, 1976 -- there was -- and I
19 quote -- "a verbal optimism about the prospects of achieving
20 socialism in Kampuchea, but that after that initial period, the
21 Party became more pessimistic, vindictive, and secretive with a
22 greater emphasis on locating its enemies".

23 [09.56.06]

24 My first question in relation to that statement is: Who did the
25 CPK or the Communist Party of Kampuchea identify as enemies in

22

1 the early -- in these early stages of the regime?

2 MR. CHANDLER:

3 A. In the early stages of the regime, the primary enemies that
4 were mentioned by the regime were people who had had anything to
5 do with the preceding Khmer Republic regime or the Khmer
6 Republican army.

7 As time went on, this animosity spread out from those specific
8 people who had had official positions in the government to people
9 who had lived under its aegis in Phnom Penh and other cities, the
10 so-called New People or April 17th People who were evacuated en
11 masse from those towns in April 1975 and often -- often became
12 targets of CPK -- well, I'd say "interest" to start with, I
13 guess, to people who were seeming to be uncooperative or seemed
14 to have class backgrounds that were antithetical to those
15 favoured by the regime or people whose biographies were, as they
16 say, bad. There was some -- some of that going on.

17 [09.57.39]

18 But Tuol Sleng itself, in the form we know it, did not open until
19 April 1976, and I think, from then on, you find a widening of the
20 net of enemies to begin to include -- as in early stages they did
21 not -- to begin to include members of the CPK, soldiers in the
22 regime's army, and so on. That shift came in mid-'76, but I think
23 it's reflected in the growing -- the documents are set -- set out
24 in chronological order in that book, and you have a growing
25 pessimism in the documents as you go through that year of 1976.

1 Q. Yes, thank you. Just for the record, I've been provided with
2 the Khmer ERN for the preface or introduction to "Pol Pot Plans
3 the Future"; it's 00823693 to 00823704.

4 I'm going to quote another part from that preface or
5 introduction. You said that the eight documents -- and I quote --
6 "spring from an important period in the history of the group that
7 generated them; the leaders of the Communist Party of Kampuchea".
8 [09.59.10]

9 And you went on to say that the period during which these
10 documents were written -- these eight documents were written,
11 March 1976 to May 1977, marked the high point of the CPK's
12 efforts to control and transform Kampuchea. More than 20 years
13 have elapsed since the publication of the book "Pol Pot Plans the
14 Future" and you have continued with your research, so what I want
15 to know is whether you still hold to these same general views as
16 you expressed them in the preface or if there are any amendments
17 you would wish to make.

18 A. I think -- I don't -- I've just been reviewing that book,
19 myself, back -- back in the hotel. I missed that sentence, but I
20 certainly would revise it slightly to say that the high tide of
21 optimism in the Khmer Rouge regime did not extend to the last --
22 the date of the last document, which is the Hu Nim confession of
23 1977, because by the time you get into mid-1977, you have
24 full-blown purges passing through the ranks of the CPK and
25 hundreds and thousands of prisoners passing through the doors of

1 S-21.

2 So I think you have to say that -- I would now have changed that
3 sentence to say "from '75 to mid-'76", with the final document
4 coming from a period of greater uncertainty on the part of the
5 regime and greater violence, greater mistrust, and greater
6 pessimism.

7 [10.01.13]

8 Q. Thank you.

9 Now, may I assume that you have examined many more documents from
10 the archives that arose during the Democratic Kampuchea regime
11 than the eight that you selected for this book?

12 A. Yes, I've examined all of the 15 CPK documents that formed a
13 -- sort of a group of texts that had been assembled both by --
14 first by Kiernan, and then the second, (inaudible) then by me.
15 I've examined all those. The other texts were of, I think, less
16 interest than the ones that were covered in that book, but, yes,
17 I certainly read -- read the other documents that came from those
18 -- those Standing Committee meeting minutes, which is what that
19 group of documents was basically concerned with.

20 [10.02.11]

21 Q. More broadly than the documents you examined for the writing
22 of "Pol Pot Plans the Future", have you examined also minutes of
23 the Standing and Central Committees?

24 A. Yes, insofar as those are available; very, very few sessions
25 of those bodies are available in Cambodia at the moment.

1 Q. This may be asking you to complete an exercise of feat of
2 memory, but are you able to identify any of the authors of the
3 eight documents that you specifically examined for "Pol Pot Plans
4 the Future"?

5 A. I assumed that some of the documents -- none -- none of the
6 documents, except for Hu Nim's confession, of course, is signed
7 by a single author. The documents emanate from meetings where a
8 leading figure is -- gives the -- a speech, which I assigned the
9 chapter, that I - I assigned this to Pol Pot. There's no direct
10 evidence that it was he, but it was either Pol Pot or, I suggest,
11 Nuon Chea; I didn't say it at the time. One of the very top
12 figures was -- only the very top people were authorized to give
13 this kind of a speech, the December '76 speech. Otherwise, I was
14 making guesses as to the authors of the documents.

15 [10.03.46]

16 The Standing Committee documents are not -- are not signed;
17 they're not authored. They're minutes of discussions, of course,
18 so each one of the documents is a little bit -- a little bit
19 different, and the speeches are unsigned, the meetings are
20 unsigned, the confession, of course, is by that person. So
21 authorship is a little ambiguous to discuss.

22 Q. Thank you. The first of the documents that you focused on in
23 "Pol Pot Plans the Future" is the decisions of the Central
24 Committee on a variety of matters dated 30 March 1976 and its
25 number -- ERN is E3/12. That's the -- or sorry, that's the

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1 document number and the English ERN is 00182809 to 814; Khmer,
2 00003136 to 3140; and French, 00224363 to 4367.

3 Now, obviously, you are quite familiar with this particular
4 document. Are you able, from your research, to say whether or
5 not, at the time that the minutes were produced, it was
6 circulated widely among the people of Cambodia or was it more
7 closely held than that?

8 [10.05.42]

9 A. It was certainly not -- not distributed widely. No Cambodian
10 Communist documents in the Khmer Rouge period were distributed
11 widely. I think, partly, they were -- the minutes of the Standing
12 Committee were, I think, limited to -- I forget the exact number
13 of copies; I think it's even listed on the bottom of some of
14 them, but it was certainly all the members of the Standing
15 Committee, and then sometimes extra copies were sent to other
16 people. Something was saved for the archives; the archives, of
17 course, and these documents have disappeared. And they're typed
18 documents that are done with mimeograph; I would say -- they
19 didn't have photocopiers in those days. So I would say probably
20 10 or 15 copies of these minutes were all that were -- all that
21 were prepared at the time. It doesn't say at the bottom how many
22 were prepared, but it was very, very closely held. These
23 documents were very closely held and very closely archived. The
24 archives where they were kept are just not accessible.

25 [10.06.41]

1 Q. And, in answering that question, you mentioned that the
2 archives had been destroyed. Where did you -- how did you -- how
3 are you able to make such an assertion?

4 A. (Microphone not activated) -- said today the archives had been
5 destroyed. I said they're just not accessible, not available;
6 they're not -- they may still exist somewhere, but I can't guess
7 where -- I mean, I can guess where that would be, but that
8 wouldn't be helpful; it would just be a guess, entirely.

9 [10.07.09]

10 I don't think there's any evidence that they're known to have
11 been preserved someplace and be not accessible to us. They've
12 disappeared. Now, they could have been destroyed, they --
13 whatever, but as I said, it would be -- of these minutes, there'd
14 be 10 copies, and the ones that - the ones that survived where
15 those of one of the people at the meeting. So the other 10 -- 9
16 copies have disappeared, the archival copy's disappeared, so we
17 don't -- I didn't want to say "destroyed", although it's a
18 possibility; I have no evidence that it was destroyed.

19 Q. Thank you. Where and how did you first see a copy of this 30th
20 of March record of the decisions of the Central Committee?

21 A. I guess it must have been in '83 or '82. I'm trying to
22 remember when Ben Kiernan was given those -- some of those
23 documents. I'm not sure I have the date right. I know that was
24 before 1990, it must have been like '84, '85, something like
25 that. But it was the possession of these documents, in fact, that

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1 spirited us both to put this book together. We felt this would
2 make an interesting book if these documents could be published. I
3 would guess it was '84, '85, I would say, he first showed me the
4 copy that he had, and that's what got us started.

5 [10.08.41]

6 Q. Do you have any doubts about its authenticity as a document
7 recording, as it says, "Decisions made by the Central Committee"?

8 A. No, I have no doubts as to its authenticity. I don't know
9 where those doubts -- how they could be -- how they could arise
10 or how they could be settled. And one could say that these
11 documents are forged. The evidence, I don't know where that would
12 come from, the documents -- that they're not forged -- I don't
13 know where that has come from.

14 So my guess is that -- my conclusion, rather, is that these are
15 authentic documents that survived more or less by chance. They
16 were discovered in -- by the person who gave them to -- some to
17 Ben and some to me in-house in 1979, according to his testimony.
18 Half of them passed over in '84, and others set in 1990. So
19 there's a pretty good chain of evidence there, from my point of
20 view, I think, for authenticity.

21 [10.09.44]

22 Q. What significance do you place on that particular record of
23 decisions of the Central Committee as a means of understanding
24 CPK ideology or policy at that period?

25 A. I did not refresh my memory exactly on that one. Is there any

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1 way of putting this document on my TV? Because, if there is, I
2 could look at what you want -- what you're saying there. I know
3 we considered this -- leading the book off with this document as
4 an exciting way to start the book. I just -- I need refreshment
5 to say exactly what we said about these decisions that were made
6 in the meeting. So is it possible to put the -- all I need is the
7 introduction to the document, not the document.

8 JUDGE CARTWRIGHT:

9 (Microphone not activated)

10 Oh, sorry. Mr. Abdulhak, you have the document?

11 MR. ABDULHAK:

12 Your Honours, we're in a position to display it, if that's of
13 assistance.

14 JUDGE CARTWRIGHT:

15 Thank you. Thank you.

16 (Short pause)

17 [10.10.59]

18 MR. ABDULHAK:

19 Your Honours, we're just waiting for the AV Unit. The document is
20 prepared.

21 MR. PRESIDENT:

22 AV Unit officials, can you display the document on the screens
23 and assistant to the Office of the Co-Prosecutor may assist with
24 that.

25 MR. CHANDLER:

1 A. I'm prepared to say something about this now. I think -- it
2 comes back to me now. The very first line of this document, the
3 -- under heading one, reads "The right to smash inside and
4 outside the ranks". "Smash", in the Khmer Rouge period, was
5 usually synonymous with the word "to kill", and "inside and
6 outside the ranks" would refer to inside and outside the ranks of
7 the CPK.

8 [10.13.51]

9 So the force of this document is to lay out lines of authority
10 and responsibility in which enemies -- unmentioned in the first
11 sentence there, but obvious to the -- that's what's missing, "the
12 right to smash enemies inside and outside the ranks". That this
13 is the -- in a way a kind of a national authorization, if you
14 like, for zone and sector people to proceed as they see fit along
15 the lines laid down by the Communist Party of Kampuchea, that had
16 to do with the strengthening of socialist democracy, and so
17 forth. As they set up the Standing Committee -- set up the
18 machinery, truly, by which this could be - this could be
19 accomplished.

20 BY JUDGE CARTWRIGHT:

21 Q. Thank you. The same document requires weekly reporting to the
22 870, the Party Centre. It also refers to the plan to produce
23 three tonnes of rice per hectare, plans the appointment of a
24 Standing Committee of about 10 people and an assembly presided
25 over by Nuon Chea. It fixes the date of the birth of the CPK at

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1 1960 instead of 1951; decrees that the Christian cathedral is to
2 be demolished and refers to the planning for State organizations
3 and elections.

4 In your research, have you been able to establish whether these
5 policies were pursued during the period with which we are
6 concerned down to the middle or end of 1976?

7 [10.15.58]

8 MR. CHANDLER:

9 A. Yes, the -- I think this document, now that I've revisited it
10 as it is on the screen and from your summary, Your Honour, is
11 basically one that could be entitled -- given the title of the
12 book, "Pol Pot Plans The Future", except of course it's just not
13 Pol Pot, it's the central governing group of people in the
14 country. It was a collective leadership in the country. So the
15 title may be a bit catchy, but you couldn't sell a book called
16 "The Collective Leadership of Cambodia Plans the Future", but
17 that's what it was.

18 This is the plan that they laid down for the (inaudible) -- major
19 items as 3 tonnes per hectare. Oddly enough, a major item was the
20 destruction of the - of the Catholic cathedral. I mean, it seems
21 to be odd to have it so high in a list of priorities. But the
22 other - the other policies were carried out.

23 [10.16.58]

24 I've gathered from the Closing Order, which I've been reading,
25 that some of these weekly reports are now -- have become

1 available, are coming into the Central Committee. I had never
2 seen any of those in the period of my research. So that the idea
3 that these reports should come in -- they'd have in fact, to an
4 extent, come in and they are referred to here and there in the
5 Closing Order.

6 So this, I think, was the -- if you'd like, a kind of a master
7 plan for the country coming forward. A little of it coming into
8 the open also, this is a period of the -- after the constitution,
9 setting up a National Assembly, and so on, setting up a
10 government that would be visible to an extent to the outside
11 world, which it had not been at all beforehand. So it's a whole
12 -- sort of a -- well, yes, a blueprint for the way the country
13 was to proceed from that point on, from April -- or the end of
14 March 1976.

15 [10.18.01]

16 Q. Thank you.

17 From your research, are you able to tell the Court if any of the
18 three Accused were then members of the Central Committee when
19 this record was completed?

20 A. Again, I have just been reading this again in the last couple
21 of days. I'm certain that Nuon Chea and Ieng Sary were members of
22 the Central Committee. I'm not sure whether Khieu Samphan, at
23 this stage, was in the Central Committee or not. But I'm
24 certainly sure that the first two of the Accused were on the
25 Central Committee at this time.

1 Q. Thank you.

2 The document also states that the government is to be "a pure
3 party organization". Is this how the government operated in
4 practice, namely, with no distinction made between the governing
5 of the country and the political party in power?

6 [10.19.08]

7 A. Yes, I think that there was really to be no genuine
8 distinction. The Secretary of the Central Committee of the
9 Communist Party was also, simultaneously and all the time, the
10 prime minister of the country, so there's no distinction there.
11 There were no balancing elements to the Party rule that were
12 independent of it. It was -- I mean, they have described it
13 truthfully, I think, as a government by and for a ruling party.

14 Q. As well as setting up days for commemorating historical
15 events, the document, "Decisions of the Central Committee", on a
16 variety of questions also provides for the establishment of
17 various organizations such as the Assembly. And is it correct
18 that it notes that the president of the Assembly is to be Nuon
19 Chea, the president of the State Presidium is to be Khieu
20 Samphan, and Ieng Sary is to be deputy prime minister in charge
21 of Foreign Affairs? Is that all correct?

22 (Short pause)

23 A. I am sorry. Yes, those positions were positions assumed by
24 those people at that time and they have never been denied by them
25 either. So these are true statements.

1 Q. Thank you. And from your research, did they take up these
2 positions and conduct the work in connection with them more or
3 less to the end of the regime of the Communist Party of Kampuchea
4 -- I should correct myself there -- more or less, to the end of
5 the rule of Democratic Kampuchea in 1979?

6 A. Yes. I am not all sure what the State Presidium ever
7 accomplished. I'm not aware of documents emanating from that. The
8 assembly met once in the -- during the regime, for three days, to
9 approve the setting up of the Democratic Kampuchean government.
10 Now, Ieng Sary, of course, remained -- of those three named
11 positions there, remained active in the - in the implementation
12 and policy making of Cambodian Foreign Affairs throughout the
13 regime and for a brief period after the -- after its fall in
14 1979. So his position was public, and busy, and well known to the
15 outside world.

16 Khieu Samphan's work in the Presidium is unclear to me to this
17 day, and the work of Nuon Chea with the assembly, as far as I
18 know, without ever reconvening the assembly, was not a major part
19 of his work during the DK regime.

20 [10.22.55]

21 Q. I'd like to move now to the Statute which has the document
22 number E3/130 and, can I assume that you are familiar with the
23 Statute, although you will probably want to refresh your memory
24 to some degree. Can I assume you have, in the past, studied the
25 Statute?

1 A. Yes, indeed.

2 Q. At Articles 27 and 28, the Statute says: "All three categories
3 of the Revolutionary Army of Kampuchea must be under the absolute
4 leadership monopoly of the CPK", and: "The Revolutionary Army of
5 Kampuchea is organized according to democratic centralism. The
6 Party Central Committee designates the implementation of
7 democratic centralism according to the specific situation."
8 That's the end of the quote.

9 My question is: Did the Communist Party of Kampuchea through the
10 Central Committee, in fact, control the activities of the
11 Revolutionary Army of Kampuchea as is set out in the articles I
12 have just referred to?

13 A. Yes. To the best of my knowledge, there obviously would be
14 monitoring activities that went on off the board as it were, but
15 I don't think any major activities of the Revolutionary Army were
16 outside the purview of the Party or were unknown to the Party.

17 [10.24.47]

18 Q. In his initial interview with the Co-Investigating Judges,
19 Nuon Chea said -- and the document reference is E3/54 - quote:
20 "As for myself, after the liberation, I was in the legislative
21 body, so I was not involved with the executive. Besides the
22 Party, there was a Military Committee of the Party whose chairman
23 was Pol Pot, with Son Sen and Ta Mok as deputies, and So Phim and
24 Ke Pok as members. So I was not in the Military Committee. I was
25 deputy secretary of the Party and President of the Assembly.

1 Besides that I was in charge of educating cadres and Party
2 members. So I was not involved in anything relating to these
3 charges. At that time, the Military were the strongest group
4 because they were the ones who defeated Lon Nol. As for the
5 Politicians, they were not strong. They received less esteem."
6 That's the end of the quote from that initial interview.

7 [10.26.07]

8 Based on your research, do you agree that Nuon Chea's position
9 was a lower one or less powerful than the Military Committee
10 members?

11 A. I find that hard to believe.

12 Q. Did his specific responsibilities mean that he had less
13 knowledge of or influence on the whole of the activities of the
14 Communist Party of Kampuchea, including the military, than, say,
15 Pol Pot, the leader of the CPK during that period? Did he have
16 less knowledge or influence than, for example, Pol Pot?

17 A. I think he deferred to Pol Pot as the secretary. He certainly
18 -- Pol Pot had the final word most of the time in these decisions
19 -- collective decisions, but from my work, and also from material
20 I have been reading just very recently, and the things and
21 materials that have come out in the Closing Order, it seems that
22 he was very much on top of and -- and engaged in day-to-day
23 policy matters on all parts of the Cambodian enterprise,
24 including - including military affairs, including even some times
25 foreign affairs, other things. He was the, more or less -- if you

1 want to take a capitalist equivalent, it is a parallel to calling
2 Pol Pot the president and Nuon Chea the CEO of Cambodia.

3 I think this is the kind of responsibilities that he had, but
4 this is just for speculation.

5 I think it's certainly in his interest to diminish the range of
6 his activities that have been recorded in other sources, but I
7 don't think - I think the evidence is overwhelming that he was
8 extremely active in many, many spheres of the regime.

9 [10.28.27]

10 Q. Was it -- from your research, are you able to say whether all
11 major policy passed through the Central or Standing Committees?

12 A. I can't (inaudible) my own research. I should note here that I
13 haven't done any primary research on DK since the late 1990s, but
14 evidence that has come up since then suggests pretty much a
15 positive answer to your question.

16 [10.29.04]

17 Q. Did membership of the Central Committee or the Standing
18 Committee provide an overview of the entire scope of CPK
19 activities?

20 A. I think that's what -- I think that was its raison d'être. I
21 think this was a -- it was a supervisory and a policy -
22 policy-forming body. I think they were hoping to be able to
23 conduct a certain amount of surveillance on the entire country. I
24 think this was an impossible task, given the range of problems,
25 communications, and so on, but this is sort of what they hoped to

1 do and were authorized by themselves to do to govern the country.

2 Q. I have been struggling a little bit with the precise meaning
3 of the term "democratic centralism", but is the way that the
4 Central and Standing Committees operated, as you have described
5 -- the way in which "democratic centralism" played out in
6 practice?

7 A. Yes, I think so.

8 Q. Now, can you confirm whether or not the three Accused were
9 members of the Central and Standing Committees? I think you more
10 or less answered that at an earlier stage, with a reservation
11 concerning when Khieu Samphan became a member.

12 [10.21.02]

13 A. The documentation is in my hotel, but I'm -- so I'm not one to
14 say, without consulting that, about Khieu Samphan. Certainly the
15 other two men were on the Standing Committee.

16 Q. And can you help me with explaining the relationship between
17 the Central Committee and the Standing Committee -- their status,
18 their interrelationship, and, in brief, the work that was
19 assigned to each of those committees?

20 A. I have to say that that's something I have never studied in
21 detail, so I'd rather not make statements. There's a lot of
22 overlap between these two bodies. How they were differentiated,
23 it is not something I have prepared an answer for today or -- I
24 would come back to that if you like, but I'm not ready to give a
25 (inaudible) answer on that.

1 [10.32.03]

2 JUDGE CARTWRIGHT:

3 Yes, thank you.

4 Before I move to my next topic, I just want to record the ERN
5 numbers for the quote that I gave from Nuon Chea's initial
6 interview with the Co-Investigating Judges. The Khmer ERN is
7 00148742 to 744; the English is 00148817 and the French 00148920
8 to 00148921.

9 Now, President, I'm about to move to a slightly different topic.
10 Do you wish to take the morning adjournment now?

11 MR. PRESIDENT:

12 It is now appropriate for us to take a break. Thank you, Mr.
13 Witness -- Expert.

14 We will take a 20-minute break and we will resume at 10 to 11.

15 Court officer is now instructed to accommodate Mr. Expert and to
16 return him to this courtroom on the said time.

17 This Court is now adjourned.

18 (Court recesses from 1034H to 1052H)

19 MR. PRESIDENT:

20 Please be seated. The Court is now in session to continue hearing
21 testimony of expert David Chandler.

22 I now hand over to Judge Cartwright to continue her questions to
23 this witness.

24 BY JUDGE CARTWRIGHT:

25 Thank you, President.

40

1 Q. Professor Scheffer (sic), in the book "Pol Pot Plans the
2 Future", there is a document which you introduced and translated
3 -- document number 4 -- and it is clearly identified as being
4 from a speech or paper by Pol Pot himself.

5 [10.53.22]

6 The title of the document is "Preliminary Explanation before
7 Reading the Plan by the Party Secretary", and it's sourced at the
8 Party Centre, 21 August 1976. In the preface to the book, it was
9 said that this speech was given at a meeting of the Centre in
10 August of 1976. And you say, at English ERN 00104057:

11 "Between 21 and 23 August 1976 at a meeting of the 'Centre'--not
12 otherwise specified, but probably consisting of a select group of
13 CPK members assembled in Phnom Penh -- the 'Party Secretary', Pol
14 Pot, spoke at length about the Party's Four-Year Plan."

15 [10.54.33]

16 The speech itself runs to 65 pages, so I'm not expecting you to
17 have memorized it, but there is in it a discussion of the
18 originality of the Cambodian revolution, the speed at which
19 socialism must be built because of attacks from the East and the
20 West. The speech also seeks to justify that goals for greatly
21 increased rice production were realistic.

22 Do you recall this document in general?

23 MR. CHANDLER:

24 A. Yes, I do.

25 Q. Now, at that meeting, there were members -- there were CPK

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1 members other than the group you have referred to as a "select
2 group of CPK members", and you stated that some of those
3 attending that meeting had not previously discussed the plan, but
4 that, for others, they must have heard the same explanations
5 twice. And may I assume that you are referring in the latter
6 group to the select group of CPK members?

7 A. Yes, that's right.

8 Q. And within that select group, would there have been members of
9 the Central or Standing Committees?

10 A. Well, we think so, but have no direct evidence of that, of
11 course.

12 Q. I'm now going to move to some specific Standing Committee
13 minutes that were not included in the book "Pol Pot Plans the
14 Future".

15 [10.56.33]

16 The first is E/217 or IS 13.10, Khmer ERN 00000736 to 734 - 743;
17 English 00182635 to 2637, and French 00334964 to 4966. And that
18 is -- has the title of "A Record of Meeting of the Standing
19 Committee 11 March 1976".

20 The minutes disclose that it was attended by Nuon Chea, Ieng
21 Sary, and Khieu Samphan, and that, at the meeting, problems with
22 the Vietnamese on the eastern frontier were discussed, and the
23 opinion of Angkar was given. Now, there are other similar
24 documents -- in particular, E3/229 -- recording the minutes of
25 the Standing Committee for the evening of 22 February 1976, a

1 meeting whose record also states that it was attended by the
2 three Accused, and at which a report on the national defense
3 situation was received and opinions and instructions given by
4 Angkar.

5 [10.58.15]

6 A further meeting of the Standing Committee, held on the morning
7 of 14 May 1976, with the document number E3/2221 also recorded
8 the attendance of the three Accused and considered a report on
9 the sea borders and an extended summary and direction was given
10 by Pol Pot, with brief commentary by Ieng Sary.

11 Now, I've summarized the minutes of three meetings very briefly.

12 My question is: In the context of these meetings, did the word
13 "Angkar" refer only to Pol Pot, or could it have a wider meaning
14 and include other CPK members as well?

15 A. That's an excellent question. It's hard to answer. My first
16 impulse is to think that this a document in which Pol Pot
17 referred to himself as "Angkar", but on second thought, it seems
18 to me that the word, in this context, signifies that the
19 decisions was made -- at that meeting were made collectively by
20 the organization itself -- in other words, the people who were at
21 the meeting. That makes more sense to me than having the meeting
22 refer to Pol Pot as the organization, because that just seems
23 like the kind of (inaudible) that they didn't indulge in. But I'd
24 have no direct evidence of that, of course. I'm not -- it's just
25 an assumption on my part.

1 Q. Another document that I would like you to comment on is the
2 record of a meeting of the Standing Committee on 26 March 1976.
3 And the record states that this meeting was chaired by Nuon Chea
4 and attended by Khieu Samphan.

5 [11.00.22]

6 The document number is E3/218. During that meeting, Ya gave an
7 extensive report concerning negotiations with the Vietnamese
8 concerning the eastern border. And in those minutes, Nuon Chea,
9 as deputy secretary, is recorded as having given instructions and
10 opinions on the negotiations with the Vietnamese, including
11 orders about the use of mines -- and that's found at English ERN
12 00182657 - and, as well, the sinking of some Vietnamese boats.
13 Nuon Chea is quoted in the minutes as saying: "With Vietnam our
14 problems are never ending. We must combine the political
15 struggle, the diplomatic struggle, and use military force in
16 combination."

17 [11.01.26]

18 Does the record of this meeting accord with the accused Nuon
19 Chea's assessment of himself as saying that politicians -- of
20 which he was one -- held less power than the military?

21 A. I think it somewhat contradicts that statement, frankly.

22 Q. In the Closing Order, document number D427 -- English ERN
23 00604548 to 49; Khmer, 00605300 to 5302; and French, 00624175 to
24 176 -- the Co-Investigating Judges identified five policies that
25 they said had been designed and implemented by the three Accused,

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1 as well as other CPK members. Those five policies were: first,
2 repeated movement of the population from towns and cities to
3 rural areas, and from one rural area to another; two, the
4 establishment and operation of cooperatives and worksites; three,
5 the re-education of "bad elements" and the killing of "enemies",
6 both inside and outside the Party ranks; four, the targeting of
7 specific groups -- in particular, the Cham, Vietnamese, Buddhists
8 and former officials of the Khmer Republic, including both civil
9 servants and former military personnel; and the fifth policy is
10 the regulation of marriage.

11 [11.03.30]

12 Based on your research, do you consider these to be among the
13 more or less important policies developed and pursued by the CPK?

14 A. I think they represent some of the more important policies. I
15 would think particularly the first three are crucial. The fourth
16 and fifth seem to be less crucial, but still important.

17 Q. Are you able to say from your research when these policies --
18 the period over which these policies might have been developed,
19 and by which organ of Democratic Kampuchea, or by which
20 particular person?

21 A. I don't think - I don't think any of these policies can be
22 traced to a single person. The movement of people was decided on
23 as a national policy in February '75, but several towns,
24 including Udong and Kratie, had been evacuated previously, so it
25 was a policy that had been tested. Similarly, the opening of

1 cooperatives, and so on, had been inaugurated in so-called
2 liberated territory in '73, particularly in the Southwest.

3 [11.05.07]

4 The -- going after "bad elements" had always been a feature of
5 the Communist program, but I think it didn't come into - didn't
6 come into operation until the victory of April 17th, when the Lon
7 Nol personnel were singled out.

8 Then we get to the targeting of specific sectors of the country.

9 I think the Vietnamese were probably targeted from the - from the
10 beginning. The Cham and -- I'm a little confused about the
11 targeting of Buddhists. I think they must mean targeting of
12 Buddhist - I would think monks, people who were just trying to
13 practice their religion. That term seems ambiguous to me in this
14 context. But the Cham, certainly, were not targeted from the
15 beginning, if they were systematically targeted.

16 [11.06.06]

17 And, finally, the marriages -- I'm not sure that that policy took
18 effect before 1976. I don't have evidence on that.

19 So, certainly, the first - the first two were inaugurated before
20 '75. The third one came into effect with the victory, and the
21 fourth and fifth came later, I would say, except, perhaps, for
22 the targeting of Vietnamese, which began very, very soon.

23 Q. Thank you. These five policies to which I have referred --
24 would, based on your research again, of course -- would they have
25 been published broadly or explained to the general membership of

1 the Communist Party of Kampuchea or to the people of Cambodia as
2 a whole?

3 A. In reverse order. I mean, I guess, to explain to the Cambodian
4 people, as a whole, this would have taken place -- some of these
5 policies would have been explained at -- at political meetings
6 that were held in districts and sectors and zones. But the --
7 they would not have been explained as policies of a ruling party.
8 The Party never identified itself as such to the people at large.
9 Members of the Party would have been -- at various levels, would
10 have been briefed in increasing detail as they became higher in
11 rank and position.

12 [11.07.40]

13 Some of the policies were explained in the Party magazine, "Tung
14 Padevat" -- the "Revolutionary Flags". But this flow of
15 information was very tightly controlled by the regime, and very
16 access to -- there's no -- let me put it another way. There's no
17 discussion, no open discussion of these policies, insofar as they
18 were discussed at high level meetings. We have very little
19 documentary evidence of those discussions. But these were -- for
20 instance, I don't have high level documentation for the policy of
21 the arranged marriages. But by and large, I think the leadership
22 knew what it wanted to do. The next levels down heard much of
23 what the leadership wanted to do. As it got further and further
24 down, some of these policies became not very clearly articulated,
25 but still part of everyday life.

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1 [11.08.45]

2 Q. Thank you.

3 Well, finally, I would just like you to elaborate on your last
4 answer concerning communication of CPK policies, and you
5 mentioned the "Revolutionary Flag" magazine. Was that widely
6 circulated along with "Revolutionary Youth" magazines?

7 A. No, access to those two journals was limited to Party members,
8 and I'm not sure that every Party member had his own copy. But
9 certainly no one outside the Party was given access to either of
10 those journals.

11 JUDGE CARTWRIGHT:

12 Yes. Thank you, Professor Chandler.

13 Mr. President, I have no further questions at this time.

14 [11.09.50]

15 MR. PRESIDENT:

16 Thank you, Judge.

17 Now, pursuant to Rule 90 and 91 of the Internal Rules concerning
18 the appointment of experts, dated July 2012, document E1 to 5, I
19 now turn over to the parties to proceed with the questioning.

20 We have to begin with the Prosecution. You may proceed.

21 QUESTIONING BY MR. CHAN DARARASMEY:

22 Good morning, Mr. President. Good morning, Your Honours. Good
23 morning to everyone.

24 Q. Good morning, Professor Chandler. I am Chan Dararasmey. I am
25 the Deputy Co-Prosecutor. I have a few questions to put to you

1 experts.

2 Of course, a number of questions have already been asked by the
3 Bench, but I would like to ask a further question to seek a
4 clarification on some of the points you testified earlier.

5 [11.11.15]

6 I have to begin, first of all, with your university
7 qualifications. And can you confirm that you hold the following
8 degrees, the first one being a bachelor degree in English
9 Literature from Harvard University in 1954? Is that correct?

10 MR. CHANDLER:

11 A. Yes.

12 Q. Thank you. And then you also graduated with a master's degree;
13 is that correct?

14 A. Yes, that was in South-East Asian Studies, at Yale University.

15 Q. Thank you. Can you please confirm that you were an honorary
16 research associate in Monash Asia Institute at Monash University,
17 Australia, from 2004 to 2011? What was the subject of that
18 research?

19 A. It was no specific research. I think it was a modest honorary
20 position from which I was able technically to supervise some of
21 the work of graduate students, participate in seminars, and not
22 to conduct any direct teaching. And it was unpaid. I conducted
23 research on topics that interested me, that -- in that period,
24 but it was not directed by anyone to do towards specific topics.

25 [11.13.04]

1 Q. Thank you.

2 Yes. Now, Your Honours -- members of the Bench asked you certain
3 questions concerning your publications, and you mentioned that
4 you published some five books. So can you clarify as to what
5 sources do you base your research and writing on?

6 A. Thank you. Well, the mixture of sources for each of those
7 books that have been referred to in the Court was very different.
8 I mean, the first one, I guess - I think it's a book that's not
9 referred to in the Court so far, my "History of Cambodia", which
10 first came out in '83. That required a lot of work in French
11 archives, in Cambodian and Thai archives, and in American
12 archives. I didn't do too many interviews for that book.
13 Second book, "Pol Pot Plans the Future", as - it's come up
14 before. The main research in that book was right inside those
15 documents themselves and in the context we could add in the
16 editorial. We did that as best we could.

17 [11.14.25]

18 "Pol Pot Plans the Future" -- no, I'm sorry. "Brother Number One"
19 - no, again, sorry. "Tragedy of Cambodian History", the next one,
20 that was a book that required a very wide range of sources from
21 foreign archives and -- archives in France, America, Australia,
22 Great Britain, a wide range of interviews, a large work in
23 secondary sources like newspapers, and so on, access to American
24 diplomatic correspondence, and finally to over a hundred
25 interviews with people who had participated in the history of

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1 Cambodia in the period I was discussing, which is 1945 to 1979.
2 That was my longest book and it had the most -- widest range of
3 sources.

4 [11.15.20]

5 The book I was writing at the same time -- or working on at the
6 same time, was "Brother Number One", which benefitted from an
7 overlap of sources with the other book, but also from a range of
8 different interviews with people who had some sort of personal
9 knowledge of Pol Pot himself or of his associates, and -- so that
10 sources were different there.

11 Finally, in "Voices from S-21", my main source was, of course,
12 the archival material emanating from the S-21 facility, but also
13 I included interviews with some former members of the staff, from
14 some survivors. I used -- profited from the interviews that other
15 people had done with a variety of people concerned with that --
16 with that facility. And then, unlike my other sources (inaudible)
17 other books, I was trying to formulate a certain comparative
18 framework for my study of S-21, so this led me to study a good
19 many secondary sources concerned with such things as the
20 holocaust, the -- Stalin's reforms in Ukraine, the Indonesian
21 mass assassinations of Communists in 1965-66, some material on
22 Argentina -- just on the behaviour of regimes which (inaudible) a
23 large number of deaths.

24 [11.17.04]

25 So these comparative sources, I hadn't done that before; it was

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1 very interesting for me to do that, but that was a new kind of
2 sourcing.

3 And that's my -- that was my most -- I guess it's probably my
4 last book, in both senses of the word, but certainly the most --
5 where my primary research has so far stopped.

6 Q. Thank you. Thank you, Professor.

7 I would like to now seek a bit of clarification among the books
8 you have written. Did you conduct interviews with the Cambodian
9 refugees at the Khao I Dang Camp in Thailand?

10 A. Yes, indeed. I was invited there by UNHCR in the autumn of
11 1984 to interview Cambodian refugees who had been singled out by
12 other interviewing sources from the United States, primarily, as,
13 possibly, members of the Khmer Rouge and, thus, ineligible for
14 transfer to a third country.

15 I conducted about, over three or four -- between 300 and 400
16 interviews at that time with refugees trying to clarify some of
17 their status, their life histories, and so forth, a very -- for
18 me, a very exciting re-entry into the pleasures of speaking Khmer
19 and of meeting a large numbers of Khmers, which had not been
20 possible for me in the 1970s and early 1980s.

21 Q. Thank you, Professor.

22 [11.19.00]

23 MR. PRESIDENT:

24 I note that the defence counsel is on his feet. You may proceed.

25 MR. KONG SAM ONN:

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1 My apology for the interruption, Mr. President. I would like to
2 ask the prosecutor to ask the question again because he said --
3 the question from the Prosecution was that it referred to 1994. I
4 don't know whether or not the answer was correct or it was the
5 error in translation.

6 MR. PRESIDENT:

7 Co-Prosecutor, can you please clarify the date you mentioned?

8 MR. CHAN DARARASMEY:

9 Thank you, Mr. President. And I would like to inform my colleague
10 that I would like to ask the question that -- of the event that
11 took place in 1984, and my question was mainly whether or not the
12 expert had conducted interviews with the refugees.

13 [11.19.58]

14 MR. PRESIDENT:

15 Yes, of course, it was referred to 1984 because -- in 1984 --
16 because in 1994 all the refugees were repatriated to Cambodia
17 already.

18 BY MR. CHAN DARARASMEY:

19 I would like to now resume my question.

20 Q. Professor, can you clarify when you were conducting research
21 on the history of the Communist Party of Kampuchea or the
22 Democratic Kampuchea, what was your main theme of the research of
23 the Communist Party of Kampuchea and the Democratic Kampuchea
24 period?

25 [11.20.42]

1 MR. CHANDLER:

2 A. I'm not sure that, as an historian, I had a major theme. I was
3 trying to build up a persuasive and factually accretive --
4 accurate narrative of the years that the Khmer Rouge were in
5 power. My theme, I think, I guess - well, as you see, it is for
6 others to say, was to be as open and fair to the evidence as I
7 could be and to be as -- to consult as many kinds of evidence as
8 I could to widen my understanding and to clarify facts.

9 At this point, just a personal footnote: when I was writing those
10 books in the late 1980s, I would certainly have been much happier
11 had I had access to the materials in the Closing Order, because
12 I've been reading material, in the last couple of days, that
13 would have been just perfect to put into my books, but this
14 material was not available to me.

15 [11.21.46]

16 So, yes, my theme was basically an historical one in all those
17 cases -- biographical, of course, in the Pol Pot case.

18 The S-21 book was not a narrative history, although there is a
19 chapter that does deal with that. I was there trying to analyze
20 the operations of an institution, which was a new kind of
21 procedure for me, and very difficult to write a book that did not
22 have a narrative format; but that was part of the challenge.

23 The theme, always, I think, of all these books, was to discover
24 as best I could what had happened in these -- either periods of
25 history or the life span of a single man or the operations of a

1 single institution.

2 Q. Thank you, Professor.

3 I move on to my next question: When did you start studying about
4 the Khmer Rouge and the Communist Party of Kampuchea, and what
5 did you consider the main parts of your research?

6 [11.23.08]

7 A. I started, I guess -- let me think. 1975, '76, I was as
8 baffled and confused as to what was happening in Cambodia as many
9 other people were, both inside and outside the country. I was
10 curious about what was going on. I conducted some interviews with
11 some refugees who had come to Australia and could tell me a
12 little bit about the regime, and I wrote some fairly tentative
13 articles, trying to come to grips with what was being -- what was
14 going on. In about 1976, '77, more material was coming clear. I
15 was still not writing as much on the Khmer Rouge as I probably
16 should have done, maybe because it was still so unclear to me
17 what was actually going on.

18 At a conference in -- the first time I really started putting my
19 mind to this material, as well as working very closely with Ben
20 Kiernan, who was my graduate student, working under my
21 supervision, was a conference that was held in Chiang Mai,
22 Thailand, in 1981, that resulted in a book that Ben Kiernan and I
23 edited, called "Revolution and Its Aftermath in Kampuchea". This
24 was a conference that drew together several people interested in
25 Cambodia, which resulted in a book, as I say.

1 [11.24.49]

2 And from then on, I would say from '81 on, I concentrated almost
3 all my research on the Khmer Rouge period, adding chapters to
4 books that -- my history book, I added a chapter to that one
5 about this period, and so on.

6 So I guess you could say my interest was sparked from the --
7 really from April '75, if not somewhat before, and then research
8 -- serious research writing, beginning in the early 1980s.

9 Q. Thank you, Professor.

10 My next question: How long have you been studying the Khmer Rouge
11 and the CPK?

12 A. Well, as I -- I'm sorry. Well as I say, I think I've been
13 concerned about them since they came to power. I began writing
14 about them in '76, '77, but not in pretty great detail. And then,
15 from about 1981 on, I would say almost all my research has been
16 on the Khmer Rouge period.

17 [11.26.26]

18 Q. Thank you, Professor David Chandler.

19 Now, I would like to move on to the next topic on the Communist
20 Party of Kampuchea, particularly the Statutes of the CPK, and I
21 would like to ask you a few questions according to your
22 recollection. And I would also seek permission from Mr.
23 President, when I ask questions about the Statutes of the CPK, I
24 would like to seek leave from the Chamber to display some of the
25 documents in order to refresh Professor David Chandler's memory.

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1 My question, I would like to ask you to recall your memory
2 concerning the CPK Statute, and I would like to seek leave from
3 Mr. President if I can display this document to the expert.

4 [11.27.22]

5 MR. PRESIDENT:

6 You may proceed.

7 BY MR. CHAN DARARASMEY:

8 Q. This document is the Statute of the CPK, document E3/130. And,
9 Mr. Expert, you may go through this document briefly and then I
10 will put a question to you afterwards.

11 My first question to you is: Have you ever read this document
12 before?

13 (Short pause)

14 MR. CHANDLER:

15 A. I'm not certain that I have. It's not coming back to me
16 clearly as I look at it. I must have done at some stage, but I
17 can't clearly recall that.

18 I've read other statute documents, but this particular one, I
19 don't -- it's not coming too -- too clearly to me in my
20 recollection, I'm sorry to say.

21 Q. Mr. David Chandler, the document you have before you is in
22 English language. Of course it is also available in other working
23 languages of the Court as well, Khmer being the regional language
24 of this document. And I would like to ask you to go through it,
25 and I may put the question concerning this document.

1 A. That's fine. Thank you.

2 [11.30.00]

3 Q. May I now put the question to you?

4 A. Yes, of course.

5 Q. Thank you, Mr. David Chandler. My first question is: What is
6 your understanding, or the purpose of this Statute, from what you
7 understand? What is the purpose of this Statute?

8 A. Well, it's to set out in definitive -- or, you have to say,
9 temporarily definitive form, because the Statutes were often
10 revised, and the last one is the one that's considered
11 authoritative, but to set forth the ideas and organization and
12 purposes of the Communist Party of Kampuchea as the governing
13 party of Democratic Kampuchea and as a -- as the instrument of
14 the Cambodian Revolution.

15 [11.31.13]

16 Q. In your research, were you able to ascertain as to when the
17 Statute was first drafted, and how it was drafted?

18 A. I don't think I can from this particular document. I'd have to
19 recheck if I have referred to it before. I would tentatively date
20 it as '76, but I wouldn't swear to that. There were other
21 statutes beforehand. I'm not in a position to answer your
22 question, I'm sorry to say.

23 MR. CHAN DARARASMEY:

24 Thank you, Mr. David Chandler.

25 May I seek your permission, Mr. President, that I now move to the

1 second paragraph of this Statute? The ERN number in Khmer is
2 00442253, and the ERN in English 00184024, and the French ERN
3 number is 00292916. And I seek your permission, Mr. President, to
4 put this document onto the screen as well.

5 [11.32.53]

6 MR. PRESIDENT:

7 You may proceed. But the document to be displayed on the screen
8 is in Khmer rather than the English or French because the hard
9 copy in English has been submitted to Mr. Witness. And from now
10 on, the documents to be displayed on the screen shall be in the
11 Khmer language. Relevant parties have to be ready to submit the
12 hardcopy in English to this expert.

13 BY MR. CHAN DARARASMEY:

14 Thank you, Mr. President.

15 Q. I would like to quote a portion of this paragraph in order to
16 refresh the memory of Mr. Chandler.

17 [11.33.53]

18 In paragraph 2 of the Khmer version of this Statute, it reads
19 that:

20 "The Communist Party of Kampuchea is a peasants' party.

21 "After the Party led and totally achieved the national democratic
22 revolution, from the 17 April 1975, the Party continues to lead
23 the socialist revolution and construct socialism in an absolute
24 monopoly in every sector. The Party's nature is that of being the
25 highest organization of the Kampuchean worker class, the most

1 audacious and brave regular army, the supreme commander governing
2 and administering all revolutionary work, remaining close to the
3 popular masses." This is the end of the quote from the second
4 paragraph of the Statute.

5 And my questions to you are as follows. But let me first check
6 whether you have read this paragraph.

7 MR. ANG UDOM:

8 Mr. President, may I have the floor?

9 [11.35.37]

10 MR. PRESIDENT:

11 David Chandler, can you answer the prosecutor's question, whether
12 you have read this portion? Because it appears that there may be
13 a problem with the documents that you read before and the one
14 that is being shown to you now.

15 Now, with regards to what the prosecutor has read out to you, the
16 question is: Have you read this portion? I am also concerned with
17 the short time provided to you to read the whole document, but
18 the question asked is directed to only the portion read out just
19 now.

20 MR. CHANDLER:

21 Yes, I have read this portion of the document.

22 MR. PRESIDENT:

23 Mr. Ang Udom, Defence Counsel for Mr. Ieng Sary, you may proceed.

24 [11.36.51]

25 MR. ANG UDOM:

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1 Good morning Mr. President, Your Honours, and parties, everyone
2 in the public gallery.

3 I have heard the answers of this witness to two questions and, if
4 I'm not mistaken please correct me -- you have said that you have
5 never read this document before. And the answers to the second
6 question is that you will not be able to elaborate as well as
7 explain any further of this document.

8 May I seek Your Honours' guidance whether we should apply our
9 practise; whether we should withdraw the document presented to
10 this expert?

11 [11.37.46]

12 MR. PRESIDENT:

13 Thank you for your observation, but you may be mistaken. Mr.
14 Expert has said that he has read the Statute of the Communist
15 Party of Kampuchea, but the document that he read is not the one
16 that is being presented to him now. It may be different in the
17 forms, but he has read the substance of the Party's Statute.
18 That is why the last question asked by the prosecutor is that he
19 has read the document being presented to him here. The document
20 that is being presented to him may have a different version from
21 what he read before.

22 The national prosecutor may now continue his questions to
23 witness.

24 [11.38.51]

25 MR. CHAN DARARASMEY:

1 Thank you, Mr. President.

2 Now the Khmer version will be displayed on the screen and I
3 submit the English version to Mr. Expert as you guided.

4 Mr. David Chandler has told the Court that he has read this
5 document and I will now put questions in relation to this, and I
6 will not put questions in relation to any documents that he has
7 not read.

8 BY MR. CHAN DARARASMEY:

9 My questions are as follows.

10 Q. Mr. Chandler, I have observed a number of terms used in this
11 paragraph. The first one is that:

12 "The Party continues to lead the socialist revolution and
13 constructs socialism in an absolute monopoly [...] and the Party's
14 nature is that of being the highest organization of the
15 Kampuchean worker class [...] and as the supreme commander
16 governing and administering all revolutionary work."

17 [11.40.15]

18 Can you elaborate what this means from what you understand?

19 MR. CHANDLER:

20 A. It seems - it seems very straightforward to me as a statement
21 of authority, a statement issued by the CPK that was at that
22 point ruling Cambodia. This is why it has to be post-'75 -
23 (inaudible), and so on. It's a statement saying that power,
24 really, in Cambodia, from now on, from the time this Statute is
25 promulgated to -- I guess, largely to Party members, that from

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1 now on the Party has the -- as it says, the monopoly on -- and
2 the monopoly -- ability to construct socialism in absolute
3 monopoly in every sector of the -- throughout the country. So
4 it's a fairly clear statement, a claim, if you like, of -- from a
5 position of authority, that this authority is not only
6 legitimate, but is also monopolistic; it's the only power that
7 will be permitted to exist in revolutionary Cambodia.

8 Q. Thank you, Mr. Chandler.

9 [11.41.58]

10 If possible, on the basis of your understanding and your
11 research, can you explain further regarding a number of important
12 terms? For example is the term "absolute monopoly".
13 What do you understand about this term with regards to the
14 purpose of establishment of this Statute?

15 A. Well, I think it's basically a statement that - that should be
16 clear. I mean, it's pretty self-evident that what this Statute
17 will not welcome is any challenges, or changes, or suggestions to
18 anything in the Statute. I mean, it has the monopoly not only on
19 -- a monopoly of the power in Cambodia, a monopoly over the
20 control of information coming out from that powerful body. So
21 it's in every sector. That's a very wide -- wide term. And it's
22 just not allowing any other form of power to be exercised inside
23 the country, and that is just not to be allowed. It's rather like
24 saying, I think, that the Communist Party was going from then on
25 to be the air that people breathe rather than a separate,

1 political body that had nothing to do with people's lives.

2 [11.43.40]

3 Q. Thank you, Mr. Chandler.

4 And as for the word -- or the phrase, rather, "the highest
5 organization", what does it mean and who were the members of this
6 organization?

7 A. Well, again, this is a kind of an ambit claim that says "we
8 are in charge, we have the power, we are the highest
9 organization". Highest organization of the Party, of course, is
10 the Standing Committee and Central Committee, the secretary and
11 deputy secretary of the Communist Party. The people who are
12 running the country who are not specifically identified by name
13 or even by position, but the highest officials in the Party are
14 the ones with the authority over the exercise of the Party's
15 activities in Cambodia.

16 Q. Thank you. Can you also explain to us the role of the Party
17 within Democratic Kampuchea?

18 A. Oh, I wish I could, really. I mean, it conceived itself -- the
19 kind of people who wrote - who wrote this kind of document
20 conceived that this Party would be absolute, and unchallenged,
21 and unambiguous, and identifiable to Party members throughout the
22 country. This would be an unchallenged and definitive document
23 that would say how things would operate under the Party's
24 considered to be enlightened leadership.

25 [11.45.33]

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1 Of course, how -- your question -- how the Party operated, when
2 you start using a phrase like that, you're getting into the real
3 world rather than in the world of these ambit claims of authority
4 made by the Party. I don't think any political body has ever been
5 able to act with the kind of absolute, unchallenged, and
6 unquestioned, and unambiguous power that this paragraph we've
7 been talking about mentions. But, in fact, this is not a document
8 that is going to admit nuance, the faintest chance of error or
9 the faintest chance that this set-up of the Party's absolute
10 power in all spheres and all sectors could be, in any sense,
11 something that was not going to occur in the real world. In other
12 words, it's not going to say -- make a difference between what's
13 in the Statute and what's happening; there should be no
14 difference between these in their view.

15 [11.46.37]

16 But, of course, your question, as how did it operate, as soon as
17 you get into that operations question, you're into the whole real
18 history of DK; that's a phenomenon that's still evolving, that I
19 have no claim to any genuine authority about, but one that, I
20 think, many people in this room have studied with care and are
21 still coming up with new ideas.

22 MR. CHAN DARARASMEY:

23 Thank you.

24 Mr. President, I would like to seek your permission to the other
25 part of this document. The ERN in Khmer is 00442255, and the

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1 English ERN is 00184025, and the French ERN is 00292917.

2 May I display this document on the screen and then I will put
3 questions to the expert?

4 [11.47.56]

5 MR. PRESIDENT:

6 You may proceed to display portions of the entire Statute, so you
7 may continue in this way. You have to indicate clearly the ERN
8 number that corresponds to the portions you intend to use.

9 BY MR. CHAN DARARASMEY:

10 Thank you, Mr. President. I may now put questions to Mr.
11 Chandler.

12 Q. In the next paragraph that I refer to, the word "Democratic
13 Centralism" was used. That is in paragraph 6. From what you
14 remember or from your research, what do you think the meaning of
15 this phrase is?

16 [11.48.58]

17 MR. CHANDLER:

18 A. Well, I think it's certainly a contradiction in terms. There's
19 nothing widely democratic about the centralism that characterized
20 this Communist Party and many other parties throughout the world,
21 except that these parties considered themselves to be the
22 embodiment and -- embodiments and -- of the popular will, the
23 popular -- of the people themselves. They felt that the people
24 were -- or the demos were speaking -- that they were being
25 represented fairly and sincerely by the centralized authority.

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1 This is something that, of course, the central authority has to
2 -- has, I guess, a right to say, but it's not something that
3 makes, to my mind, that much sense. It's just, if they said --
4 according to the principle of centralism, that would instantly
5 tar this regime with being a dictatorship, which they did not
6 consider. They did not consider themselves to be a dictatorship.
7 They felt this to be a collective leadership acting in the
8 interests of the worker-peasant sectors of Cambodian society and
9 the revolutionary ideas of Marxism-Leninism, as they mention on
10 the first page. So they felt they were legitimate representatives
11 of democracy, power of the people, in a very centralized form.

12 [11.50.42]

13 But it is a -- it's a complicated term, and there are other
14 scholars who paid much more attention to it than I have, I must
15 admit.

16 MR. PRESIDENT:

17 Counsel Karnavas, you may proceed.

18 MR. KARNAVAS:

19 Thank you, Mr. President.

20 I understand we're dealing with an expert and an historian. Some
21 of the questions, at least the way they're phrased, seem to at
22 least give the impression to the witness that is here to give a
23 legal interpretation, which is something that obviously no expert
24 in the Court, as far as I'm concerned -- aware of, is entitled to
25 do.

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1 So perhaps the gentleman could be reminded that he's here to give
2 evidence as far as his understanding of the documents based on
3 his research, and perhaps the question may be slightly ratcheted
4 or recalibrated to reflect that. Thank you.

5 [11.51.58]

6 MR. PRESIDENT:

7 Thank you very much, Mr. Karnavas, for your observations.
8 And the Chamber would like to inform the national prosecutor
9 that, you try to rephrase your questions to be put to this
10 expert. We are not calling an historian to explain us every
11 terminology. We may not be able to accommodate this.
12 Your questions should be more general that can either capture the
13 facts at S-21 or the entire Case File 002. We are dealing with
14 more facts than those addressed in Case 001. This has been
15 indicated in the memorandum sent to the parties already.
16 So please be reminded of the memorandum and be part of the
17 ascertaining the truth, as we are dealing with a prominent
18 scholar and historian here.

19 [11.53.35]

20 MR. CHAN DARARASMEY:

21 Thank you, Mr. President. And I would also like to--

22 MR. PRESIDENT:

23 You have been informed by the Chamber, Mr. Prosecutor, so try to
24 rephrase your questions.

25 We are not asking him to explain us terminologies.

1 BY MR. CHAN DARARASMEY:

2 Thank you, Mr. President. I will now move on to the next
3 question.

4 Q. Mr. Chandler, another question touches upon Article 3, and ERN
5 number in Khmer is 00442262, and the English ERN is 00184032, and
6 the French ERN is 00292922.

7 May I request that you read this article before I put a question
8 to you? Have you already read it?

9 MR. CHANDLER:

10 A. This is in -- my document goes 1, 2 -- paragraph 1, paragraph
11 2, paragraph 4, and you said paragraph 3. This is on page 1 of
12 the English version? Is that what you're talking about? What page
13 of the English version are we talking about?

14 [11.55.32]

15 Q. I would like to clarify that the English ERN number is
16 00184032. It is on page 13 in the English version. Rather, it is
17 on page 11. Can I now put the questions to you?

18 Mr. Chandler, my question is that -- can you, on the basis of
19 your expert, tell us about the members of the parties? When we
20 talk about the democratic centralism, when it comes to the
21 decision of the membership of the Party on the basis of the
22 principle of democratic centralism, how was it done?

23 A. Well, of course, I was never there to observe it, so, I mean,
24 in a way, I'm not sure, but the phrase here, "to consider,
25 discuss and join in decision-making", that sounds fine, but I

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1 think what's hinted at in this paragraph -- and I take in what
2 the defence counsel has been saying, I'm not an expert in
3 political philosophy at all. I've worked on it but I'm not an
4 expert. It seems to me what they're saying is that any Party
5 affairs are not in the hands of all the members, but Party
6 affairs could be discussed by members according to the principle
7 of democratic centralism, which means in accordance with
8 directives and suggestions that have come down to them from
9 above. And this is my interpretation.

10 [11.58.18]

11 It's really not -- I don't think this quite appealing -- if you
12 really just -- quickly appealing paragraph is meant to suggest
13 that ordinary members can interfere with the administration of
14 Cambodia when they feel, you know, that they have a right to do
15 so. But, again, only -- only the Party members, to start with,
16 are entitled to talk about Party affairs. People who are in the
17 Party don't even know what these affairs are. So Party members
18 are -- so that's one level of discussion, and this discussion
19 would then move up to the next level, and some of the findings of
20 the lower level would be discussed, and discussed, and passed on.

21 [11.59.03]

22 It could well be that all these discussions would come to nothing
23 when you get to the centralism part of the - of the phrase, but
24 it could also be that some of these decisions and thoughts would
25 come up to the -- oh, says the leadership, in that case, maybe we

1 have to do some alterations, and the alterations that came down
2 would have the force of law, the force of -- that would be what -
3 what happened.

4 And if the discussions at the lower level were thrown out, the
5 Party people have to go along with that. That's it. We made our
6 point, now it's come down; it's gone.

7 I'll tell an anecdote about the phrase democratic centralism
8 which might fit into this discussion. There was a Czechoslovakian
9 joke in the 1970s. A son asked his father: "What's democratic
10 centralism?" And the father said: "I'll tell you; you go down in
11 the courtyard of our apartment, stand there." The boy stood
12 there, and the father spat out of the window and hit the boy on
13 the head. And the boy said: "What?" He said: "Now, you spit up."

14 [12.00.13]

15 That's a joke manufactured by people who were living in this kind
16 of regime. That's the way they interpreted it -- the people
17 didn't like it -- interpreted democratic centralism in that
18 fashion.

19 MR. KARNAVAS:

20 Mr. President, if I may be heard. I--

21 MR. PRESIDENT:

22 Yes, Counsel Karnavas, you may proceed.

23 MR. KARNAVAS:

24 Clearly the gentleman is not competent to discuss this particular
25 document, at least not in the way to answer the questions that

1 are being posed.

2 He's being asked to interpret, and again, once we -- what we saw
3 was a legal interpretation, and in my opinion, if you look at the
4 answer, it's based on a great deal of speculation.

5 He's an historian, he's read documents. He can describe what he
6 believes what was going on de facto, as opposed to being asked as
7 if he were a constitutional scholar to interpret the Statute and
8 what it meant.

9 [12.01.20]

10 Now, if, for instance -- I may assist the other side -- if, for
11 instance, they wish to read out a passage and say de facto, is
12 there any evidence that -- how this operated, I would not be on
13 my feet, then he could discuss based on his knowledge of reading
14 documents and his interviews.

15 But where he's being asked to interpret a document as such, he's
16 being asked to give an opinion as an expert and he's engaging in
17 a great deal of speculation, and what happens in Czechoslovakia
18 or someplace else, I care not. How other regimes operated, I care
19 not. He's here to discuss matters concerning this particular
20 country at a particular period of time. Thank you.

21 MR. PRESIDENT:

22 Thank you.

23 And the International Co-Prosecutor, you may proceed.

24 [12.02.20]

25 MR. ABDULHAK:

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1 Mr. President, as this issue might come up as we go along and in
2 consultation with my colleague, I just wanted to give our
3 position.

4 I think that the professor's answer best illustrates the
5 probative value of his opinion. He wasn't speculating. He was in
6 fact opining on how this particular principle may have been
7 implemented in practise, and he talked about discussion and
8 information flowing upwards, then Party Centre looking at input
9 and deciding and passing down those decisions as law.

10 Of course, the professor is here to discuss the history of
11 Democratic Kampuchea and the CPK. He is opining on the CPK
12 Statute and I think it is entirely within his expertise and it is
13 an appropriate question to put to him.

14 [12.03.23]

15 MR. PRESIDENT:

16 Thank you. We note the observation by the defence counsel for
17 Ieng Sary, Mr. Michael Karnavas, and we then ask the prosecutor
18 to reframe the question to make sure that the question is
19 compatible with the expertise of the witness, particularly the
20 question should be within the confines of Case 002/01, and the
21 question should be clear.

22 We have already ruled on that observation and as for the reasoned
23 objection by the defence counsel, it is not likely to be
24 appropriate because any objection on particular question should
25 have been made before the witness respond to the question. And

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1 the objection should not be belated when it comes to objecting to
2 the question asked.

3 So that has been the practise before the Chamber concerning the
4 examination of the expert witness.

5 Parties may object to the question put by the other parties if
6 they are of the opinion that the question is not conducive to
7 ascertaining the truth and the Chamber, on that basis, will rule
8 whether or not that question is allowed. And I believe that
9 parties concerned would be attentive to the question put by the
10 parties and they follow the procedures applicable in Cambodia,
11 particularly the Code of Criminal Procedure in relation to the
12 objection to the question put by the parties.

13 [12.05.43]

14 And it is the discretion of the Chamber to decide on the
15 case-by-case basis on the question posed by the party and the
16 objection raised by the other party. And the Chamber also is
17 ready to intervene whenever the question is not appropriate, but
18 we would like to remind parties that any objection must be raised
19 in a timely manner.

20 The time is now appropriate for lunch adjournment. The Court will
21 adjourn for lunch until 1.30 this afternoon.

22 And, Court officer, please facilitate the accommodation for the
23 expert witness and please have him back to this courtroom by
24 1.30.

25 The International Defence Counsel for Nuon Chea, you may proceed.

1 MR. PAUW:

2 Thank you, Mr. President.

3 My client, Mr. Nuon Chea, would like to follow the proceedings
4 this afternoon from the holding cell and we have prepared the
5 waiver.

6 MR. PRESIDENT:

7 Counsel, can you tell the Court the reason why he waives his
8 right not to be present directly in this courtroom this
9 afternoon?

10 [12.07.34]

11 MR. PAUW:

12 Mr. President, as has been the case throughout these proceedings,
13 Mr. Nuon Chea has trouble concentrating, paying attention in
14 general to these proceedings and has been feeling unwell in the
15 afternoons on most occasions and will, as always, attempt to
16 follow the proceedings.

17 Maybe it's good to, for the record, state once more that, in
18 fact, when he is in the holding cell, he's not always able to
19 follow the proceedings. We have stopped informing the Trial
20 Chamber of this event happening, but just for the record, Nuon
21 Chea is not always actively participating in the proceedings.
22 If you want a medical reason for his request at this stage, as
23 always, it is his inability to concentrate for longer times and
24 his inability to sit upright. He, rather, will lay down on the
25 bed that is provided for him downstairs.

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1 (Judges deliberate)

2 [12.10.01]

3 MR. PRESIDENT:

4 Having noted the request by Nuon Chea through his defence counsel
5 to follow the proceeding remotely through audio-visual means and
6 he has expressed that he waives his right not to be present
7 directly in this courtroom due to his tiredness and concentration
8 in the courtroom, the Chamber grants the request by Nuon Chea
9 that he -- to be -- he is to be -- to follow the proceeding from
10 the holding cell downstairs. And we also note that he has waived
11 his right not to be present directly in this courtroom. And the
12 Chamber requires the defence team for Nuon Chea to submit
13 immediately his waiver with the thumbprint or signature of the
14 accused Nuon Chea.

15 And AV assistant, please connect the audio-visual equipment for
16 Mr. Nuon Chea to follow the proceeding for the remainder of the
17 day.

18 [12.11.22]

19 And the Chamber takes this opportunity to note to the defence
20 counsel for Nuon Chea that now your request is granted, but we
21 advise that you consult with your client very clearly before
22 making the submission and the reasons behind this request must be
23 outlined very clearly as well so that it can provide the basis
24 for the Chamber to rule upon. And the Chamber will have to look
25 at the reasons very closely for your request.

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1 Court officers -- security guards are now instructed to bring the
2 Accused to the holding cell downstairs and Mr. Nuon Chea is to
3 remain in the holding cell this afternoon where audio-visual
4 equipment is connected for him to follow the proceeding for the
5 remainder of the day. And Mr. Khieu Samphan is to be brought into
6 this courtroom before 1.30.

7 The Court is now adjourned.

8 (Court recesses from 1212H to 1330H)

9 MR. PRESIDENT:

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

11 The Chamber hands over to the Prosecution to continue its
12 questions to this expert.

13 [13.31.34]

14 MR. CHAN DARARASMEY:

15 Thank you, Mr. President. I once again would like to put
16 questions to Mr. Chandler concerning the substance of the Party's
17 Statute.

18 I would like to refer to Article 3 and Article 6, and I would
19 like to put these onto the screen as well. And again, ERN in
20 Khmer is 00442262, English ERN 00184032 and the French ERN is
21 00292922.

22 Together with this Article 3, I would also like to put on the
23 screen Article 6. ERN in English is 0022--

24 [13.32.45]

25 MR. PRESIDENT:

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1 The National Co-Prosecutor, could you please read the ERN numbers
2 again and please read these numbers at the slowest pace for the
3 record, and especially for the interpretation booth?

4 BY MR. CHAN DARARASMEY:

5 Thank you, Mr. President. The ERN for article 6, once again, is,
6 in Khmer, 00442268; and the English ERN is 00184037; and the
7 French ERN is 00292926.

8 Q. Mr. Chandler, I would like to read these portions to the
9 Chamber as well, and these portions are from Article 3 and
10 Article 6. For Article 3, we talk about:

11 "Rights of Party members.

12 "Every full-rights Party member has the following rights:

13 "A. To consider and discuss and join in decision making on all
14 Party affairs, doing this according to the principle of
15 democratic centralism."

16 [13.34.25]

17 And as for Article 6, I would like to quote:

18 "The Communist Party of Kampuchea takes the principle of
19 democratic centralism as its organizational foundation, that is:

20 "1. All Party leadership organizations must implement collective
21 leadership and have specific persons holding responsibility.

22 "2. All of the various decisions of the Party must be done --
23 rather, must be made collectively."

24 And I now move to point number 4:

25 "4. The minority respects the majority. Lower echelon respects

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1 upper echelon. The individual respects the collective. The
2 private respects the organization. The various echelon
3 organizations respect the central organization."

4 These are the portions that I have quoted from Article 6 of the
5 Statutes.

6 And my questions to you, Mr. Chandler, concerning these two
7 articles, 3 and 6 -- or perhaps I would like to check whether you
8 have read these articles. Then I now move on to my questions.

9 On the basis of your research, did this principle manifest itself
10 within the practices of the Party?

11 [13.36.21]

12 MR. PRESIDENT:

13 Please hold, Mr. Expert. We will hear first the objection by
14 counsel Karnavas.

15 Yes, please, Counsel.

16 MR. KARNAVAS:

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

19 He read several articles and now he's asking him to give a "yes"
20 or "no", basically, to one. If he wants to go step by step, I
21 don't have a problem with that, but the way the question was
22 being phrased to the gentleman, he's asking him to confirm
23 everything, so he should go step by step, article by article.

24 [13.37.13]

25 MR. CHAN DARARASMEY:

1 Mr. President, I have a confirmation from Mr. Chandler that he
2 has read these articles before I put questions to him. This
3 question follows what I asked this morning, and I am now
4 stressing on the matter -- the practice during the regime,
5 whether those practice reflects what was included in the
6 principle in the Statute.

7 MR. PRESIDENT:

8 The objection made by the defence counsel is not sustained.

9 Mr. Expert, you may now respond to this question if you can. And
10 please be reminded once again that we are using three languages
11 in this Court and you have been requested to be slower so that
12 your testimony can be fully interpreted.

13 MR. CHANDLER:

14 A. Okay. It's a very good question. It seems to me there is a
15 governing idea through all the sentences in this document.
16 They're all, in a sense, saying the same thing.

17 [13.38.45]

18 Now, whether this is directly reflected in practice throughout
19 Kampuchea during the DK period, I'm unable to answer that
20 question. I have no idea if this was faithfully followed at every
21 level and all through different years and districts, and so on.
22 Obviously, according to the regime, some people lower down
23 obviously did not obey these rules. That's one of the reasons
24 they were brought in for re-education or for another -- other
25 punishment. So you can say that sometimes these rules were

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1 disobeyed. Sometimes, obviously, they were obeyed, or they were
2 just -- or they were obeyed sometimes. But there's no way to
3 make, I think, a systemic answer to the question.

4 I think that what is interesting about the passage is the way it
5 expresses a governing idea of Democratic Kampuchea, which is that
6 the ruling, the -- what they call in Cambodia the "Kbal Masin" --
7 the ruling group has the final word on everything. The ruling
8 group is a small group of collective leadership at the top, and
9 that theme runs through every line of this -- this document. As
10 it -- but I say, as it was reflected in practice, I'm not
11 equipped to answer.

12 [13.40.13]

13 BY MR. CHAN DARARASMEY:

14 Q. Thank you, Mr. Chandler. My next question is: Based on your
15 study of the history of the Communist Party of Kampuchea,
16 especially based on your study of the Statutes of this Party, can
17 you tell the Court who are the upper echelons and who are the
18 lower -- lower echelon? Because in Article 6, subsection 4, there
19 was mentioning of these lower echelons and upper echelons.

20 So, on the basis of the documents that you studied, can you tell
21 us who these people were?

22 [13.41.12]

23 MR. CHANDLER:

24 A. Well, I mean, in a way, not really. But in each -- at each
25 level, a larger group deferred to a smaller group which is,

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1 again, larger than the next group. It's a pyramidal structure.
2 Each group defers to the one above it until you get to the top
3 group, which is the collective leadership, and that's the one
4 that makes the -- is the -- is the driving force of the -- of the
5 organization.

6 And as I said before, suggestions might be coming up or -- but
7 they flow up and then flow straight down; they don't flow through
8 the echelon at the time for more comment. There's no time for
9 more comment. Once the final decision is made, it goes from top
10 to bottom.

11 But it's hard to say how large some of these lower echelons were,
12 whether we're talking about sectors, or zones, or army divisions,
13 or -- I don't -- they're all lower -- each one is lower than
14 something else, but they're -- it's hard to say specifically
15 which ones are meant by the phrase "lower echelons".

16 "Upper" is obviously the ones that are above them, and there are
17 several of those until you get to the top, which is the last, the
18 -- if you like, the last echelon, which is the "Kbal Masin", the
19 head of the Party, the ruling apparatus of the Party.

20 [13.42.45]

21 Q. Thank you. But can you indicate the criteria that were used in
22 order to select membership for these levels? Have you found out
23 about this during your research as to those who could be
24 considered to be part of each level?

25 A. I have not conducted research on that topic. It's an

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1 interesting topic, but I was not led that way in the work I was
2 doing.

3 Q. Thank you, Mr. Chandler. I now move on to the other topic,
4 which is the membership of the Communist Party of Kampuchea.
5 Based on the Statutes of this Party, we can see that there are 10
6 criteria used to determine the membership. I would like to
7 request that you read Article 5 of this Statute, particularly
8 criteria 1, 3, 5, 7, and 8. And, again, I will quote Article 5,
9 point 1, 3, 5, 7, 8. And ERN numbers English 00184034 through 36.
10 The French ERN is 00292923 through 25. The Khmer ERN number is
11 00442264 through 66. And I would like to display these documents
12 onto the screen so that our expert can examine this document
13 before I ask him questions.

14 [13.45.28]

15 It is on page 13 in the English version, particularly at point 1,
16 3, 5, 7 and 8. Once again, points 1, 3, 5, 7, 8. Have you read
17 these points, sir? Can I now put questions to you?

18 A. Sure, yes. Yes. Sorry, yes.

19 Q. Thank you, sir. In this Article 5 at these points, 1, 3, 5, 7,
20 8, on the basis of your study of this Statute, what have you --
21 what can you say about these criteria as to what they reflect?
22 That is, do -- rather, did they reflect the real practices during
23 that time, especially the criteria number 1, 3, 5, 7, and 8?

24 [13.47.05]

25 A. I think, as criteria, certainly, they represented what the

1 Party, or at least the people who drafted the Statutes, expected
2 of all Party members, and in that sense this is a kind of a -- if
3 you'd like, a wish list or a list of characteristics that all
4 Party members should have.

5 Now, I think, if you -- for instance, if you just take some of
6 these and reverse what they're saying, you could see what they're
7 against. They're against any kind of deviation from the Party
8 line in number 1, against any kind of deviation on Party
9 solidarity in 3, 5. Anything about -- contrary to the policies of
10 secrecy or the armed forces, and 7 -- yes, they have to make and
11 examine their own personal histories and the personal histories
12 of others to show that they are genuinely revolutionary. And -
13 and then number 8, a strong revolutionary stance on class. They
14 have to agree with the definitions and criteria about class as
15 that have been set forth by the Party in other documents -- or,
16 in this document, certain parts in elsewhere too.

17 [13.48.37]

18 So it's a set of ideal conditions that -- it seems to me, in a
19 way, they're vaguely worded, so it's quite easy to trip someone
20 up on some of these definitions and say that you're not showing a
21 person's strong stance and a person would not know how strong his
22 or her stance is supposed to be. "Strong" is a funny word.

23 "Strong" is a word used by the people forming the judgement. So
24 it's -- you can feel you've got all these things but then be
25 judged a poor Party member because somebody above says "no, you

1 have a weak view of such and such". And so, often, this -- what I
2 meant to say, again, this is an ideal set of characteristics.
3 Anyone who sincerely, fully had all these characteristics would
4 -- as I say, would have no trouble, or be very comfortable and
5 fruitful work -- do fruitful work in the Communist Party.
6 But the judgements -- I'm stressing -- the judgements are not
7 self-judgements; they're judgements from others in the -- from
8 the collective leadership at the level where this Party member
9 is, from the leadership of that echelon, and so on, all the way
10 up.

11 [13.49.56]

12 So it seems like a strong stance -- that isn't like saying, "must
13 always wear a blue shirt"; that's quite different from "having a
14 strong stance". Because it's a word like "revolutionary". It
15 depends who - who's making the judgement. So, in that sense,
16 these are quite flexible in terms of what happens to some of
17 these people, perhaps, because it's a judgement that they failed
18 to meet this ideal.

19 But -- yes, I mean, it's complicated because -- of course, I've
20 obviously never participated in any Party discussions. I've read
21 transcripts of some Party discussions, and it seems that some of
22 these terms are quite flexible in terms of -- people can be
23 judged quite harshly for what they failed to do, without, in some
24 cases, thinking they've made any mistakes.

25 [13.50.48]

1 In other cases, they say, "oh, yes, I made a bad mistake, I'm
2 sorry" -- the self-criticism, fine. But it's complicated. Again,
3 I'm sorry I can't give a better answer to you.

4 Q. Thank you, Mr. Chandler. My other question concerning this
5 point, which is quite important, is: On the basis of your
6 research on the Statute of the Party, did you ever find out that
7 there were documents that indicated precise reasons why the Party
8 decided to use the term "strong revolutionary stance on making
9 and examining personal biographies", and a "strong revolutionary
10 stance on class".

11 Why, based on your research, were these phrases included in the
12 criteria in the Statute of the Party. If possible, could you
13 please elaborate on these?

14 A. Okay. That's a good question. That's not easy for me to
15 answer.

16 [13.52.22]

17 I think people coming into the Party -- some people were rushed
18 into the Party very quickly because there were gaps in the
19 administration, but if the procedures went correctly, they moved
20 through a series of probationary stages where they would be
21 proving themselves at each stage, that they were correct, and
22 they were strong, and they were faithful, and so forth.

23 Judging from such very specific -- sometimes very specific
24 judgements -- you see this in some of the life histories of the
25 guards at Tuol Sleng, for example -- "what kind of a roof did

1 your parents' house have?" And if it had a tiled roof, that made
2 you middle-peasant. If it had a -- you know, they say: "Oh, in
3 that case, you had a tiled roof, that must mean that you were a
4 lower, middle, or upper-middle peasant." So this is a class --
5 they judged the class thing by some things like the cover of the
6 roof. Also, if you have any relatives who were -- you might have
7 a cousin in the Lon Nol army who you've never seen for years, but
8 having that cousin is already a -- you can't have that and get
9 in. That's another prohibition because you're -- you have
10 connections that are not strong and faithful.

11 [13.53.42]

12 So, ideally, this procedure would require a -- which -- ideal
13 conditions didn't exist in DK because everything was going so
14 fast -- but quite a long time before you became a member of the
15 Party, because you'd have to pass all these different tests that
16 were given to you. But I think a lot of these criteria were
17 rushed through. They picked someone up, they said "you were
18 obviously a poor peasant", "you've been carrying a gun for two
19 years", you know, "you've been a good combatant, that may be
20 enough for us". They didn't end up going through all of these 11
21 things with someone they trusted, they wanted to put in. So at
22 different speeds -- these things would happen. And some people
23 were brought in very quickly, some people went through various
24 stages of Party membership.
25 So, yes -- I mean, it's hard to answer your question. It's a good

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1 question, but it's just hard to get around it because, you know,
2 I haven't actually been at these – these meetings where these
3 discussions took place.

4 Q. Thank you, Mr. Chandler.

5 [13.54.56]

6 Now I would like to touch upon another issue, which is General
7 Conference of the -- rather, the Congress of the Party. I would
8 like to draw your attention to article 7, paragraph 1 of the
9 Statute. And the ERN numbers are as follows: in English,
10 00184038; Khmer, 00292926 through 26; and in French, 00442269. In
11 this Article 7, it talks about the Party organizational lines,
12 and I would like to quote it as follows:

13 "1. The Party organization has the highest -- which has the
14 highest power rights throughout the country is the General
15 Conference representing the entire country.

16 "During the period of time between one General Conference to
17 another, the highest operational unit throughout the country is
18 the Central Committee."

19 So I would like to request that you read this portion of Article
20 7 on page 12 in the English version, and please tell me whether
21 you have read it. Again, it's on page -- rather, 17 of the
22 English version.

23 [13.57.03]

24 A. Yes, I have. I have read those – those lines.

25 Q. In practice -- that is, from your research -- did you find out

1 the General Conference implemented what was stipulated in this
2 article? And if so, how was it implemented? That is, on the basis
3 of your research, of course.

4 A. I'd have to refresh my memory as to when the -- if there was
5 even a General Conference under DK. I'm not sure that there was.
6 If there was, it would certainly reflect decisions made before
7 the convening of the conference made by the Central Committee.
8 This is how these things work. The decisions of the Central
9 Committee are announced to the General Conference and then
10 approved by -- they say the entire country, but this is a large
11 number of representatives. I'm not -- I think there may have been
12 -- I just would have to see the sources. But if there was one,
13 this was not a place where issues were raised to be discussed in
14 an open fashion. These were places where, ideally, the decisions
15 made by the Central Committee would be announced to the Congress.
16 Okay?

17 [13.58.48]

18 I mean, in fact, this -- technically, you'd have to put the
19 second paragraph ahead of the first. In other words, the Central
20 Committee is in charge of everything, including the General
21 Conference. Then everything else flows down through these
22 difference paragraphs.

23 Q. Thank you. Based on your research, could you please tell us as
24 to what responsibilities the General Conference had, in practice?
25 And if you make a comparison between what happened in the

1 practice and what was stipulated in the Statute, was there any
2 differences?

3 A. I don't think I'm -- I can't really answer that question
4 because -- I would certainly not think there was any -- I'd be
5 very surprised, indeed, if there was any difference between
6 practice and theory in this case, because there very seldom were
7 with the top people who were making the decisions.

8 [14.00.03]

9 But, certainly, the General Conference -- I'd have to check my
10 (inaudible) to see if that ever even happened. I'm not sure it
11 did, unless -- it may have been - it may have been, in the
12 Cambodian case, the three days in which the National Assembly met
13 to form the government under -- but I'm not sure. That was called
14 -- I don't think that was called a General Conference. The phrase
15 doesn't ring with me that there was one, but I can certainly take
16 correction if someone's found a General Conference somewhere.
17 Then it would follow these rules. I'm not sure there was one. But
18 I can check that tonight and might be able to answer more
19 thoroughly tomorrow, if you want to.

20 Q. Thank you. I hope that you will clarify tomorrow when you have
21 visited those relevant parts. So, as for the General Conference
22 that was identified in Article 7; I would like to know whether or
23 not the -- how the General Conference was convened and what were
24 the usual agenda for such conference.

25 [14.01.38]

1 A. I can't - I can't answer at this time. I may be able to
2 clarify that tomorrow.

3 Q. Thank you. We look forward to your clarification tomorrow.

4 So I move on. According to your research, was the General
5 Conference held on a regular basis? Or how it was arranged? And
6 upon the adoption of the Statute, how many conferences were held?

7 A. Again, I'd have to answer that at another time. I'd be very
8 surprised if I find more than one, and I might not even find
9 that. I've certainly never heard of two or three of these
10 conferences. And if I can find one, I'll come back to you
11 tomorrow on that. But there were certainly not more than one that
12 I've ever seen about.

13 Q. Thank you, Mr. Chandler. I look forward to your clarification
14 tomorrow concerning this matter.

15 So I would like to now move on to the next topic. It concerns the
16 Central Committee. I would like you to read Article 7, paragraph
17 1. Article 7, paragraph 1. ERN, in Khmer 00442269; English
18 00184038; French 00292926 through 27.

19 [14.04.00]

20 You may read this particular article, and I would like to only
21 read out this article:

22 "Article 7: Party Organizational Lines are as follows:

23 "1. The Party organization which has the highest power rights
24 throughout the country is the General Conference representing the
25 entire country. During the period of time between one General

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1 Conference to another, the highest operational unit throughout
2 the country is the Central Committee."

3 Can you locate the portion of that article in the document you
4 have with you now?

5 So I shall proceed to my question. Based on Article 7 and your
6 own research, have you ever found out the decision of the Central
7 Committee, and have you found that the practice was the same as
8 dictated in this article?

9 A. Yes, if we find the -- that a General Conference occurred,
10 you'd certainly find that the Central Committee was the governing
11 -- made the governing decisions at that conference, but Central
12 -- we've had minutes of Standing Committee meetings; we have not
13 had minutes, I don't think, of Central Committee meetings, so
14 we're not exactly sure how that thing would have worked. But it
15 certainly -- that's the way that it was supposed to work, and
16 there's no real reason to think that the Central Committee would
17 have relinquished any power to anybody else to run the country.
18 So it would seem to me, pretty much, that this was what was meant
19 and with -- yes, that this is what was meant, yes.

20 Q. Thank you.

21 [14.06.40]

22 I would like to move on to another article in the same Statute,
23 Article 23. I would like to indicate the ERN number in Khmer,
24 00442277; ERN in English 00184045; ERN in French 00292932.

25 Mr. David Chandler, may I request that you read this article on

1 page 52?

2 A. Oh, yes, of course.

3 Q. And I would like to read out the excerpts of this article. The
4 article reads:

5 "Article 23: The Task of the Central Committee.

6 "The tasks of the Central Committee are:

7 "1. Implement the Party political line and Statute throughout the
8 Party.

9 "2. Instruct all zone and sector - City organizations and Party
10 organizations responsible for various matters to carry out
11 activities according to the political line, and ideological and
12 organizational principles and stances in accordance with the
13 tasks of national defense and building Democratic Kampuchea and
14 in accordance with the Party direction of socialist revolution
15 and building socialism". End quote.

16 [14.09.00]

17 And this was the excerpt of Article 23 of the Statute of the
18 Communist Party of Kampuchea. And if you can follow me, then I
19 shall proceed to my question.

20 So my question is as follows: In real practice, according to your
21 research, can you give the idea as to whether or not, in the real
22 practice, the implementation was the same as what was written in
23 this article? And if there was a distinction between the real
24 practice and what is written here, then please describe.

25 A. Yes. I don't think I'm really equipped to answer that

1 question. It's a good question, but it's not something that I've
2 studied in detail. Again, I would suspect that most of these
3 rules were followed. This was not -- I mean, at the
4 organizational level, I think, as the Closing Order has suggested
5 and the documents I've been -- just recently familiarized myself
6 with.

7 [14.10.25]

8 Organizationally, the place ran, in the eyes of those that were
9 organizing it, fairly well. These things -- these provisions were
10 kept. The people were supposed to communicate with other people
11 -- communicate with them, and so on. But, again, speaking in
12 terms of practice, I'd have to have a much more thorough
13 knowledge of day-to-day life among the Khmer Rouge -- not under
14 the Khmer Rouge, among the Khmer Rouge -- to answer that question
15 properly, and that's hard to do, so I'd rather -- it's a good
16 question, but I'd rather not answer it at this time.

17 MR. KARNAVAS:

18 Mr. President--

19 MR. PRESIDENT:

20 Counsel, you may proceed.

21 MR. KARNAVAS:

22 Thank you. This time, my objection -- or my observation -- goes
23 to the answer as opposed to the question.

24 [14.11.14]

25 When the gentleman begins by saying "I'm not competent to

1 answer", it should be full stop. He then proceeds to go into all
2 of this speculation. Now, I understand, I'm not in front of a
3 jury. I'm in front of professional judges who surely should be
4 able to know the difference, but if we are under time
5 constraints, where the gentleman indicates quite clearly that
6 he's not competent, then it should be full stop, next question.
7 And so perhaps the witness could be advised, or instructed, not
8 to go beyond and to speculate or make assumptions as he has been
9 doing all morning. Thank you.

10 MR. PRESIDENT:

11 Thank you for the observation by the counsel.

12 And I wish to also remind the witness that, if the question put
13 to you does not allow you to recall, or you do not recollect what
14 happened or what you know, then you do not need to answer that
15 question.

16 [14.12.33]

17 And, in addition, we have to bear in mind that parties are
18 allocated with certain period of time in order to ask that
19 question. They may run out of time if they cannot get the answer
20 to all the questions they have. So all parties are reminded of
21 that fact, and you should be mindful of the time allotted to you.
22 You ask the question that is appropriate, and it should be
23 proportionate to the time given to you. And the questions should
24 be selected to ensure that they are very useful to ascertaining
25 the truth. And it is a good opportunity that we have a renowned

1 scholar before us to testify about the history of the Democratic
2 Kampuchea, so please ask the questions that are very relevant.
3 And I would like to hand over to my fellow colleague, Judge
4 Silvia Cartwright. You may proceed.

5 JUDGE CARTWRIGHT:

6 Thank you, President. As you will understand, the Trial Chamber
7 agrees with the objection. Professor Chandler, I just wish to
8 suggest to you that if you don't feel equipped or qualified to
9 answer a question, would you just say that, please, and not go
10 on, because we really can't use the information that you then go
11 on to discuss.

12 [14.14.06]

13 Thank you.

14 The National Co-Prosecutor, you may resume your questioning. And
15 please make sure that you select the questions that are the most
16 relevant or in -- alternatively, you may rephrase the questions
17 that may elicit the answer that may be useful to ascertaining the
18 truth.

19 BY MR. CHAN DARARASMEY:

20 Thank you, Mr. President.

21 [14.14.56]

22 Q. So I would like to now move on to the next topic in interest
23 of time. Concerning this new topic, I would like to ask Professor
24 Chandler concerning the Standing Committee. Standing Committee
25 was one of the important committees, and it was also stated in

1 the Statute of the CPK. In your research, did you find out or
2 find evidence of the existence of a Standing Committee?

3 MR. CHANDLER:

4 A. Documents that have been discussed today refer to the minutes
5 of the Standing Committee, so that was documentation witnessed.

6 There's quite of other -- there's lots of other evidence to that
7 effect. This is not a -- it's a committee that's well known
8 inside the circles of -- ruling circles of DK.

9 Q. Thank you. So, according to your research, what power was the
10 Standing Committee vested with?

11 A. Let me think. I'm mindful of some of the things that have just
12 been said.

13 I'm not sure that there were specific powers vested to it by the
14 Central Committee, but it had -- it was a committee that met more
15 often than the Central Committee, and the - and closer to -- it
16 was a smaller group with overlapping membership, I should say,
17 with the - with the Central Committee.

18 [14.17.23]

19 Q. Thank you.

20 I move on to the next question: According to your research, did
21 you find any evidence concerning the separate roles of the
22 Standing Committee? And if there were, what were those
23 responsibilities or roles?

24 A. (Microphone not activated) - that I've done primary research
25 in.

1 Q. Thank you, Mr. Chandler. So, based on your research, did you
2 find which committee or what organization level decided on
3 matters such as financial matters or foreign affairs matters or
4 commercial matter? Well -- in other words, which committee had
5 the responsibility to oversee the work of agriculture, social
6 affairs, and others?

7 MR. KARNAVAS:

8 Mr. President -- excuse me, sir -- Mr. President. Here's where
9 we're going to start -- I'm going to start objecting on technical
10 matters.

11 [14.19.11]

12 The question assumes that a committee was in place. It assumes a
13 fact that is not in evidence -- at least not before this
14 particular witness. So he needs to rephrase the question. He can
15 shake his head all he wants, but the question, as posed, assumes
16 facts not in evidence. It assumes that a committee is
17 specifically designed for those purposes. Therefore he can ask
18 the question in a more general nature. Thank you.

19 MR. PRESIDENT:

20 The National Prosecutor, you may respond.

21 MR. CHAN DARARASMEY:

22 I would like to respond to Mr. Karnavas. What I raised here was
23 not a -- my assumption that there was an existence of the
24 committee.

25 [14.20.00]

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1 I don't know whether or not it was an issue with translation or
2 so, but my question was that, based on your research, did you
3 ever find any articles which specified that certain policies, as
4 I said earlier on -- which level decided on putting up those
5 policies. So it was not my assumption that there was an existence
6 of the committee. So that was not my question, really, then.

7 (Judges deliberate)

8 [14.20.46]

9 MR. PRESIDENT:

10 The witness needs not answer the last question because the
11 question was not clear enough.

12 And I also wish to advice the Prosecution to move on to the next
13 question and would also like to remind the Prosecution that the
14 time allocated to you is rather limited.

15 So, please, all parties, be reminded of the time we have, bearing
16 in mind that each party is allocated limited times to ask the
17 question. So you should make good use of Court time to put the
18 question to the witness before us.

19 [14.24.35]

20 You may now proceed to the next question.

21 BY MR. CHAN DARARASMEY:

22 Q. Thank you, Mr. President. I now move on to the next topic. My
23 next question concerns Office 870 or Politburo 870. Based on your
24 research, can you recall the -- Office 870 or Politburo 870? Can
25 you recall that?

1 MR. CHANDLER:

2 A. Yes, it -- that code name shows up in many, many documents.

3 Q. Thank you. Can you tell the Court the powers vested with this
4 office? What were the roles of this office?

5 A. I'd better not answer that precisely because these roles, out
6 of the documents I read, overlapped frequently with the roles
7 played by the Central Committee, the roles played by the Standing
8 Committee, the roles played by Pol Pot personally, the roles
9 played by him and Nuon Chea together.

10 [14.26.25]

11 This 870 is a kind of a catch-all address for the central
12 operations of the CPK, but its roles were not -- certainly not
13 defined in the Statutes, for example. They were quite ambiguous.

14 Q. Thank you. When was this office established? Can you recall
15 that?

16 A. I think this code name predated April 17, '75, but I'd have to
17 recheck my documents. It certainly was in use throughout the DK
18 period, generally to refer to Pol Pot, and sometimes to Pol Pot
19 and a small group of people around him.

20 Q. Thank you. Can you tell the Court, besides Pol Pot, who else
21 were members of Office 870?

22 A. I don't think this is something you would be a member of. This
23 is something -- it was a number toward which communications were
24 directed and from which communications came. They were never
25 assigned roster -- 870 - say, at the top of a letterhead, and

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1 this includes the members. This was never defined. But I doubt --
2 well, let's say there's no evidence that 870 included the people
3 outside of the Central Committee -- people drawn in from the
4 countryside or anything else. It's a very small director group
5 whose membership was kept secret. That's part of the reason for
6 using the code name.

7 [14.28.45]

8 Q. Thank you. But can you tell us whether Ieng Sary, Khieu
9 Samphan, or Nuon Chea were present in the office, or were they
10 vested with any decision-making power in this office? Did you
11 find any article concerning their roles within Office 870 in your
12 research?

13 A. No, I did not.

14 Q. Mr. David Chandler, in the interest of time, I will try to cut
15 my questions short. I would like to ask you five more questions
16 before I hand over to my esteemed colleague.

17 [14.59.45]

18 So, based on your research, have you ever heard of a man by the
19 name Doeun?

20 MR. PRESIDENT:

21 The Defence Counsel, you may proceed.

22 MR. VERCKEN:

23 A quick remark to let you know that, in French, we did not get
24 the translation of the witness' reply to the last question --
25 last question from the prosecutor regarding the responsibilities

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1 of the Accused in Office 870. We did not get the translation.

2 MR. PRESIDENT:

3 Expert, could you please repeat your answer? Actually, you have

4 already answered that question, but you are requested to repeat

5 the answer -- the last question posed to you by the national

6 prosecutor. Can you still remember your answer? Because, just

7 now, one question was put to you, and there was an interruption,

8 but then you answer, but I don't think the parties could get it.

9 So I would like you to repeat your last answer to the question.

10 Otherwise, if you cannot remember the question, then the national

11 prosecutor should put your last question again to the witness.

12 [14.31.33]

13 MR. CHANDLER:

14 I'm pretty sure I remember the answer, but I'd rather have the

15 question repeated, just to be sure. I think it's very brief

16 answer, but let's see. Could you please repeat the question?

17 Then, I guess -- I think it -- yes.

18 BY MR. CHAN DARARASMEY:

19 Thank you, Mr. President. To clarify this, I would like to repeat

20 my last question to the witness.

21 My question was: Besides Pol Pot, whom according to the witness

22 was an important person in Office 870, were there the presence of

23 Ieng Sary, Nuon Chea, and Khieu Samphan in this office? And if

24 there was, what were their roles and responsibilities or

25 authorities in that office?

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1 [14.32.36]

2 If you can clarify this question, that's fine. But according to
3 your answer earlier on, you said no, you did not know.

4 MR. CHANDLER:

5 A. That's what I recall was my answer. My answer is no. I should
6 stress, this was not an office with, you know, stationary and a
7 room -- this is an address that's used to refer to lots of other
8 small offices. But the answer is no to your question, for playing
9 a role in 870.

10 MR. PRESIDENT:

11 Thank you.

12 Mr. National Co-Prosecutor, can you please put your latest
13 question once again, so that the expert can answer the question?

14 BY MR. CHAN DARARASMEY:

15 Thank you, Mr. President.

16 Q. I said that I have five remaining questions for this witness.

17 The first question is: Did you find out in your research as to
18 why cadre Sua Vasi, alias Doeun, was arrested in early 1977? I am
19 basing on document IS 4.6 with the title of "Voices from S-21".

20 [14.34.08]

21 The ERN in English is 00192742; and the Khmer ERN, 00191900; and
22 the French ERN is 00357331. This is an important document, and
23 with your permission, Mr. President, I would like to hand over
24 this document to Mr. Expert to refresh his memory.

25 MR. PRESIDENT:

1 You may proceed.

2 The court officer is now instructed to bring the document to the
3 expert for his examination.

4 (Short pause)

5 [14.35.04]

6 MR. CHANDLER:

7 Okay, I've read it. Yes.

8 BY MR. CHAN DARARASMEY:

9 Q. My question is: Based on your research, did you find out the
10 reasons why cadre Sua Vasy, alias Doeun, was arrested in early
11 1975? And if so, please elaborate on that.

12 [14.36.33]

13 MR. CHANDLER:

14 A. I didn't really speculate at the time why this had happened.

15 On the pages 63, 64 of my book, it -- I did say that of the
16 prisoners that have been brought in to S-21, this was the
17 highest-level person and -- as it is confirmed by the fact he was
18 replaced by Khieu Samphan.

19 The main reason he was arrested, I presume - oh, I'm not supposed
20 to make presumptions -- I wrote was that he was connected with
21 Koy Thuon, and Koy Thuon was a person who -- very high ranking
22 person who had networks of subordinates and colleagues, and Doeun
23 was one of these. He had a history -- he shared a history with
24 Koy Thuon. So that was the reason he was arrested, because of
25 that network, I think.

1 MR. KARNAVAS:

2 Mr. President, if I may be heard--

3 MR. PRESIDENT:

4 (No interpretation)

5 MR. KARNAVAS:

6 If I may be heard, when he says "I think" at the end of the
7 answer, does that mean that the gentleman is speculating? Because
8 if he is speculating, then, obviously, he should not be answering
9 the question.

10 MR. CHANDLER:

11 I mean, if anyone in this room knows for sure what happened in
12 the -- in S-21, as those decisions were being made -- I don't
13 think they exist. But I'm trying to get as close as I can to what
14 I think might have happened, and that's as authoritarian as I can
15 be. I'm sorry. I'm not going to say "this absolutely happened"; I
16 wasn't there. I used documents to make -- to conclude from the
17 documents what I thought -- that's all I can do, is think --
18 happened. I'm sorry if that's not enough.

19 MR. KARNAVAS:

20 But my -- Mr. President, my point is -- and I'm not being
21 critical of the gentleman. Obviously, we're not asking to do the
22 impossible. But when he's being asked a very specific question
23 about a particular person, he either knows or he doesn't know.
24 Now, if he knows, how does he know? From what does he know? Is he
25 relying on confessions, untainted evidence? Is he relying on some

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1 other documentation? What is it?

2 If he doesn't know, and he's speculating, then the answer should
3 be I don't know. Full stop. No need to speculate.

4 And nobody's trying to challenge the gentleman. It's simply that
5 we're in a court of law. We're not in some historical conference
6 where we're speculating.

7 (Judges deliberate)

8 [14.39.18]

9 MR. PRESIDENT:

10 I now hand over to Judge Cartwright to respond to the objection
11 made by the International Defence Counsel for Mr. Ieng Sary, Mr.
12 Karnavas. You may proceed, Judge.

13 JUDGE CARTWRIGHT:

14 Thank you, President.

15 [14.41.15]

16 The objection is accepted in principle. However, if this expert
17 makes -- answers a question and he makes it clear that his answer
18 is based on the research that he has conducted, then it is not
19 speculation.

20 Secondly, there is an underlying issue that the expert needs to
21 be aware about, and that is the problem of using as research the
22 content of confessions which -- the expert is no doubt aware --
23 is not accepted as evidence in this Court or in any other court.
24 So, if you were talking about confession and research into them,
25 you would need to specify that so that we can establish just how

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1 far we can accept your response.

2 Have I been clear enough for you, Professor Chandler? Thank you.

3 MR. CHANDLER:

4 I think the boxed sections of pages 4 and 5 are not -- do not
5 contain material drawn from confessions.

6 [14.42.42]

7 The fact that they had been close associates is well known. The
8 fact that they received the -- the moves of Doeun from one office
9 to another, that's all been recorded. The fact that he was a
10 close friend of Koy Thuon's -- my speculation was that they were
11 -- he was arrested because of that. That's -- I think he was
12 arrested right afterwards, and it struck me as a logical
13 conclusion.

14 What he said in his confession, as you see when you read that, is
15 totally foolish. He didn't - he didn't admit to doing anything
16 and, of course, maybe he hadn't. I don't know whether he had or
17 he hadn't, but his confession is -- some of the questions -- I
18 see why confessions aren't admitted, but some of them are totally
19 worthless, and some of them are not; you have to choose. This is
20 a worthless one, from what I've cited.

21 [14.43.32]

22 So I'm not drawing on confession material for the things I was
23 saying.

24 JUDGE CARTWRIGHT:

25 One last comment, Professor Chandler. It will be important that

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1 you inform the Chamber that you are using confessions, because in
2 certain circumstances, such as information drawn from annotations
3 to those confessions -- that information may be admitted as
4 evidence. However, the content is not something that any court
5 would rely upon. And whether they're clearly ridiculous, as you
6 have indicated, or not, we would not go into that. Thank you.

7 Thank you.

8 [14.44.21]

9 Does that cover everything, Mr. Karnavas?

10 MR. KARNAVAS:

11 It does, Your Honour, and I'm crystal clear with those
12 explanations.

13 MR. PRESIDENT:

14 Thank you.

15 And it is now appropriate for us to take a break. We will break
16 for 20 minutes, until 3 o'clock -- rather, until 10 past 3. We
17 will resume our hearing.

18 [14.44.54]

19 Court officer is now instructed to accommodate Mr. Expert and
20 return him at that time.

21 The Court is now adjourned.

22 (Court recesses from 1445H to 1511H)

23 MR. PRESIDENT:

24 Please be seated. The Court is now in -- back in session.

25 I hand over to the Prosecution to continue his line of

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1 questioning.

2 BY MR. CHAN DARARASMEY:

3 Thank you, Mr. President. I have only two last questions before I
4 hand over to my esteemed colleagues.

5 [15.12.26]

6 Q. Mr. David Chandler, can you please clarify to the Court the
7 person by the name of Sua Vasi alias Doeun? When Sua Vasi alias
8 Doeun was arrested, who was assigned to replace him?

9 MR. CHANDLER:

10 A. Khieu Samphan.

11 Q. Thank you, Mr. David Chandler. How did you know that? Did you
12 learn it from any sources?

13 MR. PRESIDENT:

14 Could the prosecutor repeat the question? Because the French
15 translation did not go through. Can you please repeat your last
16 question? The National Prosecutor, you may proceed with the
17 question, but please repeat your last question because your --
18 the translation did not come through just now. So please repeat
19 your question, and I also suggest the witness to respond to that
20 question.

21 [15.14.17]

22 BY MR. CHAN DARARASMEY:

23 Q. Thank you, Mr. President. I have only two more questions, the
24 question concerning the same document, "Voices from S-21".

25 I would like to ask Mr. Chandler as follow: Mr. Sua Vasi, alias

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1 Doeun, following his arrest, who replaced him?

2 MR. CHANDLER:

3 A. Khieu Samphan.

4 Q. Thank you, Mr. Chandler.

5 My last question: You said that Khieu Samphan took over Doeun's
6 position. How did you reach this conclusion? How did you reach
7 the conclusion that Khieu Samphan took over Doeun's position
8 after his arrest?

9 A. I can't say right now. I would have to look at footnote 67 of
10 the - of the text and then come back to you tomorrow if I can't
11 find the answer, but it certainly was not something that appeared
12 in a confession; that's for -- that's for certain. It was
13 material that was available through research, not through a
14 confession text. If we -- I don't know if footnote 67 in the S-21
15 book expands -- the note that's at the bottom of the paragraph,
16 it should be at the back of the book, and that -- I don't have it
17 in front of me; it doesn't matter.

18 [15.16.09]

19 MR. CHAN DARARASMEY:

20 Thank you very much, Mr. David Chandler. And thank you, Mr.

21 President. Before I finish I would like to thank you Professor

22 David Chandler, for answering to all the questions I ask. That is
23 all from me.

24 And I would like to hand over to Mr. Tarik to continue our lines
25 of questioning. Thank you.

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1 MR. PRESIDENT:

2 The International Co-Prosecutor, you may proceed.

3 QUESTIONING BY MR. ABDULHAK:

4 Thank you, Mr President.

5 Q. Good afternoon, Professor Chandler. I join Your Honours and my
6 colleagues in thanking you for making the time and the trip to
7 come here and assist the Chamber in finding the truth.

8 [15.17.21]

9 Just by way of follow-up to some of the questions that my
10 colleague asked, before we move on to the next topic, I'd like to
11 show to you a couple of passages from your book, "Voices from
12 S-21". And while I read the relevant ERNs, perhaps my -- my
13 colleagues can give those to you if you don't already have them.
14 The English ERN is 00192684. It -- it should be -- Professor, it
15 should be in the -- in the small bundle you were given because
16 that bundle relates to this section. The numbers in English
17 should end on 684. In French, it is 00357267; and in Khmer,
18 00191833.

19 What I would like to do is read a passage from that page and then
20 read another passage which relates and then ask you a couple of
21 brief questions.

22 And, Your Honours, with your permission, we would display this on
23 the screen. It is a passage from "Voices from S-21", Professor
24 Chandler's book that's already been discussed. The document
25 number is IS 4.6.

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1 MR. PRESIDENT:

2 You may proceed.

3 BY MR. ABDULHAK:

4 Q. Thank you, Mr. President.

5 [15.19.02]

6 The passage is very brief, Professor. It simply states:

7 "No document linking either Pol Pot or Ieng Sary directly with
8 orders to eliminate people at S-21 has ever been discovered,
9 although the lines of authority linking S-21 with the Party
10 Centre ('mocchim pak') have been established beyond doubt."

11 I'm really interested here in -- in the concept of Party Centre.

12 We will come back to the issue of S-21 and, just, if you could
13 keep in mind that passage, I'll take you to another very short
14 passage as well. This is in the same book at English ERN
15 00192694, French 00357278, and Khmer ERN 00191846.

16 [15.20.03]

17 At this passage, Professor, you discuss the reporting by S-21 to
18 its -- to the people that you saw as their superiors, if you like
19 -- and the passage reads:

20 "The two men who ran Santebal reported directly to the collective
21 leadership of DK, known as the Upper Organization ('angkar
22 loeu'), the Organization (or 'angkar'), or the 'upper brothers'
23 ('bong khang loeu') to outsiders and as the Party Centre
24 ('mocchim pak') or leading apparatus (kbal masin') to members of
25 the CPK. The Party Centre was the nerve centre of the country.

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1 Its membership altered over time, but its highest-ranking
2 members, who were also those most directly concerned with the
3 operations of S-21 -- Pol Pot, Nuon Chea, Ta Mok, Son Sen, and
4 Khieu Samphan -- remained members throughout the regime and,
5 indeed, into the 1990s."

6 You can see, Professor, both passages relate to a group of people
7 you describe as the Party Centre. First of all, if I can ask you
8 to expand on -- on this particular term, "Party Centre" -
9 "mocchim pak" -- and whether -- and whether it is similar, the
10 same, or different from the term you used earlier today, "Kbal
11 Masin"?

12 [15.21.40]

13 MR. CHANDLER:

14 A. I think -- the Party Centre, I think, referred particularly to
15 the -- to the Central Committee. That's not -- that was -- but
16 they never used that word, they called it the "Party Centre".
17 Now, "Kbal Masin" is just another name for it. That's the -- the
18 mechanism that (inaudible).

19 I want to make a correction to that passage, however. As we know
20 from the Duch trial, Duch himself was not in touch with all these
21 people; he was in touch only with Son Sen and, occasionally, he
22 testified, with Nuon Chea. So his -- his connections with these
23 other people, with the Centre, have not been defined, and when I
24 wrote the book, I was just mistaken. I shouldn't have said that
25 he -- he knew about the Party Centre. He knew that Son Sen and

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1 Nuon Chea were on the Party Centre, but it said, "I reported to
2 the Party Centre" in one of his interviews or whatever, but in
3 fact, as we learned from the testimony, he just saw one or, at
4 most, two people.

5 But you -- I mean if the Party Centre was -- and when I say in
6 the other passage -- the links between the Party Centre and S-21
7 were not established at the trial in 1979 -- that's why I used
8 "have been established", and it was since then these links were
9 built up. The -- the trial in '79, they link S-21 just to Pol Pot
10 and Ieng Sary, links that have not proved very easy to make in
11 later -- later history.

12 [15.23.10]

13 MR. KARNAVAS:

14 If I may, Mr. President, if I-

15 MR. CHANDLER:

16 (Inaudible)

17 MR. KARNAVAS:

18 If I may, we seem to -- to have a problem here.

19 It would appear that the gentleman -- and it's no criticism of
20 the gentleman -- now is giving testimony based on evidence that
21 was provided by Duch in his trial and is now factoring that into
22 his testimony and I think that's part of the problem.

23 The other problem that I saw earlier, which I was -- I was going
24 to point out, at some point -- I was waiting for the appropriate
25 moment -- is that he's indicated on numerous occasions today that

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1 he's looked at the Closing Order and he would appear to be now
2 drawing conclusions or making statements based on what he has
3 learned in the Closing Order as opposed to what he knew or what
4 he's learned during the course of his historical analysis of
5 documents and, based on that, I am somewhat troubled.

6 [15.24.22]

7 Perhaps the Trial Chamber -- because we now cannot un-ring the
8 bell, we cannot, sort of, delete that information that's in his
9 brain, but perhaps the Trial Chamber could instruct the witness
10 to tell us when he's relying on such information so that you may
11 then be in a position to decide what weight, if any, to give to
12 those portions of his testimony. I think I'm -- I hope I've been
13 clear enough. Thank you.

14 MR. ABDULHAK:

15 If I may respond, Your Honours. Thank you. All of the matters
16 that my learned colleague raises can and, I'm sure, will be
17 addressed at two junctures: the first is their cross-examination
18 of the expert, and the second, of course, is their final
19 submissions at the end of this trial.

20 This is not an opportunity for the Defence to provide running
21 commentary on the quality of the expert's opinions. They will be
22 in a position to test his credibility and test his sources.

23 [15.25.31]

24 On the -- on Professor Chandler's references to the Closing Order
25 in Case 001, if anything, I think it is of assistance and I think

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1 the Professor has been extremely diligent in specifying what
2 sources he's relying upon and, of course, because, as my
3 colleague indicated, it's not a jury trial, Your Honours can
4 ascribe the appropriate weight to evidence -- to opinions that
5 are based, in part, on the Closing Order. We can and we will
6 elucidate that as we go along, but I think all of these comments
7 relate to what you might -- to the probative value which Your
8 Honours might give this testimony which, of course, can be tested
9 in cross-examination and is not appropriate -- is not an
10 appropriate basis for objections.

11 (Judges deliberate)

12 [15.26.19]

13 MR. PRESIDENT:

14 The Counsel, you may proceed.

15 MS. SIMONNEAU-FORT:

16 If I may, Mr. President, it seems to me that our learned friend's
17 objection may have an effect on all of the parties' statements,
18 and I would suggest that the expert should make it clear each
19 time he answers a question whether what he is saying emerges from
20 what he noted at the time or whether it comes from what he was
21 able to read subsequently. If he were to make that clear in his
22 responses, it would leave things clear and it would make it clear
23 for us whether he is referring to what he knew at the time or
24 subsequently.

25 I'm raising this because there may be other objections along the

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1 way, not only when the Prosecution is taking the floor, but at a
2 later stage, when we do as well. Thank you.

3 (Judges deliberate)

4 [15.27.38]

5 MR. PRESIDENT:

6 The Chamber now hands over to Judge Cartwright to respond to
7 relevant parties concerning the matter before us in order to
8 expedite the proceedings. Yes, Judge Cartwright, you may proceed.

9 JUDGE CARTWRIGHT:

10 Thank you, President. The Chamber takes the view that the expert
11 is entitled to read the Closing Order which is, of course, a
12 public document and to review the conclusions that he has drawn
13 from his own research in previous years and inform the Court when
14 those views -- that is, his views based on his own research --
15 require modification after reading the Closing Order.

16 Therefore, we do not -- we do not accept the objection, but we
17 would ask the expert, as he has been doing all along, to explain
18 that I've modified my opinion since reading the materials
19 supporting the Closing Order or the analysis in the Closing
20 Order.

21 [15.33.25]

22 It's clear to the Chamber that much of Professor Chandler's
23 research is more than a decade old, and he's entitled, as an
24 expert on the topic, to continue to review his conclusions from
25 that earlier period. And all the Chamber needs to know in order

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1 to assess what weight it will place on his evidence, is what his
2 sources are where -- particularly where the information is
3 challenged.

4 So, in short or in long, the objection is not sustained.

5 BY MR. ABDULHAK:

6 Thank you, Your Honours.

7 [15.34.23]

8 Q. So, if we come back, Professor Chandler, to the issue of the
9 Party Centre -- thank you for clarifying that your views have
10 changed somewhat, in terms of the direct reporting by S-21.

11 Just one preliminary question to remove any doubts: At present,
12 based on all your research and experience, do you consider that
13 the Party Centre would have included the Accused or do you
14 consider that otherwise was the case? And when I say "the
15 Accused", I mean Nuon Chea, Ieng Sary, and Khieu Samphan.

16 MR. CHANDLER:

17 A. The answer is yes, and also that it may have included other
18 people than those three, of course. I was -- in fact, we know
19 that it did, but certainly those three, yes.

20 Q. And have you -- are you also able to tell us whether your
21 view, perhaps, in a broader sense of the -- and I want to be
22 careful here with the wording, of the relationship between S-21
23 and the Party Centre. Has that view changed or -- or is it as
24 stated in that -- in that paragraph? And perhaps if you can just
25 tell us how you see that relationship?

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1 A. I think-- No, I've got to -- I've been told I can't say "I
2 think"; I've got to say "I know". Well, I know from the Duch
3 trial that his direct contact was with Son Sen. Son Sen was on
4 the Standing Committee and the Central Committee. Anything that
5 related to S-21 that was presumably important, if it was thought
6 by Son Sen to be important enough to bring to their attention,
7 obviously it was in these disappeared documents, because
8 (inaudible) lots and lots of meetings. So I think the Party
9 Centre was certainly kept informed.

10 [15.36.34]

11 I think -- may have been -- I tried not to mislead people in that
12 -- in that book or in the Duch trial either. It's that the
13 massive documentation has led people to run to the S-21, but in
14 fact, this was not one of the major concerns of the Party Centre.
15 This is a key point, I think. It was one of their concerns, but I
16 think they were -- and their statements will reflect -- of
17 course, they don't comment on S-21 anyway in public because it's
18 a secret prison, but their comments were on agriculture, and
19 Vietnam, and internal enemies -- and internal enemies ties into
20 it. But basically S-21 was one of the many things they paid
21 attention to, and we tend to be a little bit dazzled by the
22 hundreds of thousands of pages that we can examine, which is not
23 true of other parts of the regime.

24 Q. And last question on that, if I may. You talked earlier about
25 a pyramid-like structure, if you like, with a collective

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1 leadership at the top. If we look at that -- we refer back to
2 that pyramid -- and I don't want to lead you here, I just want to
3 hear your expert opinion -- where would you place S-21 and where
4 would you place the CPK Party Centre, if, indeed, you consider
5 S-21 to have been somewhere in that pyramid?

6 [15.38.08]

7 A. (Inaudible) -- it was not part of the Party Centre. I mean, it
8 was - it was one of the many elements of the country that
9 reported to either a member of the Party Centre or in documents
10 addressed to the entire Party -- whatever, different forms of
11 communication. It was not -- I mean, Duch never attended these
12 meetings. He was - he was a career Communist, but he was not a
13 member of the Standing Committee, or the Central Committee, or
14 the Party Centre. He knew some of these people personally, but he
15 didn't -- he was not in contact with them.

16 Q. What I'm really getting at is whether or not there was --
17 whether you consider that there was a relationship of
18 superior/subordinate or otherwise.

19 A. (Microphone not activated) -- that's the only way it could
20 have worked. I mean, Duch was -- he was a very subordinate
21 person. He played his role very - very carefully and diligently.

22 Q. Thank you.

23 [15.39.07]

24 A last question on this particular topic as a follow-up to my
25 colleague's questions. You said that Khieu Samphan had replaced

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1 Doeun, and we will provide that footnote to you, so perhaps
2 tomorrow we can come back to it. Are you able to recall now what
3 the role was that Khieu Samphan inherited from Doeun? Or would
4 you rather come back to this tomorrow?

5 A. (Microphone not activated)

6 Q. (Inaudible)

7 A. Sorry. Well, as chairman of 870, he supposedly inherited the
8 duties. He said he didn't, he's said he didn't do anything
9 substantial in this job. Now, I think those are different kinds
10 of evidence, obviously, but it's on public record that this
11 change of appointments occurred. It's in his own autobiography;
12 he mentions that he was -- had this job, so it's not a secret.
13 But what he did, what he told to do, how the job may have changed
14 when he took command, we have no idea. I can't - I can't
15 speculate on that.

16 [15.40.12]

17 Q. And I hate to ask one more question, when I said that was the
18 last question. But only by way of clarifying, before we leave
19 this topic for now, when you say "chairman of 870", given that
20 you had indicated earlier, in your view, 870 I think you said was
21 a -- like, an address or a code. A reference to a number of
22 things, including the -- I think you, said -- Party Centre.
23 Correct me if I'm wrong.

24 [15.40.37]

25 When you say "chairman of 870", could you describe what,

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1 functionally -- what that role was, as you understand it?

2 A. (Microphone not activated) - referring to in the--

3 Q. I'm sorry, if I may ask you to just repeat for the record.

4 A. Oh, yes. The way I've come to understand this better, I must
5 admit, is through the Closing Order. This is not stuff that I was
6 concentrating on before. But it seems to me the head of 870 - I
7 mean, 870 was a code name, actually, for Pol Pot, but on the
8 other hand, the Office of 870 - "Munti Prambei-roy chetseb" --
9 managed the paperwork and the flow going in and out of the Party
10 Centre -- going out of the lungs of the Party, if you like. So
11 this was an office job. The head of the - the head of the - but
12 the -- it's confusing, because the head of the office could be,
13 like -- as you say, as it happened, Khieu Samphan or Doeun, but
14 when you they the head of 870, that's Pol Pot; that's his name,
15 that's his code name, it's a name he chose for himself and,
16 perhaps, for the collective leadership also. All these things
17 overlap. That's the problem with the - with the definitions.

18 Q. Thank you-

19 MR. CHANDLER:

20 Sorry, I talk too fast.

21 MR. ABDULHAK:

22 I think we have an objection.

23 MR. PRESIDENT:

24 Yes, Counsel, you may proceed

25 MR. PAUW:

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1 Thank you, Mr. President. It's not so much an objection to the
2 question, but a follow-up to what was discussed earlier with
3 regard to the witness having read the Closing Order.

4 [15.42.14]

5 I have noted what Judge Cartwright has stated -- has ruled on
6 this issue. But I do think it's important to verify, while he's
7 answering these questions, whether or not he has read the
8 underlying documents of the Closing Order -- documents that were
9 mentioned in the footnotes of the Closing Order -- or whether,
10 instead he was just read the Closing Order as such and is relying
11 the conclusion as reached by the Office of the Co-Investigating
12 Judges. Needless to say, that's relevant, because we take issue
13 with those conclusions in the Closing Order.

14 So I think, when answering these questions, the witness should be
15 requested to clarify which, if any, underlying documents he has
16 studied.

17 [15.43.04]

18 MR. PRESIDENT:

19 Thank you.

20 Yes, International Defence Counsel for Mr. Khieu Samphan, you may
21 proceed.

22 MR. VERCKEN:

23 Thank you, Mr. President. And to supplement what my colleague
24 just said, it might be a good idea to ask the witness which
25 Closing Order he's referring to. Because he said that the witness

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1 -- the witness said that he read the Closing Order of Case 001,
2 but apparently he's referring to the Closing Order of Case 002.
3 So I think we should ask for clarification on that.

4 (Judges deliberate)

5 [15.43.45]

6 MR. PRESIDENT:

7 International Co-Prosecutor, you may proceed.

8 MR. ABDHULHAK:

9 Thank you, Mr. President.

10 I think I understand my friend's concern, but frankly, what the
11 expert is being asked to do is an impossible task. The Closing
12 Order has thousands of footnotes, and of course all of us
13 understand and are familiar with it. The -- in many cases, the
14 documents cited in the footnotes are also cited in books written
15 by the experts.

16 Your Honours recently directed the expert that he wasn't required
17 to bring with him all of the materials that he reviewed in his
18 preparation. To now retroactively ask him to recall which
19 documents he read, I think, is just unreasonable. There is a way
20 of doing this. We can ask the expert as to what specific sources
21 he recalls, and I can ask him what his knowledge was before the
22 Closing Order was issued and what he knew then and how that has
23 changed.

24 [15.45.20]

25 But I don't think it's practical, simply -- given the size of the

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1 Closing Order and the number of documents -- to expect the expert
2 to conduct a, simply -- an impossible task.

3 MR. KARNAVAS:

4 If I just may respond to that, just very briefly, how can we then
5 challenge if we don't know which particular document he's
6 referring to from the Closing Order? I understood Judge
7 Cartwright's ruling, which was the ruling of the Bench, and I
8 accept that. But we need to know exactly where in the Closing
9 Order -- at least what footnote. And then we can at least -- that
10 would direct us to do our due diligence.

11 But to say "I read it in the Closing Order" is terribly unhelpful
12 and unrealistic for the Prosecution to expect us to find the
13 needle in the haystack. We don't want the haystack. We want the
14 needle.

15 [15.46.18]

16 MR. PAUW:

17 Just following up on that position, this is basically what I
18 wanted to say, so I'll keep my comments short. But, yes, we need
19 to be able to verify the sources of knowledge of this witness.
20 And, again, he has stated that he has read the Closing Order. I
21 think the first relevant question is: Has he gone back to the
22 source documents? And if so, did he go back to all of the source
23 documents that are mentioned in the Closing Order? And I think
24 Professor Chandler is -- will be very willing and capable to
25 answer that particular question. I think that should be the

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1 starting point. Thank you.

2 (Judges deliberate)

3 [15.46.51]

4 MR. PRESIDENT:

5 I would like to inform the parties as follows.

6 In order to proceed further, I would like to ask whether the
7 witness can indicate the sources of those documents. Otherwise,
8 the defence teams may pick up this issue when their turn arrives.
9 We are of the view that if there is any gap in the testimonies of
10 this witness, we will have another chance -- that is, when the
11 parties can provide their closing arguments, either in writing or
12 orally, concerning, particularly, this witness.

13 Please be reminded that the scope of the facts in this case is
14 very broad. Likewise, the work done by Professor Chandler is also
15 broad. We will need a lot of time in order to thoroughly discuss
16 the work of the experts. I now hand over to the prosecutor to
17 continue his questions.

18 MR. ABDULHAK:

19 Thank you, Your Honours. And, as I indicated, we will endeavour
20 to ensure -- and I'm sure Professor Chandler's with us on this --
21 to ensure that we obtain his honest and considered opinion, and
22 where that opinion has been affected by recent documents or
23 developments, I'm sure he will inform us.

24 [15.50.20]

25 BY MR. ABDULHAK:

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1 Q. Professor Chandler, in the short time remaining, I'd like to
2 switch to another topic. And just by way of a general roadmap as
3 to where we're going to be going today and tomorrow, I'd like to,
4 essentially, trace the most important milestones in the
5 development of the Party and the extent to which policies
6 developed in the pre-'75 period -- you hinted at that earlier
7 today -- or, rather, you mentioned that certain policies were in
8 existence before '75. We will then move on to a brief discussion
9 of Democratic Kampuchea institutions. We will consider forced
10 evacuations -- the charge of forced evacuations, if you like --
11 and policies as they relate to cooperatives and collectivization.
12 And we will also look at the policy on enemies -- or the alleged
13 policy on enemies, and finally communications within the regime.
14 So it's an ambitious agenda, but we'll try and be as expeditious
15 as possible.

16 MR. CHANDLER:

17 A. (Microphone not activated)

18 Q. We'll just wait for the microphone, please.

19 A. (Microphone not activated) -- comment, if I could, on some of
20 the statements that were made before.

21 [15.51.42]

22 I had not seen the questions that I have been posed today. I've
23 had no way of preparing my responses with footnotes. I have not
24 -- if these questions had been mailed to me and I had -- I could
25 come in here as a trained -- not an expert, a trained witness to

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1 give the answers that the people are legitimately asking for,
2 like "where did you know that, "did you read that", "what
3 footnote"-- I just heard the question. The book is not -- I can't
4 rummage through the thousand pages to find, you know -- and then
5 see if I have read it. I have read many of those sources. I can't
6 say specifically which ones today. I've read a lot of them before
7 and since.

8 So, I mean, the idea that -- I mean, I can say if I've got an
9 idea that it has changed my thinking or changed my opinions, that
10 I've got them from something subsequent to my original research.
11 I probably should have said that more often and I hope to say
12 that in the future. That's fair to say I did not write that, I
13 read that. So -- but to say that I should be able to cite a
14 specific note without preparation for the questions I'm asked is
15 - I just -- I'm just unable to do that. And I can't see that I
16 should be expected to say, "oh, footnote 89, page 308, obviously,
17 why?" I mean, that's -- I don't mean to be silly, but, I mean, it
18 was just -- it's legitimate to an extent, but it's a demand that
19 I'm unable to make -- to meet. Enough said; sorry.

20 [15.53.04]

21 MR. PRESIDENT:

22 Thank you, Mr. Chandler.

23 So, please, follow the practice that we have been doing. When the
24 question is not possible for you to answer, just state that you
25 cannot. This will constitute your short answer. Then the relevant

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1 party will continue with another question. We are trying to avoid
2 a situation where you will explain on a point that you do not
3 know. The Chamber tries its best to prevent repetitive questions
4 -- that is, to avoid you answering the same questions.

5 Yes, Mr. Karnavas, you may proceed.

6 [15.54.15]

7 MR. KARNAVAS:

8 Thank you, Mr. President. Just to make sure that the record is
9 adequately and abundantly clear, having foreseen this situation
10 because we do have some experience with experts in the past, on
11 11 June 2012 we submitted a letter to the Trial Chamber where, in
12 fact, we requested that the witnesses -- the expert witnesses --
13 keep track of all the information that they are reviewing in
14 preparation for Trial, and we even provided a sample letter with
15 our June 11, 2012, letter where we specified exactly the need to
16 have transparency.

17 The Prosecution responded, more or less chiming in, adding one
18 qualification -- that is, that they don't need to review anything
19 -- but they agreed. And then on 3 July 2012 -- as I understand it
20 -- a letter was sent to Professor Chandler, where in fact he's
21 being asked to make a list of those documents he has reviewed in
22 preparation. It is E172/24/4/3. I merely point this out because I
23 don't wish the gentleman to think that we're trying to be unfair
24 with him.

25 [15.55.42]

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1 He has been asked to keep track of it. We do realize it is
2 perhaps a Herculean task at this point, under pressure in Court,
3 but we did this in advance so that the witness would be able to
4 point exactly to footnote 48 or whatever -- document
5 such-and-such, which would enable us to then double-check and see
6 whether, in fact, what the gentleman is asserting is in fact
7 supportive of his position. That was-- So I point this out. So we
8 have been diligent.

9 And I apologize for taking up the time to point this out, but I
10 think the Prosecution supported us on this position as well.

11 Thank you.

12 MR. ABDULHAK:

13 Just to confirm, I was indeed referring to that directive earlier
14 and I was making the point that the expert wasn't asked to bring
15 all the documents with him.

16 [15.56.44]

17 But there was, of course, a request that he make a list. And
18 perhaps we can check with the expert if he's been able to do
19 that. Or perhaps we can check if he received the communication.

20 MR. CHANDLER:

21 Yes, I received that communication. I must say, I did not prepare
22 a list of what I read, but I started -- this is 10 days before
23 I'm up here -- I started re-reading as many of the things I could
24 get access to quickly. Some of the confession materials have come
25 in later. I've got material I'm starting to read now. I felt -- I

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1 thought reading the Closing Order of Case 002, which is the one
2 I've read -- not the Duch Closing Order -- would be helpful for
3 me to see this level of what people were saying, not necessarily
4 what's right, but the level of what's being said, what's been
5 discussed. And so, that was my task when I arrived two days ago.
6 That's what I've spent my time doing, is reading that.
7 Now, the remaining evenings of my time here, I'm going to go on
8 to the primary documents that I have -- three big books of them
9 -- I won't read them all, but I'll read what's necessary.

10 [15.58.03]

11 And then again, I mean, when a question comes out from somewhere
12 - "where did you get your answer?" -- I mean, that's going to be
13 hard to say, unless the question is given to me in advance, I
14 prepare my answer in advance, with a source at the bottom. That's
15 seems -- that's professional, but it's impossible to do -- for me
16 to do that, unless I'm here for a month. It would be a better way
17 to proceed, but-- I'm sorry.

18 MR. ABDULHAK:

19 Thank you, Professor.

20 [15.58.34]

21 Your Honours, there is a way forward, if I can suggest.
22 Our examination will be largely based on documents. Many of them
23 are Professor Chandler's writings; others are contemporaneous
24 documents to the DK era. So, in most cases, we'll be asking him
25 to simply expand or opine on records that we'll be putting before

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1 him. So perhaps we don't need to spend any more time on this at
2 this juncture, and if need be, we can come back to it tomorrow.

3 MR. CHANDLER:

4 (Microphone not activated) -- that way of proceeding is -- I'd
5 rather talk about things that I know rather than things that I'm
6 just grabbing out of the - out of the air, basically.

7 MR. ABDULHAK:

8 Thank you.

9 MR. PRESIDENT:

10 Thank you, Mr. Chandler.

11 It is now appropriate for us to adjourn for today's proceedings.

12 The Court will adjourn and resume tomorrow at 9 o'clock in the
13 morning.

14 [15.59.58]

15 Tomorrow proceedings will begin with the questionings by the
16 Prosecution to the expert.

17 Professor Chandler, the hearing of your testimony has not been
18 concluded, and we will resume tomorrow, as I said, so you are
19 invited to be present in the courtroom again tomorrow, from 9
20 o'clock.

21 Court officer is instructed to facilitate with WESU in order to
22 bring him home and return him at 9 o'clock tomorrow.

23 National Counsel for Civil Party, what is the problem?

24 MR. PICH ANG:

25 Mr. President, for their -- for our preparation, we would like to

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1 seek your advice whether we are having any hearing this Friday,
2 because we have received a request from counsel for Mr. Ieng Sary
3 that we should not have the hearing this Friday.

4 So may we be advised on this matter?

5 (Judges deliberate)

6 [16.01.27]

7 MR. PRESIDENT:

8 Actually, the Chamber has not received any request from any party
9 whether or not the hearing is to be proceeded on Friday.

10 But usually Friday is not the hearing day, but if the
11 circumstance necessitates -- for example, if there is a need that
12 the witness has to be returning to his home -- then the hearing
13 might fall on Friday.

14 And, as party has already been aware, that due to the delayed
15 resumption -- due to the illness one of -- the illness of one of
16 the parties -- then he could not participate in the proceeding,
17 and he was responsible for putting the question to the witness
18 representing one party.

19 And normally the Hearing would take four days a week. And in the
20 trial management meeting, there will be a slight change to the
21 schedule of the hearing. The hearing will take four days a week,
22 but it has to be rescheduled in order to ensure that parties and
23 witness have the time to consult the documents or that it is
24 conducive to expedite the proceeding.

25 So I would like to ask the parties involved whether or not there

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1 is any observation concerning the hearing, because according to
2 the schedule, the Chamber is envisaging that we will continue the
3 hearing through Friday, due to the delayed resumption of this
4 hearing which we actually lost the first two days of the week.

5 [16.04.19]

6 And as for the schedule for other witnesses, will be slightly
7 changed as well, due to the rescheduling of the witness. And the
8 Chamber has tried our best so far to ensure that the arrangement
9 is efficient.

10 MR. KARNAVAS:

11 Let me begin, Mr. President, by saying that we follow the same
12 procedure that the Prosecution filed in trying to inform the
13 Trial Chamber of the delay. And so, now, what I hear for the
14 first time, that the Trial Chamber wasn't notified, it would
15 appear that, perhaps, the senior legal officer for the Trial
16 Chamber -- that is, Susan Lamb -- failed to communicate our
17 response to the Trial Chamber. I have -- I doubt that that was
18 the case, but it may be a slip-up.

19 [16.05.15]

20 We first noticed -- we got notice that an email was sent by Mr.
21 Smith to Susan Lamb informing of the situation. We were prepared
22 to start on Monday. Without consulting the parties in a sense to
23 see whether they actually agree or disagreed, the Trial Chamber,
24 on its own, essentially agreed to give the Prosecution two days
25 extra to start. We find that totally appropriate in light of the

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1 circumstances, because we do know that in preparing for a
2 witness, especially an expert witness, it takes weeks and weeks
3 to prepare. And it's simply not -- it's almost impossible to have
4 a second or third lawyer step up and take the place of the lawyer
5 who had prepared.

6 Immediately upon that, hearing that those two days were delayed
7 -- there would be a two-day delay and the possibility of having a
8 hearing on Friday, we immediately contacted the Trial Chamber
9 through the -- Susan Lamb -- that is, the senior legal officer,
10 informing them -- informing you, Your Honours, that Friday was
11 not conducive to us.

12 [16.06.32]

13 This was not an incident that we had caused. You could say it was
14 force majeure in a sense. But nonetheless, because of the
15 pre-existing schedule -- that is, Monday through Thursday -- I
16 had previously committed to doing a training for the
17 International Bridges of Judges for some thirty -- some lawyers
18 have already been assigned to attend a two-day training. And
19 because of that and because of all the arrangements that had been
20 made, it was virtually impossible for me to get them to
21 reschedule the training in light of all of the logistics that had
22 gone on.

23 And there was an exchange of emails and we had been waiting for
24 -- ever since for a -- a particular decision.

25 Now, I do have copies of the emails. I can certainly forward them

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1 to the Trial Chamber. We, in the past, have been criticized for
2 directly contacting or copying the Trial Chamber because that may
3 be perceived as an ex-parte communication or a direct
4 communication with the Trial Chamber, so we go through the proper
5 channels.

6 [16.07.39]

7 In -- in this instance, it would be virtually impossible for me
8 to -- to attend here on Friday. And, in fact, I will not be
9 attending here on Friday. If you do so decide, you know, that's
10 -- we leave it up to you. I certainly will be here next week.
11 I'll have the transcript.

12 But I do wish to point out one thing. Were the Trial Chamber to
13 say yes to the Prosecution and no to the Defence, it will be
14 sending yet another signal that one party enjoys more rights than
15 the others. This was a situation that was created by the
16 Prosecution, not by us, and so, in all fairness, I would
17 respectfully request that the Trial Chamber, particularly in
18 light of the need of this particular witness to, perhaps, look at
19 all these documents because he is going to come under a great
20 deal of fire on cross -- on examination by us, where he's going
21 to be asked specifically, that he may even benefit that extra day
22 of preparation, because, at least from his testimony today, it
23 would appear that he wasn't expecting the sort of specific type
24 of questioning that he's receiving.

25 [16.08.51]

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1 So we will respectfully request that we don't hold a hearing on
2 Friday. We think it's fair, we think it's equitable, and we think
3 it's appropriate under the circumstances. If it's a matter of
4 time, in that we cannot lose any time, the Trial Chamber could
5 have very well said to the Prosecution, "Sorry, start on Monday".
6 You could have done that. You could have exercised your
7 discretion. You chose not to; you chose to accommodate the
8 Prosecution. We're simply asking that a slight accommodation to
9 the Defence, in this one instance, be granted. Thank you.

10 MR. PRESIDENT:

11 The International Counsel for Khieu Samphan, you may proceed.

12 MR. VERCKEN:

13 Thank you, Mr. President. Very briefly, one comment, because you
14 spoke of four days for the entire examination of Professor
15 Chandler, while, in the exchange of emails with Susan Lamb, there
16 was reference to a maximum of five days -- I'm talking about the
17 7th of June 2012 mail that was addressed to the parties -- and I
18 did want to draw to your attention the fact that in that
19 particular message, there was reference to a maximum of five
20 days.

21 [16.10.35]

22 MR. PRESIDENT:

23 Thank you.

24 The International Counsel for Nuon Chea, you may proceed.

25 MR. PAUW:

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1 Thank you, Mr. President. I'll be very brief in support of my
2 colleague, Mr. Karnavas.

3 As Mr. Karnavas has pointed out, when the Prosecution asked for
4 the delay, by two days, nobody objected. We did certainly not
5 object because we thought it was a reasonable request considering
6 the circumstances. As Mr. Karnavas indicated, he promptly
7 contacted the Trial Chamber with a recent request to not sit on
8 Friday. It reached the parties and it certainly, at least,
9 reached the civil parties, because they made reference to it
10 today, and I assume the Prosecution received the same request.

11 [16.11.20]

12 So, again, Mr. Karnavas filed a prompt and reasoned request, and
13 I think Mr. Ieng Sary has the right to be represented by the
14 counsel of his choice on Friday.

15 This time it doesn't affect us, but your ruling will affect us in
16 the future. Therefore, I respect -- or I support the request of
17 the Ieng Sary team to not sit on Friday. Thank you.

18 MR. PRESIDENT:

19 Thank you.

20 The Chamber notes this matter and we also envisage that in the
21 course of the proceedings this week, there will be observation by
22 other parties concerning the delayed resumption, and that's why
23 we raised this issue to the attention of the parties earlier on
24 this morning that we regret the delayed resumption.

25 [16.12.32]

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1 And the Chamber has tried our level best to work with the WESU
2 unit in order to bring in another witness who is available to
3 substitute the witness -- the current witness because the -- one
4 of the prosecutors, who was supposed to be the one to put the
5 questions to the current witness, is not in good health and that
6 was not possible for him to participate.

7 And we understand that, of course, the issue that occurred with
8 the Prosecution should not be viewed as a lesson that other can
9 take whenever there is a situation occurs and we also raised this
10 matter from the outset of this week hearing.

11 (Judges deliberate)

12 [16.13.42]

13 And thank you for seeking clarification on this matter.

14 And there remains a few other questions concerning whether or not
15 the Chamber schedules a hearing on the coming Friday. On this
16 particular matter, the Chamber will advise the parties
17 accordingly tomorrow.

18 The security guards are instructed to bring the Accused to the
19 detention facility, and they shall be brought to this courtroom
20 before 9 o'clock, tomorrow morning.

21 [16.14.48]

22 And as for Mr. Ieng Sary, for tomorrow, even if he waives his
23 right to -- not to participate in the proceeding directly and his
24 waiver is submitted to the greffier, he shall be brought to this
25 courtroom as well. He shall be present in this courtroom. And he

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1 may submit his waiver to the Chamber when he participates in the
2 courtroom, and upon receiving his waiver, the Chamber will decide
3 whether or not he would be granted leave to retire from this
4 courtroom to the holding cell.

5 At the same time, the Chamber notes the report of the physicians
6 who were attached to Mr. Ieng Sary. He provided a report --
7 report on the 11 of July 2012. He noted in his report that Ieng
8 Sary suffer from dizziness and he becomes tired -- too tired
9 quickly. And the physician recommends that the President of the
10 Chamber grants leave for the Accused to remain in the holding
11 cell for the next 10 days, from today until the 22nd of July. And
12 Mr. Ieng Sary is therefore required to be present tomorrow.

13 (Court adjourns at 1616H)

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