



In this week's KRT Trial Monitor ...

Chamber hears further evidence from insider witnesses (pp.2-4), and from expert witness David Chandler (pp.5-6); Confusion over witnesses' right against self-incrimination continues (p.7); Civil parties continue to exhibit laudable efforts to cooperate (p.8)...

1. Summary

"I dislike people who say "We would never stoop to such level". We never know what we are going to do in the same situation. 'Holier than Thou' is the least admirable of human characteristics..."ⁱ

The sixteenth week of trial at the KRT proceeded on schedule, with the Chamber's decision to have certain witness statements read into the record *in lieu* of witness testimony increasing the overall expeditiousness of proceedings. In addition to five testimonies that were read into the record, the Chamber heard from three former S-21 staff from Monday to Wednesday. Expert witness David Chandler then took the stand on Thursday, largely testifying on his book *Voices from S-21: Terror and History in Pol Pot's Secret Prison*.

Accounts provided by insider witnesses this week were largely consistent with prior testimony. In particular, the testimony provided regarding detention conditions, the administration of Khmer Rouge policies (especially the need for secrecy), and the use of certain torture techniques corroborated that of prior witnesses, as well as the Accused. At times, the extent to which the Chamber and the Parties questioned witnesses on largely undisputed facts seemed unwarranted: in this regard, International Defense Counsel François Roux pointed out that much of the evidence being presented was repetitious and merely confirmed allegations that the Defense did not dispute. The Chamber agreed that it would review its present schedule to determine whether a further reduction in the witness list could be made, but cautioned the Parties to assume the existing timetable would be followed for now.

With regard to Victim Participation and Witness and Victim Protection and Support, the Court has commendably provided witnesses with legal counsel in order to ensure that their rights are upheld during the course of the proceedings. However, two of the three insider witnesses who took the stand this week appeared confused about the extent to which this right could be exercised. Monitors opine that further efforts need to be made to ensure witnesses fully comprehend their rights prior to taking the stand.

The approach taken by the Chamber and the Counsel for Witnesses to ensure witnesses comprehend questions was the cause of some concern this week. Constant reminders about witnesses low level of education may be perceived as demeaning to the witnesses in question and may further intimidate them during the

course of the proceedings. It is the monitors' view that the Chamber and the Parties should find ways to address this issue so as not to compromise the dignity of the witnesses.

The week ended with thoughtful testimony from David Chandler, who reminded both the Chamber and the public gallery that decisions made by the Accused Person during the period of Democratic Kampuchea should be viewed in their historical context. Chandler eloquently pointed out that the broader context in which Khmer Rouge cadres were operating would have presented many difficulties for the choices they made at this time. Although he did not assert that this should excuse those choices, his comments served as a reminder of the importance of the deterrence effect provided by the tribunal, as well as of ensuring that murderous regimes, such as that of the Khmer Rouge, were unable to attain platforms to power.

2. LEGAL & PROCEDURAL ISSUES

A. Summary of Testimony

Evidence from Insider Witnesses

The following summary provides a summary of the evidence presented by insider witnesses this week. It groups the evidence presented by topic area. For a more complete overview of the evidence, readers should consult Annexure A to this report, which gives them an overview of the unedited notes collated by monitors this week.

The following witness testimonies were either presented or heard this week:

- Sek Dan, a former child medic (testified in court);
- Lach Mean, a guard, who subsequently held an administrative position in records and finally, became an interrogator (testified in court);
- Cheam Sou, a former S-21 guard (testified in court);
- Kheav Yet, a former guard inside the compound (statement read out);
- Pesh Mab, a former guard who manned both the inside and outside of S-21 (statement read out);
- Nhem En, a former photographer (statement read out);
- Nheab Ho, a former guard inside the compound (statement read out); and
- Khung Pai, a former guard outside the compound (statement read out).

Detention Conditions Generally speaking, evidence provided regarding detention conditions at S-21 corroborated the evidence of other witnesses. However, there were some notable differences in the details provided regarding rationing and incarceration: Lach Mean, for instance, described prisoners being fed 'rice' (as opposed to gruel) and Nheam Ho noted in his statement that the prisoners were not shackled in the cells he guarded. In addition, Sek Dan's testimony on the rationale for providing witnesses with medicine tended to support the claim that prisoners were only kept alive in order to be further interrogated. He further recalled that prisoner's wounds would be "splashed with salt water", allegedly to ensure a speedy recovery.

Interrogation and Torture. Sek Dan, Kheav Yet, and Nheab Ho asserted that while they had never seen acts of torture first hand, they could see the evidence of it from the wounds visible on the prisoners' bodies. Sek Dan further recounted that he had heard prisoners' whispering about the torture methods administered, including beating, nail extraction and electrocution. On the other hand, Lach Mean, who allegedly witnessed and participated in torture, confirmed that detainees were

electrocuted behind the ears and beaten with tree branches. However, he asserted that he had never seen interrogators use plastic bags or water torture techniques during interrogation.

The statements read out during proceedings also shed further light on the interrogation techniques used at S-21, and the prevalence of the use of torture. For example, Kung Pai stated that he had seen whipping and electrocution used as methods of interrogation and that, because “prisoners were considered as enemies”, interrogators were permitted to use torture when they failed to respond to questioned. This statement differed from Lach Mean’s evidence, which provided that Duch never ordered him to use torture, instead encouraging him to “play politics” or coax the witnesses into agreeing to the confessions required.

The Final “Smashing” Before Liberation Day. Both Kung Pai and Nheab Ho’s statements detailed events that occurred immediately prior to 7 January 1979 – when S-21 prisoner’s by Vietnamese forces in what is now widely considered the Vietnamese ‘liberation’ of Cambodia. In particular, Kung Pai’s statement revealed details about mass killings that took place in the compound, as a final round of smashings were carried out. Both statements asserted that prisoners were transported to Cheung Eak at this time.

The Policy of Secrecy. The evidence this week showed that a policy of secrecy pervaded all of the units in operation at S-21. Lach Mean and Kheav Yet described how staff members were strictly prohibited from contacting outsiders, including family and friends. Nhem En’s statement also described how photographers would not be allowed to develop the photographs they had taken, in a seeming attempt to segregate their duties and prohibit them from knowing about those of others. He also noted that all members of the staff had restricted movement within the Security Office. Cheam Soeu confirmed this during the course of his testimony: he noted that during execution of their duties, members of staff were not allowed to stray from their assigned locations. (This is why, according to the witness, he had never been inside the detention compound).

Atmosphere of Fear. All the witnesses who testified this week confirmed that an atmosphere of fear was prevalent at S-21. Witnesses noted that simple mistakes could lead to people’s demise, and that no one could be trusted. In particular, Sek Dan described the constant dread he felt while working at the Security Center – fuelled largely by the fear that he would be arrested and smashed. Similarly, Nhem En and Heab Ho’s statements pointed out that staff had to carry out their duties with diligence and precision, unquestioningly following orders.

Purging at S-21. Most of the insider witnesses this week recounted how other S-21 staff members were smashed. Sek Dan, for example, recalled that his Medic Supervisor, Comrade Paor, was arrested at night after detainees had suffered from complications from the medication he provided. He further stated that his arrest was ordered by Duch. Lach Mean also testified that staff at S-21, including the chief and members of his unit, disappeared on a continuous basis. Similarly, Cheam Soeu described how his superior Hong was summoned to go to inside the compound to attend a meeting but once inside was arrested.

Foreign Detainees. Several insider witnesses this week confirmed the presence of Vietnamese prisoners in S-21. Lach Mean, Nhem En, and Kung Pai alleged that they had seen Vietnamese prisoners in the Security Office, although the number of prisoners varied between the accounts. Lach Mean claimed to have seen 100-200 Vietnamese detainees, Nhem En only 20, while Kung Pai simply stated that he had seen “many”. With regard to Western prisoners, Kung Pai claimed to have seen 3

Americans brought in through the south entrance of S-21. Nhem En also alleged that he had seen the same number of “Western prisoners”, but was not aware of their nationality. In addition, Cheam Soeu described the alleged immolation of a Western prisoner outside the S-21 compound.

Trainings and Meetings Sek Dan and Cheam Soeu claimed that they had never attended political trainings and had only joined the self-criticism meetings among their respective groups. The other witnesses, however, recounted participating in trainings or political sessions, albeit with differing frequency. For example, Nheab Ho claimed that during his assignment at S-21, he attended only one study session in a training site near the Accused Person’s house, and that the session was not taught by the Accused. Kung Pai, on the other hand, alleged that he attended two sessions during which the Accused lectured on how to prevent prisoners from escaping; the party statute; and the war with Vietnam. Kheav Yet had also seen the Accused in two of the training sessions he received.

The Accused’s Role at S-21. Most of the insider witnesses this week claimed to have never received orders directly from Duch, although they all were aware that he held the highest position in the Security Office. One witness who did allege that he had received direct orders from Duch was Nhem En. The former S-21 photographer described Duch’s orders as “strict” and that “he allowed no mistake”. In his statement, the witness also surmised that although Duch seemingly received orders from Son Sen, they “were the same”. He further elaborated that it was Duch’s meticulous reporting to Son Sen, Pol Pot and Nuon Chea that enabled the latter to determine who should be smashed. According to the statement, it was effectively Duch who “gave the green light to Son Sen and Pol Pot”.

With regards to Duch’s direct involvement in acts of torture, Nhem En noted that he had once witnessed Duch beating a prisoner with a rattan stick.

David Chandler

On Thursday, the Chamber heard from expert witness David Chandler, a 76-year-old historian and expert on Cambodian history, whose research has focused on the period of Democratic Kampuchea. Chandler is the author of *Voices from S-21: Terror and History in Pol Pot’s Secret Prison* (“**Voices**”) – a book which is the culmination of four years of studying the S-21 archives and interviews conducted by the author in the mid 1990s. The Chamber and Parties questioned Chandler about *Voices*, focusing their questions on the characteristics of S-21 and the Accused Person’s role at the Security Center. Chandler’s testimony corroborated the Accused Persons testimony in certain important respects: the historian affirmed Duch’s view that he did not have the authority to make arrests and that he was under close and direct supervision of the party center. However, Chandler also maintained that Duch had an “outstanding enthusiasm” for his work, and that he did exhibit a certain degree of initiative and possess a certain amount autonomy in carrying out his duties at S-21. When given leave to provide his observations on the expert’s account, Duch expressed deep admiration for David Chandler’s work.

Role of S-21. According to Chandler, the CPK leadership’s conceptualization of S-21 was unique and not comparable to the Security Offices or detention centers of other Communist regimes. Chandler asserted that there were two key distinguishing features of this particular “total institution”: first, the existence of S-21, its mandate and operations, were kept completely secret. Second, prisoners were effectively being re-educated in order to be killed, insofar as giving their confessions and admitting they were wrong constituted “re-education”. For Chandler, this was the

great tragedy of the institution: that in effect, it was allowed to become a murderous killing machine because all those sent to S-21 would almost inevitably be “smashed”.

Functioning of S21.

Interrogations. In Chandler’s view, the fact that everyone brought to S-21 was deemed guilty “underpinned the interrogators’ role”. However, revealing evidence that may go towards mitigating the Accused Person’s sentence, Chandler stated that he had studied documents that showed Duch’s praising confessions that were not obtained under torture. In Chandler’s assessment, satisfactory confessions meant that minimum, or even no, torture might be used.

Torture. Chandler was questioned on the description of the treatment of detainees provided in *Voices* and asked to verify why he thought such techniques might amount to torture. The witness confirmed that certain practices he had detailed would not be considered torture under international law, but noted for the most part that the treatment of detainees accorded with the definitions provided by international legal instruments. He agreed that the depraved conditions at S-21 were part and parcel of a system designed to “break prisoners down” for the purpose of obtaining information through interrogation. In Chandler’s words, “mercy was to have no place in the prison”.

Female Detainees and Sexual Violence. Notwithstanding incidents of sexual abuse at S-21, Chandler clarified that there was no evidence to support the view that S-21 was a place where it was “open season” on women prisoners. While acknowledging that the situation at S-21 was volatile, being an enclosed compound filled with young men, he maintained that Duch would have stopped any incidents of abuse of female prisoners. Chandler also identified female Vietnamese detainees as the most vulnerable group at S-21, as they were regarded as “outside the human race” once the CPK’s conflict with Vietnam began.

Purges. Answering Judge Cartwright, Chandler confirmed the Accused’s description of the two main phases of purges (i.e., from 1975 to September 1976 - mainly of people associated with the former regime; and from 1976 till the end of the existence of S-21 – predominantly comprising CPK cadres). Chandler noted that it was likely that at least some of those being purged were, in fact, people who genuinely opposed the regime.

Confessions. Chandler affirmed that the accuracy of prisoners’ confessions was “of little concern” to the upper echelon. With regard to lists of traitors supplied by prisoners who had been interrogated, Chandler believed that prisoners were simply told to list everyone they knew, regardless of whether they were truly “enemies”. He surmised all this was done to satisfy the CPK leaders’ need to legitimate their paranoia about the regime – namely, that it was beset with internal and external enemies.

Duch’s Character and Involvement.

Character of the Accused. Chandler acknowledged that he had never interviewed Duch personally: his analysis of Duch’s personal role in the operation of S-21 and of his character was based on interviews he had conducted with former S-21 staff and victims, as well as his examination of S-21 documents. To him, Duch had “professional enthusiasm” for his job, and wanted S-21 to be seen by the party center and the international community as “a highly professional and efficient organization” and “one he could be proud of”. Consistent with his desire to not only perform

satisfactorily but to excel, Duch was continuously innovating and improving in his administration of S21.ⁱⁱ

Knowledge. According to Chandler, few things would have escaped Duch's attention as he was kept apprised of what happened at S-21 through his trusted immediate subordinates. This was how Duch knew to punish interrogators who behaved poorly or who did not toe the party line.

Difference made by Duch. The idea that Duch was the sole initiator of activities at S-21 was not acceptable to Chandler. He explained that it was consistent with the characteristics of the Chinese and Cambodian revolution that people were deliberately given leeway to behave in a "revolutionary manner". Presumably, this means that, among other things, Duch allowed his subordinates to improvise during interrogations.

A Matter of Choice? Alluding to the possibility that Duch's activities were not merely a result of him having no choice, Chandler pointed out that Duch was aware of the damage inflicted by his actions, yet his enthusiasm for his work appeared unflinching. Still, he acknowledged that documents revealed that Duch had suggested that "politics" be employed in place of torture. Notably, Chandler emphatically agreed that higher-ranking cadres would have been able to use a certain amount of discretion to protect people they favored.ⁱⁱⁱ Evidence showed that a hierarchical patronage system existed in Cambodia during this time, and would likely have contributed to this.

A Certain Sense of Historical Perspective. In some ways echoing earlier testimony provided by François Bizot, Chandler suggested that although the Accused Person's behavior was not excusable, it was to some extent understandable. Drawing from his years of immersion in the study of the tragedy that took place during the reign of the Khmer Rouge, Chandler observed that the inhumanity seen at S-21 was characteristic of a global phenomenon – despite being one we would hope to prevent. He suggested that almost anyone could be led to carry out the same atrocities if placed in the same conditions.

B. Arguments/Concerns Raised at Trial

Issue of DC-Cam Witness Statements Raised Again. The use of DC-Cam interviews during proceedings was raised again on Tuesday, when the Deputy National Co-Prosecutor attempted to question witness Lach Mean on a statement he had given to the NGO.^{iv} International Defense Counsel François Roux again reiterated the Defense's objection to the use of such statements, arguing that interviews outside the judicial context should not be used to test evidence elicited during the proceedings. The objection was overruled, with Judge Lavergne stating that statements given to NGO were permissible, provided the witness in question was available to be questioned on the conditions under which the statements were made.

The Procedure for the Reading of Sworn Affidavits Clarified. After the completion of Lach Mean's testimony on Tuesday, the President of the Chamber announced that the rest of day's proceedings would be dedicated to reading the sworn affidavits of the witnesses that it had decided not to summon. The Chamber determined that the procedure for reading sworn statements would be as follows: after the Greffier had read out the statement, the Parties would be given the opportunity to provide their observations on the evidence. The Accused would then be allowed to provide comments on the statement, should he wish to do so.

Defense Call for Further Reduction in the Witness List/Evidence Presented At Trial. In an ongoing effort to expedite proceedings, the Chamber continued to allow witness' sworn statements to be read into the record this week, *in lieu* of their giving testimony in Court. Despite these efforts, the Defense raised concerns about the repetitiveness of the accounts, pointing out that many of the facts confirmed by the testimonies were those that the Accused did not dispute.^v International Defense Counsel François Roux subsequently proceeded to file a verbal motion, invoking Rule 85 and 87 of the Internal Rules to exclude the testimony of several accounts on grounds that they were "repetitious and did not contribute to the ascertainment of the truth".^{vi} Deputy International Co-Prosecutor, Anees Ahmed, pointed out that the evidence was not repetitive but corroborated other accounts – as would be considered common in any major criminal case. He further proposed that if expeditiousness was the Defense' major concern, then measures such as having summaries read instead of the full statements should be considered. After deliberation during the afternoon break, the Chamber announced that it would revisit its schedule and determine whether a further reduction of witnesses could be made or whether summaries could be read out instead of the full statements. The President asserted however, that until such determination is made, the existing schedule of witnesses' examination and statement reading would continue.

Premature Ruling on The Use of Confessions Elicited under Torture. On Thursday when questioning expert witness David Chandler, International Civil Party Lawyer for Group 2 Silke Studzinsky mentioned S-21 confessions from several former interrogators. Mr. François Roux immediately reminded the Chamber of its previous recommendation that the content of confessions made under torture should not be used in a Court of Law as stipulated in the Convention Against Torture^{vii}. President Judge Nil Nonn sustained this objection without granting Ms. Studzinsky the opportunity to clarify whether her question was indeed about the content of the confessions or other aspects of the documents. There was also no inquiry to shed light on the conditions under which the confessions were likely to have been made^{viii}. While it is commendable to ensure the adherence to international standards in the proceedings, it may be more prudent in instances such as this to provide an opportunity to the Parties to clarify the direction of their line of questioning and to establish under what conditions the documentary evidence was obtained.

Witnesses' Right against Self-Incrimination v. Obligation to Tell the Truth. Following the appearance of insider witnesses before the Chamber, the right against self-incrimination has become a key concern during the proceedings. This week, despite constant reminders and explanation from the bench about this issue, and the provision of a legal counsel in the Courtroom to provide assistance, witnesses continued to experience difficulty in grasping the balance between their right against self-incrimination and their obligation to tell the truth. On Monday, for example, Sek Dan kept on refusing to answer questions that did not appear incriminating^{ix}, despite several attempts to explain to him that the evidence was not incriminating. Judge Lavergne also had to emphasize this point to witness Chiem Seu on Wednesday, when he exhibited reluctance in addressing the Judge's questions.^x

It was not clear to the monitors whether or not witnesses had a chance to speak to their counsel before the proceedings. However, it was obvious that witnesses exhibited confusion about their rights and obligations, which not only raised concerns about their ability to protect themselves from self-incrimination, but also affected the ascertainment of truth and the overall expeditiousness of the proceedings. Monitors recommend that witnesses are fully informed of their rights prior to entering the courtroom, and that WESU review its policies in this regard.

3. VICTIM PARTICIPATION AND VICTIM AND WITNESS PROTECTION & SUPPORT

Civil Parties Attendance As per last week, there were 9 civil parties attending the proceedings in the courtroom this week.

Civil Party's Right to Representation On Monday, a new International Civil Party Lawyer for Group 3, Ms. Fabienne Trusse Naprous, was recognized by the Chamber. During the proceedings on Tuesday, Wednesday, and Thursday, Civil Party Lawyers for Group 4, Mr. Hong Kim Soun and Mr. Yong Panith, were not present. However, Mr. Kong Pisey announced that he would represent Civil Party Group 4 at this time.

Civil Party Lawyers Continued to Display Laudable Cooperation. Following last week's practice, Civil Party lawyers this week continued to attempt to reduce the number of groups questioning witnesses, determining instead to allow for common representation amongst the groups. On Monday Civil Party Lawyers for Group 3 represented all four groups; on Tuesday, only Civil Party Groups 1 and 2, questioned the witness on behalf of the four groups; and on Wednesday, Civil Party Lawyers for Group 3 and 4 represented the four groups in questioning the witness on the stand. Not surprisingly, the number of Civil Party Lawyers questioning the witness increased on Thursday, as three Civil Party Groups examined David Chandler. The practice of opting for common representation seems to allow for a more coherent line of questioning and reduce the occurrence of repetitive questioning by Civil Party Lawyers. This continued cooperation is a commendable effort to facilitate the smooth running of the trial which monitors applaud.

Legal Counsel for Witness. This week, Kong Sam Onn continued to be present in the Court to provide legal counsel to the witnesses. He provided counsel and clarification about self incrimination to his clients, as well as ensuring that Parties frame questions in ways that the witnesses would understand.

4. TRIAL MANAGEMENT

Judicial Management

Flexibility in Time Allocation. Consistent with its earlier pronouncement to "accord more time to the Defense" where necessary, the Chamber on Monday allowed the Defense a total of 10 additional minutes to question witness Sek Dan.^{xi} The Chamber exhibited further flexibility on Thursday during David Chandler's examination. The International Co Prosecutor requested an extra 15 minutes to complete his questioning, which the Chamber allowed. The same addition was also granted to the Civil Party Lawyers upon request. Monitors further noted that the Defense exceeded its time allocation without reprimand from the bench.

Parties Attendance. During the proceedings this week, the Office of the Co-Prosecutors was represented by Deputy International Co-Prosecutor Mr. Anees Ahmed on Monday, Tuesday and Wednesday and Mr. William Smith on Thursday. National Co-Prosecutor Mr. Tan Se Narong appeared on Monday, Tuesday, and Thursday, and Mr. Yet Chakrya appeared on Wednesday.

After last week's absence, François Roux was present during proceedings this week. However, he announced that next week he would be absent and Ms. Canizares would represent the Defense instead. Kar Savuth continued to represent the Accused this week.

Public Attendance. Proceedings this week continued to be well-attended, and the ECCC Outreach Program continued to arrange the attendance of Cambodian public from different parts of the country. Monday’s trial saw the attendance of more than 350 Cambodians from different communities in Borey Chulsa district of Takeo province. On Tuesday, 400 people from Kirivong District were in the public gallery. Approximately 300 Cambodian local villagers from Kampong Siem and Srey Santo District, Kampong Cham province, attended the proceedings on Wednesday. The last day of the proceedings this week was attended by 400 villagers from different communes in Puok district, Siem Reap province.

Courtroom Etiquette

Language Describing Witness’ Capacity to be Questioned. Monitors noticed that both the Chamber and Counsel for Witness made somewhat derogatory references to witnesses’ ability to answer questions this week.^{xii} While references to witnesses’ lack of education and literacy was evidently made with good intentions, the approach did not appear to be sensitive to the witnesses themselves. Monitors recommend that the Chamber and Counsel refrain from using judgmental language when assessing witnesses’ capacities in this regard. For example, the bench could make reference to the need to take care when asking questions “due to the witness’ lack of familiarity with the courtroom environment” or “due to the difficulties many people experience when understanding legal language”, rather than referring to the skills of the particular witness in question.

Parties Reminded Not to Speak Before Being Given Leave. The President of the Chamber again had to forcefully remind the Parties not to speak before being given leave on Tuesday morning. During the discussion on the use of statements made to DC CAM as the basis for witness questioning (see the Legal & Procedural section of this report), the Deputy International Co Prosecutor rose without first seeking the President’s approval to reply to the International Defense’ observation. This elicited a stern rebuke to the bench, which on the occasion seemed to be merited as the proceedings were becoming rather unruly.

Mobile phones in the Public Gallery. The prohibition against the use of mobile phones in the public gallery was not strongly enforced this week, as a cell phone rang loudly during the proceedings on Monday. This raises the concern that rules meant to protect the decorum in the public gallery are not properly enforced.

Question on What is Construed as “Official Translation” Left Unaddressed. On Tuesday, the issue of what constitutes the official translation of documents was again raised during the proceedings. As the President of the Chamber announced that a number of witnesses’ sworn affidavits shall be read out in Court, he remarked that Parties should heed the simultaneous interpretation of the reading as discrepancies had been found in the French and English translation of the documents. This prompted Mr. Kong Pisey, the National Lawyer for Civil Party Groups 2 and 4, to inquire to the Chamber as to which version should be considered the official translation of the documents: namely the written record read out during proceedings, or the existing translated document. In his view, if the court record is considered the official translation, the examination of the evidence should be suspended until the international parties are given leave to study it. This query was left unaddressed by the Chamber.

Time Management

DAY/	START:	MORN.	LUNCH:	AFT.	RECESS:	TOTAL HOURS IN
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DATE:		BREAK:		BREAK:		SESSION
MON. 03/08/09	09.00AM	10.35 – 11.05AM	12.05 – 13.35PM	14.40 – 15.03PM	16.15PM	4 HOURS 52 MNs
TUE. 04/08/09	09.05AM	10.37 – 10.57AM	12.10 – 13.35PM	14.40 – 15.00PM	16.12PM	5 HOURS 12 MNs
WED. 05/08/09	09.00AM	10.40 – 11.00AM	12.05 – 13.30PM	14.40 – 15.20PM	16.15PM	4 HOURS 40 MNs
THURS. 06/08/09	09.00AM	10.40 – 10.55AM	11.50 – 13.30PM	14.30 – 14.50PM	16.15PM	5 HOURS
AVERAGE NO. OF HOURS IN SESSION :					4 HOURS 56 MINS	
TOTAL NO. OF HOURS THIS WEEK :					19 HOURS 44 MINS	
TOTAL NO. OF HOURS, DAYS, AND WEEKS AT TRIAL:					235 HOURS AND 14 MINS OVER 54 TRIAL DAYS OVER 15 WEEKS	

ⁱ David Chandler during the questioning of the International Defense Lawyer on Thursday, August 7, 2009

ⁱⁱ One example of an innovative measure taken by Duch to ensure that S-21 was an exemplary institution was to make multiple copies of confessions for systematic distribution to security offices and committees throughout Cambodia.

ⁱⁱⁱ Civil Party Law for Group 1, Alain Werner, had put to Mr Chandler the testimony of Mam Nai. Mam Nai had stated in relation to an arrest of his former student, that had he been informed of this beforehand, he would have been able to prevent the arrest.

^{iv} See KRT Monitoring Report Week 4.

^v Mr. Roux also asked the Office of the Co-Prosecutors to point out which new and relevant facts can be found in the statements that were yet to be read. Anees Ahmed recalled determining which witnesses' accounts were relevant was a matter that the Chamber should determine.

^{vi} The International Defense Counsel specifically referred to Rule 85(1), which reads "... In consultation with the other judges, the President may exclude any proceedings that unnecessarily delay the trial, and are not conducive to ascertaining the truth" and Rule 87(3), which reads "... The Chamber may reject a request for evidence where it finds that it is: a) irrelevant or repetitious; b) impossible to obtain within a reasonable time; c) unsuitable to prove the facts it purports to prove; d) not allowed under the law; or e) intended to prolong proceedings or is frivolous.

^{vii} See KRT Monitoring Report Week 7.

^{viii} Preceding his answer to Ms. Studzinsky's next question, Chandler stated that he believed the confessions she had referred to earlier were probably not made under torture, because former interrogators at S-21 knew very well what was awaiting them if they did not respond.

^{ix} This was most obvious during Mr. François Roux's questioning. The witness refused to answer inquiries about his age and the time he worked in the rice field prior to becoming a staff member at S-21. Counsel for witness had to approach the witness in a seeming effort to clarify the matter.

^x The witness exhibited reluctance in answering questions about his feelings when he was working at S-21. Judge Lavergne issued the same reminder as the President had to Sek Dan – namely, that the witness' right to refrain from answering questions only pertains those that may incriminate him. While Chiem Seu finally answered the Judge's question, he remained visibly tense during the rest of the examination. The witness acknowledged that he feared the Judges. At one point during the questioning

by the Co-Defense the witness expressed his unwillingness to answer further questions, although he then conceded to continue after consultation with his lawyer.

^{xi} This included the time the witness took to consult his counsel about his rights and obligations as a witness, which was less than 5 minutes.

^{xii} On Monday, President Judge Nil Nonn repeatedly reminded Parties to shorten and simplify questions posed to Mr. Sek Dan, bearing in mind his “poor memory and limited education”. Noticeably, this tone was also adopted by Kong Sam Onn, the lawyer for witnesses, who on Wednesday was representing Chiem Seu. In his effort to ensure parties forming questions in succinct manner, he also referred to the witness’ lack of education and literacy as well as his profession of “just a palm juice gatherer”.