



**Examination of Expert Witness David Chandler Continues
with Questions by Ieng Sary's and Khieu Samphan's Defense Teams**

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The proceedings continued Tuesday, July 24 with further cross-examination of expert witness David Chandler in Case 002 against accused Nuon Chea, Khieu Samphan, and Ieng Sary at the Extraordinary Chambers in the Courts of Cambodia (ECCC).

In the morning proceedings, 300 villagers from Kampong Cham province filled the public gallery. In the courtroom, all parties were present, with Ieng Sary present in his holding cell. Ieng Sary's request to follow the proceedings from his holding cell because of his poor health was granted. It was also reported that the reserve witness would be arriving at the Court in the morning.

Before turning to Ieng Sary's defense team to resume its cross-examination, Trial Chamber President Nil Nonn gave the floor to Judge Cartwright to address the Ieng Sary defense team's request yesterday to use a chart prepared by them while questioning Professor Chandler. Judge Cartwright noted that the Chamber had received a copy of the chart. Observing that the court operates based on case file and "no surprises," she explained how trial material should be known by all parties well in advance of the expert or witness's testimony. As the parties have been aware of Professor Chandler's testimony for a while, she said, this request regarding documents came "far too late." Regarding the chart itself, Judge Cartwright said, "It has no formal status before the court," remarking that it lacked relevance since Professor Chandler has testified he is not an expert in demographics. She further reminded counsel that material previously denied by the Chamber cannot be relied upon during examination of the witness.

Mr. Karnavas Returns to the Death Toll Figure in Continued Cross-Examination

Co-Lawyer for Ieng Sary Michael Karnavas noted before beginning his cross-examination that the chart was for “illustrative purposes” and claimed not to understand what was improper. Mr. Karnavas argued that his purpose was to question what sources Professor Chandler is relying on for the figures he cites in his works, as, he represented, Professor Chandler does not provide citations for those figures. Senior Assistant Prosecutor Tarik Abdulhak interjected, admonishing the counsel to accept the Chamber’s ruling and continue with his questioning. Mr. Karnavas, during his response, was also told by President Nonn to proceed with his examination of the witness.

Resuming his cross-examination of the witness, Mr. Karnavas first brought up figures Professor Chandler has provided in his works, detailing that in different years—1991, 1992, 1994, and after—he cited death tolls in his publications including one million, over one million, one in eight, one in seven, 1.5 million, and, later, two million. He also described Professor Chandler having estimated violent deaths from 100,000 to 400,000. Mr. Karnavas further represented that, particularly in earlier sources, Professor Chandler apparently did not cite authority for his figures. Mr. Karnavas inquired how the witness came up with these figures, preemptively arguing that it is relevant as it goes to his methodology.

In response, Professor Chandler stated that he wrote of the toll being over a million in 1990, before he was able to return to Cambodia, and later changed it to 1.5 to 2 million, a number with which he has stayed. He apologized for not citing the studies, saying that they are the same ones he has always used. He noted the figures are all estimates, and remarked that he does not think it calls into question his historical work.

Mr. Karnavas inquired whether it was the common practice of historians to make assertions without citations. Professor Chandler replied that sometimes it is, commenting he could “never write a 300-page book with 4,000 footnotes.” He reiterated that the sources he drew from were the ones he discussed yesterday.

Mr. Karnavas asked why Professor Chandler was assured that the two demographers who produced the two studies on which he had relied provided accurate and reliable information. While stating that one of these authors had cited his sources in his article, Professor Chandler explained he cannot get in touch with every author when he has doubts about sources cited “or I would never write anything.” He further explained that he did not find “convincing contradictory evidence from other published sources.” Professor Chandler insisted that the true figures will never be known, explaining that all the scholars have been using two census figures between 1962 and 1998, which is all that is available, to figure out what happened between 1970 and 1979. Professor Chandler could not recall what one of the demographers’ sources were. When asked if it would surprise him that the starting point was the 1992 election list, Professor Chandler replied, “Not if you’re looking at the document.”

Mr. Karnavas Examines the Witness’s Previous Testimony

Mr. Karnavas asked Professor Chandler about a point in his testimony on July 18 in which he was asked about his book *Pol Pot Plans the Future* and was asked to identify documents. Mr. Karnavas described that the witness, in his answer, could not identify the authors and had said

at some point that he was making “a guess” when he assigned Pol Pot as the author of a document. Mr. Karnavas asked if by “guess” the professor means an assumption he made as a historian; Professor Chandler confirmed this meaning.

The counsel then described further testimony wherein Professor Chandler indicated not knowing the precise number of copies of this document that would have been circulated, and then testimony wherein he described “probably 10 to 15 copies” would have been produced or circulated. Professor Chandler explained regarding this 10 to 15 figure that it is not “guesswork,” but derived from documents that list addressees and people to receive copies. He described it as a “limited audience.”

Mr. Karnavas sought clarification on another part of Professor Chandler’s testimony. He described how, when the witness was asked about the authenticity of documents, particularly the decisions made by the Central Committee, Professor Chandler said at points, “I guess,” “So my guess is,” and “My conclusion rather is, that these are authentic.” When Mr. Karnavas asked whether his conclusion was a guess, Mr. Abdulhak objected that the words were being taken out of context. After Mr. Karnavas read what the witness had answered, Professor Chandler told Mr. Karnavas that that he had “clarified” his use of the term “guess” by indicating that it was his conclusion. Mr. Karnavas, commenting that this was a circular answer, requested further clarification. Professor Chandler replied that he had not say, “My wobbly conviction is” and firmly stated that it was a conclusion.



Turning back to the transcript, Mr. Karnavas quoted a question previously posed by Judge Cartwright relating to documents that require reporting to the party center and refer to the plan to produce three tons of rice and in which she asked if the professor, in his research, was able to establish that these policies were pursued during the relevant time period. In response to that and following questions, as read by Mr. Karnavas, Professor Chandler implied that the policies existed, as shown by the title of his book *Pol Pot Plans the Future*, noting that it was not only Pol Pot, though, but a “collective leadership” who was completing the plan. Later in the same testimony, however, as Mr. Karnavas noted, Professor Chandler refers not to his research but to the Closing Order regarding the required reporting to the party center. Mr. Karnavas contended, based on this quoted testimony, that the witness was therefore gathering some of his information on these policies from the Closing Order. Professor Chandler clarified his previous testimony, explaining that he had referred in *Pol Pot Plans the Future* that reports had been required from the countryside to the party leadership. However, he explained, the Closing Order now provides evidence that these reports actually did come into the leadership but provides merely a “footnote” to his previous writing on the topic. As to his previous statement regarding collective leadership, Professor Chandler said he believes a book entitled *The Collective Leadership of Cambodia Plans to Govern the Country* would be unsellable.

Mr. Karnavas then asked regarding Professor Chandler's statement that he did not have access to supplementary material from the Closing Order, outside of the footnotes, inquiring whether it could be concluded from previous testimony that the professor was drawing upon the Closing Order, not his independent research. Professor Chandler confirmed this supposition, adding, "Maybe I should question every sentence in the Closing Order; I don't have time to do that. ... It seemed absurd to think that these documents cited in the back of the book are invented." Indicating that Professor Chandler was relying on the text without referring back to its supporting documents, the counsel asked Professor Chandler, "You did not do your due diligence, did you?" Mr. Abdulhak objected that Mr. Karnavas was testifying and asking a question already answered by Professor Chandler.

Moving on, Mr. Karnavas turned to another section of prior testimony. In response to a question about whether Nuon Chea's responsibility meant he had less influence on the whole of the CPK, Professor Chandler had responded:

I think he deferred to Pol Pot as the Secretary. ... Pol Pot had the final word most of the time in these decisions, collective decisions. But from my work and from materials I have been reading just very recently and the things and materials that have come out in the Closing Order it seems he was very much on top and engaged in the day-to-day policy matters of all part of the Cambodian enterprise.

Mr. Karnavas inquired what Professor Chandler meant by "most of the time" and "these decisions." Regarding "most of the time," Professor Chandler explained that he "has no way of saying 'all of the time.'" He added that Nuon Chea has admitted in public documents to being "very much involved with the governing of Democratic Kampuchea" and that he was second in command. Professor Chandler then stated that when he referred to items he read earlier, he was not necessarily referring to the Closing Order and that he thinks statements about Nuon Chea's high authority came from open sources.

Turning his focus to Pol Pot, the counsel asked Professor Chandler whether his testimony is that Pol Pot was number one, not first among equals. Professor Chandler explained that no individual overrides the Secretary of the Central Committee and reiterated that decisions were made after discussion; he referred to the Standing Committee Meeting minutes as evidence and stated that the final decision by the Secretary would be binding. Professor Chandler described Pol Pot as "first among equals, but he is first." He concluded, "Nuon Chea has admitted this, that this was the man in charge – Pol Pot – of a collective group."

Following up, Mr. Karnavas asked Professor Chandler if he was suggesting that Pol Pot did not or could not make unilateral decisions and then impose them "as the will of the collective." Professor Chandler replied, "In the absence of those perhaps 300 Standing Committee meetings that we don't have, I can't answer that definitively." He did acknowledge that in the 1990s, Pol Pot made decisions on his own, but he said he had seen no evidence that Pol Pot had done likewise during the period of Democratic Kampuchea (DK). He described the atmosphere during this time as "collegial," saying he had no evidence Pol Pot used his authority to override the collective authority of the committee.

Mr. Karnavas latched onto the professor's reference to 300 central committee meetings, asking if there is evidence that this number of meetings occurred or if he is just "throwing that out there." Professor Chandler, apparently frustrated, explained that there are documents that indicate the meetings took place on a weekly basis. He contended, "It would be absolutely idiotic to think that the seven or eight documents ... were the only Standing Committee meetings that ever occurred. There is evidence that there were other Standing Committee meetings for which we do not have reports."

Regarding whether all Standing Committee members were attending all meetings, Professor Chandler replied, "That would not be a good suggestion." He pointed to the lack of overall knowledge on these meetings, including what happened or who attended, but maintained that it is know that the Standing Committee was a small group. Mr. Karnavas pressed Professor Chandler on whether he would say that Pol Pot "included all members of the Standing Committee on all topics that he was discussing at that higher level." Professor Chandler replied he could not say that, adding, "I'm surprised that you are asking me to give evidence for that which I have no evidence."

Regarding the material he had read in preparation for his testimony, Professor Chandler expressed he could not cite definitively what these materials were but insisted that he would have been able to do so, had he been provided the questions before testifying and known that the would need to cite sources. After being reminded that that he was asked to prepare a list of documents he reviewed, Professor Chandler explained that he could provide a list of his work since his arrival in Cambodia.

Mr. Karnavas then asked Professor Chandler about his previous answer to the question, "From your research, are you able to say whether all major policies passed through the Central or Standing Committees?" In response, Mr. Karnavas said, the witness's answer had been, "I can't go to claim my own research. I should note here that I haven't done any primary research on DK since the late 1990s, but evidence has come up since then [that] suggests pretty much a positive answer to your question." Regarding what subsequent evidence he is referencing, Professor Chandler responded that he looked at a combination of the Closing Order and other scholars' books.

Mr. Karnavas referred to Professor Chandler's indication in previous testimony that he had not studied in detail the relationship between the Standing Committee and the Central Committee. Professor Chandler reiterated that this testimony was correct. Referring to the part of this previous answer wherein the professor indicated he could be prepared to answer it at some other point, Mr. Karnavas asked if he could assume that Professor Chandler would then provide an opinion after reviewing secondary and other material. After the professor answered affirmatively, Mr. Karnavas stated, "Suffice it to say, that sort of ... 'on-the-cuff' review of material to provide a more sensitive answer is not one that you would consider ... scholarly historical work where one would delve into primary sources and do the analysis and then come up with a conclusion or an assumption." In response, Professor Chandler replied that as a scholar he would not be satisfied with the work that would have to be done between days of testimony but that it would be the best he could do in light of the circumstances. After Professor Chandler acknowledged that his answer on this topic would be based off others' research, Mr.



Karnavas commented, “It would almost be like an open book test; basically we give you the question, you go to the books, you come up with the answer.” Mr. Abdulhak objected that the question was repetitive.

Moving on, Mr. Karnavas referenced additional testimony Professor Chandler had given regarding the membership of the Central and Standing Committees, in which, the counsel contended, it appeared that the professor was making an “educated guess.”

Mr. Abdulhak interrupted to request that defense counsel provide further specificity regarding the context of this previous testimony he was referencing. For his part, Professor Chandler stated he needed the phrase “select group” clarified. President Nonn reminded Mr. Karnavas to provide clear questions.

Mr. Karnavas provided further context, quoting the excerpt from his own work that Professor Chandler was read prior to the question: “Between 21 and 23 August 1976, at a meeting of the Center not otherwise specified but probably consisting of a select group of CPK members assembled in Phnom Penh, the party secretary Pol Pot spoke at length about the party’s four-year plan.” Mr. Karnavas represented that when the witness was asked whether “within that select group, would there have been members of the Central or Standing Committee,” his answer was, “We think so but have no direct evidence of that, of course.” Regarding who the “we” is, Professor Chandler indicated he was referring to a consensus, insisting that it is not a guess or an assumption regarding Pol Pot addressing the group. He further noted that the select group was never defined. Mr. Karnavas pointed out Professor Chandler said “probably” consisting of a select group, which is a guess or an assumption. Professor Chandler asserted, “I can’t believe it was a speech given to half a dozen people,” adding that he imagined that zone and sector people as well as the Standing and Central Committee meeting members would have been present.

Mr. Karnavas turned to Professor Chandler’s testimony on Angkar. After reading excerpts from the transcript, Mr. Karnavas asked Professor Chandler whether the word Angkar referred to Pol Pot like the term Office 870 did. Mr. Karnavas clarified, upon Professor Chandler’s request, that the word “Angkar” appeared in the May 14, 1976, Standing Committee Meeting minutes. Regarding whether Pol Pot was referred to as Angkar, Professor Chandler responded that he did not believe the inner circle referred to him as such. He noted that people in the countryside believed Angkar to be a person so “the name did blur there,” but he did not think the inner circle would have referred to Pol Pot as Angkar in documents or otherwise.

Mr. Karnavas turned to another question that was asked to the witness earlier: “Can you explain to us the role of the party within Democratic Kampuchea?” Mr. Karnavas provided Professor Chandler’s response: “I wish I could really. . . . Of course, how, your question, how the party operated, when you start using a phrase like that you are getting in the real world rather than in the world of these ambit claims of authority made by the party. I would think any political body has ever been able to act with the kind of absolute and unchallenged and unambiguous power that this paragraph we’ve been talking about mentions.” Mr. Karnavas provided another excerpt of Professor Chandler’s response: “But, of course, your question is how do you operate. As soon

as you get into the operations question, you are into the whole real history of DK that's a phenomena, that is still evolving, that I have no claim to any real genuine authority.”

Mr. Abdulhak objected that the testimony was taken out of context, describing that Professor Chandler's answer was within a discussion of whether the CPK statute reflected practice. He stated that the three transcripts span 450 pages and asked that the witness be provided with a copy of his testimony. Mr. Karnavas apologized if the texts were not being displayed to the witness. President Nonn acknowledged the appropriateness of Mr. Abdulhak's statement and advised the defense counsel to prepare hard copies of the documents with the relevant portions for the witness.

When asked how much time he needed to complete his examination, Mr. Karnavas indicated that he would need at least the rest of the morning and perhaps a half-hour in the afternoon session. Co-Lawyer for Khieu Samphan Arthur Vercken indicated that they have planned to work until tomorrow afternoon, although they may conclude earlier. The court then adjourned for the morning recess.

After the break and after having provided Professor Chandler with a portion of the transcript, Mr. Karnavas returned to the passage he previously cited, expressing his interest in the “theoretical versus the actual.” Regarding whether the theory expressed in documents reflected what was happening on the ground from 1975 to 1979, Professor Chandler acknowledged, “The actual practice, insofar as I have had access to this through documents and interviews, shows there was often gaps between what the party said it ... had to do and what it was able to accomplish.”

When asked whether he had previously said that this is a “phenomena that is still evolving” because there are gaps in the knowledge and evidence available, Professor Chandler replied in the affirmative.

Moving on, Mr. Karnavas brought up when Professor Chandler's response to a question about Article 3 and 6 of the Statute. Mr. Karnavas described how it appeared from this testimony that Professor Chandler could not provide an informed opinion concerning practice versus theory for Articles 3 and 6. Professor Chandler stated that he stood by this earlier statement, and he added that the gaps between theory and practice during this period of Cambodia's history are “well-documented.” He described there being an evolution of behavior and events during the regime, providing as an example a shift in who was being purged. When asked whether this evolution applied to all levels, top to bottom, Professor Chandler stated that he could not say, but he did confirm that it was an evolving process in that practices envisaged might have taken detours in later years.

Mr. Karnavas inquired into prior testimony regarding Article 23 on the tasks of the Central Committee, when the witness was asked whether it was implemented as it was written in the article. According to the transcript, Professor Chandler had responded that he was not “really equipped” to answer the question, but he did say that he “would suspect that most of these rules were followed,” apparently basing this answer on the Closing Order and documents he had “been just recently familiarizing myself with.” Clarifying this previous answer, Professor Chandler indicated that his remark that he was “not qualified to answer” related to whether the Article was

carried out in practice. Mr. Karnavas then asked whether Professor Chandler knows that the Closing Order is similar to an indictment, to which Professor Chandler said yes. Professor Chandler also confirmed that he was relying in part on the Closing Order during part of the previous testimony just quoted by the counsel. Regarding the reference to other documents he had recently familiarized himself with, Professor Chandler said these sources included both the *Seven Candidates for Prosecution* written by Dr. Stephen Heder and new primary sources, including documents provided by the Trial Chamber. He then stated that at the end of the question he indicated he did not want to “deal with the question, perhaps ... because his documentary primary source work was not up to par.”

Mr. Karnavas sought clarification of Professor Chandler’s previous answer to the question of whether he found any evidence concerning the separate roles of the members of the Standing Committee, where it appears the transcript cut off. Professor Chandler clarified that he had not done primary research on this subject.

Moving on, Mr. Karnavas asked about Professor Chandler’s testimony on July 18 regarding a passage from his book *Voices from S-21* on the reporting lines at S-21 to the party center. Specifically, he questioned Professor Chandler about an indication in his testimony that he would have made a correction to what he had written about Duch’s contact with the members of the party center. Professor Chandler explained this correction, stating that he was referring to the word “party center” as implying Duch was in touch with the party center as a whole. He emphasized that Duch was in communication primarily with Son Sen. Further, he noted that Son Sen was an important member of the party center and that it is not known what Son Sen did with the documents.

After Professor Chandler had finished his response, Mr. Karnavas contended that the witness appeared “aggressive and defensive.” Judge Cartwright took the floor, telling Mr. Karnavas that his manner of questioning has been, “to put it mildly, assertive on occasion. ... Please don’t accuse any witness or this expert of aggression.”



Continuing, Mr. Karnavas referred to Professor Chandler’s previous testimony on August 6, 2009, from his testimony in the trial in Case 001. In response to the question “Are you saying that S-21 was clearly on the senior leader’s agenda but it wasn’t as high ... in terms of other aspects of what was occurring at the time?,” Professor Chandler’s response had been, “I think some of these confessions – I’m just guessing – were read not only by Son Sen who read a lot of them but also by people higher up.” Professor Chandler agreed that combining this testimony in the *Duch* trial with his testimony in the current trial would be a “fair way” to answer the question.

Moving on, Mr. Karnavas clarified Professor Chandler’s previous testimony regarding Office 870. Professor Chandler explained that he knew, from his research and not just the Closing Order, that 870 was a code name for Pol Pot and that Office 870 existed. He did not know how

the office worked, explaining he read information in the Closing Order about it being a mailing address.

Mr. Karnavas inquired why Professor Chandler was confident that the leadership was planning policies for the future during the years 1966-1967, after referring to Professor Chandler's previous testimony on this period. Mr. Abdulhak objected that Mr. Karnavas mischaracterized Professor Chandler's testimony, emphasizing that Professor Chandler said what they "seem" to be doing is planning. In his response, Professor Chandler provided several examples of changes, including the change in name of the party that was made in 1967 and the move to Ratinikiri, concluding that while he made some assumptions, they are not "bald."

Next, Mr. Karnavas referred to a section of Professor Chandler's previous testimony wherein he was asked who issued the plan and indicated that it was collectively written. Mr. Karnavas enquired why Professor Chandler was confident this was a collectively written document. The witness indicated that, while he is not certain Pol Pot did not write it all, the manner in which the party operated suggested Pol Pot did not do that. He also noted that different types of expertise were brought together in the document.

Mr. Karnavas questioned Professor Chandler about why, after being questioned about a Foreign Broadcast Information Service document, he expressed doubts about its reflection of reality. Professor Chandler explained that they knew the broadcasts were being listened to abroad. When asked whether internally the party might have held a charade meeting where the decisions were made in advance or whether a document was created with no meeting having taken place, Professor Chandler stated he "concurred." He cited to the reports on the election that claimed 98 percent of the electorate participated in the election when that did not actually occur.

Before the lunch break, Mr. Vercken indicated that Professor Chandler might want to review the transcript during his lunch, as it might be reviewed by Khieu Samphan's defense team. Co-Lawyer for Nuon Chea Jasper Pauw also requested that his client be allowed to follow the afternoon proceedings from his holding cell. The Chamber granted the request.

Defense Counsel Inquires about the Party's "Rewriting" of History

Returning from the lunch break, Mr. Karnavas asked Professor Chandler questions regarding the "black book," or *Livre Noir* about which Professor Chandler had previously written. Mr. Karnavas read the following passage written by Professor Chandler in *Brother Number One*: "The *livre noir* is a mélange of truth, reconstructed history, and wishful thinking." Professor Chandler confirmed that this sentence expresses his interpretation of the "black book." Mr. Karnavas then enquired whether the passage could be applied to other things, such as the *Revolutionary Flag* magazine, produced by the Khmer leadership, and asked whether this would be a pattern. Professor Chandler replied, "Certainly," but marked that the difference between this book and the *Revolutionary Flag* was that this was a book meant for the outside world. He said that this document is "not a reliable piece of historical text," further describing that it was directed at a larger audience and aimed at giving a "history of Vietnamese-Khmer relations that would fit the sentence I had written." With respect to documents produced for "internal consumption," Mr. Karnavas asked if it could be said they ever engaged in rewriting history, such as glorifying their actions, Professor Chandler indicated he agreed.

The defense counsel turned next to the introduction of Professor Chandler's book *Brother Number One*, wherein it is stated:

Over the next four years Ieng Sary and other high-ranking members of the party lived and worked amongst these people. Over the years the people of Ratinikiri, Kratie and Mondulkiri had grown increasingly hostile to the Phnom Penh government as roads, rubber plantations, settlers, and foresters advanced into their hands. 'They hated all the Khmer,' a party member later recalled.

Mr. Karnavas inquired whether the professor still supported what he wrote, to which Professor Chandler applied affirmatively. Mr. Karnavas then asked whether this might be a reason why some might have signed up with the revolution or at least would have been receptive to those trying to lead the revolution against the Phnom Penh government.

Regarding whether the reasons detailed in the excerpt would be a cause for anger toward the Phnom Penh government among the people in those areas, Professor Chandler replied that there is evidence that many did join the movement during this period.

Mr. Karnavas moved on, describing to Professor Chandler's previous testimony regarding biographies on August 6, 2009, during the *Duch* trial. In response to a question on the purpose of biographies written by S-21 staff, Professor Chandler had stated:

I don't think there is any sinister purpose in making or requesting members of the staff of S-21 to prepare biographies. This was just something party people and military people had to do from time to time. ... It was just a practice that was universal. ... It was a required activity, and so I think it was just one of the normal features of life at the prison, and probably at other offices throughout the country.

Professor Chandler indicated that he still stands behind this statement. He agreed with Mr. Karnavas's summary of his position that "it was an ongoing practice at other places or other institutions or offices, and ... the writing of a biography was nothing sinister, in and of itself." He added that the new people and the April 17th people did feel these questions were sinister because they did not know how they were going to be used. He described how, inside the party, the biographies were "just to make you a better party person."

When asked about his previous statement that Son Sen was known to be number three in the party, Professor Chandler indicated he stood by this. Mr. Karnavas then turned to Professor Chandler's testimony during the *Duch* trial, quoting a passage in which he indicated that Ta Mok was number three. Mr. Karnavas then inquired whether Professor Chandler stood by his previous statements, characterizing Ta Mok and Son Sen as being "neck and neck." Professor Chandler described being aware of contradictory evidence that made it sound like this.

Mr. Karnavas then referenced a statement in which, he described, the witness appeared to indicate that in the 1980s the government of the People's Republic of Kampuchea (PRK) was involved with constructing a "narrative of collective memories" that was "politically useful for [the PRK], for the present and for the past" and that this became the dominant narrative. Professor Chandler confirmed that he wrote this, and expressed support for his previous

statement. Professor Chandler then questioned whether 1979 materials can be discussed, given the scope of the trial.

Mr. Karnavas asked whether a narrative was created that might impact people's memory and their capability to adequately recall what occurred. Mr. Abdulhak objected to this question, arguing that Professor Chandler is not qualified to testify about the impact of narratives on psychological states and people's ability to testify. The Chamber ruled that Mr. Abdulhak's reply was valid. With that, Mr. Karnavas stated that Ieng Sary's team had concluded its examination of Professor Chandler.

Khieu Samphan's Defense Team Takes up the Cross-Examination

Co-Lawyer for Khieu Samphan Kong Sam Onn started off his examination of Professor Chandler with a series of questions relating to the professor's research. First, he asked Professor Chandler whether he conducted his research on the DK regime alone or with a team. The witness replied that mainly he worked by himself, although sometimes he would work with others and sometimes he would have an interpreter. However, Professor Chandler stated, he did not work



with a research team from a university. Regarding his use of an interpreter, he clarified that he did not use a French interpreter and that he did not always use a Khmer interpreter. When asked about translation with regards to his interviews in Khmer, he described usually having someone nearby who could help him if there was a challenge with interpretation. Further, he indicated that his interviews in Khmer are "somewhat limited."

Mr. Sam Onn then asked about confidentiality while he was interviewing people, and whether others were present. Professor Chandler responded that it depended on the context; he explained that sometimes other people were present. Regarding the interviews, he said he never encountered a "spokesperson situation," wherein one person was controlling another in the interview.

Professor Chandler further elaborated that he began conducting interviews relating to his work from 1985 until 1992 or 1993, and that he has conducted them in Australia, France, the United States, Canada, Cambodia, and Thailand. He further testified that the time of day varied but that they were conducted during working hours. He noted the interviews were always conducted with the interviewee's consent.

Regarding whether he mostly interviewed people in Cambodia or refugees, Professor Chandler explained that during the 1990s, he conducted many in Cambodia, but refugees comprised the "overwhelming majority" of those he interviewed from 1985 to 1995.

Mr. Sam Onn then inquired whether the witness had categorized the people he interviewed by their support or opposition to the DK regime. Professor Chandler explained that he talked to a few who were staunch supporters of the DK regime. He insisted that he was not seeking "prosecuting evidence" but listened to "everything I could find." Professor Chandler further

explained that he has never encountered anyone with a neutral opinion of the regime but that he found the testimony of both those who approved and disapproved “interesting.”

Expert Witness David Chandler Testifies about Khieu Samphan

When asked whether he knew the accused Khieu Samphan, Professor Chandler replied that he knew of him only by reputation, not any personal interaction. He then described that he heard of Khieu Samphan during his first visit to Cambodia from 1960 to 1962. Professor Chandler was with the American Embassy during this period, and he indicated that during this time Khieu Samphan was of interest to the embassy for his left-wing views. He described Khieu Samphan as being a figure of “extreme and rather bewildering integrity” and stated that the accused had a reputation that he could not be bought, which he described as being rare at that time and something that he believed concerned King Sihanouk.

Professor Chandler expanded on King Sihanouk’s concern with Khieu Samphan, stating that he was someone King Sihanouk was not sure how to deal with, as “he had no experience with people he could not dominate.” He then described, “He has admitted in his own writings one of the reasons he placed Hun Sen in Office in the Department of Commerce was to see if he could join the team, as it were.” Professor Chandler noted that Khieu Samphan’s role as sub-cabinet minister was not tainted by corruption. When asked about his reference to Hun Sen, Professor Chandler replied that he had not mentioned Hun Sen and was talking about King Sihanouk. Based on this response, it appeared that his reference to Hun Sen had been inadvertent and a mistake.

Next, Mr. Sam Onn asked about the time that Khieu Samphan fled to the forest. Professor Chandler explained that it was a time of uneasiness for King Sihanouk. He said that Khieu Samphan was a member of the National Assembly of 1966, in which none of the candidates had been selected by King Sihanouk. He described King Sihanouk’s increasing awareness of potential enemies inside the Cambodia and explained, “When Sihanouk got nervous, he got aggressive.” Professor Chandler expressed that, from his reading of Khieu Samphan’s autobiography, he believed Khieu Samphan left for the forest because he felt threatened and felt that this threat might take physical form.

Mr. Sam Onn then followed up from the assertion Professor Chandler had made in his previous response that Khieu Samphan was a secret member of the CPK. Regarding whether he had any evidence of his membership, Professor Chandler indicated that he would have to look at the source but that it was not in the Closing Order. He further described it as an “accepted fact.” When asked when Khieu Samphan became a member of the CPK, Professor Chandler indicated that he would have to look this up also.

Regarding Khieu Samphan’s biography, Professor Chandler stated that he studied it, and the writings of others about his life, with great interest, but added that he did not study him like he had studied Pol Pot. He explained that he studied Khieu Samphan with interest for several reasons—because it was an autobiography of a high-ranking official in the party, because he was in the left opposition to King Sihanouk, because he was a well-known person, and, lastly, because it was available.

When asked about Khieu Samphan's open membership in the CPK, Professor Chandler stated that the CPK did not have open membership, adding, "If you were a member, you were a secret member." He explained that the CPK did not operate openly until 1977.

Regarding Khieu Samphan's role in the CPK, Professor Chandler testified that Khieu Samphan was a candidate member of the Central Committee in 1971, becoming a full-rights member in July 1976. He provided the Closing Order as the source of this information, which cited an interview with Khieu Samphan.



Khieu Samphan (front left) walks with Laos Prince Sophannavong (center) during the prince's official visit to Democratic Kampuchea (Source: Documentation Center of Kampuchea)

Mr. Ianuzzi Requests to Make an Oral Application Regarding a "Brand New Document"

Returning from the afternoon break, Co-Lawyer for Nuon Chea Andrew Ianuzzi was recognized. He stated that he would like to put before the Chamber an 11-page article that was published yesterday in the *New York Review of Books*. This document, he explained, contains information he would like to put to Professor Chandler. He asked the Chamber whether he could make an oral application to put the document before the Chamber.

Judge Cartwright took the floor, responding that the application must be made in writing pursuant to Rule 87/4. She indicated one of the reasons for this requirement is that the article was only available in English and would need to at least be translated into Khmer so that the entire Chamber may be discuss it. Mr. Ianuzzi's response was interrupted by President Nonn, who said the Chamber had already ruled on the matter. Mr. Ianuzzi tried again to interject, with the same result.

Mr. Sam Onn Continues with His Cross-Examination

Mr. Sam Onn indicated that, prior to the break, Professor Chandler had said Khieu Samphan became a full-rights member of the CPK in 1976 and a candidate member in 1971. Mr. Onn then asked whether Professor Chandler was aware of these dates prior to his review of the Closing Order. Professor Chandler, seemingly frustrated, insisted that he did not say that; he said the dates he gave related to when Khieu Samphan became a member of the Central Committee, not the CPK.

When Mr. Sam Onn asked when the professor learned Khieu Samphan was a candidate member of the Central Committee. Professor Chandler indicated he did not remember but said that if it was in Khieu Samphan's autobiography, he would have learned it from there. Mr. Sam Onn followed up by asking whether the witness was aware of the date Khieu Samphan became a member of the Central Committee prior to reading the Closing Order. Mr. Abdulhak objected that the question had been asked and answered. Mr. Onn indicated there had been a problem with the translation and was allowed to pose the question. Professor Chandler referenced reading Solomon Kane's *Dictionary of the Khmer Rouge* where he gives these dates, noting that he has had this book for four years.

Regarding whether he studied in detail Khieu Samphan's biography, Professor Chandler confirmed that he had "read with great care" Khieu Samphan's autobiography, describing it as of "great interest." Professor Chandler appeared increasingly frustrated, as he said, "I'd rather be more productive than this, frankly, as a witness than just repeating what I've said to you before."

Translation Issues Abound in Testimony on the DK Structure

Mr. Sam Onn moved on to the matter of the structure of Democratic Kampuchea. Regarding the highest organization or leadership within the DK, Professor Chandler explained that the Chairmanship of the State Presidium was the highest office, which was held by Khieu Samphan. He noted that the top position was not equal to who exercised power in the DK. While the duties behind the position are not known, Professor Chandler described, this position "at least in public" and as referenced in public documents including the Constitution and radio broadcasts, was "the highest in the land." Professor Chandler could not pinpoint where in the Constitution the office was discussed.

Regarding whether the CPK or DK government had more power, the witness replied that the CPK was more powerful than the institutions set forth in the Constitution. While he described the Constitution as suggesting a separation of powers, he attributed this partly to an attempt to satisfy foreign powers, saying, "There never was such a separation powers." He concluded, "The Communist Party was the only one with access to power; there were no alternate sources of power in Cambodia during the DK Period."

When asked what institutions the CPK used to enact their power, Professor Chandler described how activities of the government and the CPK were carried out by different offices, some of which are referred to in the Constitution. He described a lot of the operations as "ambiguous," "secret," "overlapping," and "contradictory," referencing as an example the meaning of Office 870 as meaning "about eight things all at once."

Mr. Sam Onn then turned to a document, which he referred to as the decision of the Central Committee regarding a number of matters. Asked about his impressions of the document, Professor Chandler described it as "revealing," as the leadership was talking "to itself about itself." He concluded that it was an "accurate" document, after describing how Pol Pot, the chairman, would have read it and sent it back if there was an error with it.

Mr. Sam Onn read point number two from this document: “The Comrade Secretary managed some time, ... a few days monthly to meet foreign countries.” He asked Professor Chandler whether the Secretary, Pol Pot, had more power in the party or in the government. Professor Chandler, after asserting that he had already testified to this matter, described that there was “no real difference between what he did for the government.” He continued, “I think he felt his work for the party that was not necessarily to be shared with people outside the party was more important than his work for the government such as meeting foreign visitors.” He again asserted that the party and the government were “the same thing.”

The counsel inquired whether the witness was familiar with the people in the State Presidium, such as Comrade Hem, First Deputy Chairman Pan Nut, and Second Deputy Chairman Comrade Nheom. Professor Chandler replied that Comrade Hem is Khieu Samphan and Pan Nut is the former Prime Minister under King Sihanouk. He did not recall Mr. Nheom but indicated that from the “comrade” before his name, he was a member of the CPK.

Regarding why “comrade” is not before Pan Nut, Professor Chandler explained that Pan Nut was not a comrade, as he was a “holdover from the Sihanouk regime.” Professor Chandler expressed his belief that they were making the point that he was an outsider.

Regarding whether these individuals were members of the Standing Committee, Professor Chandler stated that Khieu Samphan was and that Pan Nut was not; he did not know about Comrade Nheom. Commenting further on the document, Professor Chandler stated, “It’s of interest that nothing at all is said about the Presidium in this secret document. There is no guidance about how it should behave. ... I think that’s significant, almost as if there is no significance to this position or power attached to the position.” Professor Chandler had to repeat his answer due to issues with translation.

Regarding the function and structure of the State Presidium, Professor Chandler said he knew nothing about this subject and that he was not aware of anyone who did.

Mr. Sam Onn then asked whether he had documents to support his assertion that Khieu Samphan was on the Standing Committee. Professor Chandler clarified that he was referring to the Central Committee, not the Standing Committee.

Regarding the differences between the function of the Central Committee and the Standing Committee, Professor Chandler stated that the latter was small, while the former was large. Further, he explained, all of the Standing Committee members were also members of the Central Committee. He described the Central Committee members as high-ranking party members known for their loyalty, although several were known later to have been arrested and executed. He described the Central Committee as providing the Standing Committee with suggestions and information while receiving suggestions or commands from the Standing Committee, also articulating his understanding that once a command was received from the Standing Committee, it was final.

After issues regarding translations had been noted, President Nonn advised the interpreters to be very careful with their translation of the terms Central and Standing Committee terms. He

observed that they seemed to have been used interchangeably at some points in the Khmer translation.

Mr. Onn Also Turns to the American Bombardments

Mr. Sam Onn focused his final questions of the day to the issue of the American bombardments, a topic that had been reviewed previously by other defense counsel. Regarding how many bombs were dropped on Cambodia, Professor Chandler described it as “hundreds of thousands of tons.” He referenced an estimate from 1979 that the amount was higher than those dropped on Japan but noted that it was not more than those dropped on Vietnam. Referring to his earlier testimony, he said that the estimate has increased more recently, but that he had a problem with these figures as they were published in an “un-refereed journal.”

With this answer, the proceedings concluded for the day. President Nonn indicated that Professor Chandler’s testimony had not concluded, and stated that it could extend through the morning session on Wednesday, July 25.