



Prosecution Focuses on Allegations of Joint Criminal Enterprise during Evacuations in Document Presentation Hearings

By Simon Crowther, LL.M. (International Human Rights) 2013,
Northwestern University School of Law¹

The Extraordinary Chambers in the Courts of Cambodia conducted a Key Document hearing in Case 002 on Monday, June 24, 2013. The prosecution's presentation dominated the day, as they put forth documents that are purported to show that the accused were participants in a joint criminal enterprise to evacuate Phnom Penh.

The day began with Trial Chamber President Nil Nonn describing the order to be followed over the next four days of hearings. He explained that the prosecution had been assigned three days to present the documents they wish to highlight before the chamber, with any remaining time to be allocated to the Co-Lawyers for the Civil Parties. Nuon Chea's defense team has been allocated one day to respond to the documents presented, half of which was to make submissions on the legal issues surrounding joint criminal enterprise. Khieu Samphan's defense team has requested only half a day to respond to the documents and make submissions.

The president stressed that the purpose of the hearing was to present documents and test their probative value, not to make submissions on their admissibility. He confirmed the attendance of the parties, with Nuon Chea present in his holding cell for health reasons and Khieu Samphan in the courtroom, and then handed the floor to the prosecution.

Prosecution Presents Documents on the Forced Movement of the Civilian Population

Senior Assistant Prosecutor Keith Raynor began by setting out the areas he would be presenting documents on, all of which related to the joint criminal enterprise in which the accused allegedly participated for the forced movement of the civilian population:

¹ Cambodia Tribunal Monitor's daily blog posts on the ECCC are written according to the personal observations of the writer and do not constitute a transcript of the proceedings. Official court transcripts for the ECCC's hearings may be accessed at <http://www.eccc.gov.kh/en/case/topic/2>.

1. The core party lines of the Communist Party of Kampuchea (CPK), which predated the forced movement of the civilian population;
2. Examples of the policy of draining the population and the forced movement of the civilian population;
3. Comments made by Khieu Samphan in a speech delivered in North Korea on April 5, 1975, within weeks of the attack on Udong, as well as other official documents on this subject;
5. The movements of Khieu Samphan and Ieng Sary as the main representatives in a GRUNK (Royal Government of National Union of Kampuchea) and FUNK (National United Front of Kampuchea) delegation during an official tour of Vietnam, China, and other countries in Europe and Africa;
5. The decision to evacuate the population of Phnom Penh, including evidence of a meeting between Pol Pot and Ieng Sary and comments by Nuon Chea as to the nature of the decision making process, including democratic centralism;
6. Examples, by way of telegram, of the movement and execution of civilians in late 1974;
7. A U.S. report for congress and the media that cites incidents against the civilian population by communists in the lead up to the evacuations;
8. The contents of speeches delivered by Khieu Samphan in the lead-up to the first forced movement and documents showing where he was and whom he was with; and
9. A statement by Ieng Sary to foreign journalists providing purported justifications for the evacuation of Phnom Penh.

The first document that Mr. Raynor presented to the court was the Statute of the CPK. He cited Article 4 of the statute, which concerns party discipline:

4.1 In order to maintain and to consolidate internal party solidarity and unity to be always good, the party has designated and raised the principle of respect for party discipline and organization. Party discipline is very firm but stands on the principle of awareness of each individual party member. Each party member regardless of position must absolutely respect and follow party discipline.

Respecting party discipline and organization is respecting the party political line, party ideological principles and stances, party organizational stances, and party statutes.

4.2 Any party member or any party echelon opposing the party political line, party ideological stances, party organizational stances, and party statute causes fractures in internal party solidarity and unity and creates groups to carry out activities to destroy the party.

Mr. Raynor went straight on to quote part of Khieu Samphan's book *Considerations on the History of Cambodia from the Early Stages to the Period of Democratic Kampuchea*. Under a heading "The New Line of the New Party," Mr. Raynor read, "This line specified that the

exploiting classes were the prime enemy of the Cambodian revolution and the tools of the imperialists. Thus the Cambodian people had to smash the feudalist regime whether by peaceful methods or by other methods.”

The next document quoted from was another book by Khieu Samphan entitled *Cambodian Recent History and the Reasons behind the Decisions I Made*. From that book a passage was read in which Khieu Samphan discussed the effects of the April 17th victory of the Khmer Rouge: “The Khmer Rouge victory on April 17, 1975, strengthened Pol Pot’s conviction that the only way to ensure the movement’s survival and for Cambodia to face the Vietnamese threat ... was the forced collectivization of the country.”

Quoting from the same book, Mr. Raynor cited a passage in which Khieu Samphan states that the daily conflicts in the city and the countryside were breeding grounds for the future leaders of the CPK; however, the movement “revealed” itself to be more vulnerable in the cities where the people were tarnished by capitalism. In the same passage, Khieu Samphan goes on to describe how in the countryside self-defense units were being formed by the Khmer Rouge in which young peasants were learning how to fight and to defend themselves. Local authorities had been caught spying on the communists, which had resulted in their agents being tied up and “physically eliminated.”

These secret defense units were described further in the August 1975 issue of the CPK’s magazine *Red Flag*, a passage of which Mr. Raynor read to the court.

Secret defense units were organized at every location among the people. The peasants, the workers, the laborers, and the students that were armed ... were the secret defense unit of the party. What mission did they have? The mission of the secret defense unit was to defend the revolution’s base areas, to defend the revolution’s people, to defend the cadres moving around working, and to defend the assemblies and the various meetings, and, in tandem with this, to covertly smash the enemy.

In addition, Mr. Raynor read to the tribunal from an issue of the *Red Flag* magazine for December 1976 and January 1977. In that issue it is explained that the Khmer Rouge’s aim was to fight to seize the people, “We took him, we took them, one hundred we took them, one thousand we took them, until we took Phnom Penh’s people.” This aim was correct, according to the document, as when the enemy has the people, the enemy had military, and economic might; the Khmer Rouge should thus fight to seize the people at every occasion.

An example was then given of Banam,² an area where through fighting the Khmer Rouge took control of everyone “drying up the people from the enemy.”

Further down in the same document a quote was read to the court in which the author describes how in 1974, Udong was liberated and all the people were “pulled out.”

In a summary of a meeting, which took place in Amleang³ in September 1974, a celebration is described of the 23rd anniversary of resistance in that place. Dressed entirely in black, the

² The spelling of this location is unclear

³ Mr. Raynor stated that this was a district; however we understand it to be a village.

attendees were told to roll up their sleeves and to salute a flag of the Soviet Union. Hu Yuon then gave a three-hour speech talking about the party's 23 years of history and provided advice to military cadres. In that speech he claimed that the party had organized its forces into three groups. One was sent to North Vietnam, one to the cities, and one to study the people in rural areas.

In a different speech it was described how successful the plan to attack the countryside and then the cities had been. As a result the Khmer Rouge had ordered its military cadres to return to Cambodia from Vietnam so that it could be more "self-reliant." This military would be used to liberate the rest of the country, however first the "enemy inside" must be tackled. Presumably this was a reference to internal purges.

From a speech by Khieu Samphan on April 21, 1975, after the liberation of Phnom Penh, Mr. Raynor read that Khieu Samphan claimed that what had been achieved by the Khmer Rouge was "our nation and people's greatest historic victory," continuing to declare, "Our entire nation, people and people throughout the world warmly welcome this great victory." A battle had been fought in every field; military, political and economic, in order to "drain the people from controlled areas." Later he said that they had been "draining the enemy of its strength, food and rice, until it reached a point from which it could not recover. Finally the enemy died in agony."

Moving on to a book by Steve Heder, called *Cambodian Communism*, Mr. Raynor read an extract concerning events in 1971. It described how many people felt trapped in the Khmer Rouge controlled zones, "reluctantly acquiescing to their control." Those that fled did so from a "revolution, which had even less popular support than the one in South Vietnam," Much of the population remained cynical and fearful of a revolution, which maintained its power through threats.

The extract went on to describe how after 1973 the revolution had become even more repressive and violent, when it had begun enforcing communal agriculture and had restricted religious practices. The population had also been mobilized in order to attack Phnom Penh. Heder concluded, "The CPK never convinced the majority that the revolution it was pushing forward was in their interest. Coercion force and threats maintained only the semblance of mass support."

In an interview with *La Monde*, the prosecutor continued, Ieng Sary described his views on the revolution. He argued that people are the source of all power. The Khmer Rouge had established Committees of five to seven people to act as the "state apparatus." Each member would be assigned a responsibility, such as security, economic, cultural or social affairs. With regards to the military Ieng Sary had claimed that "our popular armed forces have rapidly developed and organized themselves on all these levels, and are composed of three principle forces: the guerrilla units, the regional forces and the regular forces. All are placed under the command of a national military committee and its staff. At the level of each region there is a military committee and a regional staff."

An interview with Khieu Samphan was next read out, which the Investigating Judges had conducted on December 15, 2007. In that interview he was asked whether he agreed with the speeches that he had made, and in response he informed them that "generally I agreed with their content."

Mr. Raynor then read a report by Hu Min about travelling with Khieu Samphan. Mr. Min declared, "All in all up to mid-January 1973 the Kampuchea people's armed forces have obtained great victory. We have smashed 2045 heads of the enemy and liberated bases." He goes on to say that he accompanied Khieu Samphan to visit Siem Reap and Kampong Thom province. Everywhere they went people welcomed Khieu Samphan and came out to shake hands with him. People wished the movement "great victory and splendid strength."

Mr. Raynor next brought to the court's attention extracts from a book called *How Pol Pot Came to Power*, written by Ben Kiernan. In this book it was depicted how at its peak the CPK had initiated a centralized collectivization program. This had enabled the party to seize the products of their agricultural workers' labor. It also meant that policies could be implemented to destroy family and religious life. This was known as the democratic revolution.

In one issue of *Red Flag Magazine*, the prosecutor presented, the author explained how prior to 1973 there had been "progress on the one hand and the same old society on the other." Until 1973 the town of Kratie was described as having the same feel as it did prior to the revolution. Honda motorbikes were still on the streets whilst the Khmer Rouge soldiers were on foot. "The Party had to ensure that the state controlled everything," the *Red Flag* author had stated. Kratie was evacuated so as to make sure there was no more trading, mortgages, labor exchange or buying on credit. A state monopoly was declared over rice and fuel. As a result of the latter, private owners of tractors and boats could no longer sustain their vehicles, so they fell into the hands of the state.

In an interview with Ben Kiernan, which Mr. Raynor read from next, one soldier from region 31, called Mam Lon, described how when he had returned to his home in Kampong Thon he found that the population movement had reversed. Thousands of peasants had moved into the town. "The countryside was empty," he told Mr. Kiernan. This was not because of bombing or the Lon Nol, but rather it was because of the communist party implementing communication politics. "Their discipline was terrible; there were many executions," the soldier had reported. "Children were forbidden from respecting their parents, monks from praying, and husbands from staying with their wives."

Next a quote from Mr. Kiernan's book was read out about the execution of Lon Nol soldiers. In an interview, a person named Ching Nam Lin had told Mr. Kiernan that in 1973, there was a large-scale execution of all Lon Nol soldiers captured in his province, as well as traders. The Khmer Rouge began to evacuate whole villages and compile personal histories of their inhabitants. Rich people were forced to conduct labor.

According to Mr. Kiernan, it was the Southwestern Zone that saw the greatest convulsions in the ranks. The extreme elements in the CPK established their supremacy over more moderate colleagues and completely eclipsed Hanoi-trained Khmer in that zone. One monk recalled for Mr. Kiernan:

In 1971 to 1972, the revolution was good; people were not worried at all. The people liked their leader [in his region]. There were plenty of Lon Nol and intellectuals who came from Phnom Penh to join the revolution. Chou Chet re-educated and taught these people. The Khmer Rouge did not kill them. Ta Mok

did kill these people, and he became angry with the others who did not. In 1973 the killings began.

Cited by Mr. Kiernan, Kenneth Quinn who was the U.S. Ambassador to Cambodia reported that in 1973 Chou Chet had his power reduced because of his pro-Vietnam and pro-Sihanouk stance. He was even injured after an ambush by CPK soldiers when he was travelling.

One source had told Mr. Kiernan that as an intellectual, Chou Chet had been in constant conflict with “forest rebels” such as Ta Mok. The people believed in Sihanouk, he had been told. As such problems arose when the party criticized the prince. Ta Mok’s response had been to stifle any criticism. “Mok was a killer,” the source had told Mr. Kiernan. The killings were in accordance with regulations called “Strengthen the Revolution.” The source claimed to be certain that Ta Mok was the one who authorized the killings.

In a telegram to the U.S. Department of State from the consul, it was stated, “Quinn, who was monitoring developments on Southwest Zone, reports that local elections were no longer held in areas seized from Lon Nol. Leaders appointed from CPK.” Buddhist ceremonies were to be allowed two times a year, and Cham Muslim ceremonies to be banned altogether. In addition, each Buddhist Wat was initially ordered to provide 10 men to the military. Eventually all but four monks in each Wat were drafted.

The telegram also stated that Quinn cited three incidents of reaction to attempts by the Khmer Rouge to relocate the population. “In early 1973, when the CPK entered the harsh phase of its campaign, in which all rules were enforced, almost all popular feeling turned against them.”

Ben Kiernan also conducted an interview, read next by the prosecutor, with Tan Hao, an ethnically Chinese person living in Cambodia at the time of the revolution. She recounted how in 1973 the Vietnamese were told to go back to their country and were not seen again. In 1974, she said, the hard times began: “People were taken away and told they were going to study. It got harder and harder, the Khmer Rouge began killing people. People who did anything wrong were taken away and shot.”

According to Mr. Kiernan in this writing, it was only in mid-1974 that the Eastern Zone began to exhibit the patterns that had been seen elsewhere. In August 1971 cadres were invited for a study course. One of them, Hem Samin,⁴ recalled to Mr. Kiernan how they were lectured and then informed that they were now in detention, “until the organization came up with a solution so that we could go back to work. “ Of those arrested 10 disappeared and 61 were sent out to work in fields under supervision. Six of them survived, while hundreds of others were executed.

An extract from Mr. Kiernan’s book was read to the court by Mr. Raynor, in which it was claimed that the U.S. bombing provided a reason for the Khmer Rouge to evacuate towns, and this evacuation then provided them with a precedent from which they could push further ahead in order to mobilize the population for military communism. Thus, “the revolution was a product of and capitalization on the U.S. war.”

At this stage, Mr. Raynor changed the subject to the evacuation of Udong Province. Still citing Mr. Kiernan, he quoted how on March 18, 1974, which was the fourth anniversary of Sihanouk’s

⁴ The spelling of this name is unclear.

deposition, a combined force led by Ta Mok overran the former capital of Udong. A few months later Donald Kirk, a journalist, had investigated the aftermath of this Khmer Rouge victory. Mr. Kirk had documented how the population had been taken into the jungle where all teachers and government employees had been killed. Subsequently much of the city had been razed to the ground.

Mr. Kiernan interviewed a peasant called Tim who had been present at the time of the evacuation. He told the journalist in 1980 that 40,000 people had been dispatched from Udong with Lon Nol soldiers being executed along the way out of the city. The population had been split into groups and escorted by groups of Khmer Rouge soldiers. Of those that were sent to region 31, only one in five survived.

According to Mr. Mao, who spoke to Mr. Kiernan and gave evidence to the trial chamber last week, it was Ta Mok who gave orders that the evacuees were to grow rice in malaria-infested areas where there were food shortages. Mr. Mao had also told Mr. Kiernan that in 1974 there had been opposition to the evacuation from within the party; however Ta Mok and Khieu Samphan had been in favor of evacuation and had won the internal battle. One CPK deputy regional leader told Mr. Kiernan that whether Phnom Penh was captured in 1973 or in 1975, there would have been an evacuation: "This was a longstanding plan."

Prosecution Presents Evidence on Movements of Khieu Samphan and Ieng Sary

The prosecution now turned to the diplomatic functions attended by Khieu Samphan and Ieng Sary. Mr. Raynor began by discussing a speech given by Khieu Samphan in North Korea. In that speech, which took place on April 5, 1974, two weeks after the incident at Udong, Mr. Khieu Samphan claimed that "the Cambodian people's armed forces attacked the enemy forcefully and are now solidly implanted at the very gates of Phnom Penh. Phnom Penh itself, the last hideout of the enemy has becoming a burning battlefield under the increased pressure of out people's national armed forced." He went on to boast that 5,000 enemies were eliminated in Udong.

Mr. Raynor then moved back slightly to examine the beginning of the trip by Ieng Sary and Khieu Samphan to North Korea, citing a message from Prince Sihanouk, in which the prince congratulates the delegation on their arrival in Vietnam. This was prior to them then travelling to North Korea.

After North Korea the delegation travelled to China. In a FUNK publication of April 2, 1974, it is claimed that Beijing welcomed the delegation, which had travelled by a special flight from North Korea. The publication said that the Chinese put on a grand banquet to welcome the delegation. Mr. Raynor put before the court a document that showed that Ieng Sary and Khieu Samphan met with Mao Tse-tung. He also put before the court a document that confirmed that they travelled between North Korea and Beijing on April 8.

The prosecutor then presented documents to show that Ieng Sary and Khieu Samphan travelled by special flight to Europe on April 19, 1974. The FUNK and GRUNK delegation arrived in Tirana (Albania) on April 20 for an official visit, following an invite from the Albanian Council of Ministers. A U.S. Department of State cable read by Mr. Raynor stated that following the visit in Albania, the delegation travelled to Belgrade. A separate Department of State cable recounted the French Ambassador to Algeria reporting on Khieu Samphan's visit there. Subsequently it was reported that Khieu Samphan visited Mauritania and Cameroon and that his delegation

hoped to go to Cairo. A joint communiqué issued after the visit to China claimed that meetings had been a “mutual success,” Mr. Raynor quoted.

The Evacuation and Discussions with Pol Pot

Returning to the book by Mr. Kiernan, Mr. Raynor read an extract in which it was claimed that “in June 1974, according to Pol Pot, the CPK Central Committee decided to launch a decisive offensive to liberate Phnom Penh.”

An extract from a 1977 issue of *Red Flag* read by the prosecutor documented how the policy for liberation shifted from one focused upon the countryside to one that also encompassed cities. According to the quote, the strategy at the beginning of the insurgency was to focus on the enemy’s weak positions in the countryside. In 1974 the conference decided to mount a decisive offensive to liberate Phnom Penh and the entire country. “Carrying out the orders of the Central Committee we actively supported our forces. Our entire revolutionary army audaciously fulfilled the party’s mission of making the decisive attack,” the article stated.

Mr. Raynor then introduced the court to an interview between Ieng Sary and Steve Heder. In that interview Ieng Sary claimed that during his travels on the delegation he had been asked about the Khmer Rouge’s plans following the winning of Phnom Penh. He had not been able to answer the question at that time, and so asked Pol Pot once he had returned. In reply, Pol Pot had told him that he should not concern himself with such matters as they were outside of his Foreign Policy agenda. However, after Ieng Sary pushed the matter, Pol Pot informed him that the “solution of the problem was to evacuate; that was the only way to solve the problem. “

In an interview read to the court by Mr. Raynor, Nuon Chea elaborated on how the decision to evacuate Phnom Penh had been made as a committee and not by one individual. Asked if Pol Pot had the capability to control the entire movement, he stated, “On that, it was not him by himself. Everyone worked together. He made his contribution; we made ours. The important thing was that the people supported us.” Asked directly whose idea the evacuation was, Nuon Chea reportedly claimed, “At that time, individuals each helped to create ideas; it was combining this with that.”

Continuing on the theme of forced movement, Mr. Raynor turned to a U.S. State Department telegram that documented the recent movement of refugees:

Over a year ago, Khmer insurgent soldiers overran parts of Route 1 and moved most of the Khmer living there to the swampy area to the south. The Khmer underwent political indoctrination and were made to farm and fish. Many of the recently returned refugees complained about deprivation and political repression. During last month most people had nothing to eat but corn. Some tried to escape; an estimated 150 families made it safely. Others were captured or killed by the insurgents.

Mr. Raynor reiterated the hardship of evacuation through reference to an interview in the daily newspaper *Lao Nation* on August 9, 1974. In that interview a monk was questioned about life under the Khmer Rouge. “The monk exposed the difficult conditions of life existing in the areas controlled by the Khmer Rouge,” it was reported in the newspaper. “Speaking of the administration in the red zone, he stated that the population had a difficult life, with requisitions

and propaganda sessions. The military problem came uniquely from Khieu Samphan's order which forbade the population from respecting Prince Sihanouk. Those who did not obey were executed."

Following the lunch recess, Mr. Raynor returned to the topic of international visits, after dryly asking the court whether "everyone is managing to stay awake."

Citing a FUNK publication of April 6, 1974, Mr. Raynor demonstrated that the outgoing Khmer Rouge delegation had visited Vietnam, China, and Korea, reiterating what he had shown in the morning session. Within the publication it was claimed that these visits had had a global impact on world opinion because the FUNK and GRUNK delegations led by Khieu Samphan and Ieng Sary represented the people of Kampuchea and the "movement against American imperialism."

Continuing, Mr. Raynor quoted a publication report that claimed, "The Phnom Penh traitors are in total disarray and are cornered on the defensive on all fronts as [Khmer Rouge] attack the enemy without respite." The report went on to celebrate a Khmer Rouge triumph over an island on the Mekong River, just six kilometers away from the palace in Phnom Penh. In doing so the insurgents wiped out a battalion of men and "helped" 50,000 move to the liberated zone.

Similarly, with relation to a surprise attack on Udong, the report documented the movement of 30,000 inhabitants into the liberated zone and the "decimation" of Lon Nol reinforcements.

Within a telegram from the U.S. embassy in Rome to the State Department in Washington DC, next read by Mr. Raynor, the Vatican's unease at the situation in Cambodia is expressed. It is stated, "Pope Paul is deeply anguished over the situation in Cambodia. Apostolic delegate in Saigon has sent representations to the Vatican which indicate the Khmer Rouge are wantonly massacring civilians."

As Mr. Raynor moved on to his next document, Khieu Samphan's International Co-Lawyer Anta Guissé objected on the grounds that the document being referred to was not on any list given to the parties, nor included in any footnotes. As Mr. Raynor was unable to find a footnote with the document in it, he agreed to move on and return to the issue of that particular document at the end of the hearing.

Moving back to the Khmer Rouge's international relations, Mr. Raynor read to the court an account by Chinese journalists of their time visiting the Khmer Rouge in Cambodia. They were "warmly received" by the Khmer Rouge at their Phnom Penh headquarters, and "the guests and hosts discussed friendship and liberation." They specifically noted a conversation with Khieu Samphan.

Khieu Samphan's interview with former Office of the Co-Investigating Judge Marcel Lemonde was next placed before the court, with particular attention drawn to a meeting between Khieu Samphan and Pol Pot. In the interview, Khieu Samphan claimed that for about 10 days he stayed with Pol Pot at his headquarters in the West. While there Pol Pot had briefed him on various matters, including the evacuation. Khieu Samphan had told the judge that do far as he could remember it had just been Pol Pot and himself at the headquarters.

Citing an article from the *Chicago Tribune* on July 18, 1978, the prosecutor highlighted that Ieng Sary did admit to the wholesale denuding of the Cambodian cities. Similarly, in a *Newsweek*

article, Ieng Sary is asked why people were forced to leave Phnom Penh. In response he stated that the people needed to be moved due to lack of food.

In an issue of *Revolutionary Youth* magazine in 1975, Mr. Raynor next read, it was claimed that “the Kampuchea society has become a new society in which no one can oppress another; there is no rich or poor”. In addition, it was claimed that if the city had to be evacuated then the enemy may have been able to “burrow into our revolutionary stance.”

Turning to an article written in the *LA Times* on December 14, 1978, the prosecutor read that Ieng Sary claimed that the deaths from the evacuation had been overestimated. He also claimed that the evacuation was a temporary measure; however the people had decided to stay in the countryside as they were happy there. Most the deaths caused by evacuation were caused by malaria, he concluded.

In a separate newspaper article, Ieng Sary gave a different account, however, claiming that the evacuation was necessary “because otherwise we would have had a civil war. Our complexities and difficulties would have been greater, and more would have died. There would have been a civil war which would have opened the door for neighbors to intervene.” An additional reason given was the difficulties in supplying rice to the city; however the fact that the city was considered full of spies was also noted.

Returning specifically to the role of Khieu Samphan, Mr. Raynor read a quote from the book of Steve Heder, in which he claimed that Khieu Samphan had used the trust he had with the Lon Nol regime to set up officials to be killed. These officials were described by Mr. Heder as “sitting ducks” as a result of Khieu Samphan’s alleged “trickery.”

On the April 1, 1975, Khieu Samphan spoke in a live broadcast over the radio, quoted now by the prosecutor. In the broadcast, he attacked the “seven traitors” – Lon Nol leaders singled out by the Khmer Rouge – by name but appealed to the officers and men to lay down their arms and join the communist side. The court was told by Mr. Raynor that the decision to kill the seven men had allegedly been made at the Second National Congress, which had been chaired by Khieu Samphan.

Mr. Raynor moved on to present documents concerning the attempted increase in agricultural produce to be achieved through the forced movement of people. He began with a quote in which an intention was demonstrated to plant rice on old land. It was claimed that water problems had been “brought to mastery.” Cooperatives are described in a party document as being the “hard-core for the absorption of the people.” It was proclaimed that cooperatives had successfully provided the new people with food and work and that they should be expanded.

In another Khmer Rouge document, entitled “How Must We Sort Things Out?” it was claimed that in the Northwest Zone, “there is lots of hope.” New and old people were reported as being happy. The cooperative structure would “astound” people who would have food and be comfortable.

Next the subject turned to crop diversification and the movement of people. In a policy document read to the court, the perceived advantages and shortfalls of moving people to the Northwest zone for agricultural reasons were listed. With regards to the shortfalls, listed were problems with water and a lack of human strength that would require 400,000 to 500,000 additional

people. The advantages were that the land was fertile and flat, which could be made extremely productive with the addition of machinery and tools.

A number of documents were then read to the court that stressed the importance the Khmer Rouge placed upon strengthening agriculture. A “great leap” was desired in this area to transform the “backwards” agricultural system within five years. As a result, it was claimed, the people should be relocated to where the soil is fertile. The intention was to achieve one ton per hectare in sector 15 and along highway 5, and three to four tons per hectare in the Northwest Zone.

In an article by William Shawcross for the *Far Eastern Economic Review*, published on January 2, 1976, it was written, “‘Grow, grow everything,’ says the radio. ‘Rice means everything – fuel factories, tractors.’” Mr. Shawcross went on to write that in some areas conditions had been bad, yet the party had called the year’s crop the best crop ever, despite being planted late by a reluctant workforce. Refugees said in the past months thousands of evacuees had been moved again, this time to Battambang province, Mr. Shawcross recorded, with just enough people left behind to harvest the rice which had been planted. The rest were sent to the country’s most fertile land in order to extend the dry area crop, the article concluded.

Similarly, the *New York Times* was noted to have reported on forced movement that it said had caused a high death toll. Many of those forced to move, it reported, were suffering from malaria, typhoid, and dysentery. It claimed that the new movement of people in October and November 1975 rivaled in scale to that of April. Evacuees were often not allowed to eat anything other than rice and were packed into trains and trucks like “fish in a can.”

The next document presented to the court was a CPK report, dated June 27, 1977, offering a general view of Section 5 of the Northwest Zone. In this document it was noted that the population to Preah Net Preah had previously been just 150 families; however now the population numbered more than 70,000. The report stated that it is the worst place of starvation, which during 1976 alone cost more than 20,000 lives.

In the final document to be presented by Mr. Raynor, a report stated that observers had noted that people had been going missing while they were being evacuated.

At this stage, Mr. Raynor returned to the document that had been the subject of an objection by Ms. Guissé earlier in the day. He informed the court that he was now aware that this document had not in fact been referenced in the closing order, and so he explained that he wished to make an application to the court that it be admitted in the interests of justice. He went on to tell the court that what was included in the document was a list of 15 examples under the heading “Communist Terror in Cambodia.” These had been sourced from the *Washington Post*, *Chicago Tribune*, *Christian Science Monitor*, *Washington Star*, and official U.S. government reports.

The court held that the defense parties could respond to the prosecutor’s request during their allocated time for submissions.

Prosecution Presents Documents on Cooperatives and Labor Camps

Vincent de Wilde, Senior Assistant Prosecutor, took over the presentation of documents as the topic moved to the use of cooperatives and labor camps. He made clear to the court that it was his impression that in many of the documents, there was no distinction drawn between labor

camps and cooperatives. However, those which related only to labor camps would be discussed in isolation at the end of his presentation, he stated.

At this point, Ms. Guissé objected on the grounds that documents that concerned the implementation of policy were outside the scope of case 002/01. This, she argued, was an extremely pressing legal concern as she wished for the court to provide guidance on how closing submissions should be made with regard to such documents. In response the prosecution argued that the objection was out of place, to which the Co-Lawyers for the Civil Parties agreed, arguing that objectives in the Khmer Rouge policies were within scope.

Ultimately Judge Cartwright announced the ruling for the chamber that documents would be in scope only if they related to a policy itself, not its implementation:

The chamber reiterates its original direction concerning the five policies in the closing order. The chamber has always indicated that evidence could be admitted which led to the existence of all five but evidence on implementation would only be admissible where it related to forced evacuation. Consequently the prosecutor must limit his presentation to fall within those parameters.

Following the resolution of this objection, Mr. de Wilde proceeded to put before the chamber a number of documents that demonstrated the cooperative policy of the Khmer Rouge. However, he proceeded at such a speed that the interpreters often had trouble keeping up with the presentation and causing some confusion among those listening outside the courtroom.

The first document Mr. de Wilde brought to the court's attention was an extract from Khieu Samphan's book *Cambodia's Recent History and the Reasons for the Decisions I Made*. In that book Khieu Samphan wrote about the use of cooperatives and the accelerated collectivization of Democratic Kampuchea. It was collectivization, he claimed, which was a "decisive instrument to temper the storm with the war with Vietnam."

An interview given by Khieu Samphan on the June 9-11, 1977, was then quoted to the court:

It was because of the bombing that the people had to migrate to Phnom Penh. People moved to avoid being marshaled by the Khmer Rouge. All were displaced first to avoid U.S. bombing and to avoid the cooperatives. Nevertheless, why were the cooperatives set up?

In the interview, Mr. Samphan is quoted as stating that the primary reason for cooperatives was rice production.

In a separate interview Khieu Samphan is quoted as stating that the Khmer Rouge "evacuated people to live in co-ops. In the co-ops people were not free, but they had enough to eat, and the country was strong enough to fight our enemy."

Returning to Khieu Samphan's book, Mr. de Wilde read an extract to the court in which Mr. Samphan wrote, "I was surprised to learn that the superior level cooperative had been used since 1973. For sure they had to be imposed, as peasants would not agree to give the fruits of their labor away. They might after a number of years realize it helped their long-term being."

These high-level co-operatives were discussed again in the September 1974 issue of *Revolutionary Youth*. “We are about to win a grandiose victory and have beaten down the enemy,” it was written. The Khmer Rouge had “established production cooperatives at a higher and lower level across the board. There is no longer any national capitalism, no way of exploiting others. Our state has taken over commerce.” It was claimed that, generally speaking, the masses supported the cooperatives, which were necessary in order for the people “to survive.”

Mr. de Wilde stated that Khieu Samphan noted in his book that Pol Pot himself believed in the high-level cooperatives, believing that they would accelerate growth in Cambodia and provide opportunities for the construction of dams other construction projects.

Also in his book, the prosecutor continued, Khieu Samphan justified the differing treatment of the “new” and “old” people on the basis that the “old” people had been able to join the revolution and come to know the army and the communist way of life. By way of contrast, the “new” people had not had such an opportunity to come to understand the communist state apparatus; they were to be given no chance to join the movement even at the village or commune level. This was necessary to prevent foreign agents “boring” wholes into the revolution. That said, Pol Pot had instructed cadres not to see the new people as enemies or as prisoners of war. “But in actuality,” wrote Khieu Samphan, “the new people were considered prisoners of war, as happened in the first days of the evacuation.”

Concluding the document presentation for the day at this point, the court adjourned, with presentations by the prosecution to continue at 9 a.m. on Tuesday, June 25, 2013.