



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

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Case File N° 002/19-09-2007-ECCC/TC

20 July 2012

Trial Day 81

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

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List of Speakers:

Language used unless specified otherwise in the transcript

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

1

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

2 (Court opens at 0902H)

3 MR. PRESIDENT:

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

5 And this morning we will proceed with the Prosecution continuing
6 their questionings to the expert, to be followed by civil party's
7 Lead Co-Lawyers.

8 And before we begin, Ms. Se Kolvuthy is now instructed to report
9 on the status and the presence of the parties and individual
10 called to be present in the Court.

11 THE GREFFIER:

12 Good morning, Mr. President.

13 All parties are present, except Counsel Karnavas, defence counsel
14 for Mr. Ieng Sary.

15 Mr. Ieng Sary is present in the holding cell downstairs. The
16 Accused has waived his right to be present in this courtroom,
17 through his counsel, for today's proceedings. His written waiver
18 has already been submitted to the Greffier.

19 MR. PRESIDENT:

20 Thank you.

21 [09.03.50]

22 The Chamber will now rule on the request of Mr. Ieng Sary.

23 Having received the request of Mr. Ieng Sary, issued on the 20th
24 of July 2012, made through his counsel, to waive his right to be
25 present in this courtroom and to follow the proceedings remotely,

2

1 through audio-visual means, from a holding cell downstairs for
2 the rest of the today's proceedings because he has difficulty to
3 be physically present in this courtroom, and following the
4 recommendations of the treating doctor at the detention facility,
5 dated the 20th July 2012, Mr. Ieng Sary has been recommended that
6 he be allowed to follow the proceedings remotely through
7 audio-visual means because of his dizziness and exhaustion. And
8 the condition is today worse than that of yesterday.

9 [09.05.11]

10 The Chamber has noted that Mr. Ieng Sary has waived his right to
11 be present in this courtroom and to follow the proceedings from
12 downstairs through audio-visual means, and noted that he will be
13 able to advise his counsel from there. The Chamber now grants the
14 request that he waived his right to be present in this courtroom
15 and allows him to be present in a holding cell downstairs. He
16 will be participating the proceedings remotely through
17 audio-visual means for the rest of today's proceedings.

18 AV Unit is now instructed to live the proceedings to the holding
19 cell for him to follow the proceedings.

20 Next, to facilitate the proceedings regarding the examination of
21 the expert's testimony, as well as those to come in the future,
22 the Chamber now hands over to Judge Cartwright in order to
23 respond further to the request of the defence counsel for Mr.
24 Nuon Chea regarding documents to be referred - to be referred to
25 during Court proceedings, in connection with the emails sent to

3

1 the senior legal officer of the Trial Chamber, particularly at
2 paragraph 5 of the memo.

3 [09.07.20]

4 Judge Cartwright, you may proceed.

5 JUDGE CARTWRIGHT:

6 Thank you, President. The Chamber gave a ruling yesterday to the
7 Nuon Chea defence team, which reflected on given earlier to the
8 Ieng Sary team, confirming that documents which are tendered as
9 new documents, pursuant to Internal Rule 87.4, must still meet
10 the requirements of that rule, but noting that the contents of
11 those documents might be used when formulating questions to the
12 expert.

13 [09.08.02]

14 It has become clear that the very -- that a very large number of
15 documents have been uploaded onto the daily trial interface, as
16 part of the advance courtesy copies that the Trial Chamber
17 required. This tends to make the - the Ruling in relation to Rule
18 87.4 and the use to which other documents can be put rather
19 useless.

20 Therefore, the Chamber wishes to confirm that the provisions of
21 Rule 87.4 remain in force. No document can be used by the Chamber
22 in considering its verdict, unless it has been put before the
23 Chamber in compliance with all of the provisions of Rule 87,
24 including that of subrule 4, which relates to newly discovered
25 documents.

4

1 The Chamber wishes to ensure that the parties understand that the
2 purpose of requiring notification to the Parties by way of
3 advance courtesy copies of material that does not comply with
4 Rule 87 is to allow all of the parties and the Chamber to
5 understand the nature of the questioning that is being -- that
6 the expert is being subjected to. To upload more than 1,100
7 documents makes this advanced courtesy notice of little benefit
8 at all.

9 [09.09.58]

10 Consequently, the Chamber wishes to remind the parties that they
11 should upload very few documents in this category, no more than 5
12 to 10 such documents, and at least two weeks in advance of the
13 examination to enable the Chamber and the parties to have an
14 opportunity to review those documents.

15 The Ruling yesterday also clarified that the documents themselves
16 cannot be used as if they were put before the -- had already been
17 put before the Chamber. It is only the contents or the substance
18 of those documents that can be used in examining the expert.

19 Consequently, the Chamber will not allow any quotes from such
20 documents, and nor will it allow the identity of the document to
21 be specified in Court.

22 Finally, such documents, if they are used as the basis for
23 questioning and -- the expert, must be relevant to issues in Case
24 002/001. The President will not allow any questioning that he
25 rules is irrelevant or repetitious.

5

1 [09.11.31]

2 In a second ruling that the Chamber wishes me to explain today,
3 the Lead Co-Lawyers have been given the second half of this
4 morning and this afternoon for its examination of the expert. Of
5 course, as usual, such questioning must be relevant and not
6 repetitious. And I'm sure the Lead Co-Lawyers are fully aware of
7 that -- of that Ruling, and the President will interrupt and
8 abbreviate their time, should that occur.

9 Thank you, President. I think that's all you wish me to say.

10 MR. PRESIDENT:

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

12 MR. PAUW:

13 Thank you, Mr. President. And good morning to everyone. I've
14 understood the Ruling by Judge Cartwright well.

15 [09.12.34]

16 Just for the record and just for clarification, Judge Cartwright
17 was referring to 1,100 documents that apparently have been
18 uploaded on the -- onto the system. I'm not sure who would have
19 done that, but it's certainly not something that has been done by
20 our team -- or certainly not something that has been done on
21 purpose by our team. If it has happened, it's a glitch. We have
22 never meant to upload any more documents than the ones we have
23 already announced in our Rule 87.4 request. So, if something has
24 gone wrong software-wise, I do apologize, but we are not aware of
25 any 1,100 documents and we would certainly not have attempted to

6

1 do so. So I will check, in the break, if we are to blame for
2 that. If so, my apologies, but certainly this was not a
3 deliberate attempt on our behalf.

4 So I thank you. And maybe other parties can offer some
5 clarification. But if it has been us, we do apologize.

6 [09.13.56]

7 MR. PRESIDENT:

8 Next, the Chamber hands over to the Prosecution for them to
9 continue their line of questioning to this expert.

10 MR. ABDULHAK:

11 Thank you, Mr. President.

12 Just because time is precious, I want to seek brief
13 clarification. We were granted yesterday an hour and a half to
14 conclude our examination, which would take us 15 minutes after
15 the break.

16 [09.14.29]

17 Are we permitted to continue for 15 minutes after the break? Just
18 so I can plan in advance.

19 MR. PRESIDENT:

20 You may proceed.

21 QUESTIONING BY MR. ABDULHAK RESUMES:

22 I thank you, Your Honours.

23 And good morning, Professor. Thank you for coming back. As you
24 heard, we will conclude our examination in an hour and a half of
25 real time, and then we'll try and be as expeditious as we can.

7

1 Q. We discussed yesterday the establishment and mission of S-21
2 and some aspects of its operation, including the format of the
3 confessions and other documents you reviewed from the S-21
4 archive.

5 [09.15.44]

6 By way of providing a context for the rest of the subtopics I
7 wish to examine with you, I wish to ask you first to give us a
8 brief -- very brief overview of what you describe as the two
9 broad purges occurring in '75 to '76 and then after '76.

10 I will read the relevant passages from your book, "Voices from
11 S-21", just so that everyone understands what your analysis of
12 this - of this issue has been. This is document D108/50/1.4.6.
13 The Khmer ERN is 00191880. The English ERN is 00192724. And we'll
14 pass the hard copy to you, Professor. The French ERN is 0357311.
15 I will read two brief passages from that section of your book --
16 quote -- and if we could have the Khmer version on the screen for
17 the public, that would be appreciated -- quote:

18 [09.17.12]

19 "The purges conducted by the Party Centre and enacted at S-21 can
20 be broken into two broad phases. The first lasted from September
21 1975 until September 1976. The second extended until the collapse
22 of DK. Most of those targeted in the first wave of purges were
23 civilian and military officials affiliated with the defunct Lon
24 Nol regime. In the backwash of victory, thousands of these people
25 were rounded up and killed."

8

1 And, skipping one sentence, then, a little bit further down: "The
2 1975 killings in DK, like re-education in Vietnam, we ordered
3 from the top."

4 The next passage which builds on this topic is just a little bit
5 further down -- and I quote:

6 [09.18.15]

7 "In Cambodia, the killing campaign was curtailed in June 1975 by
8 the Party Centre. Soon afterward more formal and more extensively
9 documented procedures for dealing with 'enemies', centred on
10 'santebal' came into effect."

11 Professor, if I could ask you to briefly elaborate on your
12 conclusions that the rounding up and killing of those associated
13 with the Lon Nol regime was occurring -- I think you say up to
14 about June '75, and that thereafter a different set of procedures
15 came into force. Could you elaborate as to how you came to those
16 conclusions and what -- what significant events reflect this
17 shift?

18 MR. CHANDLER:

19 Yes. Thank you. Good morning.

20 [09.19.25]

21 The purges against the former members of the Lon Nol government
22 and army are fully testified to in refugee reports and in some DK
23 documents, many of which were not available to me when I wrote
24 this book, but they confirmed the finding that I'd already put in
25 -- via refugee reports, interviews that had been conducted in the

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1 eighties, published work by other writers, and so on. It's a
2 pretty well-known first phase, compared by the American writer
3 Noam Chomsky to the revenge killings that occurred in France at
4 the end of World War II -- in other words, sort of "don't worry
5 about it, this happens all the time" kind of explanation. I think
6 many more lives were involved, in terms of the relative sizes of
7 France and Cambodia, but the point is this was a kind of vendetta
8 that was called -- pulled up short by the regime.

9 Later on, of course, particularly in the provincial prisons,
10 there's evidence that if New People were discovered to have been
11 in the Lon Nol army, this was enough information to pull them out
12 of the work force, put them into the prison, and generally, in
13 many cases, to have them executed. So, informally, it continued;
14 formally, it stopped.

15 [09.20.47]

16 Q. Thank you, Professor.

17 Moving on to your discussion of the -- of what you describe as
18 the ideology of Democratic Kampuchea, which relates to the
19 treatment of enemies. This is again in "Voices from S-21", Khmer
20 ERN 00191976, English ERN 00192813, and French ERN 00357393. If
21 we could have the Khmer page on the screen? The passage is brief.
22 It states the following:

23 "The ideology of Democratic Kampuchea, as we have seen, was
24 premised on continuous class warfare and continuous revolution.
25 'Enemies' were everywhere and needed to be destroyed. Some were

10

1 poised along Cambodia's borders; others were farther off; still
2 others were 'buried inside the Party, burrowing from within'.
3 Enemies often came disguised as friends. To ferret them out,
4 extreme measures needed to be taken."

5 [09.22.17]

6 I wish to show you now an excerpt from a "Revolutionary Flag"
7 magazine which you have discussed in your book "Tragedy of
8 Cambodian History". This is the August 1975 issue, document
9 number E3/5. And I just want to read a couple of passages and see
10 if you consider them in any way relevant for the purposes of this
11 -- this discussion. Khmer ERN 00063341 to 2. English ERN 00401504
12 to 2 and French ERN 00538976 to 7. This is a very long document;
13 I'm only going to read three brief passages -- quote: "Because of
14 this, our army must fulfil the mission of defending the country
15 with high and constant revolutionary vigilance."

16 The next passage, two sentences down:

17 "That is, as for defending Phnom Penh and smashing espionage
18 groups and smashing saboteurs that want to wreck and destroy our
19 revolution, we will continue to smash the defeated enemy remnants
20 to consolidate our victory."

21 [09.23.50]

22 And finally, briefly, further down from that -- quote: "That is,
23 the external enemies and the internal enemies still exist. Class
24 combat and national people's combat still exist."

25 The passages that I've read discuss "revolutionary vigilance",

11

1 and "class combat", and the need to smash "saboteurs".

2 Are these passages in any way relevant to your discussion of the
3 concept of continuous class warfare and enemies that need to be
4 fretted out?

5 A. Indeed, they do, and that's why I cited them in my book. It
6 seems to me this is a very forthright statement of objectives, a
7 very consistent statement of objectives.

8 It's interesting, re-reading the document after several years,
9 that the phase internal enemies already occurs in December '75. I
10 mean, this is obviously something that had been in their quiver,
11 if you like, or weapon that they could use for a long time.

12 [09.25.12]

13 But in terms of the purges against internal enemies, these hadn't
14 even started, but the passage is urging its readers -- or
15 listeners, if it was delivered as a speech originally -- to be
16 vigilant against internal enemies.

17 A key point that I should have made perhaps yesterday, these are
18 undefined. So the point is, as I sit here, I'm surrounded by
19 potential internal enemies. As you stand there, you are
20 surrounded by -- no one in the room is to be intrinsically
21 trusted. This produces a sort of, if you like, frothy atmosphere
22 of DK. If they said - DK -- the internal enemies will have been
23 proved through evidence to have done such and such, that makes it
24 much clearer, but they say: They're out there. It's like the
25 French phrase, a counterrevolutionary, who knows who they are.

12

1 And this is menacing and very helpful to the regime to keep
2 everybody off balance.

3 [09.26.11]

4 Q. And just so that we're clear, on whose -- based on your
5 research, on whose behalf is the "Revolutionary Flag" written? Or
6 whose messages does it represent?

7 A. This is a periodical whose readership is reserved to Party
8 members, whose articles are originated by high ranking Party
9 members or articles to reflect speeches delivered by high ranking
10 Party members, generally not named as such.

11 Q. Thank you.

12 Now, you discussed with Judge Cartwright, on Wednesday, the
13 significance of the 30th of March 1976 decision and the decision
14 on the "right to smash" in that document. So I don't propose to
15 deal with it, but it is a nice point of reference as we move into
16 1976.

17 [09.27.49]

18 And I wish to show you another issue of the "Revolutionary Flag"
19 and see if you can consider for us what the messages conveyed
20 reflect in terms of policy. This is document E3/4. It is the
21 "Revolutionary Flag" of July 1976, the Khmer ERN is 00062922, the
22 English ERN is 00268927, and the French ERN is 00349980.

23 If we could pass a hard copy to the Professor just to make it
24 easier for him? Professor, if you're - if you look for the ERN's,
25 the passage ends - or, rather, the digits end with "927".

1 [09.28.51]

2 Quote: "But assessing another aspect, objectively and
3 subjectively, objectively, there are enemies."

4 And then, two sentences below:

5 "The aspect of harassment is routine; they wreck us by every
6 means, from inside and from outside; but they are unable to
7 attack us from outside, so they attack from within. To attack us
8 from within, they must attack the line, cause turmoil in the line
9 inside the Party, inside the army, inside our people, so they
10 will be easy to split."

11 The next passage -- before I ask you some questions -- from this
12 document is at Khmer ERN 0062935, English ERN 00268938, and
13 French 00349989 -- again, a brief passage -- quote:

14 "In the past, a large number of the inductions in the Party were
15 proper, but a fairly large number were improperly inducted,
16 especially in 70-71. Therefore, many opportunistic elements
17 entered, but the Party closed the doors and purged [screened] to
18 the maximum."

19 [09.30.36]

20 And, skipping one sentence, the following sentence reads:

21 "In doing so, experience has shown that it is imperative to grasp
22 the biographies. If the biographies are unclear, even though the
23 [candidates] are good, do not yet induct them. Be vigilant
24 regarding the CIA; they have infiltrated."

25 What, if anything, does this reflect, in terms of the view on

14

1 enemies as they relate to the regime, at this point in time?

2 A. Well, this kind of distressing paragraph is singling out by
3 name - well, not by a specific name, but by identifying enemies
4 as of people who have already been inducted into the CPK. Now,
5 this was not -- we don't have exact Party figures, but this was
6 not hundreds of thousands of people; this was at most tens of
7 thousands.

8 Obviously, during the Civil War, as it became more a Khmer Rouge
9 operation rather than a joint Vietnamese-Khmer operation on the
10 -- against the Lon Nol regime, the Khmer Rouge, quite sensibly,
11 needed to develop cadre that they could trust, by -- and one
12 aspect of this was by inducting them into the CPK so that they
13 could become military officers and -- another phrase they use,
14 but military leaders, potential administrators, and so on.

15 [09.32.18]

16 So, it seems -- I don't know. I haven't run into other
17 documentary evidence that they're rushing these members into the
18 Party, but it seems that this might be a perfectly truthful
19 passage. They worried that they had some people -- they brought
20 some people in whose biographies were not sufficiently examined,
21 and this is understandable under wartime conditions. Somebody
22 could wander in and say "I'm a poor peasant", and then three
23 years later they find this person was a different class origin or
24 had a relative working for Lon Nol. So you have to re-screen --
25 re-screen these people.

15

1 The date of the issue confirms what -- what has been discussed
2 already, that there's a shunt toward internal enemies away from
3 former enemies. Internal enemies now become the important target
4 of DK rather than "Lon Nol remnants", as they're called.

5 [09.33.14]

6 Q. You discussed yesterday that you had looked at biographies of
7 guards or the staff at S-21. The passage that we just read
8 stresses the quote "imperative to grasp" -- that "it is
9 imperative to grasp the biographies". What is your understanding
10 of how biographies were used by the regime, if at all?

11 A. Biographies were used extensively in the regime. This is a new
12 genre in Cambodian literature, basically. I mean, everybody in
13 the Party had to prepare biographies for use in study sessions.
14 There are some biographical passages about the leaders of the
15 Party, including Pol Pot, that occur in one of the confessions.
16 Obviously, all these detail must have been drawn from documents
17 and the person who was confessing it has accurate information
18 that can be checked from other sources.

19 Biographies were the key. They figured - apparently, DK figured
20 that elements of your past life would be indicative of how you
21 would operate. In other words, if you were a middle peasant, you
22 were less likely to be a loyal Communist than if you were a poor
23 peasant. If you had any relatives in the Lon Nol regime or had
24 perhaps been a monk for any period of time, these were -- made
25 you more questionable, less pure.

16

1 [09.34.51]

2 So they tried to dredge up this information. And these
3 biographies, even among people who were not accused of crimes,
4 were repeatedly requested to see if there were any changes or if
5 you'd omitted some detail.

6 So it's a very important weapon of the - of the regime or-- Let's
7 not use such a strong word, let's say "a tool". It was a tool the
8 regime used to maintain control and to find out who the people
9 were that they were using as their representatives.

10 Q. Thank you, Professor.

11 Now, moving on to another area which you deal with in some detail
12 in "The Voices from S-21", and it is the events of the early
13 1976, and in particular the incident -- an incident in Siem Reap
14 -- an explosion in Siem Reap and also explosions in Phnom Penh.

15 [09.36.04]

16 Are you able to give us a brief overview of the relevance of
17 those events as you saw them or would you prefer me to read the
18 passages first and then have you expand? I'm just thinking what
19 is going to work better in the interest of time.

20 A. Well, if I don't talk too much so, it's better if I just
21 quickly go over it.

22 The explosion in Siem Reap, no one's ever been able to explain
23 this. Scholars have worked on what it might have been. It might
24 have an accidental explosion at an ammunition dump. Some think it
25 might have been a tie air raid. There's no evidence at all this

17

1 was a crime produced by the local authorities, although it was an
2 event that made the regime nervous because something had happened
3 that was not supposed to happen.

4 In Phnom Penh, again, there was a grenade explosion somewhere
5 near the Royal Palace. And as we've heard earlier - no, we
6 haven't heard earlier -- the places where the leaders of the
7 Party lived and worked were quite close to the Royal Palace. So,
8 if a grenade explodes in the Royal Palace, and these -- all these
9 kind of things were very severely controlled, they assumed this
10 meant an attack on the regime rather than a grenade exploding
11 near the Royal Palace.

12 [09.37.29]

13 The military body serving in Phnom Penh -- the number's in my
14 book -- was a body of troops drawn from the East and had fought
15 in the East during the civil war, was commanded by people who had
16 been cadre in the East. So it was felt that these soldiers were
17 acting -- or whoever set off the grenade was acting on the
18 authority of an officer in that unit, who was from the East and
19 opposed to the regime. This turns the whole DK searchlight onto
20 the East, which they had always been suspicious because that's
21 the part of Cambodia that borders Vietnam, and particularly on
22 the officers of this particular military unit. So that's what
23 kicked it all off.

24 And as I said earlier, S-21, at the high school, was established
25 very quickly after this -- after these events and its aftermath.

1 Q. Thank you very much for that brief and comprehensive answer.

2 [09.38.32]

3 You've discussed the focus on the East, as you found in your
4 books. Is there any relevance - or, rather, I'll rephrase that.
5 Looking at the arrest of a cadre called Koy Thuon, whom you also
6 discuss in your book, what, if any, significance does that arrest
7 have in light of these events?

8 A. I think that was really a third wave of purges. I don't
9 think-- It was about a year later. It's not directly related, in
10 my mind. This was beginning to be a purge of -- what seemed to be
11 a purge of intellectuals in the Party, people who were connected
12 with Koy Thuon, who had been to the Lycée Sisowath with many of
13 the other members, high ranking members.

14 The purges against the eastern -- eastern military people went on
15 through to 1976. In '77 there's a shift toward purging cadre in
16 parts of the country where conditions are very bad and where
17 there Centre is, maybe belatedly, learning how bad this situation
18 is. So they're starting to turn on cadre in these areas. The
19 Northern Zone was an area that seemed to have some difficulties.
20 Koy Thuon had been in charge of that zone.

21 [09.40.15]

22 Now, it may well be -- this is never clear -- that they were
23 going after him for some other reasons, but it starts off a
24 rolling barrage of attacks on the productive -- or the supposedly
25 productive parts of the country, particularly in the Northwest,

19

1 that arose on through 1977. And Koy Thuon and his associates
2 start to be -- I mean, the people who get arrested and connected
3 with his arrest -- in connection with his arrest, tend to be
4 people higher up in the Party apparatus than the soldiers and
5 military officials arrested in that Eastern Zone first -- in the
6 first set of purges.

7 So the Koy Thuon kicked off purge is very significant. His
8 confession runs to, I think, 800 pages, a series of confessions.
9 He was treated very - apparently, according to Duch, very well at
10 first. He was told not to be -- they said: Don't torture him,
11 just ask him questions, and so on. It's a crucial - another --
12 it's another shunt, another turning point.

13 [09.41.18]

14 Q. Thank you.

15 Now, you've just referred to the arrest of people associated with
16 Koy Thuon, and I wish to refer to two passages in "Voices From
17 S-21" which deal with one of those -- one of those people. Just
18 for the record, again, the document number is D108/50/1.4.6. The
19 Khmer ERN is 00191900, the English ERN is 00192742 to 43; and
20 French, 00357331 to 2. So, Professor, I see you've been able to
21 locate the page.

22 Two passages that appear relevant to the topic we're discussing
23 -- quote:

24 "Two weeks after Koy Thuon's arrest, Doeun was brought into S-21.
25 Doeun had worked closely with Thuon in the civil war and had

20

1 replaced him briefly as commerce secretary. In 1975 he became the
2 administrative officer of Office 870, the CPK's Central
3 Committee."

4 And the next passage that relates -- quote:

5 [09.43.08]

6 "Of the prisoners arrested so far, with the possible exception of
7 Ney Sarann, Doeun was the closest to the Party Centre, and the
8 importance of his position in Office 870 is confirmed by the fact
9 that he was replaced by Khieu Samphan, DK's ostensible chief of
10 state. It is possible, as Heder has argued, that Khieu Samphan
11 played a key role in Doeun's downfall. He was certainly the major
12 beneficiary."

13 Looking at these passages, I don't want to speculate on -- given
14 that we're not referring to hard evidence on Mr. Khieu Samphan's
15 alleged role. I wish to take a step back and look at the way in
16 which you consider Doeun's seniority. Could you expand briefly on
17 that -- on that short passage where you say that the importance
18 of Doeun's position in Office 870 is confirmed by the fact of his
19 replacement by Khieu Samphan?

20 [09.44.38]

21 A. If I had the chance to re-write that passage, I'd reverse it a
22 bit. I would say: The importance of 870 is indicated by the fact
23 that Doeun was replaced. I think we've heard -- there's been a
24 lot more work done recently that I didn't do on 870 that shows
25 this was a mailing dress, a funneling, a office -- the point is,

21

1 it was so -- it was sometimes confused with Pol Pot himself --
2 Pol Pot himself's codename.

3 [09.45.05]

4 To have anyone in that office meant this person had to be trusted
5 by the very top half dozen people in the Party.

6 So I see now that the sentence could be recalibrated to say: The
7 importance of the office was shown that they didn't reach out
8 into the countryside to find somebody. They would have stayed
9 right inside Phnom Penh, pointed to the - to the ostensible chief
10 of state, and said, you know, he assumed this position.

11 I'm completely unprepared to say -- to go along with - with
12 Heder's research. It may or may not turn out to be okay. I don't
13 -- I put it a possibility -- I don't even say that -- I don't
14 want to go on record to say that today. But the importance of the
15 office is very -- 870 was the nerve centre. I called it in one
16 case "Central Committee"; that's what some people thought it was
17 in those days. It was - they were all mixed up, the Central
18 Committee, the Standing Committee, 870, K-1, you know, Angkar,
19 Angkar Leu. These are all -- they're a bundle of things referring
20 to the handful of people at the top.

21 [09.46.19]

22 Q. Thank you, Professor. Looking at another arrest which you
23 discuss in some detail in your book, "The Voices from S-21", you
24 look at the treatment of Hu Nim alias Phoas, who was the Minister
25 of Information and Propaganda, and this is what you say at Khmer

1 ERN 00191900, English ERN 00192743, and French ERN 00357332 --

2 quote:

3 "Koy Thuon's confession also implicated Hu Nim (alias Phoas),
4 DK's Minister of Information and Propaganda and a long-time
5 associate of Khieu Samphan, who was arrested in April '77. Born
6 into a poor peasant family in Kampong Cham in 1930, Hu Nim had
7 overlapped with Khieu Samphan (and missed overlapping with Saloth
8 Sar) at school in Kampong Cham."

9 [09.47.47]

10 First of all, could you describe for us the role Hu Nim had
11 played in the Party over the years and what significance, if any,
12 can be attached to the arrest of an individual at this level of
13 the authority structure?

14 A. Well, just to refresh some memories, Hu Nim was one -- of
15 course, one of the so-called "three ghosts" who were allegedly
16 leading the -- the Front government of Sihanouk. The other "two
17 ghosts" were Hou Youn, who was assumed to be dead, and of course
18 Khieu Samphan.

19 That "three ghost" past, I don't think, was -- had anything to do
20 with his being arrested. In his confession he doesn't go through
21 that period of his life; that's not what he was being blamed for.
22 What he was being blamed for, intrinsically, was his association
23 with other people who had already come to S-21. By implication,
24 he was being blamed for situations, particularly in the
25 Northwest, which, as I said earlier, had been staffed with

23

1 reasonably -- of cadre not familiar with the region and people,
2 by New People as obviously a poor situation developed in the
3 Northwest, as we've discussed.

4 [09.49.20]

5 So this is a -- even more of a - of an intellectual and a front
6 person than Koy Thuon. His life in the Party had been completely
7 concealed in the 1960s. Sihanouk went after him in a kind of a --
8 targeted him because he was -- had close ties with the Chinese
9 community in Phnom Penh, and in the 1960s they were going through
10 Maoist phase, and Hu Nim was related to -- so Sihanouk, one of
11 the reasons he fled to the countryside, as -- same as Khieu
12 Samphan did in '67, he'd been targeted by Sihanouk as one of the
13 enemies of the country because of his association with the
14 Chinese. So his past is pretty well open, and this is why, I
15 think -- or certainly why his confession was singled out by
16 Kiernan and Chantou Boua before we wrote that book as one that
17 should get into the public eye, because people had heard of him
18 before. This is a Khmer Rouge figure that people would have
19 remembered from this "three ghost" past and, so his confession
20 was -- is in the back of "Pol Pot Plans the Future", in English.
21 It's one of the few confessions that exists in full in English in
22 a publication.

23 [09.50.37]

24 Q. Thank you, Professor.

25 Looking at another group that you deal with in your book, another

24

1 group of victims -- this is at -- in "Voices From S-21", at Khmer
2 ERN 00191897 to 8, English ERN 00192739 to 740, and French ERN
3 00357328. This - this particular section is headed "Purging
4 Diplomats and Intellectuals". You - I will skip a number of
5 passages in the interest of time, but you discuss the
6 inauguration of the four-year plan in December '76 as well as the
7 raid into Vietnam in early 1977. The passage that is - that I
8 wish to read out and ask you about is the following -- quote:
9 "As DK prepared itself for war, the CPK also purged people into
10 diplomatic service and the Ministry of Foreign Affairs suspected
11 of being 'pro-Soviet' or 'pro-Vietnamese'. Prominent victims
12 included the DK ambassador to Vietnam, Sieng An, and Hak Seang
13 Lay Ni, a Foreign Ministry official accused of founding yet
14 another rival Communist party, with Soviet encouragement, in the
15 1960s. Several other diplomats were also rounded up. These
16 punitive measures also reflected the distrust felt within the
17 Party Centre for anyone except themselves who had had
18 professional training, extensive residence overseas, or contacts
19 with non-Khmer."

20 [09.52.54]

21 Could you expand for us on this - on the effect of this apparent
22 focus on pro-Soviet or pro-Vietnamese elements as it relates to
23 the diplomatic corps and the Ministry of Foreign Affairs?

24 A. Yes. The regime didn't really trust anybody who had
25 unmonitored periods of activity. This is particularly people who

25

1 had lived for any length of time overseas. People selected for
2 diplomatic service had often -- by definition, were living
3 overseas, and others had had experience elsewhere.

4 I'm not sure that these purges, which were not -- because the
5 Foreign Ministry's diplomatic corps was so small, for example,
6 were as significant as some of the purges of the Northwest or the
7 East, and so on, at other times, but I think the Khmer Rouge
8 wanted to make sure, in the late '77 -- and they were breaking
9 relations with Vietnam in any case -- that the people -- the
10 handful of people that they had overseas -- Korea, North Korea,
11 China, Vietnam, and Laos -- were people they could trust.

12 [09.54.17]

13 They pulled the Vietnam men back and (inaudible) S-21, and they
14 executed them. The Laos persons stayed in place, I think. The
15 Chinese people were not pulled back. But people who had been
16 diplomats before, under FUNK and GRUNK, were allowed to work in
17 B-1 because they had this experience, were -- started to be
18 suspected.

19 Q. Now, just considering arrests from within B-1 and from these
20 diplomatic posts, are you able to opine, looking at the CPK
21 authority structure, which authorities or which bodies, if any,
22 would have had authority to authorize such - such arrests?

23 A. There's no -- hardly ever in Cambodia is there a smoking gun
24 for this sort of decision, but diplomats arrested from the
25 diplomatic corps or from inside the ranks of B-1, these arrests

26

1 had to have met the approval or at least come to the knowledge of
2 Ieng Sary, who was Foreign Minister. They would -- people would
3 not be coming to the Foreign Ministry at night and snatching
4 officials out from under him. He was advised.

5 [09.55.42]

6 Whether he, himself, said "we should", that's what we don't know.
7 We know these people left the foreign ministry. We know he was
8 trusted by the regime. We know the way things worked, that he
9 would certainly have been informed. There are some confessions
10 that say "one copy sent to Brother Van"; he would be informed
11 about something that was in his interest. He was a Foreign
12 Affairs person or whatever.

13 So awareness would be there -- that he was -- you can't say that.
14 The authority is always at the top, but then, as I've said so
15 many times, the top is a whole bunch of people. It's not "we'll
16 wait until the head guy signs the--" No, no, collective decisions
17 all the time. And that would be -- so you can't name a name as to
18 who authorized the arrests, but you can say certainly that Ieng
19 Sary was aware of these, and possibly there was no -- in his --
20 you know -- "defence" is not the word I want to use, but as a
21 sort of extenuating circumstance, there is no way he could say
22 "don't arrest him, don't do that", unless there are caases when
23 this happened and we don't know about them. That's what I have to
24 say.

25 [09.56.53]

1 Q. And just coming back to the--

2 MR. PRESIDENT:

3 The Expert, could you please slow down? When you speak fast, you
4 cannot be interpreted fully.

5 The Prosecution may continue now.

6 BY MR. ABDULHAK:

7 Thank you, Mr. President.

8 Q. Now, just returning to this - this concept of a collective
9 decision making for a brief moment and the relationship with the
10 relevant head of a ministry or head of a -- of other body within
11 the CPK and DK, based on your research, was there a standard or a
12 generally consistent way in which at least important decisions
13 were made on arrests when it came to people being drawn from
14 within ministries or other significant bodies in the country?

15 [09.58.08]

16 MR. CHANDLER:

17 A. I think, on that issue, we have no information one way or the
18 other.

19 Q. Thank you. Thank you for being brief.

20 Now, moving on to another topic briefly -- and I'll see if I can
21 do this without referring to too many passages -- you -- we made
22 reference earlier to the -- your discussion of the - of the
23 incursions by DK forces into - into Vietnam. You discuss in
24 "Voices from S-21" also the deterioration in the diplomatic
25 relationship between the two countries and the public fact of the

1 breaking off of diplomatic relations in January '78. I want to
2 explore whether or not that deterioration -- the apparent
3 deterioration in any way affected the way in which the enemy
4 policy may have evolved.

5 This is in "Voices from S-21", at Khmer ERN 00191910, English ERN
6 00192751, and French ERN 00357341, and this is what you said in
7 that -- on that page -- quote:

8 [09.59.57]

9 "For the first half of 1978, the 'enemies' targeted by the Party
10 Centre were often said to have 'Cambodian bodies and Vietnamese
11 heads', and at S-21, particularly stubborn prisoners were made to
12 pay homage to a drawing of a dog whose head was Ho Chi Minh's."
13 Looking at that passage, what, if any, conclusions are you able
14 to draw about this apparent shift to people with Cambodian bodies
15 and Vietnamese minds?

16 A. Well, by the first half of '78, the Cambodians were aware of
17 the incursion Vietnamese armed forces had made into the country
18 in -- secret incursion that were admitted by other country --
19 November, December 1977 -- and began to see two things, I think.
20 One is that their attention had to shift to some extent from
21 cleaning out the Party in the Northwest, and the intellectuals,
22 and so on -- the previous purges -- but they had to shift to
23 concentrating on people who were either ethnic Vietnamese or were
24 involved in some way with what had in fact been a severe defeat
25 for the Khmer Rouge, in the sense that the Vietnamese came in,

1 stayed, and withdrew rather than came in and were thrown out by
2 the Cambodian army.

3 [10.01.48]

4 The second thing it made them consider, I think, is that their --
5 I don't think they ever said anything about this in public, so
6 this is supposition -- that their cross-border raids into Vietnam
7 in 1977 had been counterproductive. These were in fact what had
8 provoked the Vietnamese -- we're pretty sure of that through
9 documentary evidence -- and had not had the results that had been
10 wished by the regime. So, in '78, in fact, these cross-border
11 raids were not as vicious as they were in '77.

12 It started to be an opening out and a breaking down of the DK
13 regime because of this war with Vietnam. This was what brought
14 the regime down and, I think, the -- provoked the level of fear
15 and attention that these purges indicate.

16 Q. Thank you.

17 Before we move on to the latter phases of these purges and, an
18 issue you've already raised earlier, the impact on the East Zone,
19 I wanted to briefly consider whether some of the public
20 statements by the regime in the 1977 period are in any way
21 relevant for the purposes of the discussion of enemies.

22 [10.03.29]

23 The document I wish to show to you is document E3/201. It is an
24 anniversary speech delivered -- or attributed to Mr. Khieu
25 Samphan on the 15th of April 1977. The relevant passage in Khmer

1 is 00292805; the English, 00419513 -- and we'll pass that passage
2 to you, Professor, in hardcopy; and French, 00612166. And the
3 passage reads as follows -- quote:

4 "However, we must--"

5 And just before I continue, if I could ask for the Khmer version
6 to be on the screen? Thank you.

7 "However, we must carry on the task of defending our Democratic
8 Cambodia, protecting our worker-peasant administration and
9 preserving the fruits of our Cambodian revolution by resolutely
10 suppressing all categories of enemies, preventing them from
11 committing aggression, interference or subversion against us. We
12 must wipe out the enemy in our capacity as masters of the
13 situation, following the lines of domestic policy, foreign
14 policy, and military policy of our revolutionary organization.
15 Everything must be done neatly and thoroughly. We must not become
16 absentminded, careless or forgetful because of past victories."
17 And I'll stop there.

18 [10.05.24]

19 The reason I'm turning to this passage is because it is
20 apparently a public statement, and I'm -- I wish to seek your
21 expert opinion on whether or not these words -- this passage --
22 in any way reflect the policy of the Party that we've been
23 discussing.

24 A. I mean, I think the passage fully reflects Party policy. I
25 mean, it's a - it's a restatement of themes and even sentences

1 and phrases we've been hearing for the last three days.

2 Q. Thank you. And I'm particularly grateful for your brief
3 answers.

4 You've - you've already touched on the purges of the North - on
5 the Northwest. Time is precious, and we don't have enough time to
6 go into a great amount of detail, but what I wanted to turn to is
7 the -- what you describe as the - as the purge of the East Zone.
8 You've already touched on this a little bit. One of the reasons I
9 wish to seek further opinions from you is because you describe it
10 as a significant -- a significant purge.

11 And I'm going to read one passage from "Voice from S-21" and ask
12 you to expand or describe for us what that purge entailed. This
13 is at Khmer ERN 00191910 to 00191913, English ERN 00192752 to
14 753, and French ERN 00357341 to 343. It's a long section, so I
15 will just see if I can focus on the most important passages.

16 [10.07.44]

17 You first discuss the arrest of West Zone secretary Chou Chet and
18 the hospitalization at the time of East Zone secretary So Phim.

19 The passage that then follows is -- reads -- quote:

20 "The Party Centre then embarked on a wholesale purge of cadres
21 in the Eastern Zone. In April 1978, so many were brought into
22 S-21 that some of the trucks bearing prisoners had to be turned
23 away. The prisoners were presumably taken off to be killed
24 without any interrogation. The purges were conducted by senior
25 members of the CPK, led by Son Sen and supported by loyal troops

1 dispatched from the Southwest Zone and the Central Zones under Ke
2 Pauk."

3 Professor, you mentioned earlier the early suspicions of the
4 Party Centre in 1976 as they relate to the East Zone. Could you
5 expand on your conclusions as to what led to this purge and what
6 its effect was on the zone?

7 [10.08.58]

8 A. I think what led to the--

9 MR. PRESIDENT:

10 Please hold, the Expert.

11 Yes, Defence Counsel for Mr. Ieng Sary, you may proceed.

12 MR. ANG UDOM:

13 Thank you, Mr. President, Your Honours. Good morning, everyone,
14 and my apologies for interrupting. I have two points to raise.
15 The first one deals with the reference of the Prosecution to the
16 confession at S-21. As we all know, these are tainted
17 confessions.

18 And the second point is that I have observed that the professor
19 used a lot of words like "I think" -- that is, in English -- and
20 we have discussed this issue yesterday, that this should not be
21 referred to. So, now, I'm seeking advice from the Chamber that if
22 the professor keeps using this, it is equated to speculation. So
23 I request that if the witness does not know for sure, he should
24 not answer the question.

25 [10.10.49]

1 MR. ABDULHAK:

2 Mr. President, I really don't understand the basis of these
3 objections. I think, in fact, they're entirely unfounded.

4 I haven't been asking the professor about the contents of
5 confessions, and the professor has -- was instructed by Judge
6 Cartwright on Wednesday that we cannot refer to the contents of
7 confessions, and in fact we haven't been doing so.

8 The use of the words "I think". Well, when you call an expert
9 witness, you call him to give expert opinions. When one gives
10 expert opinions, he or she thinks, and that's what the professor
11 is doing. I think it is nonsensical to suggest that he can't use
12 a word that, in fact, describes the process that we're asking him
13 to undertake.

14 [10.11.37]

15 MR. PRESIDENT:

16 The objection by the national counsel for Mr. Ieng Sary is not
17 sustained.

18 The Prosecution has put proper questions to the expert, and
19 regarding the wording used by Professor Chandler, the Chamber
20 notes that it is appropriate for him to use this phrase in his
21 capacity as an expert. The Chamber observes that this phrase
22 cannot be used by an ordinary witness because ordinary witnesses
23 are not experts. That is why we have to differentiate between
24 experts and ordinary witnesses.

25 The Prosecution may proceed.

1 BY MR. ABDULHAK:

2 Thank you, Mr. President.

3 Q. Professor Chandler, as we move on to the final part of our
4 discussion of S-21 and implementation of the enemy policy, you
5 will recall that we, through the Witnesses and Expert Unit, sent
6 you a number of documents from S-21 which, essentially, were
7 extracts from prisoner files containing annotations, and it was
8 for the purposes of those annotations and for their analysis that
9 those documents were sent to you. I'd like to go through them in
10 sets, if we could.

11 [10.13.31]

12 So the first three confessions -- and if we could deliver to the
13 professor the first three, I will read the relevant numbers. The
14 first document is number IS 5.16. It is from the prisoner file of
15 Chout Nhe. The second document is D288/6.5/2.47, and the
16 individual concerned is named Chap Mit. And, lastly, document IS
17 5.41, which also bears the number E3/1565, which relates to an
18 individual called Kung Kien alias Eung Vet.

19 So if we could pass those three hardcopies to the professor?
20 These are from the set that you -- that you've been asked to
21 review, Professor, so what we're doing is simply honing in on a
22 few examples. You will find that for the first two we have
23 available English translations, but for the third, we're only
24 giving you a Khmer because we don't have a Court-authorized
25 translation.

35

1 [10.15.03]

2 MR. PRESIDENT:

3 You may proceed, but could the prosecutor provide us the names of
4 the individuals -- the names in Khmer -- to be sure? Because, in
5 the Khmer version, through the translation, it's not clear. The
6 National Co-Prosecutor may read out the names of those who were
7 interviewed.

8 MR. CHAN DARARASMEY:

9 Mr. President, I will now read the names in Khmer language. The
10 first one refers to the biography of Chout Nhe - Chout Nhe.
11 Secondly, it's the written record of Chap Mit -- Chap Mit; he is
12 a secretary of Kandal district. Thirdly is the activity history
13 of Kung Kien -- Kung Kien -- Kung Kien, alias Eung Vet.

14 MR. PRESIDENT:

15 Thank you.

16 BY MR. ABDULHAK:

17 Thank you, Mr. President, and I thank my national colleague.

18 [10.17.26]

19 Q. Professor Chandler, taking them in the order that my colleague
20 just read, could you -- and I will ask my colleagues to display
21 the Khmer version of the document on the screen. The ERN is
22 00005403, English ERN 00185061. We will display the Khmer version
23 on the screen.

24 Professor, what we are -- if the AV Unit could assist us with
25 displaying that on the screen, I think we have the right page,

1 and it would be appropriate to also-- Thank you very much.
2 We're merely interested here in the annotation that you see
3 appearing and that is dated, I believe, the 11th of November
4 1977. If you could read that for us, Professor?

5 MR. CHANDLER:

6 A. Let me just get this thing again, to see which one it is. "To
7 Brother Nuon, one copy."

8 Q. Thank you.

9 A. Let me just say one more thing. You asked me last -- yesterday
10 to review these annotations. I just want to get on record that I
11 did review them yesterday and this morning. So I've gone through
12 them. So I have seen them and I'm ready to talk about them. Thank
13 you.

14 [10.19.10]

15 Q. And I - and I thank you for those - for those efforts,
16 Professor. I know that we've placed significant demands on you.
17 If we could look at the second one, and here the annotation I'm
18 interested in is a little bit longer. This is the confession of
19 Chap Mit. The Khmer ERN is 00226401, and the English, 00284069.
20 If you could read that for us? I think you have here also the
21 English version. Whichever is easier for you to read, if you
22 could read them in English? I'd appreciate if we could show that
23 page on the screen. The ERN is, in Khmer, 226401. I think it's
24 ready so that the AV Unit-- Thank you.

25 If you could read that passage for us, Professor? It might be

37

1 easier from the hardcopy, whichever suits you.

2 (Short pause)

3 Are you able to read it?

4 A. (Microphone not activated)

5 Q. We're waiting for your microphone. Could we – could we please
6 have the professor's microphone on?

7 [10.20.48]

8 A. Thank you. It's flattering to be -- have it suggested that I
9 can read Cambodian faster than I can read English, but I have
10 checked the Khmer text as I was waiting for your question.

11 The -- one thing is not, perhaps, absolutely clear. Pon was
12 another official at S-21. He's-- And this is the handwriting of
13 Duch. That's all been -- it's well known, it's been testified
14 many times. So this is his advice.

15 And the key point, I think, from our point of view, is that
16 paragraph 2 does refer in Roman numbers to Brother Two, and
17 Brother Two is fairly well known to have been -- or very well
18 known to have been a -- one of the names assumed by Nuon Chea.

19 So what is happening here, I think, is that that advice would - I
20 would -- almost certainly, this advice would have come from Nuon
21 Chea to Son Sen and then down to Duch, who then sends it down to
22 his subordinates. You have a chain of this order to withdraw
23 these names from the - from the list. Why they're to be withdrawn
24 is not explained.

25 [10.21.59]

1 Q. Thank you.

2 Moving on to the third document, this one -- this is the one that
3 I only have in Khmer. There's only an unofficial English
4 translation, but I hope that you'll be able to summarize it for
5 us. This is document IS 5.41, also E3/1565. It's the third
6 confession, the third document that my colleague read out the
7 name -- I'll read it just in English -- Kung Kien, alias Eung
8 Vet.

9 Professor, if I could ask you, there are-- And if my colleagues
10 could display that on the screen so that the public can see what
11 we're discussing? The Khmer ERN is 00017305, English being
12 00182773. There are a number of apparent annotations on this
13 document. If you could start by reading the annotations written
14 that are - that are circled in blue on the screen or -- and on
15 your hard copy?

16 A. Again, the handwriting is not flawless, but -- well, neither
17 is mine -- but I think this reads: "To Bong Nuon -- (words in
18 Khmer, no interpretation) - please -- or "send to Brother Nuon,
19 one copy". I mean, I'm saying that because I've seen that "to
20 Bong Nuon" phrase in that handwriting. I don't know whose
21 handwriting it is.

22 [10.23.43]

23 Q. And if you could also read for us the annotation on the
24 right-hand side, where there are -- paragraphs 1 and 2?

25 A. Number 1: "(In Khmer) This document is very clear." (End of

1 intervention in Khmer)

2 "A large number of people." Yes, "a large number of people.

3 It is unclear to me there.

4 Then, the last paragraph: "A certain amount from -- come from
5 sectors 33 and 35."

6 I'm missing a thing here.

7 (Words in Khmer, no interpretation) "Coming from--" I think it's

8 "Unit 109", but I can't -- I didn't bring my Khmer dictionary

9 with me, but that's what I think that means. Certainly the first
10 part of this document is very clear.

11 [10.24.53]

12 Q. Thank you very much, and thank you for attempting to read that
13 document for us.

14 Just to avoid any doubt and so far as these three documents -- as
15 you - they're in two documents, there are references to Brother
16 Nuon, and in one there is a reference to Brother Number Two.

17 Could you just, so that we avoid any doubt on the record -- who
18 are these references -- who they relate to, and what, if

19 anything, do they reflect about that person's role in relation to
20 the confessions?

21 A. Well, certainly Bong Nuon and Bong Ti Pi were two expressions
22 or names used by people when addressing documents to Nuon Chea.

23 And asking what his role was in these confessions, that's

24 difficult to describe. Clearly, there's no evidence -- in some

25 cases of the annotations, there's no evidences, there's no notes

40

1 in his writing that he's read that particular confession. And
2 anyway the copies that went to him have not survived. These are
3 -- there's a note on one, "Send a copy to Nuon Chea", so another
4 copy went off to him. That's obvious that in the one that came
5 back in Duch's handwriting, "Brother Two -- the title of Nuon
6 Chea -- advises that..." That meant that he'd certainly read that
7 confession.

8 [10.26.29]

9 Now, reading them and having documents sent to him, all I can say
10 is it certainly suggests that he was aware of the operations of
11 S-21. He worked closely throughout the regime with Son Sen, and
12 that's all I can say as awareness -- we can talk about awareness.
13 I can't take the role any further than that.

14 Q. And I - and I thank you for being qualified in that respect.

15 If I can move on to another document, this is D288/6.5.2.32

16 (sic). It is a -- from the file of an individual called So Kim

17 An, alias Mey. The relevant Khmer ERN is 00227819; the English is

18 00284045 -- and those hard copies are being forwarded to you,

19 Professor; French, 00800646 to 59.

20 If -- just for the record, if you would be so kind to pronounce

21 that name in Khmer? Because I am unable to provide a satisfactory

22 or a correct pronunciation.

23 A. He's known as "Achar", which is a religious sort of

24 (inaudible) official. Achar Mey, that is -- that's his, perhaps,

25 revolutionary name, and his real name is So Kim An.

41

1 Q. Thank you.

2 [10.28.39]

3 A. I'm reading this in Khmer. It looks to me like So Tim An - I'd
4 need to see what your colleague thinks. It's not "Kim", but
5 "Tim". That's a "Tor" [T], that's not a "Ko" [K].

6 That was just a slight -- I'm sorry to delay, but it's just - I
7 wanted to get his name right.

8 MR. PRESIDENT:

9 (No interpretation)

10 MR. CHANDLER:

11 The top of the Duch comments, this is all in Duch's wonderful,
12 clean handwriting.

13 MR. CHAN DARARASMEY:

14 Mr. President, according to my reading of this passage, it says
15 "Concerning Achar Mey (So Tim An)". So, from my reading, it was
16 "So Tim An".

17 [10.29.34]

18 BY MR. ABDULHAK:

19 Thank you.

20 Q. I'll ask my colleagues to place the Khmer version on the
21 screen. The ERN in Khmer is 00231321. I just want to make sure we
22 have that right. Correction, I believe Khmer should be 00227819,
23 and a translation of that appears in English on 00284045. In
24 French, it should appear on 00800646. If we could have the --
25 that first page, effectively, of this document on the screen?

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1 And, Professor, we have it in English and Khmer. If you could
2 simply summarize what that says? We don't particularly need to
3 read the entire passage. We will move on to another passage that
4 is a little more relevant.

5 MR. CHANDLER:

6 A. It's hard to do this briefly, but it shows, I think -- what
7 the document shows is the kind of detail that people went to when
8 a case had attracted higher attention. They just went back over
9 it and made sure that all the testimony was as verifiable as
10 they could make it -- not the testimony necessarily of having
11 been, if you like, a CIA agent, but certainly testimony of where
12 this person came from, what people he knew, what position -- how
13 he was in a position to know those people. So these
14 investigations were set - set and framed by that.

15 [10.31.23]

16 Q. And looking at the last page of that extract from this file in
17 Khmer -- and also this is the second page in English -- I'm
18 interested in item number 3, where the words start with
19 "Suggestion".

20 Could you read that in English for us, please?

21 A. This - this is a case, one of the rare but - well, fairly
22 frequent, but -- cases of Duch passing the buck upstairs, as they
23 say: "Please, Angkar, examine the case involving Achar Mey."
24 Now, Duch was not -- as we knew from his other trial, was not in
25 a position to speak directly to Pol Pot in this document, so I

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1 think what he's saying is to Son Sen - he was the person he
2 communicated with, because it's addressed to "Beloved Brother" as
3 usual -- that he pass it on to someone at the top. That's the way
4 he leaves it. He leaves it unclear. So it needs further
5 examination.

6 [10.32.31]

7 MR. PRESIDENT:

8 Thank you. Thank you, Witness.

9 The time is now appropriate for a short break. We will take a
10 break of 20 minutes. The Chamber will resume at 10 toll.

11 Court officer is instructed to facilitate rest of the witness and
12 please return him to the stand by 10 toll.

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

14 MR. PAUW:

15 Thank you, Mr. President. I'll try to be brief, I don't want to
16 eat into the break that everyone wants to have now.

17 But I wanted to come back to the point that was raised by Judge
18 Cartwright this morning speaking about 1,100 documents that have
19 been uploaded to the interface, and when I suggested that we
20 might be responsible for that I saw Judge Cartwright nodding
21 which I took to mean that, indeed, this was -- okay, I see now
22 that Judge Cartwright is shaking her head, so that was not the
23 implication.

24 [10.33.45]

25 But just to get the record straight, the 1,100 documents that

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1 were uploaded are not uploaded by the Nuon Chea defence team or
2 -- rather, not alone. We have uploaded a total of 150 documents
3 -- that includes translations. There's a total of 68 original
4 documents that we want to rely on. I'm not blaming the
5 Prosecution in any way, but just for the record, the Prosecution
6 has uploaded more than 700 documents.

7 If there is a problem with advance notice, it is not the Nuon
8 Chea team that is to blame. As I said yesterday, it seems that we
9 cannot get it right, but just for the record, today I don't think
10 we are to blame. Thank you.

11 MR. ABDULHAK:

12 I'll be extremely brief.

13 Just so that everyone understands how these numbers work, the
14 number of 700 is in fact -- should be divided by three because it
15 includes translations. So we uploaded some 200 plus documents,
16 and the reason the number is so high is because we uploaded all
17 of the confessions that we sent to the professor, which, of
18 course, all parties had notice of, but we erred on the side of
19 caution. Thank you.

20 MR. PRESIDENT:

21 Thank you.

22 But the defence counsel is advised to review the ruling this
23 morning. To my recollection, the reminder for all parties when it
24 comes to submitting the documents, you have to abide by the
25 procedure, and this is not particularly applied to the defence

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1 team for Nuon Chea.

2 The Court is now adjourned.

3 (Court recesses from 1035H to 1053H)

4 MR. PRESIDENT:

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

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

7 [10.53.49]

8 MR. IANUZZI:

9 Thank you, Your Honour. Good morning, everyone. This won't take
10 more than two minutes. And of course we're willing to give
11 whatever time back to our colleagues across the stage as always.
12 Very briefly, we would appreciate it if the Chamber -- if the
13 Chamber or someone at the Court could facilitate our receipt of
14 the draft transcript -- today's draft transcript -- over the
15 weekend. I wanted to raise it as soon as possible in case there's
16 any technical issue involved. But that would help us greatly if
17 we could have that over the weekend. We'll be checking our email.
18 And we do assume that we will be able to put quotations to
19 Professor Chandler as to what he said in Court. Thank you very
20 much.

21 MR. PRESIDENT:

22 Counsel Ang Udom, you may proceed.

23 [10.54.45]

24 MR. ANG UDOM:

25 Good morning, Mr. President. Good morning, Your Honours. My

1 apology for interruption, but before we broke, the Chamber ruled
2 upon the request by the representative of the Prosecution by
3 extending 15 more minutes for the Prosecution. I am not sure
4 whether or not this extension will affect the time allocated to
5 the civil parties because the time was earlier allocated to the
6 civil parties. I am afraid that the civil parties will ask once
7 again that time be extended to them. I simply would like to know
8 from you whether or not there will be a decision because I think
9 that it may also affect the schedule of the defence teams as well
10 because we also anticipate objections by the Prosecution. And if
11 there will be those objections, then it will affect the times
12 allocated to us.

13 [10.55.48]

14 MR. PRESIDENT:

15 We have already allocated the time to the parties and we also
16 granted the extension of time to the Prosecution, and the
17 decision as such is the sole discretion of the Chamber. And if
18 necessary, then we may extend the Court hearing time until 4.30.
19 The Prosecution, you may proceed, but please be reminded that you
20 have 15 more minutes.

21 BY MR. ABDULHAK:

22 Thank you, Mr. President.

23 Q. Professor Chandler, in the 15 minutes remaining, we can try
24 and be as brief as possible. That will be appreciated. We don't
25 have the time, obviously, to go through all of the confessions

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1 that you have been provided, and that the parties have been
2 provided, and the annotations on those documents.
3 You said you've reviewed them. What, if any, conclusions can you
4 draw from the annotations, particularly on the issue of S-21's
5 relationship or reporting to those in the upper echelon?

6 [10.57.08]

7 MR. CHANDLER:

8 A. We know that particular confessions were sent forward to Son
9 Sen and we know, from an archive that was discovered in the
10 Ministry of Defense and consisted of part of Son Sen's personal
11 archive, that he also sent certain confessions further up the
12 line. He, himself, was a high official of Democratic Kampuchea,
13 of course, on the Central Committee. And this is the places where
14 you see the handwriting -- I don't know if it's Son Sen's or --
15 but it's coming from -- not Duch's handwriting -- "send a copy to
16 Brother Nuon" and, in a couple of cases, "send a copy to" -- or,
17 a number of cases, I think, small, I won't say "a couple",
18 dogmatically -- "send along to Brother Van", and a couple -- even
19 I think I've read "Brother Pol". But this is -- that would be Pol
20 Pot. But I'm not sure -- I'm not going to testify that those went
21 from him to-- And we only know they were sent. We don't know they
22 were read, because there was another copy that went above Son
23 Sen. So all I'm saying is we know something was -- probably know
24 that something was sent, but not received.

25 [10.58.14]

1 Q. Thank you very much. Are you able -- and please tell me if
2 you're not -- are you able to draw any conclusions about the
3 extent of the involvement of Party Centre based on those
4 annotations, the frequency, and the number of them?

5 A. Son Sen is part of the Party Centre. He was involved in
6 important aspects. They could not bother him with all the
7 confessions at all. There was a -- just important aspects of what
8 was going on there were reported by Duch including some texts of
9 confessions.

10 [10.58.57]

11 Q. Thank you.

12 I'd like to take a look at another document from a -- from an
13 S-21 file. And this is the penultimate document we will be
14 looking at today. It is document number IS 5.30. I believe it's
15 only available in -- no, it is available in all three languages.
16 The Khmer ERN is 00008923, English ERN is 00249844 to 45, and
17 French 00766902. It is in the bundle that was provided to you,
18 Professor Chandler. It is a communication by the individual we
19 discussed earlier, Hu Nim, to a number of people. If my
20 colleagues could display it on the screen, it is ready now so
21 that the public and other Khmer speakers can also see the
22 communication we are discussing.

23 [11.00.06]

24 Professor Chandler, in the interests of time, I might read it and
25 then ask you just one or two follow-up questions. It starts with:

1 "1. Respected Communist Party of Kampuchea worth more than my
2 life,

3 "My respect to Brother Pol, Brother Nuon, Brother Vann, Brother
4 Vorn, cadres Khieu, and Hem."

5 And the beginning of that next paragraph is as follows:

6 "Today, 10 April 1977, while I was extremely busy preparing a
7 radio broadcast to memorialize the 2nd anniversary of the great
8 victory of 17 April 1975, cadre Pang called me on the phone to
9 work with Angkar. I was very surprised and did not expect to be
10 arrested by our military."

11 Now, further down that same passage, he says: "I am trying to
12 prove my loyalty to Angkar in order to get a fair judgement."

13 And he ends with: "I firmly reassure the party that I have never
14 betrayed the party at all, I have never been involved with the
15 CIA, the Vietnamese, or Son Ngoc Thanh's agent or liberalists."

16 MR. PRESIDENT:

17 The Defence Counsel, you may proceed.

18 [11.01.51]

19 MR. ANG UDOM:

20 I thank you once again, Mr. President, and my apologies again. I
21 note that the Prosecution just read a confession which is
22 different from the annotation on the page. I think reading the
23 confession of a victim -- and I use the word "victim" at S-21 --
24 to this expert is not appropriate.

25 The prosecutor should ask the expert about the annotation only.

1 MR. ABDULHAK:

2 Thank you, Mr. President.

3 [11.02.39]

4 The prohibition in the Convention Against Torture applies only to
5 material established to have been made as a result of torture.

6 This, Your Honours, is not a confession. This is a letter from an
7 individual arrested prior to his interrogation, and torture, to
8 those individuals that are named. It clearly explains that it was
9 "today", on the 10th of April that "I was arrested". So, clearly,
10 the letter is written shortly following arrest. It is a plea for
11 -- or what would appear to be -- a communication -- I don't want
12 to interpret it. But it is clearly not a confession. It is not a
13 standard document that S-21 staff were directed to extract from
14 prisoners. The Convention Against Torture does not apply.

15 MR. PRESIDENT:

16 The objection is not sustained.

17 You may have been mistaken concerning the document being
18 discussed.

19 The prosecutor may now proceed.

20 [11.03.48]

21 BY MR. ABDULHAK:

22 Q. Professor, looking at the letter -- and you've already
23 considered it -- what, if any, significance can be attached to the
24 people -- to the choice of individuals to whom Hu Nim addresses
25 his request?

1 MR. CHANDLER:

2 A. Well, these are the revolutionary names of the members of the
3 Party Centre, starting with Pol Pot and going on down to
4 candidate members Khieu -- Khieu -- Son Sen and Khieu Samphan. I
5 think Hu Nim was high enough up in the Party hierarchy to know
6 who the members of the committee were.

7 The key point of the document, I think, like many of these
8 pleading documents that emit -- that come out of S-21, directed
9 to higher cadre, is that they never left the building. These
10 letters were never transmitted to these people. They were kept on
11 file by Duch, who was a -- you remember from Case 001 -- a
12 fastidious archivist, so that the original letters are in the
13 S-21 archive; they do not move out to the people addressed.
14 Because once the person was in S-21, he had no -- he or she had
15 no recourse to higher authorities.

16 [11.05.18]

17 Q. Thank you. Thank you.

18 And the last document that I'll be showing you today, Professor,
19 is a minute of a Standing Committee meeting dated the 8th of
20 March 1976. It is document E3/232, and we are passing on a
21 hardcopy. If my colleagues could place the Khmer version on the
22 screen with the page -- the first page at the beginning. And
23 while we wait for that page 2 to be shown, on that first page,
24 Professor, could you just read for the Court who the people
25 attending the meeting are? And if you could just read the first

1 four names?

2 A. (Microphone not activated)

3 Q. We'll just wait for the microphone.

4 [11.06.12]

5 A. The first four names are: Comrade Secretary, who is Pol Pot;
6 Comrade Deputy Secretary, Nuon Chea; Comrade Hem, who is Khieu
7 Samphan; Comrade Doeun -- we've heard his name before; and
8 Comrade Sreng, Hang, Sot, and Touch -- I would need to verify
9 what those revolutionary names stand for. But the first four you
10 asked for are as listed.

11 Q. Thank you.

12 What I'd like to do is move on to a section of the -- of the
13 meeting, where there is a reporting by two of the people that
14 your -- that you have just referred to. This is at English --
15 Khmer ERN 0017118, English ERN 00323933 -- I apologize, I just
16 gave -- that was the French ERN; and the English is 00182630.
17 Professor, we will show it on the screen in Khmer. It is ready,
18 if the AV Unit could assist, and I will just skim through it and
19 ask you for your views as to what the discussions represent.

20 [11.07.29]

21 Under II, its -- it says:

22 "The situation in -- at the base:

23 "1. The situation in 303:

24 "Comrade Sreng reported to Angkar on the activities of:

25 "A Loeun's group and their associates, 34 persons, whom the Zone

1 military have already arrested.

2 "The group of A Uk Moeun alias Uk Hong which attempted to flee to
3 Southern Vietnam and four or five of their associates, and asked
4 for instructions from Angkar."

5 Then, in relation to 106, the next passage is Comrade Sot
6 reporting to Angkar on the situation. Under point A, he says -
7 or, rather, it is stated:

8 "Comrade Sot brought up a number of matters:

9 "A. The problems of many sick people in the work sites, a loss of
10 40 per cent of the labour force."

11 [11.08.35]

12 I will skip the discussion that follows and go straight to the
13 "Opinions and instructions of Angkar":

14 "This is at III, and if we could show that on the screen, I will
15 start reading.

16 "1. Regarding the problems in 303: As measures:

17 "Must call in those named to question them to see what their
18 responses are. We will not yet remove them from their positions.

19 "Next, call them in for further questioning in front of their
20 accusers, and watch to see their reactions. Therefore, there are
21 two stages. Question and keep them at one site, and report to
22 upper echelon along with a case file."

23 Professor, we saw that it was Comrade Sreng that had reported on
24 the situation in 303, and then we see opinions and instructions
25 of Angkar about how to deal with certain individuals. What, if

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1 anything, does this signify, in terms of the Party Centre's
2 involvement in oversight of activities in the regions?

3 [11.09.59]

4 A. Well, I think it suggests strong oversight on issues that were
5 considered important and were given to them -- sent up to them to
6 discuss. I think the number of people involved in that particular
7 thing, though the group of 34 people and the other group that
8 attempted to escape -- that was enough to distress them and say:
9 Okay, well, question these people, bring them in; bring them in -
10 obviously, to a prison facility in the district where they were
11 -- where they held office. "Do not remove them from their
12 positions" means they would have some official position of some
13 sort that's not defined.

14 So, yes, there's close - close supervision of certain aspects
15 brought to their attention. That's all I can say.

16 Q. Thank you, Professor.

17 And my final question for today, and it's really by way of
18 looking at our discussions over the last two or three days and
19 considering your evidence on the collective leadership at the
20 helm -- at the top. I just want to ensure that we fully
21 understand where your opinions stand and remove any doubt as to -
22 as to, perhaps, the way you may have framed this -- these issues.
23 But I will allow you to comment.

24 [11.11.27]

25 I want to read from "The Tragedy of Cambodian History". I'm not

1 showing you the document; I will just read a brief passage. This
2 appears at ERN 00193302 (phonetic). It is only available in
3 English. And this is -- you're dealing with the continuities
4 between the CPK regime and those that preceded them, and this is
5 what you state there:

6 "In terms of practice, a major continuity was that DK held it
7 proper to concentrate power in the hands of a single person.
8 Prince Papa and Marshal Lon Nol were followed by Comrade
9 Secretary Pol Pot. In an attempt to destroy the personalism that,
10 in their view, had corrupted previous regimes, the CPK stressed
11 the collective nature of its leadership and kept most of its
12 leaders hidden.

13 [11.12.25]

14 "Nonetheless, it's style of operation, with its lack of
15 accountability, its self-deification, its monopoly on
16 information, and its single voice uttering unchallengeable
17 commands, amounted to one-man rule, and by 1977, Brother Number
18 One (Pol Pot) and Brother Number Two (Nuon Chea) had become
19 synonymous with the organization.

20 "Another continuity that connected Sihanouk, Lon Nol, and the
21 collective leadership around Pol Pot was that these men (and
22 women, in the DK case) saw themselves as new types of rulers -- a
23 private citizen monarch, a non-monarchic chief of state, a set of
24 comrades wielding national power."

25 Now, my question is simply - we are dealing -- it's a slightly

1 complex passage, but it -- there's a reference there to one-man
2 rule, but there are also references to collective leadership and,
3 as we see towards the end, "a set of comrades wielding national
4 power". I just want to ask you to, if you could, elaborate for us
5 on what you meant by the use of the phrase "one-man rule" as
6 opposed to "collective leadership" and "a group of comrades
7 wielding national power".

8 [11.13.52]

9 A. That's a passage that after 22 years I might revise slightly.
10 I've come to the belief that in - I read a lot more material
11 since I wrote that passage -- that the leadership of Democratic
12 Kampuchea was more collective than I thought, although, as it -
13 as it comes true in the documents we've seen, the decisions
14 handed down by Pol Pot were the final ones. He was, in fact, the
15 executive leader of the country. And this is certainly the way
16 many Cambodians view that period. They call it the "Pol Pot era".
17 But I do want to say that I -- if I were to re-write -- redo the
18 passage or re-visit it, I would say that the leadership was, from
19 all the evidence I've seen since then, more truly collective than
20 the evidence I had to use in 1990, which was before I could come
21 back to Cambodia. I wrote the book before I came back to
22 Cambodia.

23 [11.14.46]

24 MR. ABDULHAK:

25 I thank you very much, Professor, and I thank the Honours for the

1 time allocated to us. That concludes our examination.

2 MR. PRESIDENT:

3 Next, the Chamber hands over to the civil parties Lead Co-Lawyers
4 to put their questions to this expert.

5 Counsel Ang -- rather, Counsel Pich Ang.

6 MR. PICH ANG:

7 Good morning, Mr. President. Good morning, Your Honours.

8 The Lead Co-Lawyers would like to delegate their powers to Lawyer
9 Hong Kimsuon, and Lawyer Christine Martineau and Counsel Bahougne
10 to put their questions to the expert.

11 MR. PRESIDENT:

12 You may proceed.

13 [11.15.43]

14 QUESTIONING BY MR. HONG KIMSUON:

15 Good morning, Your Honours, Judges. My name is Hong Kimsuon, and
16 I am representing the civil parties in Case 002. Good morning,
17 Mr. Chandler. I have a number of questions to follow up those
18 asked by the prosecutor, and I will try my best not to repeat the
19 questions. However, there might be some similar questions, and I
20 will count your advice if those questions are repetitive.

21 Q. First of all, I would like to ask you about the history of the
22 movement of the Issarak group which led us to the Democratic
23 Kampuchea regime -- that is, before the establishment of the
24 Communist Party of Kampuchea. In your book about the history of
25 Cambodia, you wrote about the Khmer People's Revolutionary Party

1 and the Issarak group.

2 My question to you is: What is the relationship between the Khmer
3 People's Revolutionary Party and the Issarak group between 1947
4 and 1948?

5 [11.17.48]

6 MR. CHANDLER:

7 A. That's a period, of course, we've not discussed previously.
8 The exact relationship between the Issarak and the KPRP in that
9 period -- I think you'd more accurately -- I don't mean to say it
10 was inaccurate what you said, but I think that period was a
11 period in which the KPRP did not exist. The relationship of the
12 Issarak to -- had various factions, some of which were encouraged
13 by Thailand, some of which were entirely local, and some of which
14 were encouraged by Vietnam -- by the Vietnam -- by the
15 Indochinese Communist Party.

16 [11.18.30]

17 The KPRP, founded in 1951, used elements drawn from all three of
18 these factions -- the Thai-supported faction, the local faction,
19 and the Vietnamese-supported faction -- and basically didn't
20 accept certain Issarak figures whose -- who wanted -- whose main
21 goal was Cambodia's independence from France, with no other
22 social program of the sort that was gradually developed by the
23 KPRP.

24 The KPRP was founded -- the record indicates this very clearly --
25 was founded by and encouraged to exist by the Vietnamese. Its

1 statutes were written in Vietnamese and translated into Khmer.
2 Its leaders were Cambodians who were fluent in Vietnamese, and
3 for many years this party served as an adjunct to the concealed
4 Indochinese Party which was the political arm of the first
5 Indochina war fought by the Vietnamese against -- and the
6 Cambodians and the Lao against the French.

7 [11.19.45]

8 So that relationship between the, if you want to say,
9 non-Communist Issarak, and the increasingly -- or drawn toward
10 the Communist Movement, members of that movement -- they started
11 off identical in, say, '45-'46 -- independence for Cambodia, and
12 so on -- and then shifted to a more international program on the
13 part of the KPRP. In other words, this -- one of its purposes was
14 to join Vietnam and Laos in an Indochinese struggle against the
15 French, whereas other people, interested more in Cambodia than in
16 international factors and -- how should we say? Well, they found
17 no -- they found themselves unhappy with the program of the KPRP
18 as it developed. These people drifted off into other resistance
19 movements which were eventually, by and large, absorbed by the
20 Sihanouk government.

21 I'm sorry for the detail, but it's -- it's a complicated question
22 that's important for your starting aspect of roots of the CPK.

23 [11.20.58]

24 Q. Thank you.

25 You said -- rather, you told the Court about the movements of the

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1 Issarak group which led to the Communist Party of Kampuchea.

2 My next question is: Regarding the Issarak people, did they later
3 become senior leaders of the Communist Party of Kampuchea?

4 A. I don't think anyone -- I could stand corrected with more
5 data, but I don't think anyone who was active in the Cambodian or
6 Thai-sponsored factions of the Issarak movement ever became
7 important in the -- in the Communist Party of Cambodia -- or
8 Kampuchea. Tou Samouth and Son Ngoc Minh, people from Southern
9 Vietnam among the Khmer minority there, were in the early
10 Vietnamese-sponsored -- but still not formed into a party -
11 resistance and they should have moved forward in the ranks of the
12 Party, as you know. Tou Samouth later became its secretary until
13 he was presumably - well, he disappeared and he was presumably
14 assassinated in 1962. Son Ngoc Minh remained a figure who had
15 taken refuge in North Vietnam in 1955, remained until --
16 certainly at the 1960 meeting, a member of the reconstituted
17 Central Committee.

18 [11.22.52]

19 Q. Thank you.

20 My next question is: Those who were the members of the Khmer
21 Issarak -- and I would like to refer to your document about "The
22 Tragedy of Cambodian History," document D - rather, D366/7 --
23 document D108/50/1.75. And in Khmer, it's 00701168, and the
24 English ERN is 00193916. And in those documents, they talk about
25 two Issarak people, Mr. Dap Chhuon and Long Bunruot, later on

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1 called Nuon Chea.

2 My question is: Were these two people from the Khmer Issarak
3 group and later became the senior leaders in the Communist Party
4 of Kampuchea?

5 A. Certainly, Dap Chhuon was not -- he was a member of the
6 Issarak, and eventually defected to Sihanouk, and then was --
7 went into rebellion against Sihanouk in 1959, and was
8 assassinated at that point; always an anti-Communist figure who
9 had served in the Thai army, leader of the Siem Reap region.

10 [11.25.22]

11 Long Bunruot, which is one of the names of Nuon Chea, returned to
12 Cambodia from Thailand, where he'd been working in the late -- in
13 the -- I'm not going to make this date something that I'm
14 (inaudible) -- '49 -- I think it's like '49, '50 -- came into --
15 helped the resistance. He was already a member of the Thai
16 Communist Party, but he was not, as far as I can tell -- because
17 I think his work was mainly in the Northwest, where he came from
18 -- I'm not sure that he was, at this stage, under any kind of
19 discipline by the Vietnamese and he certainly doesn't figure in
20 documents surrounding the early years of the Kampuchean
21 Revolutionary Party.

22 [11.26.12]

23 But certainly you're right; I stand correct for saying there were
24 none of the Thai-sponsored ones. He was hardly one of the figures
25 sponsored by the anti-French Thai Government and which sought, at

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1 the end of World War II, to make trouble in Cambodia, make sure
2 the French did not reassert themselves in -- in the country. But
3 he was a Cambodian patriot who had spent some time in Thailand
4 and had decided or -- yes, come to the view that the injustices
5 and -- and crimes, if you like, of the French colonial regime
6 deserved to be met with -- with force, and so he was happy to
7 join the resistance movement. Exactly what form that joining took
8 or what his activities were may be clear in documents I haven't
9 read, but I don't -- I'm not ready to say if they were.

10 Q. Thank you.

11 You have talked about the activists or the Issarak people. My
12 next question is: After the Khmer independence in 1954 up until
13 1960 -- you referred a while ago to Mr. Tou Samouth who later
14 disappeared. Can you tell the Court about the disappearance of
15 Tou Samouth that year? What was it connected to?

16 [11.28.00]

17 A. Now, it's a very good question and -- and it poses problems
18 because all that is known for certain is that Tou Samouth, the
19 secretary of the Communist Party -- or the Workers' Party of
20 Kampuchea, as it was called in -- still called in 1962,
21 disappeared, at some point in 1962, and it's generally assumed,
22 and the consensus of opinion is that he was assassinated or
23 executed by Sihanouk's police, who certainly had a strong,
24 locally, anti-Communist policy. It also seems fairly clear --
25 again, it's only an inference -- that his position as secretary

1 of the Workers' Party of Kampuchea did not get revealed to the
2 authorities because, had this position been revealed, it would
3 seem to me that people like Saloth Sar or Nuon Chea would have
4 come under scrutiny, which they did not, immediately afterwards.

5 [11.29.01]

6 People who know -- who knew Tou Samouth always spoke of his
7 patriotism and integrity and his devotion to the Communist
8 Movement. He was, of course, like several members of the Khmer
9 Rouge leadership, a member of the Indochina Communist Party. Nuon
10 Chea had become a member in the early 1950s. So too Pol Pot, when
11 he returned from France, he became a member of the -- of the
12 Indochina Communist Party. So, consequently, under DK, certainly,
13 this aspect of his life was whited out -- was erased because it
14 would have suggested that from an early -- from this stage of the
15 Cambodian Communist Movement, its secretary was someone who had,
16 if not allegiance, certainly connections with Vietnam.

17 But a -- and a footnote -- there was some thinking in the
18 discussions back in the eighties, when the -- the Khmer Rouge
19 scholars were writing about this, that Pol Pot had been involved
20 in this assassination -- disappearance. I find that extremely
21 unlikely, and no scholarship has come to that conclusion since
22 then.

23 Q. Thank you. I would like to expand on this a bit. It concerns
24 with the disappearance of Tou Samouth. According to the
25 circumstance at that time, Nuon Chea and Pol Pot were members of

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1 the Party, and at that time both of them were very close to Tou
2 Samouth.

3 And could you tell the Court why Nuon Chea was not promoted to be
4 the secretary and Pol Pot was promoted instead?

5 [11.31.02]

6 A. This -- this still remains a mystery. It seems to me there was
7 -- some questions arose. Nuon Chea, in his autobiography, has
8 mentioned that some questions arose, I think, to prevent him from
9 what seems to have been the natural promotion by fellow members
10 to the first position. I think the fact that these matters were
11 not serious enough to do any harm to his subsequent career shows
12 that they weren't important, and I think his ability -- his
13 willingness and ability to serve as the second, or the deputy
14 secretary for a great many years shows that his loyalty to the
15 International Communist Movement and to the Cambodian Communist
16 Party -- I'm not questioning that loyalty for a second -- was --
17 overtook or trumped the possibility of his -- of his not taking
18 personal command of the Party in Cambodia.

19 [11.32.21]

20 Q. Thank you.

21 So, between 1960 to 1970, there were some significant
22 developments of the movement, and some of the leaders of the
23 Communist Party of Kampuchea fled into the jungle.

24 So my question is that, between 1960 and 1970 -- it was the
25 period of the Sangkum Reastr Niyum era, which was led by Samdech

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1 Sihanouk -- what was the reasons behind the flee of those
2 leaders, Communist Party of Kampuchea, into the jungle during
3 that period?

4 MR. PRESIDENT:

5 Witness, please hold on. We need to hear the objection by the
6 defence counsel for Khieu Samphan.

7 MR. KONG SAM ON:

8 Thank you, Mr. President. I am of the opinion that the civil
9 party lawyer may be confused because he mentioned that the
10 leaders of the Communist Party of Kampuchea and he did not
11 mention as to who those leader was, because it is important that
12 we -- we know whom he referred to.

13 BY MR. HONG KIMSUON:

14 Thank you, Counsel. I would like to correct my words. Of course
15 there were many people at that time in the Communist Movement.

16 Q. So I would like to now put again the question to the witness:

17 Can you tell the Court those who were considered the leaders of
18 the Communist Party of Kampuchea between 1960 to 1970? And -- and
19 those leaders who fled into the jungle, can you recall the names
20 of those leaders back then?

21 MR. CHANDLER:

22 A. I think the translation phrase of "were considered" is --
23 might be a little bit misleading. I think you can say "were known
24 to fellow members of the Communist Party to be". There was no one
25 else considering them. Sihanouk had no idea who was running the

1 Communist Party. He didn't know there was such an organization in
2 existence. He knew there were people that he called "Khmer
3 Krahom", or Khmer Rouge, but he was not aware of these figures.
4 However, in 19 -- I think February 1963, in one of his long
5 speeches -- no, no, there had been some opposition to his rule
6 being expressed -- I forget, in the papers or somewhere -- and
7 Lon Nol -- his military assistant, gave him a list of 34 known
8 left-wing people in Phnom Penh, primarily, who he could question
9 or name, as he did name them in a -- in a speech, and then, in a
10 flamboyant Sihanoukian fashion, he invited these 34 people to
11 form a government and take his place.

12 [11.36.01]

13 Two of the figures named in this -- among these 34, which
14 included the names of the "three ghosts", for example, that would
15 be later -- became the "three ghosts", were Ieng Sary and Pol
16 Pot, who had been teaching in a private school in Phnom Penh,
17 with secret connections -- of course all connections were secret
18 -- to the Communist Party, and they thought that this sudden
19 flash of -- flashlight on them meant that -- or they may have
20 thought -- I have to say "may have thought", okay -- that
21 Sihanouk knew their positions inside the Party, which is not the
22 case. But the fact is they were-- And Son Sen was another man who
23 was mentioned in the thing and came to the same conclusions as
24 Pol Pot and Ieng Sary; he had not previously been named as one of
25 the Khmer Rouge.

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1 [11.36.58]

2 So these three people fled to Eastern Cambodia soon afterwards,
3 where they took refuge in a Vietnamese military -- Vietnamese
4 Communist military base, were soon joined by several other cadre
5 members -- they're listed in the appendix of "Brother Number
6 One"; I can't remember them all at the moment. And a year later,
7 they were joined by their wives.

8 An interesting -- the point that might concern the Court today
9 is, the two figures who did not flee to the jungle were Khieu
10 Samphan and Nuon Chea; Khieu Samphan because he had a -- was --
11 must have felt relatively secure in terms of his future in Phnom
12 Penh, and Nuon Chea because he was not mentioned among the 34.
13 His position was, if you like, even more secret than Pol Pot. He
14 did not teach - known to teach in a -- no, he didn't teach, but
15 certainly there were no records of his being a teacher then at
16 one of the private schools, in the documents readily accessible
17 to the regime. So this is a person whose name was not on the
18 list, so he stayed behind, whether -- I think he and Pol Pot must
19 have agreed at some stage that this was something that would be
20 of use to the Party to keep a member who had not been mentioned
21 in the city to continue what activities the -- the Party was
22 engaged in at the time.

23 [11.38.29]

24 So there were several leaders who fled, soon joined by other
25 members, but the ones -- the two who did not flee -- of

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1 importance to our activities here -- is -- are Khieu Samphan and
2 Nuon Chea. Khieu Samphan fled later, of course, we know that, but
3 (inaudible) '62.

4 MR. PRESIDENT:

5 Counsel, you may proceed -- Counsel for Nuon Chea, you may
6 proceed.

7 MR. PAUW:

8 Thank you, Mr. President. Just a point that I want to raise with
9 Professor Chandler, through your Trial Chamber, of course.

10 I understand that Professor Chandler is an expert witness and I
11 understand, as the Prosecution has stated before, that he needs
12 to think. He is an expert and he derives conclusions, but I would
13 appreciate it that if he speaks about, for example, our clients
14 that he can make the distinction between when he is speculating
15 or assuming or when he's actually basing his opinion on certain
16 documents.

17 [11.39.36]

18 In this instance, I heard the professor say that Nuon Chea did
19 not flee into the jungle because he felt safe because he was not
20 mentioned on this list of 34. I understand that is Professor
21 Chandler's opinion, but if he has any supporting documents or any
22 supporting information for that, could he indicate that? And,
23 otherwise, could he be careful to keep stating that these are his
24 conclusions? Thank you.

25 (Judges deliberate)

1 [11.40.48]

2 MR. PRESIDENT:

3 The lawyer for the civil party may continue; there is not any
4 substantial issue here.

5 BY MR. HONG KIMSUON:

6 Q. Thank you, Professor, for your comprehensive answer to my
7 question, particularly the circumstance surrounding the
8 leadership of the underground movement at that time.

9 And you said that there were 34 people who were identified in the
10 list of the Communist Party of Kampuchea and most of them fled
11 into the jungle.

12 So my follow-up question is: During the 1960s in Cambodia, under
13 the leadership of Samdech Sihanouk, were there any persecutions
14 or other abuses of certain groups of people in -- in the society
15 back then?

16 MR. CHANDLER:

17 A. Yes, there were. Certainly, we heard earlier of the Samlaut
18 rebellion in 1967, which was put down very brutally. There's lots
19 of evidence of students and members of pro-Chinese associations
20 in Phnom Penh which were taking a Maoist cultural revolutionary
21 stand who were being harassed and, in some cases, eliminated.

22 I've had interviews with people who had relatives who were put in
23 prison, and so on, at this time. Duch was imprisoned at this time
24 - he was rounded up and imprisoned.

25 [11.42.46]

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1 Let me make a slight clarification from the beginning of your
2 question. I want to make it clear -- I thought I made it clear --
3 these 34 were not -- never identified as members of a Communist
4 Party; these were identified as "dangerous, left-wing people who
5 are here in Cambodia and endanger my regime" and they included
6 prominent journalists, they included members of the Cambodian
7 National Assembly, such as -- you know, Khieu Samphan and others.
8 It's just all the people that they knew had opinions that were
9 pro-left. This is not -- they weren't hard to find at this time
10 because Sihanouk's own views, internationally -- on international
11 affairs, were very pro-left, very anti-American and pro --
12 pro-Chinese, if you like.

13 [11.43.36]

14 So this was a line that was followed by many -- and believed in,
15 I think, by many intellectuals in Cambodia. There were more
16 left-wing people in Cambodia than there were members of the
17 Communist Party.

18 So I was saying that the people who -- who fled were people who'd
19 been named as leftists, but were, in fact, secret members of the
20 Central Committee: Son Sen -- I'm sorry, Son Sen, Ieng Sary, and
21 Pol Pot, and there were some others who followed them later. But
22 Nuon Chea remained behind, and that's documented -- I should get
23 back to the counsel's point -- that's documented in his own
24 autobiography that is available -- I don't know if the Court --
25 well, it certainly had been around. He said he remained behind

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1 because he did remain behind. It's not a supposition on my part;
2 that's just a point that I want to stress. I mean, it's -- it's
3 open knowledge that he stayed behind. His motives for staying
4 behind, those are not -- in my position, I can't say what they
5 are. Sounds to me as if - supposition -- he felt safe. If he
6 didn't feel safe, he wouldn't have stayed. But that's -- maybe
7 that's too much of a supposition.

8 [11.44.54]

9 Q. Thank you, Professor. I would like to, again, follow up on
10 this a bit because it's quite related because you mentioned some
11 of the names to the Chamber and those did not belong to the
12 Communist Party of Kampuchea, but only some members of those who
13 were in the list of 34 members.

14 But -- so my follow-up question is that during the armed
15 resistance from -- in the late 1960s, namely from 1967 to 1969,
16 particularly, there was a Samlaut rebellion. According to your
17 opinion, was that rebellion in use by any leaders or it was the
18 internal drive by the people in that region themselves?

19 A. I think I said in previous testimony that the evidence is
20 quite contradictory and the balance of evidence suggests that
21 this was a movement that had large component of spontaneity and
22 little or no direction from Communist Party leadership.

23 [11.46.08]

24 Now, of course, you have to also say that because it was a failed
25 movement -- it was snuffed out by Sihanouk -- there's no -- it's

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1 not likely that the Cambodian Communist Party, later on, would
2 have said, "We've sponsored this movement which was a total
3 failure" because the Communist Party of Kampuchea doesn't have
4 failures; it has only successes. So they were pulled back from --
5 but I still think that's not enough to suggest that they did have
6 responsibility; it was a local thing. Suggesting -- I think it's
7 coming from the context of the period of history that you're
8 talking about.

9 I said in my book -- that book, a general uneasiness was
10 beginning to spread inside Phnom Penh, especially among the
11 elite, an uneasiness about Sihanouk's rule, an uneasiness about
12 the Vietnam War that was next door, perhaps a appeal from
13 elsewhere and inside their own heads of another kind of solution
14 for Cambodia's problems which they were starting to see -- young
15 people were not getting jobs, the economy was not going well,
16 etc. So, in this context, it's perfectly understandable that a
17 popular rebellion could exist without a Communist Party
18 leadership, and I think that's what happened. Pardon me for the
19 "I think", but that's -- that's what seems to have happened.

20 [11.47.37]

21 Q. Thank you very much, Professor. According to your research,
22 between 1970 -- 1967 to 1970, did you observe that people were
23 starving, at that time, as -- as was the primary motivation of
24 the Communist people when they inducted people at that time?

25 A. I can't say I observed it because I wasn't here, but I didn't

1 read anything about extensive starvation at that time.

2 Q. Thank you.

3 So I move on to the establishment of the Revolutionary Army on
4 the 18 of January 1969. Was it related to the Communist Movement
5 at that time? My apology; the 18 of January 1958, rather, not
6 1969.

7 A. With respect, I think this issue has been dealt with before.
8 But just to reiterate, there was certainly a close connection.
9 This was the -- this was a decision made by the -- by the CPK.
10 It's been documented and it set off, or inspired -- or was
11 inspired by the very first armed action by the CPK against
12 government forces. But I think I've talked about this before; I
13 don't want to be repetitive.

14 Q. Thank you.

15 [11.49.40]

16 So I would like to move on to the context of 1970, namely the --
17 during the coup d'état that ousted Prince Norodom Sihanouk. At
18 that time, there were many resistance inside the country,
19 particularly from those who supported the Sihanouk era, and then
20 soon after that, GRUNK, which was the Royal Government for the
21 National Union of Kampuchea, and another liberation force was
22 established. Could you tell us the interplay between these two
23 forces?

24 A. I -- No, I don't think I can go into much detail on that. I
25 mentioned before, this is a -- and I think we have discussed this

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1 before. The tape recordings of a speech by Sihanouk urging his
2 children, as he called them, to go into revolt were spread into
3 Cambodia by Vietnamese forces and broadcast widely. There's very
4 mixed reports about the effect of these broadcasts. Some people
5 say they had, you know, wide support; some people said very
6 little, but certainly there was an effort on the part of the
7 resistance, at the beginning, to -- to say that the resistance
8 was primarily to restore Sihanouk to power, this was to take
9 advantage of a good deal of anti-coup-d'état feeling that there
10 was in Cambodia. They - they had been used to having a king for
11 time immemorial, and from one day to the next he was gone, and he
12 was widely liked, actually, particularly in the countryside. So
13 it was confusing.

14 [11.51.40]

15 But the Communist Party of Kampuchea, because of its now open
16 alliance -- or its renewed - I'd say "renewed from the 1950s --
17 open alliance with the armed forces of Vietnam, was an advantage
18 to climb into this resistance movement (inaudible) the right
19 sentences about Sihanouk, but primarily seeking -- as we've seen
20 from many, many documents -- seeking all along to come to power
21 in their own right.

22 [11.52.17]

23 Q. Thank you. Another follow-up question: Following the coup
24 d'état of the 18 of March 1970 ousted the then Prince Norodom
25 Sihanouk, did you think that that gave rise to the liberation

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1 movement in Cambodia to take advantage to gain their own
2 popularity over the previous regime?

3 A. I think I -- now, I think I explained that in my previous
4 answer. I think they, for a time, pretended -- or took the
5 position that appearing pro-Sihanouk would get them more
6 supporters, and there's lots of evidence that this did get them
7 quite a bit of support in the rural areas; so it was certainly to
8 their advantage. But the main thing that was to their advantage,
9 it seems to me, was that Lon Nol, in his -- characteristically,
10 had declared war on the -- not officially, but -- on the
11 Vietnamese and so wanted them all out of the country in 48 hours,
12 and -- in fact, they didn't leave, and the Khmer Rouge movement
13 was able to join with them, they, themselves, using pro-Sihanouk
14 propaganda at the time, because the Vietnamese Communists had
15 been secretly allied with Sihanouk in many ways and promised not
16 to shoot any of his troops, and so on. So, yes, it was to their
17 -- the coup was definitely to the advantage of the Communist
18 Party of Kampuchea, aided by other circumstances, the context.

19 [11.54.21]

20 Q. Thank you.

21 Can you enlighten the Court about the commonly used term, at that
22 time, as "fleeing into the maquis jungle"? Do you think that
23 people understood the course of their movement? Or, in other
24 words, did the people understand that they were fleeing into the
25 jungle in support of Sihanouk or they were in support of the

1 Communist Movement?

2 A. I'm afraid that's impossible to say because we don't have the
3 documentation, but it seems to me that a lot of them, initially,
4 fled because the situation in their country had changed so
5 radically that they couldn't understand what had happened and
6 many of them listened and supported the speech of Sihanouk. We
7 don't know how many of these people there were and nor do we know
8 how many of these people stayed in the resistance movement and
9 evolved into members of the CPK. Certainly, there were some who
10 followed that route. There were certainly others who dropped out
11 of the resistance as soon as it became clear to them, what was --
12 about his political affiliations. But I can't substantiate this
13 with documents or numbers, so I probably can't give you a clear
14 answer.

15 [11.56.15]

16 Q. Thank you.

17 In your book entitled "Brother Number One," -- document E3/17 on
18 page 186; ERN in Khmer, 00821758; ERN in English, 00393007 -- on
19 the discipline of the Communist army, it further describes that
20 the two -- the troop -- Communist troops were more disciplined
21 than those of the Khmer Republic, but both sides rob, molested
22 and rounded up by civilians. Can you confirm whether or not, at
23 that time, during the Khmer Republic, the -- the soldier
24 committed a lot of wrongdoings?

25 I may present this document to you if you so require.

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1 A. No, I don't -- I don't need it. Yes, there's ample evidence
2 that the untrained and overstuffed, quickly recruited Lon Nol
3 army perpetrated a lot of atrocities, particularly against local
4 Vietnamese people. They were untrained -- as I say, untrained,
5 badly led, poorly armed. The Sihanouk had never prepared an army
6 with sufficient forces, sufficient weapons to defend the -- his
7 country, and this was -- proved to be a fatal decision on his
8 part, in the sense that there was no army that could defend the
9 country when it was really -- faced a major force which is that
10 of the combined forces of the NLF and the North Vietnamese.

11 [11.58.35]

12 But, yes, indeed, you don't have stories coming out from refugees
13 or people -- a lot of documentation for this period because -
14 sorry -- there was an American Embassy in Phnom Penh, there were
15 people reports coming in from Vietnam -- that the other side was
16 much more disciplined, did not commit offences in the villages,
17 had a very strict, almost Buddhist code of behaviour that they
18 promulgated, and I think it increased or - or really set in
19 motion their popularity. Sorry.

20 Q. Thank you. May I begin? Thank you, Professor. I may now
21 continue my line of questioning.

22 [12.00.03]

23 Yesterday, on the 19th of July 2012, you told the Court about the
24 meeting of the Party Centre -- or the Central Committee meeting
25 which was held somewhere in Kampong Thom province close to Santuk

1 Mountain. In that meeting, there was a decision appointing Khieu
2 Samphan, Son Sen, and the other person, whom I cannot recall the
3 name, and during that meeting there was a decision that Ieng
4 Thirith -- Ieng Sary would be sent as an envoy to liaise with
5 Sihanouk in Beijing.

6 So my question was that: What was the reason behind sending Ieng
7 Sary to work close with Sihanouk in Beijing?

8 A. I think the main reason was to keep Sihanouk, if you like, in
9 the room and on the -- on the team. This was a person who was
10 known to say what he wants when he feels like saying it and he
11 wanted to be observed and monitored by Ieng Sary-- No, he didn't
12 want to be -- the leadership wanted Sihanouk to be monitored by
13 Ieng Sary. They wanted, of course, also, I think, for this -- how
14 can I say? I think -- I'm sorry, I do it a lot. They seemed clear
15 that the presence of Ieng Sary in Beijing would also benefit
16 liaison relations between China and the Communist Party of
17 Kampuchea, and this has been heavily documented elsewhere. So
18 there were two reasons for him to go there.

19 [12.01.54]

20 I think the main one, though, was to make sure that Sihanouk was
21 not going to step out of line. Sihanouk never took the -- was
22 never given an opportunity to take the CPK lines, which, as we
23 know, were secretly arranged, but he tried -- I think, quite
24 admirably -- to say the kinds of things that he thought would be
25 appropriate for an international audience about his forces. But

1 at least, as I have mentioned the other day, on one occasion he
2 told a journalist: "When they are through with me, they will spit
3 me out like a cherry pit."

4 So the leadership knew what kind of a person they were dealing
5 with and they felt, I think, that he needed monitoring, and Ieng
6 Sary was considered to be the person best equipped to do that.

7 MR. PRESIDENT:

8 Thank you, Counsel. Thank you, the Expert.

9 I note that defence counsel is on his feet. Yes, you may proceed.

10 [12.03.13]

11 MR. ANG UDOM:

12 Mr. President, Your Honours -- and my apologies for interrupting
13 you -- before we adjourn for lunch, I would like to make a number
14 of observations briefly, including a request.

15 First of all, during the testimony of Professor Chandler to our
16 learned friend, I observed that Professor read from his notes
17 while he was answering the questions posed by counsel. I request
18 that the Chamber instruct that the expert submit his notes to the
19 Chamber so that the notes can be placed on the case file. My
20 request is not different from the request of the prosecutors when
21 they requested that the notes of Mr. Nuon Chea be submitted to
22 the Chamber. That was on the 5th of December 2011. This is my
23 request, first of all.

24 Secondly, the Chamber permitted only the expert to answer
25 hypothetical questions.

1 MR. PRESIDENT:

2 I'm afraid that you are mistaken. You may correct yourself. The
3 Chamber never decides that the expert can answer hypothetical
4 questions. I request that you refer to the transcripts.

5 What the Chamber has said is that the expert is different from
6 ordinary witnesses and he can tell the Court based on his
7 opinions. The Chamber did not say that he can guess or speculate.
8 If he says something not on the basis of what he knows or
9 experiences, then he cannot be considered as the expert in a
10 particular case. Otherwise, he cannot be called upon in his
11 capacity as an expert.

12 So you are now advised to refer to the transcripts. The Chamber
13 never said so.

14 [12.06.50]

15 MR. ANG UDOM:

16 Thank you, Mr. President, and my apologies if I am mistaken
17 because I was saying on the basis of what I understand from the
18 word "think" that was used by the expert.

19 Now, I move to the last point that I'm going to raise regarding
20 the practice of putting questions to experts because I have noted
21 that a number of leading questions were used to ask to this
22 expert. Have we changed the practice that leading questions can
23 be used to be asked to experts?

24 So I am suggesting that the Chamber explains to us so that we can
25 abide by the practice adopted before this Court. Thank you, Mr.

1 President.

2 [12.07.57]

3 MR. PRESIDENT:

4 I note that international counsel for Mr. Nuon Chea was on his
5 feet.

6 MR. PAUW:

7 Thank you, Mr. President. I may have been too quick because I saw
8 that the Prosecution wanted to respond to this point.

9 Just for the record, I would like to state that Nuon Chea would
10 follow this afternoon's proceedings from his holding cell. He is
11 suffering from a headache, back pain, and a lack of concentration
12 and, therefore, would like to be in his holding cell this
13 afternoon. I apologize for being too quick.

14 MR. ABDULHAK:

15 Mr. President, do you wish to hear from us in response to Ieng
16 Sary's counsel?

17 [12.09.42]

18 MR. PRESIDENT:

19 Yes, you may proceed.

20 MR. ABDULHAK:

21 I'll be extremely brief. On the issue of belated -- of leading
22 questions, my friend should be well up to speed with the
23 procedure in Court; the appropriate time to place objections is
24 when the questions are asked.

25 On the issue of the expert's notes, what we've observed is that

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1 Professor Chandler is simply recalling the information put to him
2 in questions. He's being asked very complex -- he's being asked
3 about very complex issues, and I think it's entirely appropriate
4 for him to jot down the information that he's being asked to
5 respond on. I don't see how providing those notes to the Court
6 would assist anyone -- or the parties.

7 We remain, obviously, in the Chamber's hands on this and at your
8 discretion, but the information that is crucial is Professor
9 Chandler's authored texts, all of which are on the case file, and
10 Professor Chandler's exhaustive testimony. I don't see how the
11 notes will assist in any regard.

12 [12.09.57]

13 MR. ANG UDOM:

14 Mr. President, if I may, I would like to reply briefly to the
15 Prosecution. Thank you, Mr. President.

16 The prosecutor responded that the notes will not be useful, but
17 for us, as Defence, we believe that these notes will be very
18 useful for us to prepare our defence and we'd request that the
19 transcript shall be available for us for the afternoon as well
20 for us to prepare our defence. Thank you.

21 (Judges deliberate)

22 [12.11.46]

23 MR. PRESIDENT:

24 First of all, the Chamber will rule on the request of the defence
25 counsel for Mr. Ieng Sary.

1 Your request is rejected. The request is not reasonable.

2 The Chamber has informed parties already that the practice is to
3 follow the Criminal Code of Procedure of the Kingdom of Cambodia
4 as well as the Internal Rules of the ECCC. If an objection is to
5 be raised, the objection will have to follow the reasons. Parties
6 was informed from the very early stage.

7 Regarding the notes of the professor, the Chamber finds that the
8 notes are to help the professor to answer complicated questions
9 posed by the parties.

10 Therefore, the request to submit the notes by the professor is
11 rejected. All answers provided by the expert will be available in
12 the transcripts.

13 And, finally, the request of Mr. Nuon Chea. The Chamber has heard
14 the request of Mr. Nuon Chea made through his counsel to follow
15 the proceedings from the holding cell downstairs remotely due to
16 his health reasons -- that is, he lacks concentration and finds
17 it difficult to sit. He waives his right to be present in this
18 courtroom.

19 [12.14.13]

20 The Chamber now grants the request for him to be following the
21 proceedings from downstairs for the remainder of today's
22 proceedings. Mr. Nuon Chea expressly waived his rights to be
23 present in this courtroom. The defence team is instructed to
24 submit the written waiver with the Accused's signature or
25 thumbprint of the Accused to the -- to the Chamber.

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1 And the AV Unit is now instructed to live the proceedings to the
2 holding cell for the Accused to follow the proceedings from
3 there.

4 Security guards are now instructed to bring the two accused
5 persons to the holding cells and to keep Mr. Nuon Chea there for
6 him to follow the proceedings remotely, where the audio-visual
7 equipments are installed, and to return Mr. Khieu Samphan by
8 1.30.

9 The Court is adjourned.

10 (Court recesses from 12H15 to 13H32)

11 MR. PRESIDENT:

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

13 Before I hand over the floor to the civil party lawyer, the
14 Chamber wishes to respond to the request made by the defence
15 counsel for Ieng Sary for the transcription to be made as early
16 as possible. And the Chamber wishes to advise the defence
17 counsels as well as parties that the transcript is not within the
18 management of the Chamber. It is within the portfolio of the
19 Court Management Section. By experience, the transcript may take
20 some time. However, I also wish to advice the Court Management to
21 prepare this transcript. If it can be made available sooner, it
22 would be beneficial to parties.

23 And the Chamber wishes to also remind parties that defence
24 counsel and parties to this proceeding have assistants to assist
25 you while you are participating in the proceedings. They may make

1 use of the assistance of their colleagues to take notes of the
2 proceedings.

3 [13.34.54]

4 I now hand over to the civil party lawyer to continue his line of
5 questioning. You may proceed.

6 BY MR. HONG KIMSUON:

7 Thank you, Mr. President. And good afternoon, Mr. President. And
8 good afternoon, Your Honours. And good afternoon, Professor David
9 Chandler.

10 Q. I would like to now resume my line of questioning before we
11 broke for lunch, and I would like to follow up with the question
12 relating to the sending of Mr. Ieng Sary to Beijing to liaise
13 with Sihanouk.

14 Was it the anticipation of the Communist Party of Kampuchea when
15 they took control of the country, or it was happening
16 simultaneously when the -- when the Communist Party of Kampuchea
17 came to power? Document IS 6.2, ERN 002403, English 00244274 to
18 0044278.

19 [13.36.53]

20 This document is about the mobilizing of forces, dated July 1975.
21 That particular document also made reference to the name of
22 Prince Norodom Sihanouk, and you may refer to the ERN -- relevant
23 ERN page I mentioned earlier. I would like to read it out in
24 Khmer:

25 "We could control even Sihanouk -- both his power and politics.

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1 It is in our control. Before he was powerful and influential, but
2 now we are more powerful. Everything is in our hand. Even the
3 Royal Palace is under our control, so there won't be any problem
4 coordinating and working with him. Now we know that he can work
5 with us. He is satisfied, so long as he can stay with us and
6 travel around, so it is a golden opportunity for us to strengthen
7 our forces. And in the future, if he deviates from our team, then
8 he is going to be casted away."

9 I would like to continue from this passage. You mentioned that
10 Ieng Sary was sent to liaise with Sihanouk in Beijing. So it
11 seems that this was planned earlier on, before they came to
12 power; is that a correct conclusion of that?

13 MR. CHANDLER:

14 A. I think we can infer that conclusion. We covered a bit of this
15 before. I just want to make certain that what -- that -- they
16 certainly had no interest in returning Sihanouk to any kind of
17 genuine power, at any point, and as I mentioned earlier, also --
18 and it's in -- mentioned in one of the documents, in the
19 footnotes in "Pol Pot Plans the Future" -- that the death of Zhou
20 Enlai in early 1975 gave the CPK impetus to move against Sihanouk
21 since he now -- they now believed -- and, I think, truly -- that
22 he no longer had the level of support in China that he had
23 enjoyed.

24 [13.40.12]

25 So I think the official word in '71 would have been "liaison",

1 and that's certainly the way that Ieng Sary would have described
2 his task when he was there. But what the actual intentions were,
3 it's impossible to say, so I won't.

4 Q. Thank you.

5 I would like to now move on to ask question about the Royal
6 Government of National Union of Kampuchea under the leadership of
7 Prince Sihanouk and the -- its relationship with the National
8 Liberation Committee led by the Khmer Rouge forces.

9 [13.41.02]

10 Can you enlighten the Court about the negotiation before Cambodia
11 was liberated in 1975? Can you enlighten the Court whether or not
12 the two teams would not envisage that they would concede to
13 accepting, once again, the monarch administration?

14 A. Well, they certainly wouldn't agree to such a thing in public
15 and be able to keep Norodom Sihanouk in command, but I think he
16 sensed that this was going to be his fate, and he's mentioned
17 that in all his volumes of memoirs.

18 Q. Thank you.

19 During the break, I met with the victims of the Democratic
20 Kampuchea, and I would like to seek permission from Mr. President
21 to put a general question to the expert, particularly in order to
22 clear the confusion of people in general that people went into
23 the maquis jungle at the appeal of Prince Norodom Sihanouk and
24 that led to the many casualties.

25 Whether -- so I would like to ask from the expert's opinion

1 whether or not this was a genuine appeal by the prince, or it was
2 a trick plotted by the Khmer Rouge.

3 [13.43.24]

4 A. Well, in a way it was both. I mean, it was a genuine appeal.

5 It was his voice. It's something -- an appeal he's admitted

6 making. I don't think he was given full authority to write the

7 actual text himself. But this is, again, a supposition. I'm sure

8 he was not told by the Khmer Rouge: "Say anything you like." This

9 was a controlled speech. It wasn't quite in fact a trick.

10 I see why you've asked that, but it was more like, I think, to

11 give the Khmer Rouge some credit, a recruiting tool. They -- I

12 think they knew that the prince retained a lot of popularity in

13 the countryside, and they thought that they could get more

14 support by joining the Front that had just been -- by secretly

15 joining a Front that had just been set up in Beijing. This turned

16 out to be the case.

17 [13.44.17]

18 We still don't know -- and I said this, this morning -- how many

19 people heard the appeal, how many people obeyed the appeal, how

20 many people, once they had gone into the maquis, found that the

21 situation was not something that pleased them and left, how many

22 were executed. You could say some people, at each one of those

23 stages, but it -- some people heard, some people accepted, and so

24 on, but we can't say how many or how effective it was.

25 Certainly, there is evidence in '75 that the coup enraged some of

1 the rural population sufficiently so that they could storm into
2 -- I think it was Kampong Cham, and assassinate Lon Nol's brother
3 there, who was considered to be, you know, part of the problem as
4 the brother of the man who was -- so there was certainly anger
5 there. How long that anger lasted, how well it was mobilized, I
6 can't say precisely.

7 Q. Thank you. I would like to expand a bit further on this
8 particular topic. I would like to know about the plan before the
9 liberation of Phnom Penh in 1975. Did you study the resolution of
10 the Communist Party of Kampuchea which decided on eight points
11 following the liberation of the country -- the resolution dated
12 the 20th of May 1975? It also mentioned the -- a policy that may
13 -- overrode the policy of the Royal Government of the National
14 Union of Kampuchea. And that is document IS 4.26.

15 [13.16.45]

16 And I would like permission from Mr. President to display this
17 document.

18 MR. PRESIDENT:

19 You may proceed.

20 BY MR. HONG KIMSUON:

21 Q. Thank you. I would like to now read out the eight policy --
22 eight-point policy:

23 "1. Evacuate people from all towns;

24 "2. abolish all markets;

25 "3. abolish Lon Nol regime -- abolish Lon Nol regime currency and

1 withhold the revolutionary currency that had been printed;
2 "4. defrock all Buddhist monks and put them to work growing rice;
3 "5. execute all leaders of the Lon Nol regime, beginning with the
4 top leaders;
5 "6. establish high-level cooperatives throughout the country with
6 communal eating; and
7 "7. expel the entire Vietnamese minority population; and
8 "8. dispatch troops to the borders, particularly the Vietnamese
9 border."

10 [13.48.08]

11 MR. PRESIDENT:

12 The National Counsel for Mr. Ieng Sary, you may proceed.

13 MR. ANG UDOM:

14 Mr. President, I do not have any particular objection, but it is
15 my suggestion that whenever my learned colleague presents any
16 documents in Court, the documents should be put up on the screen
17 and the identity of the document should be made clearly as well.

18 MR. HONG KIMSUON:

19 I only noted earlier that the document is only available in
20 Khmer. Relevant ERN is 00315051, document IS 4.26. I only have
21 Khmer copy with me.

22 MR. PRESIDENT:

23 Counsel, can the document be shown on the screen? It is advisable
24 that parties should frame the question in a more concise way and
25 -- so that the witness can respond to the question more

1 appropriately.

2 BY MR. HONG KIMSUON:

3 Thank you, Mr. President.

4 [13.50.00]

5 Q. Professor, I have just read out the eight-point policies to
6 you. Do you have any observation or comments in respect of this
7 policy?

8 MR. CHANDLER:

9 A. No, I don't have any specific comments. I am reading them in
10 Khmer on the screen. They are certainly very clear in the set of
11 policies that they set out. I think, in almost every case, these
12 policies were followed. The level to which Lon Nol officials or
13 some -- were executed has never been entirely clear. The purge,
14 as I said earlier, stopped or slowed down in late '75.

15 [13.50.50]

16 The other policies were adhered to throughout the - throughout
17 the regime. And it's interesting, as you pointed out, it hasn't
18 been mentioned before. The - a set of paper currency had in fact
19 prepared for the regime, printed in -- I think in China, that --
20 for the regime, and they rejected using it, which suggests that
21 the decision to abolish money may have been later than some of
22 the other decisions that -- the other policies were already in
23 place. But that's just, again, a supposition. We know the money,
24 which you could still buy in a market, is -- was never
25 circulated.

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1 Q. Since I am running out of time, before I hand over to my
2 esteemed colleagues, I would like to put my last question to
3 Professor Chandler.

4 [13.52.05]

5 My apology, I would like to bring up one more article -- one more
6 document. E3/17, Article 31, ERN in Khmer, 0082 -- my apology, I
7 confuse this document. I would like to check with my colleague
8 first.

9 The document from the book entitled "Voices from S-21" --
10 relevant ERN page in Khmer, 00191846; ERN in English, 00192694.

11 With Mr. President's permission, I would like to have this
12 document shown on screen as well.

13 MR. PRESIDENT:

14 You may proceed.

15 MR. HONG KIMSUON:

16 (Microphone not activated)

17 MR. PRESIDENT:

18 Please make sure that your mic is activated.

19 BY MR. HONG KIMSUON:

20 Thank you.

21 Q. According to this document -- I would like to read it out:

22 [13.54.02]

23 "The Democratic Kampuchea leaders give the most attention to the
24 functioning of S-21. The deputy secretary of Communist Party of
25 Kampuchea, Mr. Nuon Chea, explained to a group of the Danish

1 delegation who paid their official visit to Cambodia in July 1978
2 that we had to protect the leadership apparatus at all cost. If
3 we lose members but we can protect the leaders, then we can
4 rebuild our force. We can lose hundreds of members, but we could
5 not afford to lose two or three leaders. Otherwise the Party
6 would not be -- would not move forward effectively."

7 Can you explain the Court that -- whether or not it was the
8 sentiment of the Party at that time that the leaders were that
9 important, and they would take care of the welfare of their
10 leaders at -- even at the expense of the ordinary members?
11 And, Mr. President, if -- with your permission, I would like to
12 present this document to the witness.

13 MR. PRESIDENT:

14 You may proceed.

15 Court Officer, please obtain the document and present it to the
16 witness.

17 MR. CHANDLER:

18 A. Yes. I was following along with the Khmer. This is a famous
19 passage, I think very revealing about the operations of
20 Democratic Kampuchea, primarily because it was given, as most
21 documents to foreigners were not, to someone that seemed to
22 inspire trust.

23 [13.56.26]

24 So, therefore, in answer to your question, my opinion -- and it
25 is an opinion -- is that Nuon Chea, in making these statements,

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1 was completely sincere and was describing a policy that other
2 evidence suggests was indeed widespread in the Party, that the --
3 protecting the leaders of the Party was of extreme importance.
4 Duch said the main objective of S-21 was to protect Angkar,
5 "Angkar" being the leadership of the Party.
6 So this is a very forthright and articulate statement of policy
7 that we -- is quite rare, in the sense that it was made from one
8 of the leaders by name to a named foreigner. This is a very
9 interesting disclosure for that reason.

10 MR. HONG KIMSUON:

11 Thank you, Professor. I have to hand over to my colleague now.
12 And I thank you very much, Professor, for responding to my
13 questions. And your response is very helpful. Thank you.

14 [13.57.39]

15 And I would like to now hand over to my esteemed colleague.

16 MR. PRESIDENT:

17 Yes, International Lawyer for the civil party, you may proceed.

18 QUESTIONING BY MS. MARTINEAU:

19 Good afternoon, Mr. President. Good morning, Your Honours. Good
20 morning -- good afternoon. Good afternoon to the civil parties.
21 Good afternoon, Witness. I'm going to put a few questions to you
22 that will be quite quick because our time is limited, and my
23 colleague, Olivier Bahougne, will continue with more factual
24 questions.

25 Q. First of all, I wanted to revisit an issue that was brought

1 up, the issue of secrecy, the CPK's policy or -- favoured secrecy
2 -- or, in any case, the senior leaders did.

3 So my first question is the following: If it was clear that
4 during the civil war -- that is to say, before 1975 -- it was
5 necessary to remain anonymous, and to remain in hiding, and to --
6 not to disclose oneself, why, however, was this cult of secrecy
7 continued after the victory of 1975? Why was it necessary to
8 proceed in this way?

9 13.59.30

10 MR. CHANDLER:

11 A. That's an excellent question. I think it was a - I would, with
12 permission, rephrase it slightly. It certainly wasn't necessary
13 to do this in any sense, but it was felt to be necessary by the
14 leaders. The reason it was felt to be necessary: because this is
15 a policy that had succeeded for so long, had kept all of the
16 major leaders -- all the major leaders out of Sihanouk prisons,
17 and they saw no virtue in explaining who they were and what they
18 were doing and a great virtue in continuing what had been for
19 them a very successful policy.

20 [14.00.14]

21 I agree, it's baffling to outsiders, but that's my explanation.

22 Q. Thank you very much. You brought up, yesterday and the day
23 before, examples -- you gave us examples of this practice of
24 secrecy. So the decisions by the leaders were surrounded by this
25 secrecy. And -- however, you also spoke about the situation of

1 the Cambodian people, who, on the other hand, were subjected to
2 total transparencies.

3 They were not supposed to have any secrets at all in the face of
4 Angkar. So can you share your opinion with us about this? Was it
5 always the same strategy to have secrecy at the government level
6 and this obligation of transparency?

7 A. That's a fascinating question; hard to answer because it's got
8 very strange substance, from my mind. The point is, I think, to
9 make -- is that the leaders of the Party were transparent to each
10 other, and this levels of transparency weakened as you went
11 further down the line.

12 As I mentioned, I think, yesterday, we know pretty much for sure
13 that all the leaders of the Party prepared biographies that were
14 examined by the other leaders of the Party and self-criticism
15 sessions, demanding transparency of each other.

16 [14.02.08]

17 They demanded the same transparency, with no option to keep it
18 quiet, of the rest of the people because people outside the
19 Communist Party, which were forced to share this mutual
20 transparency in study session -- biography writing, and so forth
21 -- were trusted, and the rest of the people were not trusted to
22 keep secrets. They were not trusted really at all, in many ways.
23 So they were required to open up to the regime so that it could
24 examine what they were up to or who they were.

25 But the transparency inside the Party was -- was quite high, and

1 this is one of the great ironies. I mean, the -- when we saw the
2 letter from Hu Nim this morning, he knew exactly who the leaders
3 were of the Party. He knew their names, he knew how to write to
4 them, but he was an insider. No one else in the country could
5 have used those five names in the same facility. Well -- Yes, no
6 one else outside the Party, of course, is what I mean.

7 Q. Thank you. A question that comes to my mind now -- you spoke
8 about Angkar, and the usage of this entity which was set up, I
9 believe, as of 17 April. Of course, you told us that this was the
10 leading entity and that the senior leaders were hiding behind
11 this mysterious entity, but beyond this circle, was it possible
12 to portray a fearful image of power in order to control the
13 population, to instil fear?

14 [14.04.32]

15 A. Yes, I certainly think it was. People were not told what
16 "Angkar" was. With interviews I've conducted and other people
17 have conducted with survivors of the regime, many Cambodians
18 thought "Angkar" was a person. The word means "organization", but
19 they thought it was a - was a person's name, that there was a
20 single person behind this, an unseen person. And the --- one of
21 the sayings of the survivors was that "Angkar has as many eyes as
22 a pineapple", meaning Angkar, which they claimed -- the officials
23 claimed also -- can see everything, it can see everything that's
24 going on. "We know who you are." And of course, as I said earlier
25 in another context, this is the same as saying, "This room is

1 filled with enemies". I mean, the listeners wouldn't know who was
2 saying that. It could possibly be someone -- probably was someone
3 in the village, a representative of the Party. They might not
4 know who that person is. People would walk around underneath
5 their houses at night, listening to their conversations. There
6 was surveillance and control, and -- but if you asked - and
7 Cambodia's, every -- people in the room know -- is a very -- how
8 do you say -- personal nation. They kept saying, "Who is this?"
9 No information. So it is frightening. Very unusual for Cambodia
10 to be so -- "Who's saying this?" "I won't say; that's a secret."
11 It's not -- not normal, not natural.

12 [14.06.05]

13 Q. Thank you.

14 Let me move on now to another question and revisit the issue of
15 the New People. You said, yesterday or the day before, that the
16 New People were the main enemy of the regime as of 17 April
17 because the New People symbolized imperialism. Was this the only
18 reason why these New People were stigmatized and considered
19 enemies? Are there any other explanations that may let us
20 understand why they were alienated this way?

21 A. Yes. I think the simplest explanation was, by definition, the
22 New People in the towns -- and these were the towns that had not
23 yet been cleared out by the Khmer Rouge, as I said yesterday, I
24 think, several towns had already been evacuated and the
25 population driven out of them, Udong, Stung Treng, Kratie, and

1 one other. These people, by remaining in the towns, were, by
2 definition, people who had not participated in the revolution,
3 and since that was the only approved behaviour for the Cambodian
4 population, these people were outside that group. This made it
5 very easy for them to be defined as an enemy -- a "kmang" -- or a
6 traitor -- a "kbot" -- to the winning group, the Communist Party
7 of Kampuchea.

8 [14.07.53]

9 The other dimension of the -- of the usefulness, popularity among
10 the -- in the ranks of the CPK for calling these people enemy -
11 it's, again, something I've mentioned before -- is that city
12 dwellers themselves were named as the main enemies of the rural
13 population. Rural populations were told that American bombers
14 were coming from Phnom Penh, so people -- there's lots of
15 evidence of this -- the forces that entered Phnom Penh and some
16 of the forces that entered from Battambang -- there is evidence
17 here -- were extremely angry. They had been told to be angry.
18 They had been told this was a place that was not just a western,
19 American, but a place that was out to destroy them, the cities.
20 And so the cities were the places of New People, who were also,
21 just by definition, people who had not taken part in the
22 revolution, which makes them, in Khmer Rouge thinking, "not us,
23 but them", in other words, enemies.

24 [14.08.57]

25 Q. Thank you. You have just referred to Kratie and Udong. And

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1 when this evacuation took place, the people who were evacuated
2 from these cities were not called New People; or were they?

3 A. I have no information on that. I suspect they weren't treated
4 very well, but I don't remember that the phrase "New People" was
5 in use before 1975 -- April '75.

6 Q. Thank you. On the basis of your research, you covered facts on
7 the evacuation conditions of Phnom Penh -- that is to say, what
8 were the food conditions, the sanitary conditions, and how the
9 people received these New People who were thrown out of the town.
10 Do you have any elements -- any specific elements on what the
11 conditions were like during the--

12 [14.10.41]

13 A. Pretty consistent survivor reports are that the conditions
14 were awful. This was, as people know --who've lived in Cambodia
15 -- the New Year, which is when the victory took place, is the
16 hottest time of the year. There's less - less fresh water,
17 incredible temperatures. People were flung out of the city no
18 matter what age they were, what health they had, without many
19 possessions and without any sense of where they were going. I
20 think they were very harsh conditions indeed, and these
21 conditions, of course, fuelled the narratives of New People who
22 -- when they surfaced, if you like, after 1979, and many of these
23 people remembered the conditions of the evacuation. But it seems
24 to me there were so many accounts that are not contradictory and
25 that support each other, so many independent accounts were that

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1 the conditions were awful.

2 [14.11.41]

3 I guess, what - I cannot say this in extenuation, but it's a
4 matter of consistency with a lot of DK policies -- it's the
5 feeling that doing things in a hurry was the correct way to do
6 things; doing things slowly was the old way of doing things. So,
7 in other words, people weren't allowed a day or so to prepare,
8 and -- besides, as I said in my previous answer, these people
9 were not considered to have any value whatsoever as human beings.
10 These were not people that the victors respected. These were
11 people who had chosen not to join their ranks. So, therefore,
12 they would -- you find in some of the materials in the Court
13 documents that I read -- not the Closing Order, but other
14 documents that I've been given to read -- some of the officials
15 now regret what had happened then and say that they regretted it
16 at the time, but this regret was not widespread and it resulted
17 in no action like: Slow down; stop this. Nothing happened at the
18 time. It was colossally harsh from the start.

19 [14.12.54]

20 Q. Thank you. As a historian, were you able to find comparable
21 elements to this tragic evacuation in other historical events?
22 Are there any possible comparisons elsewhere?

23 A. Well, again, I mentioned, I think -- it's getting a blur; I
24 can't remember if it's yesterday or the day before, but certainly
25 this has a historical precedence in Southeast Asia. The report of

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1 the trial on Wednesday, I think, mentioned the Burmese evacuation
2 of Ayutthaya in 1767 pulled all the people out -- I had not
3 mentioned that myself, but the writer knew about that - and,
4 preceding that, what I did mention, 1832, a Thai evacuation of
5 Phnom Penh when the Thais invaded the country. So it's a -- in a
6 kind of a tradition in Cambodia.

7 There were -- elements were coming from China of partial
8 evacuations of some cities as a sort of pilot programs. The
9 Chinese were trying to do -- because they also wanted to
10 de-urbanize -- in the high tide of Maoism, de-urbanize the
11 Chinese society. And we know that the evacuation of the cities
12 was praised afterwards by Chinese officials who said, you know: I
13 wish we could have been able to do that kind of thing, but our
14 country is too large and complicated. But that de-urbanizing
15 society in the declining years of Maoism was a great -- an
16 ambition of Communist regimes.

17 [14.14.36]

18 But, no, nothing as severe as this in recorded history. I can't
19 speak for the Mongols. I don't know that they evacuated people,
20 but -- Alexander the Great. But, certainly, the 19th Century in
21 Southeast Asia, partial things in China, nothing as big in recent
22 memory, certainly.

23 Q. Thank you.

24 Yesterday, you reminded us of what you wrote in your book -- that
25 is to say, the way the New People were qualified and the way the

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1 New People were treated. And very quickly speaking, I'd like to
2 remind you that you spoke about, in particular deportation in
3 1976 to the Northwest, forced labour that the New People were
4 subjected to. You described their situation as slavery. You also
5 reminded us that these New People did not have the right to vote
6 during the only parliamentary election that took place, and you
7 also said that these New People were completely hopeless in the
8 eyes of the regime and that their death was of no matter. And you
9 also said that after having consumed the New People, the senior
10 leaders moved on to something else -- that is to say, purging the
11 cadre. So the New People were not the only ones who suffered from
12 the power and from the tendency to destroy.

13 [14.16.57]

14 So my first question is: Was there a desire to destroy, period --
15 to destroy the New People?

16 And then my next question is: Was the treatment imposed on the
17 New People, such as forced labour, this dehumanization, the
18 stripping of rights -- was this part of a plan to isolate this
19 group of people, to alienate it, to characterize it in a way of
20 -- as non-Khmer, although they are Khmer? So, on the basis of
21 your research, do you have this feeling or can you share with us
22 your opinion on this question?

23 [14.18.23]

24 A. This is a very controversial issue and one that I don't think
25 my - my own opinions are particularly authoritative, but I

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1 certainly have them.

2 The evidence I have is that there was no systematic intention on
3 the part of the leadership of the Party to destroy the New
4 People. This would have meant killing -- for one thing, killing a
5 lot more people than they killed. It also would have meant
6 eliminating -- as we know, the number of New People probably was
7 in the vicinity of three million, two and a half million. That
8 would have ruined their country.

9 When I was -- I've been teaching the history of Cambodia over the
10 years, and an image I use -- it probably wouldn't apply in
11 Cambodia, but if you've seen enough American crime movies -- I
12 think the way it operated was what you see, a man coming into a
13 store with a gun and he says: Everybody behave, and you'll all be
14 all right -- or comes into a bank. And the ones who don't behave
15 get shot; the ones who do behave -- the employees of the bank --
16 he goes away, and they continue to do what they were doing; he
17 goes away with the money. So that kind - that seems to be the way
18 it was.

19 [14.19.37]

20 They threatened these people with that terrible motto and showed
21 them that they thought they were worthless, and this was a
22 mindset that had been drummed into them during the Civil War,
23 that the people who are opposing you are not Khmer, they're not
24 behaving decently; they're behaving barbarically.

25 But I didn't sense any -- it's certainly not documented; there

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1 wasn't any intention to produce what Jean Lacouture called
2 "autogénocide", to produce this effect. It was an effect that was
3 produced, to a large extent, by chance, by ferocity and by other
4 things like that.

5 Now, another point of clarification, of course, slave - it was --
6 labour was enforced. Labour was enforced on everybody in the
7 country. Base People did not get out of working much harder than
8 they had ever worked in pre-revolutionary times. Everybody worked
9 like -- just a lot, all day, in the sun. Slave labour was also
10 national because there was no remuneration for any labour.

11 [14.20.52]

12 The point is the most -- some of the most difficult work in some
13 of the most inhospitable parts of the country were given to New
14 People, I think, purposely because a certain amount of casualties
15 in those cases made no difference to the regime; 10, 20 per cent,
16 that's fine. Down in the Southwest, where you had a very
17 effective "severe government" under Ta Mok, you have no evidence
18 of that kind of thinking that we can lose 10 or 15 per cent of
19 the people by driving them too hard. They were overdriven in
20 these areas where the New People were because -- but the whole
21 country was working -- well, except for a handful of -- perhaps a
22 handful of people and -- were working much harder than they had
23 ever worked before.

24 Now, I don't also see a - "Khmer" was a word that the Khmer --
25 the DK never used. They never used this word. That word was

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1 associated with Lon Nol and with nationalism. They used
2 "Kampuchean" -- meaning Cambodian people, trying to avoid a
3 racial characteristic that had so characterized the Lon Nol
4 regime.

5 [14.22.06]

6 This changed in the later parts of the regime. In '78, war with
7 Vietnam, they started talking about the "Cambodian race", and you
8 started getting a shunt - another one of these many shunts I've
9 been talking about -- toward a real "Cambodian bodies, Vietnamese
10 heads". They had become non-Cambodian. But they never referred to
11 the -- used the phrase "not Cambodian" to the New People, whereas
12 Lon Nol, in his regime, had referred to the Communists as "Thmil"
13 -- the word, coming from Sri Lanka, for "Tamil", meaning
14 "non-believer", which was the same effect: These people are
15 outside my moral ambit; just go ahead and -- you can kill a
16 non-believer the same way you can kill an enemy of the people.
17 It's just a different term for--

18 But it's a -- that's a very complicated issue. I think we want -
19 we want to -- I'm certainly not able to find or -- documentary
20 evidence that there was a systemic - a systemic policy at the top
21 to destroy the New People as a group, entire -- as an entire
22 group. That so many of them lost their lives, it would seem to
23 many of the survivors, of course, that there must have been such
24 a policy, or else they wouldn't have died. But you have to say,
25 in Cambodia under DK, as I've written somewhere, there were six

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1 million stories -- there were six million stories. And we've
2 heard -- some of the stories are true -- many of the stories are
3 true, many of the stories have never been told. So it's very hard
4 to say they were all intended to -- whatever.

5 [14.23.50]

6 Q. What you just said leads me to another question, which will be
7 my last one. The leaders conducted this revolution for the Base
8 People to be liberated. And when we listen to what you just said,
9 we may ask ourselves whether there was not some kind of betrayal
10 vis-à-vis the Base People on the part of the leaders.

11 A. That's a nice question. I'm sure that some of them did feel
12 this, but when they talked of liberating the Base People, they
13 did not talk about liberating them from hard rural living
14 conditions. They talked of liberating them from something that
15 not all of them knew as the case, but some of them did and
16 provided -- these people provided forces for the Khmer Rouge.
17 This was to liberate them from the unequal and unjust social
18 arrangements that had always characterized Cambodian society in
19 terms of rich and poor -- the haves and have-nots.

20 [14.25.11]

21 They were have-nots and they were told: Now you will have. What
22 they would have was not more freedom, more rights, more -- you
23 can almost say "bourgeois values", more right to vote, and so on;
24 they would be free from oppression from those people. They were
25 also less oppressed by the new leaders than the New People were

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1 because they were the preferred people, but they weren't
2 preferred in any -- really in any material sense, except that you
3 hear that food supplies were better handled in some of the areas
4 where you had experienced cadre and fewer New People. There was
5 less -- maybe less starvation and there was better control over
6 production. But the Base People were freed from feudalism, which
7 many of them had no idea what it was. So they were freed from
8 "feudalism", freed from oppression by the cities, which some of
9 them felt, some of them had no concern about; they didn't even
10 know what the cities were like. So--

11 Yes. I mean, it's an interesting question. You would have to --
12 have to say, you know: When they came in, did you really feel you
13 were -- but if they were talking in material terms, they'll say
14 no. This is all ideological -- it's an ideological liberation,
15 not a -- it's an empowerment without any material components,
16 except for the ones who were given guns; that's an empowerment.
17 You're given a gun because you're on our side. So that's a bit of
18 material, but otherwise not. So you can say they were betrayed,
19 from our point of view.

20 [14.26.55]

21 MS. MARTINEAU:

22 Thank you, Expert Witness. I have no further questions. Thank you
23 very much for having provided important clarification on these
24 points. Thank you.

25 My colleague, Olivier Bahougne, will continue with the

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1 questioning, so it might be a good time now to take the break so
2 that he may ask his questions in one go.

3 MR. PRESIDENT:

4 You may proceed, Counsel.

5 [14.27.53]

6 QUESTIONING BY MR. BAHOUGNE:

7 Good afternoon, Mr. President. And good afternoon to the Bench.

8 Good afternoon, Mr. Chandler.

9 I am Olivier Bahougne. I've already had the honour of taking the
10 floor before this Court.

11 Q. Mr. Chandler, I'd like, at the outset, to begin my questions
12 by bringing you back to some quotations you made at the hearing
13 here in Case Number 001, the trial of Duch. And you quoted "The
14 Milgram Experiment" when answering a question from my colleague
15 François Roux, and you indicated that you were particularly
16 interested in "The Milgram Experiment", and you described it and
17 you said that after the study, it had been found that 70 per cent
18 of the people who were subjected to the test had pushed the
19 questioning right through to the highest possible voltage.

20 I had a look at the study myself as well, and it would appear
21 that today, it's very important to take account of the context
22 and the conditions within which obedience occurred. And Milgram
23 basically explained that it's very important, before you're
24 looking for an individual explanation for obedience, to take
25 account of the pressure that's being exerted on the individual

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1 who is due to obey.

2 What I want to do now is ask you a handful of questions to ask
3 you in terms of everything you have studied, and your personal
4 experiences, and your sensitivities, if these elements can be
5 considered to constitute what could be called obedience, or a
6 context thereof.

7 [14.30.32]

8 MR. PRESIDENT:

9 Defence Counsel for Mr. Ieng Sary, you may proceed.

10 MR. ANG UDOM:

11 Good afternoon, Mr. President; and my apologies, once again, for
12 the interruption.

13 With regards to the reference to the testimony during Case 001,
14 testimony of one professor, I am not aware of the scope of that
15 reference. Which testimony are we referring to? Where is it in
16 the transcript and on what page? How is that portion of the
17 paragraph is going to be used?

18 MR. PRESIDENT:

19 International Counsel for Mr. Nuon Chea, you may proceed.

20 [14.31.29]

21 MR. PAUW:

22 Thank you, Mr. President. I agree with my colleague on the other
23 side that the Milgram experiment is a fascinating experiment, but
24 I would like to point out that Professor Chandler's expertise is,
25 of course, not in the field of psychology or any type of these

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1 psychological experiments.

2 I do not know exactly how my colleague will be phrasing his
3 questions, and I'll be interested to hear them, but if they in
4 any way call on the expertise or any supposed expertise of
5 Professor Chandler in the field of psychology or any type of
6 clinical psychological testing like the Milgram experiment, then
7 I will object. So I just want to make that clear before actual
8 situations are put before Professor Chandler.

9 [14.32.26]

10 MR. BAHOUGNE:

11 Thank you. I can answer that. To my Cambodian colleague from the
12 Ieng Sary team, of course Professor Milgram didn't testify. It is
13 a reference that came up in Professor Chandler's testimony. If
14 you are interested in acquainting yourself with the document,
15 it's ERN in Khmer, 00361545, English ERN 00361454.

16 Turning now to the second question, indeed, you don't know what
17 my questions are but you're going to be able to find out. Let me
18 say that my purpose is to determine the existence and the role of
19 elements that make up a context in which people obey.

20 [14.33.39]

21 Professor--

22 MR. PRESIDENT:

23 Has counsel responded to the objection or the concerns raised by
24 the defence counsel? I don't think you have done so, Counsel.

25 What is your reply to the objection or the observations made by

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1 defence counsels for Mr. Ieng Sary and for Mr. Nuon Chea? Defence
2 counsel for Mr. Ieng Sary asked you to identify the identity of
3 the document you would like to refer to, yet we have another
4 objection from the defence counsel for Mr. Nuon Chea.

5 MR. BAHUGNE:

6 Picking up the objection made by my learned colleague from the
7 Ieng Sary team, I gave the ERN references of the transcript of
8 the hearing which Mr. Chandler attended in Case Number 1, the
9 trial of Duch, and these are the actual pages of the transcript
10 in which these things are referred to.

11 MR. PRESIDENT:

12 And what is your reply to the defence counsel for Mr. Nuon Chea,
13 Counsel? Defence counsel for Mr. Nuon Chea objects to the
14 substance of your questions which refer to the psychological
15 assessment as the expert before us is not a psychological expert.

16 [14.35.51]

17 MR. BAHUGNE:

18 Mr. President, I answered that as well, because my colleague said
19 that - "I haven't yet heard the questions". So I will ask the
20 questions, and then he can decide if my questions are ones rooted
21 in a need for psychological understanding. But the expert is
22 somebody who has very considerable knowledge, experience, and
23 awareness, and that may come into play as well. So I think I've
24 answered the question there, Mr. President.

25 MR. PRESIDENT:

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1 Now you may proceed with your question.

2 BY MR. BAHUGNE:

3 Thank you, Mr. President.

4 [14.36.44]

5 Q. Professor, can you tell us what education level had been
6 attained by peasants in Cambodia in 1975? Is it possible to talk
7 in terms of a scale of good -- very good, good, medium, poor,
8 very poor? Where on that scale would you situate the level of
9 literacy among Cambodians in 1975?

10 MR. CHANDLER:

11 A. I can only give you statistics that -- I can't give you
12 precise statistics.

13 Certainly, the levels of illiteracy were the highest among women
14 and elderly people, lowest among young people who had been to
15 school. But how many of those young people had been to school in
16 the Sihanouk period? Quite a lot of them had been to school.
17 And I was, I must say, surprised to an extent when I was working
18 on the Tuol Sleng files, to see how literate and -- literate some
19 of the people were who admitted their education had only been
20 through three grades. They could write fluently, they could type.
21 So it's hard to -- but they were all peasant background.

22 [14.38.10]

23 But certainly the levels of education were not high. They were
24 perhaps not shameful, in terms of Cambodia's resources, but this
25 was not a country where there were enough schools for the growing

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1 population. And the further back you got into the countryside,
2 some parts of the country had no education -- no educational
3 facilities at all.

4 I'm drawn to the one-line anecdote of -- Ta Mok's sister was
5 found enterprising reporters in 1990, sometime, and she said
6 she'd never seen a European until she was 50 years old. So this
7 was a woman who was living well off the main road. When you get
8 far off the main road, you also don't have a state primary
9 school, a state high school, or whatever.

10 So the levels of education in the back parts of the country were
11 unavoidably very low because these people are basically
12 inaccessible.

13 [14.39.10]

14 But at a certain level it was higher than one might expect in
15 terms of - (unintelligible) can observe that is in the
16 handwriting and literacy capacity of the guards at Tuol Sleng who
17 were writing material, and their biography said: I've only been
18 to three grades of school. So -- after third grade, I could not
19 write as well as they could, so -- they may have had their
20 education later or -- I can't tell.

21 Q. Thank you, Professor. Staying with the hearing in Case Number
22 001 -- and I'm talking about a Khmer ERN of 00361546; English,
23 00361456; French, 00361720 -- in that text you said that people
24 who gave orders were used to giving them and those who received
25 them were used to obeying. There was no culture in Cambodia

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1 consisting in challenging orders coming from people who held
2 authority. In other words, a teacher was never called into
3 question.

4 Professor, presenting themselves as intellectuals, did Khieu
5 Samphan and Ieng Sary enjoy a particular status?

6 A. I'm not certain what kind of -- if Ieng Sary enjoyed a
7 particular status, because I have no record of what his -- how
8 his -- what effect his teachings had on his students.

9 [14.41.30]

10 We do know -- very interesting, it fits right into your question
11 -- that Pol Pot as a teacher in the same school as Ieng Sary, got
12 a very high opinion from his students, not because he was
13 allowed, himself, to be questioned, but because he did not bully
14 and dominate the students; he was gentle with them, he listened
15 to them. He was a person that a survivor told me in a very
16 interesting sentence: "He was a man when I met him, when I was
17 14; could be my friend for life." Next sentence: "He killed my
18 parents." This was an impression this man made by being a
19 non-conventional teacher.

20 Khieu Samphan, as a teacher, I -- the reputation I think he had
21 as a teacher was very good. He had an excellent reputation in
22 many, many ways in the pre-revolutionary period -- as a teacher,
23 as a journalist, as a singularly uncorrupt member of the National
24 Assembly, as a conscientious cabinet minister. All these things
25 earned him respect, not in the conventional way of the kind of

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1 respect given automatically to a boss, but respect because his
2 conduct was unusual.

3 [14.42.48]

4 In other words, Cambodians were quick to recognize when someone
5 was behaving in a humane or interested way, but I did – I still
6 stand by my sentences, in the sense that this was not the way
7 most authority relationships were conducted; they were conducted
8 in a very authoritative -- a very authoritative way without a
9 question of – any question of being allowed to talk back.

10 And I should just add that the word for "obey" in Cambodian is
11 from the word "to command", so it doesn't mean "obey" in an
12 English sense or "obéir" in a French sense, it means "to be
13 commanded". You're in a position of being commanded. That doesn't
14 mean you're in a position to choose whether you can say yes or
15 no; you've been commanded, you've been told what to do -- (words
16 in Khmer), the two words in Khmer. I think it's very -- I think
17 it's a real -- I think it's an important distinction.

18 Q. Thank you--

19 [14.44.00]

20 MR. PRESIDENT:

21 Thank you, Counsel. Thank you, the expert.

22 It is appropriate for us to take a short break. We will resume at
23 3 o'clock.

24 Court officer is now instructed to accommodate the expert and
25 return him to this courtroom at the said time.

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1 The Court is adjourned.

2 (Court recesses from 1444H to 1500H)

3 MR. PRESIDENT:

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

5 I hand over to the civil party lawyer to continue his line of
6 questioning. You may proceed.

7 [15.01.56]

8 BY MR. BAHOUGNE:

9 Thank you, Mr. President. I intend to speak in a measured way so
10 as to make sure that the interpretation can be fully
11 understandable.

12 Q. Professor, in terms of your experience and the knowledge you
13 have acquired, can you tell me if the elimination of the elite
14 and the intellectuals contributed to establishing the "total
15 institution", as you referred to it in Case Number 1?

16 Let me give my colleagues the ERN. In Khmer, it's 00361543; in
17 English, it's 00361450; and in French, 00361704.

18 MR. CHANDLER:

19 A. I'm sorry; could you give me the quotation literally? If it
20 was a quotation of something I said in Case 001, I want to make
21 sure it's -- I can deal with that. Maybe you could pass me the
22 English or pass it through the court officer -- or the French
23 would do; I can read that also.

24 Q. I only have the French version, in fact, but you said that the
25 entire country became a world that was isolated from the outside,

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1 and that's the context in which you refer to the " total
2 institution":

3 [15.04.06]

4 "'Total institution' is an expression used by an American
5 sociologist, Erving Goffman. He was the person who used the term
6 to cover prisons, convents, schools, places that were sealed off
7 from the rest of the world without any kind of contact with the
8 outside world."

9 Q. Okay. Thank you. I was -- in that passage -- I think it's from
10 my S-21 book -- I was precisely referring to S-21 as a total
11 institution, but I think I may, in my testimony, as you
12 suggested, stretched that out to suggest that Cambodia, between
13 April 17, '75, and January '79, had been turned into a total
14 institution by its isolation and by the controlling policies set
15 in place by the regime.

16 Earlier on, as part of this question, it seemed to me you wanted
17 to -- you were asking if the elimination of intellectuals had
18 something to do with this. I missed -- you might repeat that part
19 of your question because I don't want to come into that phrase,
20 "elimination", exactly, since many of them were -- failed to
21 survive the regime, but many of them also did, so I don't like
22 the word "elimination". So we'd have to see what you'd actually
23 said before I can deal with that issue. "Marginalization" might
24 work or--

25 [15.05.53]

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1 MR. PRESIDENT:

2 Witness, please – please hold on because there is an objection by
3 the defence counsel for Nuon Chea.

4 You may proceed, Counsel.

5 MR. PAUW:

6 Thank you, Mr. President. As my colleague is answering the
7 question of Professor Chandler, he may also clarify whether this
8 term was indeed used in the context of S-21 or in the context of
9 Democratic Kampuchea as a whole, because the professor is clearly
10 not sure about this issue. So the input of our colleague would be
11 helpful.

12 [15.06.26]

13 MR. BAHUGNE:

14 Thank you. I can answer both of those questions.

15 Let's begin with my learned colleague, and indeed, perhaps my
16 answer will help Professor Chandler as well.

17 BY MR. BAHUGNE:

18 Q. The quote is: "The country very quickly became a place that
19 was closed off to the outside world."

20 And on line 24 you talked about a "total institution".

21 And so the question I'm putting to the professor is -- well, I
22 agree that the term "elimination" is rather general in scope.

23 "Marginalization" seems to be something of a euphemism because a
24 good many of the elite and the intellectuals were killed. So
25 perhaps we can say "reduced to silence". We can talk "about

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1 reducing all of intellectuals and the elite to silence", and in
2 so doing it became possible to set up the "total institution" as
3 you define it.

4 [15.08.09]

5 MR. CHANDLER:

6 A. Thank you for the clarification. I was - (unintelligible), of
7 course, the word "persecution" is better than the ones I used.
8 "Persecution" would seem to be -- fit the criteria you've been
9 mentioning.

10 The intellectuals were reduced to silence, indeed they were, and
11 I want to make it clear that the category of intellectuals in
12 Cambodia at this time - the "neak cheh dong", people who know how
13 and people who have knowledge -- were not primarily the graduates
14 of Cambodia's single university at this time, but were people who
15 had been through teacher's training, completed high school, so a
16 very small group of intellectual people. They knew who they were.
17 They could call themselves this -- in this category.

18 [15.08.59]

19 They were certainly reduced to silence by the policies of the
20 regime, but as, I think, I mentioned, they weren't reduced to
21 silence in a way -- I've just had - I'm not doing a quibble --
22 they were reduced to saying or doing -- saying and doing only the
23 things the regime wanted them to do. In other words, they were
24 told to write their autobiographies, they were told to say who
25 they were, they were made to speak out in certain ways. They were

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1 certainly reduced to silence in the way we think of the phrase of
2 not being able to express ideas that might have helped the regime
3 or attacked the regime or anything of that sort.

4 And, indeed, many of the memories from people who recalled the
5 April 17th liberation or obliteration of Phnom Penh remembered
6 that they wanted to -- these were people I've talked to, who had
7 been through high school; they were saying they wanted to help
8 the victors. They didn't know anything about the CPK, they felt
9 the war was over; "I've got a high school education, I can help".

10 [15.10.04]

11 A hundred per cent these people were rejected by the Party,
12 except for, of course, the ones who were in the Party already,
13 and they were intellectuals. And I mentioned again, the other
14 day, when they were trying to form this -- the CPK was trying to
15 form a cabinet that would function in 1976, they did the best
16 they could, looking around their own ranks for people who had
17 some competence in the subjects that they were in charge of, like
18 foreign affairs, commerce, and so on. I mentioned that. But,
19 certainly, intellectuals, as a whole, were persecuted and
20 marginalized and treated badly. But they were certainly not
21 respected and over and over again you get very -- this disturbed
22 a lot of ordinary Cambodians as well as intellectuals -- very
23 negative references to education.

24 And Cambodians had in the -- when I was here, in the sixties -- a
25 great respect for education. Education was the way you improved

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1 yourself, the way got yourself a moral character, the way you
2 learned things. And for the DK-CPK – they say: Education of that
3 sort is useless, education is in the fields, is in work. That
4 shocked a lot of people, and not just intellectuals.

5 [15.11.18]

6 Then it sort of -- I'm inventing a conversation here, with
7 permission or apologies:

8 "You mean my kids don't get to go to school?"

9 "Yes, your kids don't get to go to school; this is a new
10 country."

11 And so that was a kind of insult to another Cambodian tradition.
12 As I said earlier, the education levels were low, but where
13 schools were available, they were highly respected, and teachers
14 were, as you've mentioned earlier, a very respected class of
15 society.

16 Q. Thank you, Professor. Since you said that they weren't
17 necessarily eliminated, but rather that they were required to
18 write or express themselves exclusively in terms of what Angkar
19 wanted, then can we talk about controlling people's minds -
20 "thought control"? Would that be more accurate, perhaps?

21 A. I don't think it's a phrase the regime would have used but it
22 -- I think it was something they were certainly trying to do. Any
23 sort of freedom of thinking -- as I mentioned earlier, for the
24 "chlop", or teenaged agents, would walk underneath houses to
25 listen to people conversing; if anyone conversed in a foreign

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1 language, presumably to try and fool the people who are walking
2 under the house, they were pulled out as traitors. So they were
3 certainly -- yes, silenced.

4 [15.12.53]

5 Whether they were -- their brains were washed, I think it's
6 difficult to say. I think a lot of these people recovered with
7 all the resilience that you'd expect and a lot of them are alive
8 today and they are very important and interesting spokespeople
9 for either Cambodia here or for the diaspora.

10 But, yes, there was certainly -- what we think of as thought was
11 not respected; what was respected was hard work and obedience.

12 Q. We've talked about education levels and the natural and
13 cultural authority that was given to the figure of the teacher
14 and freedom of thought as well.

15 I'd like now to turn to another component of obedience which is
16 devaluing the victim. Are you aware of any facts, or speeches for
17 that matter, that set out to devalue certain individuals or
18 groups of persons and victims?

19 [15.14.06]

20 A. I can't answer that question without documentation, but I know
21 that the confessions at S-21 are filled with notations by Duch
22 demeaning these people and saying that they're worthless,
23 mendacious, trash, saying that their statements, so far -- notes
24 on their first confession - "are totally worthless and you should
25 be ashamed of yourself". So these people are basically being

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1 reduced to powder.

2 Now, this clearly happened in some of the study sessions in the
3 countryside. We've had reports of severe speeches and
4 finger-shaking at people who had been at all contentious. I don't
5 have any, of course, transcripts of those conversations, but
6 survivors remember being chewed out by cadre at study meetings.
7 I'm sure we've seen some other documents today and yesterday that
8 whole groups of people were set aside as special victims --
9 special targets, especially adaptable to attack: the Vietnamese,
10 former Lon Nol - former Lon Nol people, Buddhist monks. There
11 were certain categories that were vehemently and systematically
12 criticized in public and in front of them. They were -- I mean,
13 when they were present in the audience of these study sessions,
14 they were -- heard themselves, as a group, being criticized. So
15 there was a lot of that going on, exactly.

16 [15.15.46]

17 Q. Thank you.

18 Mr. President, I'd like to bring to the attention of the Court a
19 statement by a civil party referring to a specific insult. Can I
20 give you the number? It's D22/622. In Khmer, the ERN is 00499847
21 to 00499861. The English and the French are not available. Now, I
22 don't read Khmer, so I asked my Khmer colleagues to translate the
23 expression for me.

24 I shall not quote the name of the civil party, but I should add
25 that I do have quite a few statements that tend to go along the

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1 same lines, but I'll just quote one -- quote: "The Khmer Rouge
2 insult me always, you A Chan (phonetic)." I can't quite
3 understand what "A Chan" (phonetic) means. "You have no country;
4 therefore, you have to disappear." The insult lies in this "A
5 Chan" (phonetic).

6 [15.17.18]

7 A. I'd have to see that written in Khmer. It's not a term I
8 recognize, I -- or as an insult -- but I'd be -- you don't have
9 "Chan" (phonetic). I can't think what "Chan" (phonetic) -- it
10 doesn't spring to mind.

11 MR. BAHOUGNE:

12 (No interpretation)

13 MR. PRESIDENT:

14 Yes, please. Please give it to the witness.

15 But, Counsel, can you tell the Court whether or not this document
16 is in the list of the documents put before the Chamber, before?

17 [15.18.02]

18 MR. BAHOUGNE:

19 Yes, Mr. President, the document was submitted in due time, as
20 you requested.

21 MR. CHANDLER:

22 A. Of course. This is -- this is referring to the Cham, and you
23 said "Chum" (phonetic). Of course, the "A" prefix, in Cambodian,
24 usually translated in English as "the contemptible". It's a -
25 it's a way of dropping people down, but it's -- that's sometimes

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1 a bit strong, because children are called that without - without
2 any hard feelings. But, yes, "A Cham"; it means "the contemptible
3 Cham people" who are off to one side. The "contemptible" sets
4 them aside from other people. No -- I mean, of course. If -- I'm
5 sorry to have taken (unintelligible). So--

6 MR. BAHUGNE:

7 (Microphone not activated)

8 THE INTERPRETER:

9 Microphone for the speaker, please.

10 [15.19.12]

11 MR. PRESIDENT:

12 Counsel, please make sure that your microphone is activated
13 before you speak.

14 BY MR. BAHUGNE:

15 Q. In terms of your experience and your readings, leaving corpses
16 without any kind of burial but just dumping them in the
17 countryside to be savaged by wild beasts and worn down by the
18 elements and rain, and so on, for you is this a form of devaluing
19 the victims?

20 MR. PRESIDENT:

21 Witness, please hold on. There is an objection from the defence
22 counsel for Nuon Chea.

23 Counsel, you may proceed.

24 MR. PAUW:

25 Thank you, Mr. President. I object to that question. This is

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1 clearly not within the expertise -- the expert expertise of
2 Professor Chandler. He may have an opinion on this as a human
3 being, but he is here as an historian and what his opinion is as
4 to what devaluing the victim means is not relevant in this
5 courtroom as part of this questioning.

6 [15.20.40]

7 MR. BAHOUGNE:

8 Mr. President, I believe that my colleague is not completely
9 clear about this. It is -- all that is necessary is to read many,
10 many of the witness statements, as well as the statements of the
11 civil parties as Professor Chandler has done, to understand that
12 these people were profoundly traumatized by how bodies were
13 disposed of and, in particular, when they saw bodies floating
14 down the Mekong River, for example.

15 So I'm asking the professor only if, on the basis of his
16 experience and on the basis of what he has read, if he is aware
17 of this kind of treatment and of how people reacted to this. And
18 so this, indeed, is the work of an historian to say, yes, indeed
19 I saw this, and the people were all -- or maybe not --
20 traumatized. This is what an historian should do. So maybe my
21 colleague has not read enough statements in this regard.

22 MR. PRESIDENT:

23 Counsel, you will not be given the floor to make any reply to
24 this response.

25 (Judges deliberate)

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1 [15.22.42]

2 Objection by the defence counsel for Mr. Nuon Chea is sustained.

3 This question is not appropriate to put to the witness and this

4 question is also rather leading in nature, so the witness is

5 advised not to respond to the last question posted by the lawyer.

6 And, Lawyer for the civil party, if you have any further

7 questions, you may move on.

8 [15.23.28]

9 BY MR. BAHUGNE:

10 Okay. I will proceed, Mr. President.

11 Q. I would like -- I'm going to quote again, Professor, and here

12 is the Khmer ERN -- this is your testimony in Case 001 --

13 00361539 to 00361540; English, 00364046 (sic) to 00361447;

14 French, 00361599 to 00361700. And I will quote, if we refer to

15 Article 4 of the Statutes, that says:

16 "...that is a firm revolutionary position in decision making,

17 management and work of the Party -- it is said: 'You must have

18 the concept or attitude of managing work which is close to the

19 masses within the cooperative and the revolutionary army and have

20 the initiative of autonomous creativity and to have continuous

21 dynamism and ebullient commitment.'"

22 Can you, Professor, tell me if there was some kind of purge that

23 was conducted towards elements that were considered lukewarm, you

24 could say, not sufficiently committed?

25 [15.25.37]

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1 MR. CHANDLER:

2 A. I don't think you can say they were -- I wouldn't use the word
3 "purge", which sounds more systematic. There's plenty of evidence
4 from survivors and accounts and interviews once done that people
5 were criticized sharply for not working hard enough and for not
6 being enthusiastic enough towards the revolution. Of course, the
7 Statute is asking for the kind of conduct that is required of
8 Party members. And when you get to confessions in Tuol Sleng --
9 I'm not talking about the testimony themselves, which is
10 inadmissible, but the accusations of these people were often that
11 they had not been enthusiastic enough or strong enough in the
12 revolution, and this was in fact the *raison d'être* of putting
13 them into the prison at all. So, if you were a Party member and
14 really failed this element of the -- or thought to have - have
15 breached this line in the Statute, you were in bad trouble.
16 People in the countryside, New People and Base People alike,
17 according to quite a bit of testimony -- it's not consistent, but
18 -- were often given a second or even a third chance. They were
19 told not to do it again; "I'm still observing you."
20 So I don't want to use the word "purge" for that category; I
21 don't think it's accurate.

22 [15.27.01]

23 Q. Thank you, Professor. Can you tell me if the system that was
24 in place, which was trying to instil "revolutionary enthusiasm",
25 as I quoted by reading Article 4 -- whether there were any

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1 limitations in this? By requiring enthusiasm, the cadres would
2 execute the orders they would receive in a creative way -- and
3 I'm -- the orders that they were receiving. Did the senior
4 leaders believe that this went a little -- that this was a bit
5 excessive and that they tried to refrain this enthusiasm in any
6 kind of way?

7 A. That's another - another good question. There's no evidence
8 that it was systematically restrained. I mean, you notice - I
9 think it was in one of the documents we read yesterday -- they
10 put the word "leftist" in quotation marks, and the word "right"
11 is left out of quotation marks. In other words, "right" is kind
12 of revolutionary; "left" is a good place to be; and how can you
13 be a bad leftist? In other words, it's the same thing that was
14 happening in Maoist China -- "left deviationism", as it was
15 called; being excessively leftist was often not considered a
16 crime but a virtue. So, in other words, this enthusiasm spilled
17 over and was not repressed generally. It spilled over in lots of
18 cases, cases in which, for instance, from my last answer, people
19 would not be given a second chance, and so forth, or when people
20 were executed in a kind of ad hoc way because of snap decisions
21 by enthusiastic cadre.

22 [15.29.04]

23 So, yes, I mean, it's -- by (unintelligible) to a limit, they're
24 putting limitations on themselves. By knowing who the enemy is,
25 they go after him. So, in other words, this leaves us a great

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1 deal of freedom -- you were suggesting this, I think -- freedom
2 of manoeuvre for the cadre who have to control themselves about
3 how they're to behave. That's usually what you get from
4 survivors' accounts, is that the more experienced cadre, people
5 who have been in the Party longer, had worked with, in many
6 cases, the Vietnamese -- but not necessarily -- in the Eastern
7 Zone, the Southwest, in the North, they knew how to be somewhat
8 flexible and be able to produce the kind of results they wanted.
9 Where you had new, untrained, and especially young cadre, they
10 would often deviate to the left. But I think I've seen no
11 references to their being punished.

12 One example -- it makes it very macabre, but -- too enthusiastic
13 questioning in S-21 that killed a prisoner was considered bad. I
14 mean, that was -- when the beating went on too far, that guard
15 was brought in and often killed. So, in fact, there was a
16 repression at that level. But I don't like to, on the transcript,
17 associate enthusiasm and killing, because it's just not -- it's
18 ugly, but that's what happened.

19 [15.30.33]

20 Q. Thank you. We have seen a certain number of elements that
21 describe this context of obedience. Can you tell me if there is
22 any kind of connection between this and the crimes that were
23 committed and that are on trial today?

24 MR. PRESIDENT:

25 Please hold on, Professor. We'll hear the objection from the

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1 defence counsel for Nuon Chea first.

2 Counsel, you may proceed.

3 MR. PAUW:

4 Thank you, Mr. President. This is exactly what I was afraid of

5 earlier when I made my comments. The professor is now asked to

6 opine on the use of the word "obedience", but "obedience" in a

7 very specific way which is the psychological meaning of

8 "obedience". My colleague has made it clear that he means it in

9 that way by referring to "The Milgram Experiment".

10 The other option -- the other possibility is that the professor

11 is asked to opine on the concept of "obedience" in a legal way,

12 and that is not his expertise either.

13 So I object to this question, and the professor can be asked

14 about issues relating to his expertise.

15 [15.32.20]

16 MR. PRESIDENT:

17 Yes, National Counsel for Mr. Khieu Samphan, you may proceed.

18 M. KONG SAM ONN:

19 Thank you, Mr. President. Through the translation, I have heard

20 that the civil party lawyer asked the expert to show whether

21 there was a connection between the events at the time with what

22 we are discussing in this trial. I am of the view that the expert

23 cannot answer this legal question as it is rather the Chamber's

24 role to determine this connection.

25 [15.33.07]

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1 MR. PRESIDENT:

2 Civil Party Lawyer, would you like to reply to the objections?

3 MR. BAHOUGNE:

4 Thank you, Mr. President. It is clear that I'm not asking for a
5 legal opinion here. I would never have taken that liberty. I
6 simply notice that my colleague in the Khieu Samphan defence has
7 presented no objection to the elements that might be considered
8 as describing this context of obedience, so to say.

9 And then the point here -- and here I am responding to the Nuon
10 Chea defence -- the point here is not to have a psychological
11 opinion or a legal opinion, but simply to have the professor tell
12 us if the elements that were brought up existed in conjunction
13 with each other at one given moment in time. This is of a
14 historical nature. He could tell us that if, from such and such a
15 period, in this case from '75 to '79, if all of these elements
16 existed in a successive fashion during that period. That is to
17 say, for example, I asked him questions about the level of
18 education on the status of professors, on the elimination or not
19 of intellectuals, and each time there were answers provided that
20 do not necessarily, of course, prove me right, but still, what
21 we're trying to look for -- what we're trying to understand is
22 that if all of these elements existed together in a cumulative
23 fashion under a certain kind of authority that was requiring
24 enthusiasm and creativity on the part of the revolutionaries.
25 That's all I am trying to understand.

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1 (Judges deliberate)

2 [15.36.26]

3 MR. PRESIDENT:

4 The objections made by the defence teams are sustained.

5 Professor, do not answer the last question asked by civil party
6 lawyer.

7 If any, the civil party lawyer may proceed with a new question.

8 BY MR. BAHOUGNE:

9 Thank you, Mr. President.

10 Q. Professor, can you tell us if the elimination of religious
11 leaders can be tied to the elimination of intellectuals or if
12 this could be tied to thought policing, as what you referred to
13 earlier on?

14 [15.37.29]

15 MR. CHANDLER:

16 A. Well, certainly, the removal from power of previous authority
17 figures, including officers in the army, Buddhist monks,
18 intellectuals, and teachers -- intellectuals and teachers
19 somewhat less systematically, although several teachers -- I
20 don't know how many there were, but many teachers -- enough
21 teachers survived to provide quite a body of interesting evidence
22 on the Khmer Rouge because these were people who were educated
23 and trained observers. But certainly the Buddhist monks were not
24 allowed to continue to exercise their recognized and - recognized
25 powers.

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1 I'm not sure that this was different, really, from the kind of
2 enforced atheism that accompanies revolutions and if the Khmer
3 Rouge -- again, an intuition or supposition -- had studied these
4 revolutions. This would be one aspect that -- they could say:
5 Okay, one of the aspects is to throw out religious people. Every
6 other -- every other revolution, except the Americans, which --
7 wrong one -- had thrown these people out. So it made sense that
8 these people should be--

9 [15.38.40]

10 And, certainly, it's to -- as you've been talking before, a
11 French word occurs to me, "étouffer", to put down any sort of
12 voices that might make - and I'll sound like a Khmer Rouge
13 supporter; I don't mean to -- would make the job for the Khmer
14 Rouge more difficult. If you had all the voices of former
15 authority figures springing up in the villages and on the
16 streets, you know, you can do two things: you can listen to these
17 people and everybody starts changing their mind or following the
18 -- or you can shoot them. No, you can do three things. The third
19 thing is just put them down, make them quiet, send them out in
20 the fields, make them work.

21 They -- the Khmer Rouge, I think, thought -- and given their
22 resources, they may have been right -- that the third solution
23 was the only national one they could possibly achieve success
24 with. That they didn't achieve success, however, is not
25 surprising because it's a grotesque policy.

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1 [15.39.38]

2 But to make everyone do the same, not allow, particularly the
3 people you've been talking about in your questions --
4 intellectuals and monks and teachers -- to exercise in any way -
5 in any way -- their former authority, because as soon as you get
6 your cultural obedience thing -- I'm certainly not answering your
7 previous question, but -- they would be afraid that new culture
8 of obedience might be - arise, in which former students, former
9 Buddhists -- I mean, former Buddhist laity, former -- well, I
10 guess, students, former soldiers who'd obeyed their captains
11 would all start doing this again-

12 MR. KONG SAM ONN:

13 (No interpretation)

14 MR. CHANDLER:

15 I mean, it's not - it's -- yes, I mean, it--

16 [15.40.36]

17 MR. PRESIDENT:

18 Yes, Counsel for Mr. Khieu Samphan, you may proceed.

19 MR. KONG SAM ONN:

20 Thank you, Mr. President. It is a small issue. I notice that when
21 he is answering the questions, he is facing the counsel instead
22 of facing the Chamber. This is not appropriate in Court.

23 I would like the Chamber to advise to the expert--

24 [15.41.05]

25 MR. PRESIDENT:

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1 This is only a minor issue. It is a nature for human beings to
2 talk face to face. Sometimes it is hard for us to speak without
3 looking at someone else's face, and it is very hard to change
4 someone's nature, requiring the person not to look at the one --
5 the face of someone who -- to whom he is talking to.

6 BY MR. BAHUGNE:

7 Thank you, Mr. President. And furthermore, the civil parties are
8 positioned in a rather awkward place, practically in -- behind
9 Mr. Chandler.

10 Q. And Duch indicates -- and the Khmer ERN is 00787936 to
11 00787977; English, 00791976 to 00792031; French, 00792695 to
12 00792741. And this is a letter that - or, rather, this is a
13 document titled "The Lessons That We Can Draw From Our Ancestors"
14 and it explains that the word "reactionary", such as described in
15 the Statutes, designated Catholicism.

16 [15.43.09]

17 Can you, therefore, tell us why?

18 And at the same time I'll put another question to you: Can you
19 explain to us the difference, in the eyes of the Khmer Rouge,
20 between Christianity and Islam?

21 MR. CHANDLER:

22 A. I don't think the Khmer Rouge considered these--

23 MR. PRESIDENT:

24 Please hold, Mr. Chandler.

25 Yes, Defence Counsel for Mr. Ieng Sary, you may proceed.

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1 [15.43.48]

2 MR. ANG UDOM:

3 Good afternoon, Mr. President. Just now, my learned friend only
4 recalled the ERN number without referring to the identity of the
5 document, so we cannot locate it.

6 Besides, my learned friend referred also to the religious matter,
7 and I don't think our expert has this kind of expertise.

8 MR. BAHOUGNE:

9 This is document E180.

10 And at the same time I can address this remark. Once again, I'm
11 not asking for a personal opinion on such and such a religion.
12 I'm simply saying that Professor Chandler, after reading many,
13 many documents, might have been able to formulate an opinion on
14 the vision that the Khmer Rouge might have had in regard to these
15 religions.

16 [15.45.27]

17 MR. PRESIDENT:

18 Professor does not have to answer this question because the
19 answer to this question does not seem to contribute anything for
20 the Chamber to ascertain the truth.

21 BY MR. BAHOUGNE:

22 Fine, Mr. President.

23 Q. Why, therefore, was Islam banned if this religion wasn't
24 considered as reactionary?

25 MR. CHANDLER:

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1 A. The way you asked the first question seemed to require me to
2 have an idea of the religious thinking of the Khmer Rouge, and I
3 certainly have no expertise in that.

4 I know that they had different views of Christianity and Islam.
5 These views were connected with conditions on the ground in
6 Cambodia. Christianity was associated, in the Khmer Rouge mind,
7 with the Vietnamese. These, as you have seen from documents the
8 last three days, were consistently seen as Cambodia's enemy, if
9 not its major enemy.

10 [15.46.39]

11 The Cham were considered, in Cambodian society before the
12 revolution, as members of the Cambodian society, as the
13 Vietnamese were not entirely considered in the pre-revolutionary
14 times. Their religion was tolerated. I think what angered the
15 Khmer Rouge about the Cham and about their -- was their
16 stubbornness at holding on to their religion, not the attributes
17 of the religion itself. "Reactionary" is what they called it, but
18 I think they knew almost nothing about Islam. They -- what they
19 did see is, they saw people who were refusing to abandon their
20 religion, refusing to accept the "new religion" of the Khmer
21 Rouge.

22 Q. Thank you, Professor. So was religion a way to identify the
23 Cham?

24 A. Well, yes, it was one of many. Their clothing, their temples,
25 their language was often -- they -- many of them knew - knew

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1 Khmer but they had a language of their own, related to Indonesian
2 and Malay. They were instantly recognizable to anyone on a street
3 in Kampot or Kampong Cham in pre-revolutionary days. This
4 business of, perhaps, looking different was enough, in a way, to
5 anger the Khmer Rouge, just as the city dwellers, with their
6 western clothing, angered them. The Cham were set aside as people
7 who were resistant and -- I can't say "unwilling", but not
8 cooperating with the regime. So religion was certainly an aspect.

9 [15.48.38]

10 But the -- we've come across in the Constitution, I think, two
11 days ago, the wonderful phrasing, "The Cambodians are free to
12 practise any religion, but all reactionary religions are out". So
13 there's no religion that the Khmer Rouge didn't think was
14 "reactionary". So maybe you could find -- I'm making a joke here
15 -- I'm sorry, maybe that's not permitted -- but Scientology might
16 have been okay, but that wasn't in Cambodia at the time. The
17 other religions were -- that existed were "reactionary".

18 So, in other words, the Constitution itself, by indirection,
19 after first making a phrase that would be pleasing to an overseas
20 audience, then made it clear that there was really no patience or
21 tolerance for religious activity. And this is, of course, what --
22 one of the things that set the Cham aside.

23 [15.49.26]

24 Another one that shows up in all the documents and would suggest
25 why the attacks on the Cham did not begin immediately in 1975 is

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1 that the Cham were not considered to be enemies of the state in
2 the same way that the Vietnamese were.

3 Another reason why the repression started is the Cham, unlike
4 other portions of the population, in individual cases, began
5 actively to revolt against the Khmer Rouge in 1976. This led the
6 Khmer Rouge to change their mind and find that these people were
7 inherently dangerous, and this led to the systematic persecution
8 of these people that happened later on, not for their religious
9 beliefs but for their refusal to accept and their behaviour.

10 [15.50.22]

11 Q. Thank you, Professor.

12 I would now like to read E3/178 to you. In Khmer, ERN 00275597 to
13 98; in English, 00342708 to 23; French, 00623304 to 21. This is
14 the weekly report of the Region 5 Committee:

15 "The 17 April elements from Phnom Penh who are Cham, and they
16 have protested in the refectory of the cooperative on the subject
17 of their beliefs and of the need to consume food in a manner that
18 is in keeping with their religion. He related Article 10 of the
19 Constitution to substantiate his arguments. In the light of the
20 situation, we took steps and, in particular, finding the string
21 and the head of the movement so as to cleanse it."

22 So I'm coming back now to the question of consumption and food
23 and eating pork.

24 My question is: After religion, was the obligation to eat pork a
25 way of identifying the Chams and to "sweep clean" those who did

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1 not wish to eat pork? And perhaps you could enlighten us on the
2 meaning of "sweeping clean" in this sense.

3 [15.52.38]

4 A. Well, sweeping clean -- "boh somat" -- is the Cambodian phrase
5 for "purge". I think they knew who the Chams were already. My
6 impression from the things I've read -- and I've read a good deal
7 about this in my work, although I've never concentrated on it --
8 is that a lot of this forcing to eat pork can't be described as
9 anything else but just sadism, just something that they could do
10 that they knew would hurt and offend, isolate, but I don't think
11 it was used as a test -- say, as circumcision was used in the
12 Holocaust -- as a way of identifying the Cham. I think the Cham
13 were not trying to conceal themselves. They were known to be --
14 they were known to be -- they would know who they were. But the
15 pork was just to further humiliate and -- this is one of the many
16 aspects of just a kind of day-to-day sadism of -- that the cadre
17 had in Cambodia.

18 [15.53.35]

19 Q. Thank you, Professor. Just before, you said that the Cham did
20 not rebel before 1975.

21 Sir, can I draw your attention to document 21.3? ERN Khmer,
22 00008494; in English, 00185064 to 65; French, 00386260. What
23 we're looking at here is Telegram 15 to "Respected Comrade Bong
24 Pol":

25 "In principle, the Zone has taken out 50,000 inhabitants and has

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1 sent them to the North, and more than 100,000 Muslims remain in
2 the North East Zone and along the river and along the border. The
3 principle elements remain but not in the district of Tboung
4 Khmum. Their removal was to break them up in accordance with your
5 views in discussions with us already."

6 The date of this is the 30th of November 1975.

7 And my question is: If there was never any rebellious opposition
8 from the Cham, why was it necessary to organize the deportation
9 and to break them up?

10 A. Thank you. I stand corrected there. I don't think this
11 telegram is one of the -- is a document that I've seen.

12 It certainly is authentic and it goes -- shows that a certain
13 amount of pressure was being put on the Cham in -- I think the
14 East - well, I guess they call it the Northeast, around Kratie,
15 probably, as early as November 1975. I don't think this document
16 in itself is evidence of revolts, but it's quite possible that I
17 was wrong in suggesting that there weren't any revolts in '75.

18 [15.56.13]

19 The motive for breaking the Cham up, I think, is -- again,
20 without being stated, is simply, as it's (unintelligible) is to
21 break them up. These are autonomous systematic communities with
22 patterns of authority, consistency of religion, a local -- shared
23 local history -- exactly the sorts of nodules, if you like, that
24 the regime wanted to break up, along with families, city
25 dwellers, army people, Buddhist monks. They represented an

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1 implicit threat by just maintaining their collective identity,
2 which of course they were very eager to maintain and continue to
3 maintain until it was -- until they were broken up.

4 So I take back my statement of "revolts, not before '76". That
5 was just a memory of mine that they started in early -- there
6 were a couple -- fairly small but distressing to the regime --
7 uprisings in these -- they could well be connected with this
8 November date. So I revise my previous statement, because I've
9 never seen it; I don't remember seeing this telegram, frankly.

10 [15.57.27]

11 Q. Thank you, Professor. I do believe that your attitude and your
12 response should be reassuring to the Defence, because when you do
13 not know the answer to a question, you openly say so.

14 Can I come back now to what you were saying about a policy to
15 distinguish people we were referring to eating pork and religious
16 practice and so forth? And now I'd like to read out a passage
17 from document D125/75.1. I had submitted this in advance, Mr.
18 President. And here we're talking about a woman, a civil party,
19 who says that in 1978 a group of people came to her village in
20 the West Zone. And she said:

21 "I'm the only one who escaped because I disguised myself to look
22 as if I came from another race.

23 "At the end of 1978, the Khmer Rouge assigned Cham men starting
24 with the adolescents to building houses in a far-away village.
25 About 20 people left our village to do that job and then they

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1 came back and they told us the new house is ready and the Cham
2 came to live in the new village.

3 "On the order of the Khmer Rouge, my mother, my grandmother and
4 my brothers and myself went to the 'wat', and I got there at
5 about 8 o'clock in the morning. There were about 30 Cham families
6 waiting there to board a boat. All of those who were waiting were
7 female except for some very young boys. I was about to get on the
8 boat with my mother when a cadre appeared and pulled me back. I
9 was placed in a group of about 40 unmarried girls. I looked back
10 at my mother and my brothers and sisters. We girls were ordered
11 to walk to Trea village."

12 [16.00.12]

13 And then, jumping a passage, it goes on to say:

14 "The cadre asked, 'What is your race?' The first to answer
15 admitted the truth that she was Cham, and others gave the same
16 answer. Then my turn came. I lied and said I was Khmer. Hor --
17 the cadre -- pulled me off against a wall. Seeing that, the next
18 10 girls after me also said they were Khmer and they were put
19 alongside me.

20 "A moment later, those who had answered that they were Cham were
21 taken down below the house. I watched them through the cracks in
22 the wall. It was late at night, but I could still see the scene
23 clearly in the moonlight. I saw them march a girl blindfolded
24 with a scarf to the riverbank opposite the house. Then a cadre
25 pulled the girl's head back using the scarf and cut her throat.

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1 All the other girls who said that they were Cham were also --
2 also had their throats cut."

3 I'm trying to answer here to your comment on the distinction that
4 was applied to the Cham. Professor Chandler, in your view, were
5 the Cham subjected to a policy of extermination?

6 [16.02.14]

7 A. That was an appalling, very moving passage. Thank you for
8 reading it.

9 At the very beginning -- would you give me the date of the event
10 again, please? When did the event occur? You read something; I
11 want to make sure I got it right.

12 Q. Let me just find the reference. In 1978 -- at the end of 1978.

13 A. That helps me to answer the question. By the end -- and I can
14 answer it very briefly.

15 By the end of 1978, the Khmer Rouge certainly had a policy of
16 exterminating the Cham. By the end of 1978, they had a policy of
17 eliminating the Vietnamese. It's a policy -- their public
18 statements began to refer to the "puch" -- or the race, the
19 Cambodian race. It was not a word they'd used much before. And of
20 course it has absolutely nothing to do with Marxist-Leninist
21 terminology. It's a term that was meant to encourage the
22 Cambodian citizens to pursue, engage, and win a race war against
23 the Vietnamese and, by extension, not against the Cham, but
24 against anyone else in the country who was not Khmer.

25 [16.03.42]

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1 So I think the key point is '78. I think in the day one or day
2 two -- day one, probably -- I mentioned the various phases of the
3 purges, and the last phase of the purges -- perhaps, if you like,
4 the craziest moments of the regime as it was coming apart at the
5 centre and in all -- at the fringes also -- was this very strong
6 racist component which can't be pushed back -- the racist
7 component can't be pushed back, at least in documents, to
8 '75-'76. Certainly, you get things like the document you first
9 showed me, a Cham person be called "A Cham", which just means "I
10 don't respect you", "you're--" "you're lower than me".
11 But the whole racial killing for, obviously in this case, racial
12 -- not religious, racial reasons is the '78 phenomenon connected
13 with the raids into Vietnam conducted by the Khmer Rouge forces,
14 whose - which - whose object was, as we've seen from other
15 documents submitted in the case -- were to kill Vietnamese
16 because they were Vietnamese -- not because they were yet at war
17 with Cambodia, but because they were Vietnamese.

18 [16.04.58]

19 So the very moving passage has to be put into the context of that
20 final, you know, (unintelligible) of the Khmer Rouge, the
21 implosion. It's part of that. So it's inexcusable and awful, but
22 that's where it fits in history.

23 MR. PRESIDENT:

24 Lawyer, can you advise the Chamber as to how much time do you
25 think you will need to finish up with your questions?

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1 MR. BAHOUGNE:

2 Thank you, Mr. President. I'll try and close before quarter past,
3 with just a couple of more questions. I'll go very fast.

4 MR. PRESIDENT:

5 Thank you for your indication.

6 And, Court Officer, please communicate this to the Court
7 Management Section to ensure that the transport is still here to
8 transport all the staff back to the town.

9 You may now proceed.

10 BY MR. BAHOUGNE.

11 I am very indebted to you, Mr. President.

12 Q. Professor, I'm going to be going rather speedily now. You
13 refer to the date of 1978 in explaining to us what that signified
14 in terms of the overall project. Let me refer to D125/98, Khmer
15 ERN 00218553 to 54; English, 00242087 to 88. This is now 1977:

16 [16.07.07]

17 "The executions culminated in 1977. Most of the victims were new
18 people, but in September and October 1977, there were a good many
19 Cham that were massacred.

20 "[...] In the Wat Au Trakuon -- I cannot remember the dates
21 clearly, but in 1977 my unit leader came and told me that
22 militiamen with long swords needed help, and he had four of us
23 living there go to Sambuor Meas with the militiamen. And then, in
24 that village, they arrested all the villagers. The work they had
25 me and the three others do was to take those villagers to Wat Au

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1 Trakuon. They did not tie up those victims. All the villagers
2 were afraid; some cried out, but no one dared to run away. I felt
3 very sorry for all those villagers because most were people I
4 knew, we had been fishing together.

5 When we arrived at the Au Trakuon Security Office, they separated
6 the villagers; the women were pushed into the temple building.
7 Then they struck each of the male villagers with steel clubs to
8 break their spirits. Then they detained them in the temple
9 building. I did not personally see the killings, but my friend
10 Moeun, who climbed palm trees, told me that they had taken all of
11 those villagers and killed them one night from 7 p.m. until
12 midnight, including the children. They grabbed those children by
13 the legs and swung them against tree trunks and then threw the
14 bodies into pits along with the adults, the pits, located near
15 the bamboo grove east of the pagoda.

16 [16.09.43]

17 "[...] There were also women prisoners there, but they were not
18 tied up. And then Moeun said to me that they had not even
19 detained them one night; they took them to the bamboo grove,
20 which was the killing site, and they never reappeared.

21 "[...] No one told me the reason, but I had observed that they
22 organized opposition against the Cham -- anyone who is not
23 Cambodian."

24 This is before 1978.

25 So my question I want to raise here is the kind of connection

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1 that there was between Pol Pot and Khieu Samphan--

2 MR. PRESIDENT:

3 I note the defence counsel for Ieng Sary is on his feet. You may
4 proceed, Counsel.

5 [16.10.57]

6 MR. ANG UDOM:

7 Thank you, Mr. President. I know that we are running out of time;
8 I am sorry. I would like to raise an objection.

9 The witness has said very clearly already earlier on that that
10 there was no indication of the religious persecution against Cham
11 people. And the question that is being posed by the lawyer now is
12 legal by nature. It is not so much about history.

13 I don't think that this question is appropriate and I am
14 objecting on this basis. Thank you.

15 MR. BAHUGNE:

16 I can't understand the objection here. I don't see why this is a
17 legal question. I'm going to need to have that explained.

18 More importantly, I think that we are reaching 4.15 already, and
19 I won't be able to complete my questions. I don't know if that
20 was part of the scheme of things.

21 [16.12.23]

22 MR. PRESIDENT:

23 The objection is not sustained.

24 The witness is instructed to respond to the last question posed
25 by the lawyer.

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1 MR. CHANDLER:

2 A. The passage read indicates there were certainly some
3 vindictive action against the Cham. I'm a little worried. I'm
4 trying -- really trying to be helpful, but a little worried that
5 the '77 does not have a month with it, because these Cham - if
6 this was in -- and I also didn't get the zone where these people
7 were living. The idea of a river sounds like it's the Eastern
8 Zone. If it's the Eastern Zone, this may be part of the whole
9 purge against everybody who lived there for tolerating and
10 failing to resist the Vietnamese invasion. I'm not saying that's
11 what it was. These were certainly Chams picked out and killed
12 without a covering statement.

13 [16.13.12]

14 You closed your statement -- and I'm not certain if this isn't
15 when the other counsel stood up -- you mentioned the name Pol
16 Pot, Khieu Samphan without contextualizing them. Now, maybe you
17 didn't complete your question. The words came to me, Pol Pot,
18 Khieu Samphan from you. I'm not sure what you were saying about
19 them. It wasn't clear to me.

20 BY MR. BAHUGNE:

21 Q. Yes, there was a slight confusion here. With respect to that
22 testimony, I was talking about September and October 1977.
23 Now, picking up on Pol Pot and Khieu Samphan, what I wanted to do
24 was raise the question of the relationships between those two
25 individuals, but I dare say I'm going to be forced to drop this

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1 question unless the President authorizes me to go beyond quarter
2 past.

3 [16.14.20]

4 MR. PRESIDENT:

5 The time is now appropriate for the day adjournment. And the
6 lawyer for the civil parties is running out of time to put the
7 question to the witness in question.

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

9 MR. ANG UDOM:

10 Mr. President, Your Honours, I would like to request once again
11 that the Chamber maintain the transcript of the testimony of Mr.
12 David Chandler, and I would also like to ask the Chamber to also
13 keep the notes of Mr. Chandler as well, whether he made it here
14 or at home, because if there is an appeal at a later date, then
15 it may be also subject to the decision of the Chamber as well.
16 And if the Chamber failed to keep these records, then I am afraid
17 that we will not have that document for discussion. So, once
18 again, I know that the documents should be in the possession of
19 the Chamber on a temporary basis.

20 [16.15.54]

21 MR. PRESIDENT:

22 The Chamber once again rejects this request for the second time,
23 and we have already ruled upon this. The Chamber will not review
24 its decision by itself.

25 The handwritten notes by the witness in response to the questions

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1 posed by him is a normal course of activity of anyone who is
2 attending a meeting or a session like this, because people tend
3 to take notes of what is going on before they can respond to any
4 question or discussion.

5 Now, the Defence Counsel, you may proceed.

6 [16.16.44]

7 MR. IANUZZI:

8 Thank you, Your Honour. I'll be very brief.

9 I think I can shed some light on this transcript issue just for
10 everyone's benefit. We very helpfully received an email from Ms.
11 Seynabou Diop of the Transcription Unit, and she assured us that
12 a Khmer transcript would be sent around at the end of the day and
13 that an English language transcript and perhaps a French
14 transcript, they would attempt to send it very early on Monday.
15 It's out of their hands. They've been very helpful, very
16 accommodating, so I would just like to make that clear. We will
17 get the Khmer transcript by the end of the day.

18 Also, we have a joint request. We are happy to give our colleague
19 across the stage a bit more time if that is necessary. We would
20 like to have one day per team. I know we've been allocated two
21 and a half amongst the three of us. We think one day for each
22 team is appropriate, given the length and the substance of
23 Professor Chandlers' testimony. We would of course endeavour to
24 finish within the two and a half days, but if we could, as a
25 starting point, have one day each, that's our request, and we

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1 think that's quite reasonable, and we hope that our colleagues
2 certainly won't object to that; we've been accommodating to them
3 in the past. Thank you.

4 [16.17.55]

5 MR. PRESIDENT:

6 The request is not granted. We have already indicated very
7 clearly that the three defence teams will have 2.5 days unless
8 there were any disruptions. For example, if there were
9 disruptions due to the procedural matters by the other parties,
10 then times may be compensated accordingly. For example, this
11 morning, the Prosecution asked for an extension of 15 more
12 minutes of their times, and we granted that request due to the
13 fact that there was some procedural matters that we had to deal
14 with before we started examining this witness. But we will not
15 grant the request based on the reason you have just raised.

16 [16.18.45]

17 And, secondly, as I mentioned earlier, concerning the
18 transcriptions, transcription is not within the responsibility of
19 the Chamber; it is under the management of the Court Management
20 Section. And I wish to once again emphasize that the transcript
21 may not be as what you have just described. The transcript in
22 English and French will need at least one or two days following
23 the conclusion of each day's hearings. As for the draft
24 transcript in Khmer language, it is made available at the end of
25 each day's hearing. So, if it is helpful, you may coordinate with

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1 your national counterpart in the discussion of your preparation
2 for the questions for the witness.

3 The time is now appropriate for adjournment. We call it a day,
4 today. And the hearings will resume next Monday, starting from 9
5 a.m. in the morning.

6 And a scheduled hearing for Monday next week will begin with the
7 question put by the defence teams, beginning with the defence
8 team for Nuon Chea.

9 [16.20.47]

10 As for Professor David Chandler, your testimony has not yet come
11 to an end, and we will resume the examination of your testimony
12 next Monday. So we would like to once again invite you to come to
13 the Court to testify on Monday, next week. And we wish you a very
14 pleasant stay over the weekend in Phnom Penh.

15 And court officer is instructed to facilitate the accommodation
16 and transport of Professor Chandler and make sure that he will be
17 brought in the Court again next Monday, before 9 o'clock.

18 And security guards are instructed to bring all the Accused to
19 the detention facility and bring them back to this courtroom on
20 Monday, before 9 o'clock.

21 The Court is now adjourned.

22 (Court adjourns at 1621H)

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