



Nuon Chea joined the court proceedings on Monday, posing questions of his own to expert witness David Chandler.

Trial Proceedings Heat Up as Defense Teams for Nuon Chea and Ieng Sary Question Expert Witness David Chandler

By Erica Embree, JD/LLM (International Human Rights) candidate, Class of 2015,
Northwestern University School of Law

Proceedings at the Extraordinary Chambers in the Courts of Cambodia (ECCC) resumed Monday, July 23, 2012, with the start of the defense teams' cross-examination of expert David Chandler in Case 002 against accused Nuon Chea, Khieu Samphan, and Ieng Sary. The trial heated up in the afternoon as Nuon Chea's defense team raised questions related to the current Cambodian People's Party and Ieng Sary's defense team grilled Professor Chandler on contacts he has had with individuals at the ECCC.

In the morning proceedings, there were 300 people from a youth group from Prey Kabas district in the public gallery. During the afternoon session, 100 villagers from Boset district, Kampong Speu province attended.

All parties were present except Ieng Sary, who was allowed to participate in the day's proceedings from his holding cell due to his health issues. Trial Chamber President Nil Nonn opened the session and then ceded the floor to Nuon Chea's defense team to begin its examination of David Chandler.

Defense Team for Nuon Chea Begins Its Cross-Examination

Co-Lawyer for Nuon Chea Son Arun started off his questioning by asking Professor Chandler about his sources for his research. Regarding what percentage of his beliefs he has drawn from

documents versus from interviews, Professor Chandler testified that it varied by each book. For *Tragedy of Cambodian History*, the breakdown was 75 percent documents and 25 percent interviews; for *Brother Number One*, the breakdown was 80 percent documents and 20 percent interviews; and for *Voices from S-21*, the breakdown was 95 percent documents and five percent interviews.

Mr. Arun inquired whether Professor Chandler trusted information received from other sources. The witness explained that choices have to be made by historians, referencing corroboration. He described a historian's decision regarding relying on the veracity of an interviewee as "intuitive." About whether he went to the places he is writing about, he explained that it was not possible given time limitations. He stated that he could not go to the Killing Fields during the time of Democratic Kampuchea (DK) because he was not permitted to enter Cambodia. He noted, though, that he went to Cambodia after 1990 as much as possible for interviews.

Moving on, Mr. Arun read Professor Chandler's reply on July 18, 2012, to Judge Silvia Cartwright: "At that time the Democratic Kampuchea was not recognized by the world." Explaining this statement, Professor Chandler stated, "The point I was trying to make ... was that the regime of Democratic Kampuchea didn't pay much attention to diplomatic recognition from other countries and certainly didn't seek it from countries it was not closely related to." He referenced China, North Korea, Vietnam, and Laos as having diplomatically recognized the DK regime.

Providing a lengthy description prefacing his question about DK diplomatic ties with embassies, Mr. Arun asked what Professor Chandler's interpretation was of the recognition by embassies of the DK regime and the recognition by the United Nations (UN) of the DK flag, referencing Professor Chandler's previous response to Judge Cartwright on this topic.

International Co-Prosecutor Tarik Abdulhak objected to the question's form, arguing that it is not appropriate to precede a question by asserting facts from counsel's knowledge, not from referenced documents. After a brief response by Mr. Arun, President Nonn sustained the prosecution's objection, saying that the defense counsel's question was vague and as Judge Cartwright had put many questions to Professor Chandler, he needed to reference the specific testimony. He directed Professor Chandler not to respond to the question.

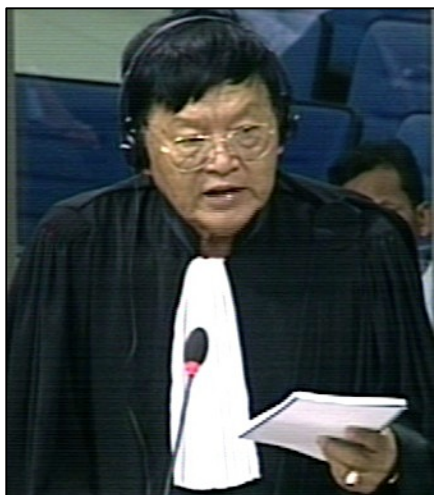
Mr. Arun next appeared to be asking about the official administrative structure of the DK. President Nonn interjected that the question was not clear. Attempting to rehabilitate the question, Mr. Arun indicated he was referring to the structure of the party and asked Professor Chandler if he had ever seen the party's official structure. Professor Chandler explained that he has reviewed "documents that help me to reconstruct what the structure must have been," such as the Statute of the Communist Party of Kampuchea (CPK). He further replied that the structure has been documented—from the Secretary of the Central Committee to the zones, offices, and ministry-like offices. Regarding documents he has reviewed on the CPK governmental structure, Professor Chandler listed out the Party's statutes, constitution, and organizational charts.

Regarding the book *Pol Pot Brother Number One*, Mr. Arun asked about the use of "Brother Number One" in the title. In explaining his use of this title, Professor Chandler stated that, while

it was not used in official documents, Pol Pot was known by this moniker. He further remarked, “Brother Number One was never called anything lower than Brother Number One.”

Mr. Arun next inquired about the organizational structure of the offices of the lower units, such as S-21. Professor Chandler explained that sometimes these offices would have the same pyramidal structure as the higher level and sometimes not. Regarding S-21, he stated it was a collective leadership but described it as “somewhat pyramidal” with Duch having the ruling vote in certain situations. He also described Duch as being the only one who was allowed to communicate with the higher-ups, primarily with Son Sen. In the zones, Professor Chandler explained, there were “political, economic, and administrative groups of three running the situation.” He continued, “It’s not as quite as precisely a pyramid form as the Communist Party in theory. Sometimes things broke down, and sometimes more people were stronger or weaker than they were supposed to be in the organizational chart.”

Regarding whether in the course of his research he had ever seen the signature or the stamp used by the higher level or documents signed or sealed by them, Professor Chandler replied that he



did not think so. He recalled seeing documents in the handwriting of Son Sen, who was “roughly number three in the organization” and whose handwriting is “known well.” He further stated that people have tried to find Pol Pot’s signature but that he did not think anyone has found it.

Mr. Arun then asked a follow-up question that, as noted by Professor Chandler, was not clear. Rather than responding to that question, Professor Chandler continued with his explanation to the previous one, stating that “there were documents from Son Sen back to Duch ... suggesting that he continue to work hard ... to smash people at S-21.” He also described seeing witness statements that indicate orders came down to smash. Professor Chandler also described, “[These orders] were not signed, but they were obeyed, so it

seems to be that they were obeyed and were known to be coming from above ... is all the proof I needed.”

For his next question, Mr. Arun quoted from *Voices from S-21* a passage related to Nuon Chea’s interaction with biographies and a statement by him that he did not look into the details of the biographies. Professor Chandler characterized the quoted statement by Nuon Chea as “an exculpatory statement”; he then asked to see the excerpt. President Nonn requested Mr. Arun project the text on the screen and provide the Court with the proper document numbers in English, Khmer, and French. Mr. Arun did not have the documents prepared and said that he would skip the question.

Asking further about the administrative structure, Mr. Arun inquired whether Professor Chandler believed if the people copied on documents like telegrams from the military and the zones had the same level of authority as the intended recipients. Professor Chandler replied that as a matter of typical bureaucratic procedure, people copied on a document do not have authority to act on

the contents of the message, only to read it and discuss it with the person to whom the correspondence was addressed. Professor Chandler also stressed the collective leadership of DK, explaining that the fact that the people to whom the telegrams are addressed comprise a small group—several of who, he noted, are present in Court—emphasizes the regime’s tight security and secrecy.

For his last question, Mr. Arun asked about a decision made by the Central Committee, dated March 30, 1976, concerning the right to smash within and outside the ranks. After quoting the objectives provided in the document, Mr. Arun inquired whether the leaders had the authority to know what happened at the base level, such as the short supply of medicine. Professor Chandler replied that the document is silent on the hardships below, noting that he is aware of no existing documents from the Standing Committee that reference hardships at the lower levels. He further explained that this document was not passed down the chain to the lower levels. He described the relationship between the center and the bases and zones as “tight,” as this was before these leaders were viewed as suspicious. He described it as a period of trust between the lower people and the central government, concluding that this type of “authoritative document” would have been followed up with other “more specific orders that have not survived.”

Accused Nuon Chea Puts Two Questions to the Witness

When Mr. Arun completed his questions, he turned the floor over to his client Nuon Chea, who took the opportunity to put two questions to the witness. Nuon Chea first inquired, “From the very beginning until now, the conflicts between Cambodian people and the People’s Party of Cambodia and Vietnam, what has been the cause of these disputes? Has it been the result of border disputes or from other matters?” Professor Chandler replied, “With respect to Nuon Chea, who is a person whom I do respect,” it is a historical question that “would take 100 pages to answer . . . and would take us outside the parameters of the court,” pointing to the temporal jurisdiction limits of 1975 to 1979. Professor Chandler indicated that responsibility could be shared by the two parties, referencing a failure to respect the other party’s opinion. He continued, “If one is looking for a phrase to describe the causes, I would say a lot of history and mutual distrust.”

For his final question, Nuon Chea inquired as to the causes behind the birth of the CPK. Professor Chandler, in response, said that the CPK as a name dates only to 1967. Clarifying “if you mean by precedence,” Professor Chandler detailed how the origin of what became the CPK had a close relationship with Vietnam. Specifically, Professor Chandler referred to the late 1940s and early 1950s when the Cambodian Communist movement’s ideals were shared with Vietnam’s communist movement. By the time of the 1960 Congress and the preparation of the Party’s statutes, he explained, it appeared the relationship with Vietnam had declined. He concluded, “The whole history is an autonomous movement, first going along with Vietnamese cooperation and then gradually removing itself from that relationship.”

Co-Lawyer for Nuon Chea Jasper Pauw Questions the Witness’s Sources

After Nuon Chea had completed his questions, his international counsel, Jasper Pauw, took over, indicating he would inquiring into the sources of the witness’s knowledge. Returning to a statement Professor Chandler made on Wednesday, July 18, Mr. Pauw quoted:

Just a personal footnote, when I was writing those books in the late 1980s, I would certainly have been much happier had I had access to the materials in the Closing Order. Because I have been reading materials in the last couple of days that would have been perfect to put into my books, but this material had not been available to me.

Regarding what material he had read that was not earlier available to him, Professor Chandler now referenced the open letter by King Sihanouk footnoted in the Closing Order about a conversation the king had had in early 1979 with Pol Pot. He asserted that none of these statements would “not have altered my general findings. They would have amplified and added to the footnotes in [my] books.” He reiterated that he only meant that some of the material available post-1998 would have improved his scholarly works.

In response to a question on his review of the materials referenced in the footnotes of the Closing Order, Professor Chandler explained that he had not reviewed all of these documents, as there are more than 6,000 footnotes. Rather, he looked up the footnotes for points that interested him. He described that he would make a note when he saw something that was an open document, noting that there were many redactions, but explained that many of the sources he could not use in a historical work and therefore did not note. He did not recall having access to confidential documents from the investigation by the Co-Investigating Judges.



Mr. Pauw then asked to what Professor Chandler was referring to when he spoke of possessing three books of primary documents. Professor Chandler described that these “books” are the book of confessions that has annotations in it, the Closing Order, and the translations of the confessions, noting he looked primarily at the Khmer ones.

Regarding additional documents he has read, Professor Chandler said he has been reading books published about the trial, indicating that he has not referred to any confidential documents. He indicated he refreshed his memory about the court through books or articles. When asked if he had been following the proceedings of this trial, Professor Chandler responded that he had been, primarily from newspaper and journalistic reports, but also from emails. He remarked his gathering of sources has been “informal.” Regarding whether he paid attention to Duch’s testimony in Case 002, Professor Chandler replied that he did not think he read the testimony and did not recall reading newspaper articles about it either.

When asked about whether he been in contact with any other DK-era scholars about his testimony in this trial, Professor Chandler replied, “Yes, of course,” noting that he had received no instruction that such communication was restricted. He described this communication as being about the court and about what testimony has been heard.

Moving on, Mr. Pauw focused on Professor Chandler’s previous testimony on the “culling” of documents, specifically S-21 confessions, after the fall of the regime. When asked what he meant by the expression “cull,” Professor Chandler said he was relying upon the resource *I Believe in the Khmer Rouge*, wherein it was described that the Vietnamese read the confessions. He further

affirmed this contention by noting Vietnamese notations can be seen on the confessions. Explaining his use of the word “cull,” he stated that it is known that there were important people imprisoned in S-21, specifically Nai Saran or Ya, the secretary of the Northeastern zone, whose confessions were not found, stating that he “strongly suspects” they were “culled.” Professor Chandler indicated that he believes Ya’s confession in particular contained information about Ya’s relationship with Vietnam, contending that it was “not in the interest of the Vietnamese in the [1980s] to have the confession there.” He further contended that it is known that documents exist in Vietnam that are not available to others.

Mr. Pauw interjected this long answer to explain that he had simply wanted the witness to explain what cull means. Professor Chandler answered that it means a third party reviews the documents and either selects those that interest them to make a smaller bunch of documents or removes documents they feel do not serve their interests. Professor Chandler felt both options were at work in this instance.

The witness was then asked to expand on his previous reference to the People’s Republic of Kampuchea (PRK) in connection with the culling. Professor Chandler stated that he did not think that was what he said, expressing that it is not correct that officials systematically culled documents during the PRK. He described those in the PRK as “not being in a position to resist what they were asked to do by their Vietnamese associates.” He further responded to the question by referring to a batch of confessions from the interior that would have been “a very nice bunch of documents to take away,” explaining that the PRK did not try to keep these documents from circulating.

In connection with this matter, Mr. Pauw inquired about Professor Chandler’s previous statement about the Vietnamese being “historically minded.” Asked about how mindset this related to the culling of confessions, Professor Chandler described it as “genuine historical curiosity at work,” referring to a long tradition of historical writing and reading in Vietnam and the notations on the S-21 confessions. He described the Vietnamese as not understanding the revolution and wanting to know what happened.

Mr. Pauw then read from Professor Chandler’s book *Voices from S-21*:

Cambodian’s interpretation of the Pol Pot era slip easily into Manichean frameworks that make poor history but are emotionally satisfying. ... It is always more comfortable to have a Manichean vision of the world, for that allows us not to ask us too many questions. ... In this fashion representing the Khmer Rouge as a homogeneous group of indoctrinated fanatics, the incarnation of absolute evil responsible for all of the unhappiness of the Khmer people is a reductive vision of a complex phenomenon. ... Within just such a Manichean framework, the PRK regime worked hard to focus people’s anger onto the genocidal clique that had governed Cambodia between April 1975 and January 1979.

Regarding to the last sentence of the passage, Mr. Pauw asked the witness how the PRK regime “worked hard on this enterprise.” In response, Professor Chandler referred to the 1979 trial of Ieng Sary and Pol Pot for genocide, Cambodian textbooks in early 1980s, and the annual “Day of Hate” held on May 20, all suggesting that the DK was “the plaything of a corrupt and insane pair of people – Pol Pot and Ieng Sary.” He said it was an attempt to “reduce it to personalities.”

Mr. Pauw referred to Professor Chandler's reference to a dominant narrative that was created "of a few demonic perpetrators and a million innocent victims." When asked if this narrative is still relevant, Professor Chandler replied, "Not if we understand what happened," which he expressed as his understanding of one of the missions of the ECCC.

Mr. Pauw inquired as to the witness's confidence that the PRK or Vietnamese officials did not destroy or tamper with documents so as to highlight the criminality of this "handful of demonic perpetrators." In a pithy response, Professor Chandler stated, "If they did, they did not do a very good job," noting the extensive documentation available for this trial. Professor Chandler provided an statement by Duch, supposedly to Nuon Chea: "Why did you not burn your documents? We burned ours."



The People's Revolutionary Tribunal was held in Phnom Penh in August 1979; the tribunal handed down death sentences for Pol Pot and Ieng Sary in absentia. (Source: Documentation Center of Cambodia)

Regarding his knowledge of the selection of evidence for the 1979 genocide trial, Professor Chandler described many of the witnesses, specifically Denise Defonso, whom he has interviewed, as being "very well chosen" to articulate what had occurred, contending that they spoke accurately. Addressing whether it was a "kangaroo court," he noted that Pol Pot's and Ieng Sary's defense lawyers had said, "These people are insane monsters and should be destroyed." He further noted the value of the 1979 trial was that it occurred quickly after the collapse, when people's memories were fresh.

The American Bombardments and Conditions in Phnom Penh in 1975

Moving to a different topic, Mr. Pauw requested Professor Chandler give a brief introduction to the American bombardments before the DK period. The witness indicated that he would, if given permission by the Court that discussing the bombardments within 1960s and 1970s is within its purview. Mr. Pauw started to explain the question but was stopped when the judges went into conference. President Nonn allowed the witness to respond, but asked for it to be brief.

Professor Chandler explained that as an American and a Cambodian scholar at the time, he was "appalled" by the American bombardment of a country with which it was not warring. While expressing his loyalty to the United States, he admitted that he was ashamed of the U.S.'s behavior. Professor Chandler further testified that the effects of the bombardments on Cambodia have been debated. He expressed that he thinks it both encouraged people to sign up with the

Khmer Rouge and to flood to Phnom Penh, to some degree. Professor Chandler described that the “cold, immoral” policy view behind the bombardments was to keep the Communist regime from coming to power, which he said it did for two years.

When asked about the dates of the American bombardments, Professor Chandler explained that 1973 was the year of the most intense bombardments on areas without any apparent military significance, as well as the year the U.S. Congress ended the bombings as immoral. He testified that bombings began officially in 1968 and 1969, with “strays” a little before that time. He further explained how Cambodia became “the only war in town” after the Khmer Rouge refused to sign onto the ceasefire between the Vietnamese and the Americans, concluding that this amounted to a war between the U.S. and Cambodia that was “undeclared and unjustified.”

The counsel next quoted from the book *Brother Number One*, “The bombing campaign’s effect on rural society is difficult to judge, but in view of the tonnage involved and Cambodia’s unpreparedness, it must have been catastrophic.” Professor Chandler said he stands by that comment, “in the sense that I stand by what I wrote in 1991.” He added that since that time he has returned to Cambodia and noted that while he is sure in many rural areas it was catastrophic, it does not seem to “feature as much as one might have thought it would” in statements by witnesses and survivors. He explained that it seems that a lot of the tonnage dropped on unpopulated areas, although he indicated it was not dropped intentionally there. He went on to explain about punishment centers around the countryside heard about in reports, wherein people were thrown in B-52 craters. Since he wrote that statement, though, he contended, no one has stepped up to say, “This is the worst things that happened.” He concluded from this that, while villages were destroyed, a primary repercussion of the bombing was the forced exodus from the countryside into Phnom Penh. He described the bombing as being a “ring of fire around the capital,” which forced people into the cities. Regarding its impact on DK recruitment, he said there were young men who joined the Khmer Rouge at this time, but there is not evidence as to how many there were or that they joined because of the bombings.

Mr. Pauw then asked him whether the American bombing “created a stream of refugees” into Phnom Penh from the countryside. Professor Chandler agreed, stating succinctly, “Certainly.” Regarding the number of refugees, Professor Chandler explained that while not certain, an estimation can be made based on the size of Phnom Penh: In 1971, Phnom Penh’s population was estimated as a half-million people, whereas in April 1975, it was estimated to be between two and 2.5 million people. The witness was unable to say, however, what percentage of these new people might have come in due to the American bombings.

Regarding the living conditions in Phnom Penh in April 1975, prior to the Khmer Rouge invasion of the city, Professor Chandler described them as “pretty horrendous,” noting many reports of unsanitary conditions and lack of sufficient food.

Mr. Pauw turned to the evacuation of Phnom Penh by the DK forces, quoting a statement Professor Chandler had made during last week’s testimony about the reasons the DK leadership gave for the evacuation, focusing on the description by Professor Chandler of one of the reasons—“the fear of an American attack”—as unjustified. Being asked to expand on this opinion, Professor Chandler stated that this fear was not one of the main reasons for the

evacuation. He explained that that there is no indication that the Americans were going to return, contending that he believed the DK leaders might have known this.

Mr. Pauw turned to the professor's book, *A History of Cambodia*, quoting, "Conditions were severe, particularly for those unaccustomed to physical labor. But because in most districts there was enough to eat, many survivors of DK who had been evacuated from Phnom Penh came to look back on these months as a comparative Golden Age." And, from another passage about the people evacuated from Phnom Penh, Mr. Pauw read, "In most districts there was enough to eat at that time." Professor Chandler explained that those people he and others had interviewed said they had enough, although, they said, "Not nearly enough." He concluded that many of the survivors whose testimony he has heard felt that this period was still better than the exodus and what came after it.

Mr. Pauw Returns to Testimony on the May 20, 1975 Conference

Mr. Pauw then brought up a May 20, 1975, conference referenced on Friday during the examination of the witness by the civil party lawyer. Mr. Pauw clarified that it was not a DK era document but rather comes from a book by scholar Ben Kiernan. When asked whether he knew what meeting is being discussed, Professor Chandler said that he did not think he has referenced it but expressed his understanding the Mr. Kiernan found out this information from the people who attended the meeting, not from documents. However, he expressed that he is "pretty sure" what was told to Mr. Kiernan was accurate.

When Mr. Pauw asked Professor Chandler if he could state any attendees from the meeting, Civil Party Co-Lawyer Olivier Bahougne objected that the question as phrased would result in an assumption on Professor Chandler's part.

Restating his question, Mr. Pauw asked if from his research the professor could name any attendees who may have survived. Professor Chandler indicated his belief that it was Heng Samrin or Chea Sim, top officials, whom Mr. Kiernan spoke to soon after the fall of the regime.

Mr. Pauw clarified that the eight points discussed on Friday were reported to Mr. Kiernan by Sin Son, who had not personally attended but had heard it from his superior. Mr. Pauw then quoted Professor Chandler's response on Friday regarding Point 5 – the execution of all leaders of the Lon Nol regime, beginning with the top leaders, as follows: "The level to which Lon Nol officers were executed has never been entirely clear." Asked to expand upon this statement, Professor Chandler described how there is not clear evidence but that the "villainous six or seven people," including Lon Nol's brother, were executed. He further said commissioned officers would be smashed and concluded that very few senior officers are known to have survived.

Mr. Pauw then read an excerpt of Ben Kiernan's book *The Pol Pot Regime* regarding the March 20 meeting, in which Mr. Kiernan notes the difference in understanding between two high-level officers of this meeting – one understood they were to smash the people, a "very important order to kill," as noted by the individual; the other understood they were to scatter the people. When asked which interpretation he agreed with, Professor Chandler stated he cannot say but noted that he has not seen the use of "to scatter" in DK documents but that it still might have been used.

Nuon Chea's Defense Asks about Subordinates

Mr. Pauw then moved on to the situation in 1977, quoting a passage from *Brother Number One*, which described how reports about the deaths by starvation and widespread illness “took time to reach the higher organization” and how only “good” news was transmitted up the line “since disagreement with the organization amounted to treason.” The passage went on to state that this transmission of only good news created “false optimism at the top even as rice production faltered and rural workers died.” Professor Chandler responded to this reading by contending that the leaders were “shield[ing] themselves.” He explained that when Ieng Thirith returned with a report of poor conditions, the conclusion was that it was the “work of traitors.”

Mr. Pauw quoted again from *Brother Number One*, “Perhaps 100,00 men or women and probably more were executed without trial. In rural areas, most of the killings occurred when young cadre enforced what they understood to be the will of the organization, and some of these executions, perhaps most, were impulsive, overreactions.” Regarding his testimony on Friday regarding “snap decisions by enthusiastic cadre” and his description in the book of impulsive overreactions, Professor Chandler explained that he stands by his statements. He added that impulsive reactions were never confessed in any S-21 document he read. He explained, “Overenthusiastic achievement of revolutionary goals ... was not systematically punished.”

Continuing in this vein, Mr. Pauw quoted from a document by the scholar Stephen titled *Reassessing the Roles of Senior Leaders and Local Officials in Democratic Kampuchea Crimes*, in which Dr. Heder stated:

Other killings, probably most, were committed by regional and local authorities acting ... of a looser and more diffuse hierarchical structure ... in which the top provided only vague and general guidelines, giving wide latitude to the lower downs all the way to the bottom to decide who was and who was not an enemy and what to do with them. These lower downs were certainly not following orders.

Professor Chandler agreed with this characterization, as well as Dr. Heder’s contention that zone and sector secretaries solely passed down general instructions from above with little attention paid to whether the instructions were actually followed.

Mr. Pauw turned to Dr. Heder’s discussion of the Nazi model of a top-down conspiracy to commit genocide and crimes against humanity. Asked whether it reminds him of the dominant narrative relating to the DK regime, Professor Chandler replied that it does, with the qualification that “the top people are ultimately responsible for what was happening because they were in charge of the country.”

Mr. Pauw inquired whether Professor Chandler believed there has been enough historical research on lower-level responsibility in the regime. In his response, Professor Chandler brought up research being done on cases being considered by the ECCC. He further explained that while a lot of material exists regarding the lower level activities, not much of it is not “open,” in that it is in draft form that is not available to the public.

Mr. Pauw Asks about the ‘Political Coloring’ of the DK Regime, Amongst Objections

Moving on, Mr. Pauw asked Professor Chandler whether he thinks “events and political realities that have occurred after the fall of the DK regime colored or influenced the way we look at the ‘facts’ of this case today.” Professor Chandler noted, “That’s how people operate,” referring to the ability to develop more nuanced arguments as time goes on.

Mr. Pauw asked the witness to expand on how the political coloring of the party that took over after the fall of the DK regime might have influenced the dominant narrative that developed. Mr. Abdulhak objected that political coloring of regimes post-1979 is not relevant to the current trial. Mr. Bahougne also objected that the question lies outside the period of 1975-1979. In his response, Mr. Pauw defended its relevance. The Chamber sustained the objections by the prosecution and civil party lawyer.

Mr. Karnavas was then recognized, but he was interrupted by President Nonn, who stated that the Court had ruled on the matter. Mr. Karnavas tried to interject that they had the right to make a record, as they are separate defense teams, but President Nonn directed Mr. Pauw to proceed. Mr. Pauw then asked the Court for a reasoned decision. President Nonn explained that his question was outside the scope of the facts and was not supported by evidence.



Mr. Pauw moved on, addressing the culling of documents again. Mr. Pauw asked whether the culling of the evidence was influenced by the PRK’s political coloring. Mr. Abdulhak objected again, arguing that the culling was speculative and that the question also fell outside the scope of Professor Chandler’s testimony. Mr. Bahougne joined the prosecution’s objections.

In response, Mr. Pauw referred to the objective indications provided by Professor Chandler that the documents were culled, referring to the Vietnamese notes on the confessions. He also argued that the documents to which he is referring relate to the DK period. After deliberation with the judges, President Nonn stated that the expert would be allowed to respond to the question. Professor Chandler responded that his culling statement is “extremely speculative,” explaining that it is not known what disappeared, where documents might have went, who removed them, or why.

Before adjourning for lunch, accused Nuon Chea’s request to participate in the proceedings from his holding cell was granted.

When proceedings resumed after the lunch break, Mr. Pauw returned to the professor’s statement that “the PRK worked hard to focus people’s anger on the genocidal clique that had governed the DK.” Specifically, Mr. Pauw asked if Professor Chandler would agree that the “working hard to focus people’s anger” was “partly informed by the fact that several high ranking members of the PRK had themselves been members of the Khmer Rouge.” Professor Chandler did not agree with the counsel’s characterization but admitted that it has been said to have been a motive. He expressed an understanding that “the idea of blaming everything on a genocidal clique was a way of being able to move Cambodia forward without having massive trials or recriminations.”

Mr. Pauw turned back to a quote from *Voices from S-21* he had previously read:

Within just such a Manichean framework the PRK regime worked hard to focus people's anger onto the genocidal clique that had governed Cambodia between April 1975 and January 1979. While the new government based its legitimacy on the fact that it had come to power by toppling the Khmer Rouge, it was in no position to condemn the entire movement since so many prominent bureaucratic figures had been Khmer Rouge themselves until they defected to Vietnamese in 1977 and 1978.

Mr. Pauw asked whether he was correct in reading the excerpt as suggesting "that the Khmer Rouge prominence of some of the PRK high-ranking officials was at least part of the reason for the focusing of the anger onto the genocidal clique." Professor Chandler said the counsel's presumption was correct, with the qualification that the former Khmer Rouge in the PRK had become ex-Khmer Rouge when they fled to Vietnam and were therefore not subject to Vietnamese persecution. He detailed, "It was a factor, complicated by ... a way of operating with the people they were operating with. They had fled; they hadn't been caught in Phnom Penh and put into office. They had fled to the Vietnamese, Hun Sen earlier than many of the others. They all had sought asylum and support in Vietnam." When Mr. Pauw asked when they fled to Vietnam, Mr. Abdulhak objected regarding the relevance of the attitude of the PRK. After hearing Mr. Pauw's defense of the relevancy, the judges conferred, and President Nonn announced that the objection was sustained.

Tensions Rise Over Questions on Government's Previous Involvement in Khmer Rouge

Moving on, Mr. Pauw asked Professor Chandler to verify a previous statement that "a trial of the Khmer Rouge leaders might be embarrassing to the current government of Cambodia." Professor Chandler, who expressed that it must have been a comment made in a journalistic context, conveyed that he has always supported this trial. He further said, "I will not take some sentence out of context and try to defend it."

Mr. Pauw tried to ask the question again, but President Nonn interjected that the question was not relevant and the witness need not answer. At this point President Nonn asked about time allocation between the defense teams, noting that they seemed to be using a lot of time asking irrelevant questions. Mr. Pauw indicated that the next team would be proceeding at 3:35 p.m. and that, even if they are objected to, he would like to continue with his questions.

Moving on, Mr. Pauw asked Professor Chandler whether, based on his knowledge of the role people played during the 1970s and 1980s, he was surprised that summons to testify before the ECCC have gone ignored by several high-ranking officials in the current government. President Nonn then said the expert did not need to respond, since it is not his place as a historian to testify regarding proceedings of the ECCC. Mr. Pauw started to express his disagreement, but President Nonn strongly instructed him to move on.

Mr. Pauw then raised a paraphrase of a statement, supposedly made by Professor Chandler, that "Hun Sen only allowed this trial to occur because he was satisfied that his government rather than the foreigners involved would be in charge of the outcome." He asked Professor Chandler if he still supports this statement. Mr. Abdulhak objected to the relevance and the form of the question, arguing that the statement should have been read to Professor Chandler. Mr. Bahougne

requested that the counsel be reminded of the scope of the current trial. The defense counsel responded that he has not been allowed to provide the document to the witness and can only rely on its contents. He also defended the relevance of the document. President Nonn stated that the objections were sustained.

Mr. Pauw responded that he was trying to explain the history of certain people within the Cambodian's People Party (CPP), so as to explain what their current attitudes towards the trials might be. He further noted that Professor Chandler's microphone was not on when he answered whether the trial of the Khmer Rouge leaders might be embarrassing to the current government of Cambodia, contending that his reply was, "Might be, yes," and stating that he brought it up for the record. At this point, people in the public gallery laughed.



Judge Cartwright took the floor, stating that the comments Mr. Pauw had just asserted were not included in the formal record, calling it an "unfortunate attempt to get comment in." She continued that Professor Chandler's microphone was not on, and "no one in the Trial Chamber among the judges heard any such comments, nor are they confirmed as part of the record." Mr. Pauw replied, "Your use of the word 'unfortunate' gives some doubt as to whether he actually said this, and I will refer to Mr. Ianuzzi," at which point he was interrupted by President Nonn reminding him that he is not allowed to make frivolous comments. Mr. Pauw further tried to explain but was cut off by President Nonn asking if he has any further questions. Mr. Pauw continued, "In a context where my colleagues have been sanctioned or complaints have been filed to their respective Bar Associations, I think it

is absolutely crucial that we get on the record...." President Nonn once again interjected that the counsel is not allowed to make comments. Mr. Pauw then stated, "Professor Chandler has given a few answers that seem to be in contradiction to some material that he has written in the past. We are not allowed to use that before this court." President Nonn replied that if Mr. Pauw wanted to make a conclusion, he must do so in writing pursuant to Rule 92. The counsel stated in turn, "You as the President have the explicit task under the Internal Rules to make sure that the fair trial rights of the defense are respected." President Nonn asserted that the defense may ask questions relevant to the facts of matters that occurred during the DK regime. Mr. Pauw argued that his comments related to Professor Chandler's testimony and that they have a contradictory document. President Nonn interrupted again, referring him to Rule 92.

Judge Cartwright took the floor, clarifying that this issue is about the relevancy of questions to issues in Case 002 and not about the use of contradictory documents. Mr. Pauw then indicated they will be filing a motion, pursuant to President Nonn's instruction, for the use of a document to impeach the witness. He indicated he had no further questions but reserved the right to question the witness on this document if later allowed to use the document in the proceedings.

As his colleague had finished, Andrew Ianuzzi continued the witness examination for the Nuon Chea team. He related an exchange between Judge Cartwright and Professor Chandler on

Wednesday, July 18, regarding the operation of DK government as having no distinction between the governing of the country and the political party in power. He quoted Professor Chandler as stating, “The Secretary of the Central Committee of the Communist Party was also simultaneously and all the time the Prime Minister of the country, so there is no distinction there. ... It was ... a government by and for a ruling party.” After the professor confirmed that this accurately reflected his testimony, Mr. Ianuzzi asked, “If you, Professor Chandler, were to simply change the language in your answer ‘Secretary of the Central Committee of the Communist Party’ to perhaps ‘Vice Chairman of the Cambodian People’s Party,’ that of course is Hun Sen, would the assessment on its face accurately describe the political state of affairs in Cambodia today, more or less?”

Mr. Abdulhak rose to his feet, objecting that the question is irrelevant. Mr. Ianuzzi argued that parallels between the current government and the Khmer Rouge are relevant but moved on nonetheless. He returned to the subject of culling, inquiring whether, in Professor Chandler’s expert opinion, it is a reasonable suggestion that culling documents “may have worked to the benefit of former PRK officials who are currently sitting in power today.”

President Nonn directed the witness not to answer, acknowledging an objection by National Civil Party Lead Co-Lawyer Pich Ang, who argued that it would elicit speculation. Mr. Ianuzzi argued that the role of an expert is to make guesses based on observation. The objection was sustained.

Mr. Ianuzzi continued on, stating that he has “personally noticed that certain former Khmer Rouge cadres, when questioned regarding the activity of other former cadres, have drawn certain curious blanks when one would reasonably expect them to know this information.” Noting that he is not meaning to suggest it is a “mafia,” he inquired whether the professor knows if any cadre who has previously testified may be acting under a “Khmer Rouge code of silence” regarding people in, or under the protection of, the government.

Noting that Mr. Ang had again stood to make an objection, Mr. Ianuzzi, seemingly frustrated, complained, “I suppose this is the way it’s going to go today.” Mr. Ang objected that Professor Chandler is not required to share his observations on these “irrelevant comments.” Mr. Ianuzzi replied that Professor Chandler had previously stated that he had followed these proceedings and that he can say no if he does not know. President Nonn sustained the objection and instructed Professor Chandler not to respond.



Mr. Ianuzzi, in his final question to the witness, asked if Professor Chandler remembered making the following remark, which the counsel paraphrased as: “He is an extremely competent politician, the most competent politician in Cambodia. He listens, he’s got good advice, he’s modernized, he’s very quick. He’s also a thug. He’s got blood on his hands. He does things to people that get in his way, and they are not at all pleasant.” Mr. Abdulhak objected that the subject was irrelevant. Mr. Ianuzzi argued in response that “thuggish government behavior” has an effect on the Cambodian judiciary and is an issue related to fair trails that requires addressing. President

Nonn sustained Mr. Abdulhak's objection. As his last comment, Mr. Ianuzzi remarked that the comment was describing Mr. Hun Sen.

Michael Karnavas Grills the Witness on His Prior Contacts with People at the ECCC

As Nuon Chea's defense had finished, Co-Lawyer for Ieng Sary Mr. Karnavas took over and began his examination of the witness by noting an incident earlier in the day when Professor Chandler, faced with a question concerning the bombings in 1973, had asked the bench prior to giving a response whether he could go into that period. Noting that the professor did not do the same last week when questioned about the 1940s, 1950s, and 1960s, Mr. Karnavas asked why it was necessary to seek the Trial Chamber's permission for questions asked by the defense, but not the civil parties or prosecution. In response, Professor Chandler indicated that his expertise is not in the American bombings. He asserted he was not reluctant to discuss it but that he felt it was "a question bringing in a foreign power that had not been discussed before and I wanted to make sure it was not a diversion."

Mr. Karnavas asserted that one way of seeing it is that the witness was not trying to provide objective testimony but to assist the prosecution. Professor Chandler strongly replied, "I take a little offense to that. Frankly, I am not that kind of a cynical person."

Next, Mr. Karnavas turned to Professor Chandler's contacts with the ECCC, specifically with the Office of the Co-Prosecutors (OCP) and the Office of the Co-Investigating Judges (OCIJ), prior to his testifying. Mr. Abdulhak, who had risen to his feet, asked for greater specificity. Mr. Karnavas inquired if Professor Chandler had a chance to speak with Dr. Stephen Heder. Professor Chandler confirmed he had, characterizing his contacts since Dr. Heder's employment at the ECCC as irregular and "mostly of a social basis." Professor Chandler elaborated, stating that as the time for him to testify neared, he did not approach Dr. Heder nor did he seek out instruction on what to do or say. After asking whether this answer related to preparation for his testimony in Case 001 or Case 002, Mr. Karnavas asked after a short pause, "Is there a particular problem with my English? I see you pausing." The delay, however, appeared to be related to Professor Chandler's microphone.

Professor Chandler explained that he prepared more than he did for Case 001 to testify in Case 002, as he had to restudy material "to be as helpful as possible" for this trial. Mr. Karnavas then reiterated his question regarding Professor Chandler's contacts with Dr. Heder. The witness replied that he had "very limited" contact with Dr. Heder, including while Dr. Heder worked for the court. He described that he was not seeking information from Dr. Heder about the trials, explaining that they swapped documents about different periods of Cambodian history. Regarding what documents Dr. Heder had brought to his attention, Professor Chandler answered that it was to Dr. Heder's published material "mainly," which he said had proceeded the court, citing a publication in 1999 and something related to a later date. He stated that Dr. Heder did not provide him with primary sources, further asserting that he had not looked at court documents before he came to court.

When asked about the contacts he had with Dr. Heder after he commenced his work with the OCIJ, Professor Chandler characterized them as "frequent contacts between two colleagues who had been friends for 30 years. ... These contacts did not involve any information that was not

widely open. ... I talked to him about the progress of the trial to an extent. This was all interesting to me. It was all- he said, 'Off the record,' so I'm not going to put it on the record now." When asked about his "off the record" comment, Professor Chandler explained that Dr. Heder "made it clear ... [he] didn't wanted me to write anything up."

Mr. Karnavas pressed whether he could conclude Dr. Heder was working on something for the ECCC for which he was having a private discussion with Professor Chandler. Mr. Abdulhak objected on the grounds of relevance; he argued that Mr. Karnavas could ask about the information provided to and considered by the witness in forming his opinions but inquiring into other individuals not in the courtroom is "irrelevant and inappropriate." Mr. Karnavas replied that if Dr. Heder was working for the OCIJ, he should not have been discussing its business with people outside. Second, he noted that there is a problem if Dr. Heder, who worked in the OCP and the OCIJ, knew Professor Chandler would be testifying and was communicating with him. He defended his right to raise questions on this topic because it goes to the witness's credibility and particularly because Professor Chandler's previous testimony indicated his position has changed. Mr. Karnavas also referenced two other individuals in the OCP. He concluded, "If members of the prosecution or if members of the Co-Investigating Judges are reaching out to potential witnesses and are having discussions concerning this case and are showing them documents, then it could lead us to the conclusion that perhaps those working in the institution might be 'gaming the process.'"

Judge Jean-Marc LaVergne took the floor, reminding Mr. Karnavas to bear in mind that the Court is concerned with the facts relevant to Case 002 and that "other information about the way things may have been conducted in Case 001 is irrelevant" and would not be entertained by the Chamber. Mr. Karnavas was then directed to tailor his questions to relevant matter. Mr. Karnavas responded curtly, "A witness's credibility is always pertinent, at least in the Anglo-Saxon system."

Moving on, Mr. Karnavas asked questions related to the witness's reliance on the Closing Order. Professor Chandler testified that he read the Closing Order, a hard copy of which was provided to him, after his arrival in Phnom Penh to testify. He said he read the Closing Order's text but did not read all the footnotes. He further stated that he did not have access to any of the documents referenced in the Closing Order when he was reading it in Phnom Penh.

Mr. Karnavas requested the professor indicate what original source documents, including those in translation, he looked at aside from the documents he had been provided. Professor Chandler referred to printed sources produced by John Ciorciari's study of the tribunal, as well as the book *Seven Candidates for Prosecution*. Professor Chandler answered affirmatively that Dr. Heder wrote the latter source.

Mr. Karnavas returned again to the Closing Order, stating that Professor Chandler had previously stated in "a repeated refrain, having read the closing order, you had reached certain conclusions or you wanted to adjust your thinking or your



position.” He then asked if the assumption can be made that when Professor Chandler has stated he has read the Closing Order, he is referring to the text; the witness confirmed this supposition. Mr. Karnavas continued, laughing slightly, “I’m not trying to pin you down or certainly not trying to ascribe blame in any way, although I may appear that way; this is the process of asking questions in court. ... You are relying on the text, instead of doing a due diligence to actually look at the documents that are being cited to see whether what is cited is ... in support of the assertions made in the Closing Order.” Professor Chandler, before replying substantively, interjected, “Thank you for smiling back there; that was welcome.” He then emphatically replied that he did not say that the Closing Order changed his conclusions but rather, that there was new information he would have liked to have included in his books. At this point, Professor Chandler apologized for getting aggressive. He also stated that he was unable to verify the sources from his hotel room in Phnom Penh. Mr. Karnavas apologized if he misquoted him.

Mr. Karnavas Explores Further the Topic of the American Bombings

Returning to the topic of the American bombardment, Mr. Karnavas inquired when the bombing began in Cambodia, to which Professor Chandler replied 1967. Mr. Karnavas then asked why the bombings occurred. Professor Chandler explained that the bombing was a part of America’s war against North Vietnam and the forces fighting against Southern Vietnam. He described the bombing as a part of the war against Vietnam, which the Vietnamese referred to as “a total war against America no matter where it took place.” Mr. Karnavas inquired what in Cambodia was occurring that would encourage the Americans to bomb it. Professor Chandler explained, “Nothing was happening in Cambodia. ... What they hoped to be bombing was the Ho Chi Minh Trail, which ran through Cambodia from North Vietnam and Laos into Southern Vietnam.”

Mr. Karnavas inquired whether the witness was referring to King Sihanouk’s arrangements with China to allow weapons to pass through Cambodia in assistance of the North Vietnamese Communists. Professor Chandler confirmed that it was connected. He described King Sihanouk as playing a “balancing act” in which he would played to the Chinese and to the Americans. The professor referred to King Sihanouk’s resumed relations with the Americans in 1968, after breaking it in 1964. He explained, “It’s not entirely certain, but it seems that a *quid pro quo* for renewing American diplomatic relations was to continue the bombing along the Ho Chi Minh trail. ... Sihanouk has said ‘If you kill Cambodians, I’ll go public. If you don’t, I won’t,’ because he didn’t care about what happened to Vietnamese troops.” Asked about King Sihanouk’s behavior at that time towards his political opponents, Professor Chandler described him as “very severe” toward opponents, referencing again the “brutal[]” repression at Samlaut.

Mr. Karnavas then inquired about living conditions for the average rural Cambodian. Professor Chandler replied that in border areas it was difficult, with Vietnamese soldiers there, particularly after the Tet Offensive launched from Cambodia by Vietnamese forces. He described how, after the failure of the offensive, it “gets harsher” when the North Vietnamese forces entered the border area instead of the southern Vietnamese. He also described King Sihanouk’s growing nervousness as his political base became less solid. Professor Chandler recognized several factors, including increasing resistance to King Sihanouk and growing discontent regarding the economy, that contributed to a “complicated and unpleasant situation.”

Regarding the physical impact the bombings had on the countryside, Professor Chandler repeated his previous testimony that while it was catastrophic, it is not known how catastrophic. He explained that in 1971 and 1972, the bombing was focused on the Ho Chi Minh Trail, with a shift in 1973 to populated areas, describing this later period as when the bombardment and “ring of fire” around Phnom Penh occurred. He admitted, however, that he does not have “first-hand evidence” regarding this time.

When Mr. Karnavas started to delve into the psychological impact that the bombings might have had, Mr. Bahougne raised an objection, referring to the Court’s ruling from last week that Professor Chandler is not competent to answer questions related to psychology. Mr. Karnavas responded that he is not requesting a psychological analysis but whether any individuals the professor had interviewed described the bombings’ effect on them. Professor Chandler was allowed to respond to the question as described by Mr. Karnavas. He replied that he has not interviewed people about this matter but reiterated his belief that the effect must have been catastrophic.

After reading a statement from Professor Chandler’s testimony on July 20, 2012, that referenced rural populations being told that American bombers were coming from Phnom Penh, the counsel inquired whether people were aware that they were being bombed by Americans. In response, the witness described how the Khmer Rouge told people the bombs were American. Mr. Karnavas then asked if the people were aware that the government of Cambodia under King Sihanouk and Lon Nol were permitting the American bombing of Cambodia.

President Nonn recognized Mr. Abdulhak, who rose with an objection that the question calls for



Professor Chandler to speculate regarding the people’s state of mind. After Mr. Karnavas rephrased the question, Professor Chandler explained that the people “who were told this would have known; the people who weren’t informed probably wouldn’t have guessed the government was tied up with the Americans.” He referenced it as a “valuable tool” of the Khmer Rouge to describe the bombing as the betrayal of the government. He elucidated his understanding that many did not know the bombing was going on from 1967 to 1970, but that after 1973, one of the Khmer Rouge’s weapons was to tell as many as possible that the bombings were by Americans. “The only untruth,” Professor Chandler stated, “was that the planes were flying out of Phnom Penh.” He further explained, “It seemed to be a very effective

piece of tactic to put this idea in people’s head ... that their own government was helping to bomb them. Foreigners bothering Cambodia has been in their history for centuries; ... but in cahoots with ... your own people, this would really have increased their anger.” He asserted, though, that he was “just guessing.”

Mr. Karnavas Asks Professor Chandler about His Scholarship

Moving on, Mr. Karnavas indicated that he would now ask about “the notion of psychoanalysis.” He quoted numerous passages from *Brother Number One*, Professor Chandler’s book on Pol Pot, including the following: “Sar must have been traumatized by the solemn discipline of the monastery.” When asked whether he was trying to psychoanalyze Pol Pot, Professor Chandler

said he preferred the term “understanding,” but allowed that there are psychological connotations. Mr. Karnavas quoted again from the book, “It is easy to imagine – Saloth Sar in the 1930s huddled at the edge of the stage watching the mass impoverished dancers ... perform by the light of hundreds of candles and the moon.” He further read:

It is impossible to say which impression of the palace perseveres among Saloth Sar’s memoirs when he came to power. ... He may have been thinking about the dancers or about the peasants he encountered later; he may have been thinking of his own uprooted childhood in a potentially hostile city. ... More important, his affectionate family... may have helped to produce a deceptively smooth psychological surface and an equanimity that impressed observers for the rest of his career.

Mr. Karnavas was interrupted from reading further passages when Mr. Abdulkhak rose, asking Mr. Karnavas to break it up into a shorter string of quotes. Mr. Karnavas responded that by pointing out these “eloquent passages,” he was leading up to a question regarding whether the professor is taking poetic license rather than providing a historical account. Mr. Karnavas was directed by President Nonn to put his question to the witness.

Regarding these passages, the defense counsel inquired whether Professor Chandler is “trying to make this a popular read as opposed to writing history.” Remarking that he resents the implication that “history is some sort of unreadable pile of junk,” Professor Chandler insisted that this book was a biography, an effort to understand Pol Pot from what is known about his life but also from the effect he had on persons who had interacted with him. As Professor Chandler did not interview Pol Pot, he indicated that his approach was different from the one he took with his other books. He described trying to develop an understanding of someone who was—and remains—mysterious to him.

Mr. Karnavas read another quote, “It is likely that by 1952 Sar received most of his news and formed many of his opinions from journals produced by the French Communist Party. ... He would also have been familiar with Stalin’s writings.” When asked by Mr. Karnavas if he was taken liberties as a historian, Professor Chandler replied that some have to be taken. He explained that his material came from interviews with people who belonged to the French Communist Party, noting that the French communist newspaper and Stalin’s history of the Communist Party of the Soviet Union were required readings. He acknowledged that he assumed Pol Pot would be doing things other French Communist Party members were, as Pol Pot had been a member, and he indicated that he did not think this assumption was a stretch.

Mr. Karnavas inquired whether historians have been wrong in their assumptions. Professor Chandler replied, “Certainly, it’s a great risk historians face.”

Discussion Turns to the Death Toll Figure during the DK Regime

Regarding the figures of the death toll Professor Chandler has referenced for the period of the American bombings, Mr. Karnavas observed that the numbers seem to vary. Mr. Karnavas asked him about the number of people that would have been killed from the start of the bombings until 1975. The witness indicated that he was aware of a figure of a half-million people, but that this figure does not come from his personal research, but rather from a demographer. He then cited

two published resources on which he has relied, indicating that he respected these scholars' works based on their professional qualifications and the level of detail in their arguments.

Professor Chandler explained that the last full census prior to this time period was in 1962, and that he thinks the figure was six million. Mr. Karnavas asked what census figures these two demographers would have picked for the period of 1970 to 1975 as a starting point, from which they would have concluded that up to 500,000 would have perished. Not directly answering the question, the witness referred to a French demographer instead whom his two sources had cited.

Mr. Karnavas then explained to the court that he has put together a chart on the demographics to which he has the source material, some of which is not in the case file. Mr. Abdulhak stated that such a document should be given to all the parties and the Chamber and should refer to the original source documents. Mr. Karnavas indicated that his team did not have it in French, so he indicated they will return to it in the morning.

President Nonn asked if the counsel had requested the documents be placed in the case file. In response, Mr. Karnavas detailed the sources of the documents used for the chart, both those included in the file and not. President Nonn referred counsel to Rule 87/4 and asked council to be prepared to answer whether the documents were already in the file.

Judge Cartwright further clarified that before the counsel can use the documents tomorrow, the Chamber must know whether they are in the case file and whether they have been put before the Chamber. If they have not been put before the Chamber, a Rule 87/4 must be ruled on, she explained. She also reminded Mr. Karnavas that documents on which the Chamber has not ruled may be used as a means of framing questions but cannot be named.

To finish the day, the Chamber instructed counsel for Ieng Sary to prepare a list of documents before the beginning of tomorrow's proceedings. The Court adjourned later than usual at 4:16 p.m., with President Nonn noting that Ieng Sary's defense team would begin the day on Tuesday with further questions for the witness.