



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia

Chambres Extraordinaires au sein des Tribunaux Cambodgiens

**ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ**

Kingdom of Cambodia

Nation Religion King

Royaume du Cambodge

Nation Religion Roi

អង្គជំនុំជម្រះសាលាដំបូង

Trial Chamber

Chambre de première instance

TRANSCRIPT OF TRIAL PROCEEDINGS - KAING GUEK EAV "DUCH"

PUBLIC

Case File N° 001/18-07-2007-ECCC/TC

11 August 2009, 0905H

Trial Day 57

Before the Judges:

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

Lawyers for the Civil Parties:

HONG Kimsuon
TY Srinna
KONG Pisey
Silke STUDZINSKY
Alain WERNER
Fabienne TRUSSES-NAPROUS

Trial Chamber Greffiers/Legal Officers:

SE Kolvuthy
DUCH Phary
Natacha WEXELS-RISER
Matteo CRIPPA

For Court Management Section:

KAUV Keoratanak

For the Office of the Co-Prosecutors:

TAN Senarong
Anees AHMED
Vincent DE WILDE D'ESTMAEL
PICH Sambath
Zachery LAMPEL

The Accused:

KAING Guek Eav

Lawyers for the Accused:

KAR Savuth
Marie-Paule CANIZARES
Heleyn UÑAC

I N D E X

WITNESSES

MR. SAOM MET

Questioning by Mr. Tan Senarong commences	page 4
Questioning by Mr. Ahmed commences	page 7
Questioning by Ms. Ty Srinna commences	page 14
Questioning by Ms. Trusses-Naprous commences	page 20
Questioning by Mr. Kar Savuth commences	page 23

List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MR. AHMED	English
MS. CANIZARES	French
MR. DE WILDE D'ESTMAEL	French
MR. DUCH PHARY	Khmer
MR. HONG KIMSUON	Khmer
MR. KAR SAVUTH	Khmer
JUDGE LAVERGNE	French
MR. SAOM MET	Khmer
MS. SE KOLVUTHY	Khmer
MS. STUDZINSKY	English
MR. TAN SENARONG	Khmer
THE ACCUSED	Khmer
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MS. TRUSSES-NAPROUS	French
MS. TY SRINNA	Khmer
MR. WERNER	English

1

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

2 (Judges enter courtroom)

3 [09.05.20]

4 MR. PRESIDENT:

5 Please be seated. The Chamber is now in session.

6 We will continue to hear the testimony of the witness, Saom Met.

7 Before we continue listening to the witness, I would like to give
8 the floor to the Co-Prosecutors to question this witness. You
9 have 30 minutes.

10 The Co-Prosecutor, can you pause for a moment? Alain Werner, you
11 may proceed.

12 MR. WERNER:

13 Good morning, Your Honour. Sorry to be on my feet.

14 Just to report very, very briefly following the observation from
15 the defence yesterday, that for next week they may have some
16 issue with one of our civil parties, E2/50, and I told Your
17 Honours yesterday that we would give some new materials for
18 inspection for the defence, and we did.

19 So I just want to report that the defence was able to see this
20 material and, again, a motion will be filed on Thursday,
21 hopefully, with all the materials for all the parties. Thank
22 you.

23 MR. PRESIDENT:

24 I notice the presence of the lawyer. You may proceed. The civil
25 party counsel, you may proceed so that we would not lose time in

2

1 hearing the testimony of this witness.

2 MS. TRUSSES-NAPROUS:

3 Mr. President, I would just like to intervene here so that we can
4 save time later.

5 With regard to the research that we've been able to conduct in
6 the files of our civil parties, we are processing some documents
7 but, at this point, we can indicate today that we are waiving the
8 hearing of E2/82, and we hope to be able to provide the documents
9 for E2/81 and we hope to have these documents before tomorrow.
10 If that is not the case, we will indicate that we are waiving our
11 right to have this civil party heard by the Court.

12 [09.09.09]

13 Lastly, we have taken cognizance of the Court's decision in
14 relation to the protection of civil party E2/89. We offer no
15 challenge, nor does the civil party, who has agreed to appear
16 normally. I am indicating this so that the file can be processed
17 and sent to the defence as soon as possible.

18 These are my submissions for this morning. Thank you.

19 (Deliberation between Judges)

20 MR. PRESIDENT:

21 The civil party counsel for group 3, can you state again the
22 purpose of your submission regarding the civil parties that you
23 are representing and which civil party statements that you wish
24 the Chamber to examine, or what you have submitted is the
25 information for the Chamber only?

3

1 MS. TRUSSES-NAPROUS:

2 Mr. President, I was just making this observation so as to help
3 the planning for the day of the 17th, on which date we are going
4 to examine the modalities for the hearing of the civil parties.
5 So in order to deal with the problem of the Chamber's planning, I
6 was saying that we are no longer going to call civil party E2/82
7 and that we are processing the documents that we should have
8 today or tomorrow, and this pertains to civil party E2/81.

9 If we do not obtain the documents, we are indicating that we will
10 not ask for this civil party to be called. If we do have the
11 documents, then we shall maintain our request for the party to be
12 heard. So this is a matter of ours. Under normal circumstances,
13 the documents should be available when needed.

14 [09.13.06]

15 MR. PRESIDENT:

16 Judge Lavergne, you may proceed.

17 JUDGE LAVERGNE:

18 Just to clarify, you say that you are giving up the hearing of
19 one civil party and that if you do not have enough documents to
20 provide to the Court you may do the same for the second civil
21 party.

22 Perhaps it would be better if you were to tell us whether this
23 waiver is a complete withdrawal of the civil party application or
24 it is just a waiver of the hearing because they are not the same
25 thing, especially with regard to the defence.

4

1 MS. TRUSSES-NAPROUS:

2 This pertains solely to the hearing of the civil party.

3 MR. PRESIDENT:

4 Now, I would like to give the floor to the Co-Prosecutors to put
5 questions to this witness.

6 MR. TAN SENARONG:

7 Thank you, Mr. President.

8 [09.14.34]

9 QUESTIONING BY THE CO-PROSECUTORS

10 BY MR. TAN SENARONG:

11 Q.Good morning, Mr. Saom Met. My first question to you.

12 Yesterday, you described about the tortures committed in the
13 detention facility at S-21 while you were guarding outside at
14 those special prisons.

15 Did you ever witness the torture act where a prisoner was
16 stripped off and water was poured on the prisoner and a fan was
17 used to cool down the water?

18 A.As I said, whatever I said, it was all true.

19 Q.Thank you. In your interview with the Co-Investigating
20 Judges, you mentioned the vicious torture where a prisoner was
21 stripped of clothes and water was poured and a fan was used to
22 cool the water. So you still stand by your statement?

23 A.Yes, it was true. I do not fabricate it.

24 Q.Second question. When you worked as a guard at S-21, did you
25 ever participate in training where you were taught about the

5

1 rules of how to protect and how to avoid prisoners from escaping
2 and various other measures?

3 [09.16.21]

4 A.Yes, of course, there were trainings, livelihood meetings, and
5 a group chief and a unit chief would give us instruction the
6 disciplines and to not allow the prisoners escape or not to be
7 given in to the prisoners, and not to the prisoners to conduct
8 any activities or to let them die or to go freely anywhere. The
9 discipline was very strict at the time.

10 MR. TAN SENARONG:

11 With the President's leave, I would like to show a document,
12 P0000025 on the screen.

13 MR. PRESIDENT:

14 The AV officer, can you show the document with the said ERN
15 Number?

16 BY MR. TAN SENARONG:

17 Q.Mr. Saom Met, this is a drawing by Vann Nath who was a former
18 S-21 prisoner. Yesterday, you responded to Judge Lavergne that
19 you witnessed the torture by using rattan sticks, by using
20 electrical shock, and nail pulling.

21 Can you tell the Chamber now regarding the tortures as you
22 mentioned yesterday, whether you witness those tortures as shown
23 on this drawing?

24 A.At that time, the torture, which was done at the place where I
25 guarded, was different from the place where the nails were

6

1 pulled, because at that location when the prisoners were taken
2 out to be interrogated and when they came back, I saw the signs
3 of nails which had been pull, but at my location nails were not
4 pulled and the water was not pour on to the prisoner.

5 [09.19.02]

6 Q.Thank you. And what about the using of a needle to insert
7 under the nail. Did you witness that?

8 A.At that time, I did not witness it personally. I saw a
9 prisoner was being walked to be detained at the location where I
10 guarded.

11 Q.When you were transferred to Prey Sar, what about your unit --
12 the unit which instructed you and transferred you to Prey Sar,
13 prohibited you from saying anything about the activities at S-21?

14 A.When I was assigned to go there, I was not instructed on
15 anything regarding the saying about the S-21 activity. I was
16 told that comrade, you prepare your own belonging and now you are
17 transferred to go and work at Prey Sar. That was all.

18 Q.Thank you. Upon your arrival at that location, can you tell
19 the Chamber the structure of administration at that location?

20 A.Upon my arrival, I was inserted into a unit working in the
21 rice fields, so there was nothing strange besides digging canals
22 or building dams, and the foods that we received was not
23 sufficient and the working conditions was hard. We worked more
24 hour at that location and the discipline was strict.

25 Q.Thank you. Also, at that location, what were you regarded as?

7

1 Were you regarded as in the medium category or serious category
2 or light category?

3 [09.21.58]

4 A. It was my understanding at that time that upon -- when I was
5 sent to that location, I was not yet categorized into any of
6 these levels.

7 The concern was that my brother was arrested and detained at S-21
8 and, as I reported earlier, only Huy who told me about the arrest
9 of my brother. At first, he asked whether I had a brother named
10 Saom Meng and where he lived and I told him accordingly, from
11 what I knew, he lived at the airfield in Kampong Chhnang. Then
12 Huy told me that he was arrested and asked me to be silent and
13 not to break this news, otherwise, I would have been arrested.
14 And from the understanding of what he said, I had to keep it
15 secret. That is all.

16 MR. TAN SENARONG:

17 Thank you, Mr. Saom Met. I do not have any more questions for
18 you and I would like now to give the floor to my international
19 colleague.

20 BY MR. AHMED:

21 Thank you, Mr. Saom Met. I am one more prosecutor, like my
22 friend, who are assisting this Court in searching for the truth
23 about what happened in S-21.

24 I thank you, in fact, we thank you for your truthfulness that you
25 have demonstrated when you gave an interview to the investigators

8

1 of the Investigating Judges yesterday, and when you were taken by
2 the Investigating Judges to S-21 during reconstruction.

3 [09.24.08]

4 I am just -- for the purposes of the learned Judges here, trying
5 to confirm what you spoke to the investigators of the
6 Investigating Judges so that the judges and the public have a
7 clear idea of what happened at S-21 and a complete record of
8 history is maintained.

9 So I will not ask many questions, but just for your confirmation
10 about what you have already told various bodies like the
11 investigators of this Court.

12 During your interview with the investigators in November just
13 about two years ago, you told them about how interrogation took
14 place and these were your words, and I would just request you to
15 confirm for us this is what your understanding of the
16 interrogations was:

17 "Sometimes Tuy interrogated and, if he was unclear, then Duch
18 came in and asked the prisoner, "Are you going to talk to us or
19 not?" "

20 Do you think this is what happened?

21 A. Whatever statement I made in my interview is still true. I
22 did not fabricate anything and maybe I could not even recall more
23 details regarding those accounts because it has been so many
24 years already. So everything was true.

25 Q. Thank you very much, Mr. Saom Met. I'm not meaning at all

9

1 that you're fabricating anything. I'm just trying to record for
2 this Court exactly what you told the investigators, so when these
3 judges decide at the time of their judgment they have the full
4 truth before them.

5 [09.26.14]

6 And I will just read to you, and you can say the same thing,
7 whether you agree to what you said to the investigators:

8 "The prisoners would answer, "I already reported everything to
9 you, Brother. There is nothing else to report". Then Duch would
10 kick the prisoner once or twice and say, "Soon you will know". A
11 moment later they would come up and threaten and beat the
12 prisoner so that the prisoner would answer."

13 I just would want you to attest you to tell the Court that this
14 is indeed what you told the investigators?

15 A.At that time I told the investigators of the Co-Investigating
16 Judges office and it is true.

17 Q.And one last thing and then I'll be done with, just for your
18 confirmation.

19 You told the investigators:

20 "If Duch did not go anywhere he would come to the prisoners'
21 site almost daily."

22 Can you just confirm that for us, please?

23 A.At that time I did make my statement, but probably it was a
24 little bit excessive. Actually, he did not come on a daily basis
25 so I apologize for this. My mistake.

10

1 [09.27.56]

2 Q.So how often do you think he came?

3 A.At that time, if he wanted to grasp the understanding of the
4 case he would come, or when he was available he would just walk
5 through and inspect in the prisoners' rooms.

6 Q.Thank you very much, Mr. Saom Met.

7 And I'll just recall a statement that you gave about three years
8 ago to the investigators of the Documentation Centre for
9 Cambodia. I will not read that statement to you, but just
10 extract one sentence from there and request for you to confirm
11 that sentence.

12 You told the investigators of the Documentation Centre for
13 Cambodia -- this was in January 2003 -- that:

14 "Many foreigners, including Americans, were burned on the road
15 west to S-21."

16 Do you recall that happening?

17 A.At that time, there was a guard who spoke about it and I
18 overheard it, but I myself did not witness it. That is all.

19 Q.Did that guard tell you that he saw the burning of the
20 foreigners?

21 A.He did not tell me personally, but he told the people who
22 worked with the record-keeping and the documents and I overheard
23 it.

24 [09.30.15]

25 Q.Thank you very much for that clarification and for your --

11

1 once again, your truthfulness.

2 Now, I will ask you three or four questions about the people who
3 were imprisoned whom you were entrusted to guard.

4 There is evidence before this Court that they were made to write
5 very long confessions. Did you see them doing that with pen and
6 paper in their rooms when you guarded them?

7 A.Yes, I did.

8 Q.Were you also told that these people were very important
9 people and that special care should be taken to protect them?

10 A.The chief of the team told us that the prisoners were
11 important people and that we had to take special care.

12 Q.Did Duch also tell you such kind of a thing?

13 A.No, he didn't, but the chiefs of our team told us about this.
14 I believe that these kinds of instructions or advice could have
15 been passed down from him to the chiefs of our team.

16 [09.32.17]

17 Q.Do you remember any prominent figure or any names of persons
18 that you guarded or your colleagues guarded in that special
19 prison?

20 A.No, I don't because at that time we were not allowed to know
21 this, even among our guards.

22 Q.You were chosen for this very important task of guarding
23 special prisoners. Do you think you were chosen for some special
24 quality that you had over and above other guards who were
25 guarding ordinary prisoners?

12

1 A.I don't know what special quality I had, but I was assigned by
2 the superior, and illiterate people would be assigned to a
3 different section while people who would be able to read and
4 write would be assigned to guard these prisoners.

5 Q.Just one or two last questions about your interaction with
6 Duch, the accused here.

7 You saw him very regularly. What kind of a figure was he for the
8 guards in S-21?

9 A.I cannot tell anything about his characteristic back then.

10 Q.Did the guards and even your superiors fear him? Were they
11 afraid that if they did anything that annoyed him they may be
12 punished?

13 A.Of course I was afraid of him. At the messenger unit, which
14 consisted of about 50 people, after all only four to five people
15 remained. The rest disappeared gradually and we could not see
16 their faces during meal times any longer, so I started to fear
17 him.

18 Q.How was he when he talked to the guards? Was he smiling, was
19 he arrogant?

20 A.I think he did not talk to guards in an arrogant manner at
21 all. Sometime he smiled, sometimes he laughed.

22 Q.Did you see anybody higher than Duch in S-21 and especially
23 coming to the prisoners, the special prisoners whom you were
24 guarding?

25 A.No, I didn't. I didn't see any persons higher than him who

13

1 came to the location. I saw only him, Chan, and Hor; no other
2 people.

3 [09.36.38]

4 Q.This means for the two years that you were guarding you saw
5 Duch in control of S 21 and always in charge, and everybody else
6 fearing him. Is that a correct assessment?

7 A.Yes, it is correct.

8 Q.And you may not have heard it, and you can tell us if that is
9 not the case, but did ever Duch in any political meeting or at
10 any other time that you heard him say that if anything wrong
11 happened at S-21 he will be punished by his superiors?

12 A.No, I did not hear that.

13 MR. AHMED:

14 Thank you very much, Mr. President. I have no further questions
15 for this witness.

16 And thank you, Mr. Saom Met, for your truthfulness and for your
17 forthrightness.

18 MR. PRESIDENT:

19 Next we would like to give the floor to the civil parties lawyers
20 to be able to put questions to this witness. You take the floor.

21 MS. TY SRINNA:

22 Mr. President, Your Honours, I would like to indicate the time
23 allocation for the civil party lawyers today. We have two groups
24 now. The first group begins with -- in the first group I will
25 put questions first and the third group will put questions later.

14

1 I have a couple of questions.

2 [09.38.56]

3 QUESTIONING BY CIVIL PARTY COUNSEL

4 BY MS. TY SRINNA:

5 Q.My name is Ty Srinna, a civil party lawyer of group 1, and Mr.

6 Alain Werner, who is my co-colleague. Mr. Saom Met, good

7 morning.

8 I would like to seek clarification from you in relation to the

9 statement you made on the 28th of November 2007, with ERN

10 00163653 in Khmer; in English, 00163663. Before the

11 Co-Investigating Judges you responded that according to what you

12 remember during the time you were on guard at each room, whether

13 you heard any screaming from the detainees, and you said that you

14 heard detainees cried for help and begged that the interrogators

15 stop beating them and that they did not want them to beat them.

16 Do you stand by your statement?

17 A.I do stand by my statement that I made before the

18 Co-Investigating Judges.

19 Q.May I also seek another point of clarification? You were

20 asked whether you had observed that detainees in each room

21 received torture, and you said that everyone was tortured and

22 they had been inflicted serious tortures, and when the guards saw

23 detainees being interrogated they themselves, the guards, were

24 terrified also. Do you stand by your statement that the guards

25 were also frightened by the practice of tortures?

15

1 A.I do stand by my statement and I don't ever change it.

2 [09.41.40]

3 Q.Next question. Yesterday you indicated, in relation to Tuy,
4 you said that one day Tuy used a stick to beat on the detainee on
5 the back until he was bleeding, and then Tuy used other
6 instruments of tortures, including the electric wire to attach to
7 his earlobes to electro-shock the detainee until he passed out.
8 And when he regained consciousness then Tuy re-interrogated him.
9 So do you believe that Tuy was such a cruel person like what you
10 said in your statement? Can you describe his character?

11 A.What I have said earlier is true and in such interrogation
12 violence could not be avoided.

13 Q.I just would like you to tell us about the personality of Tuy.
14 Was he an arrogant, cruel person or just a normal individual?

15 A.Tuy, who was the interrogator, was not a usual person. As an
16 interrogator he was very cruel

17 Q.Do you know whether Tuy had any relationship with Duch, the
18 accused?

19 A.Interrogators and Duch relationship is not known to me.

20 [09.44.00]

21 Q.While Tuy inflicted tortures on the detainees do you know that
22 Duch was satisfied with such acts?

23 A.I have no idea.

24 Q.I may proceed with another question.

25 In your statement of your interview with the DC-Cam on the 31st

16

1 of January 2002, with ERN number 0051666 in Khmer; in English,
2 00337636 -- in that document you gave the interview to the staff
3 member of DC-Cam and you were asked whether you gave food or rice
4 to the detainees or whether you knew them, and you said you only
5 met your chief, who was the chief of the platoon -- no, the
6 battalion, correction. And you said he was the chief of
7 battalion and -- the chief of Battalion 703 and:

8 "I was his former messenger and when I witnessed such thing, I
9 was in dismay. I was afraid I would be trapped in the same
10 situation when that work was to be discovered."

11 My question is, what happened to Phy when he was arrested and
12 sent to S-21?

13 A.At that time I forgot, but now with this kind of refreshness
14 and I can recall that Phy was the chief of my unit, Unit 303, and
15 it was during the wartime, '74-'75, and I saw him under the
16 wooden house and then I left because I was afraid that I would be
17 implicated because of my association with my chief. And then
18 when he was -- I believe that when he was tortured or
19 interrogated it would implicate me, and I think I remember this
20 memory.

21 [09.47.18]

22 Q.Do you remember any staff from 703 who worked at S-21?

23 A.There were people from 703 who worked at S-21 because the
24 messenger unit consisted of all people from 703 and they were
25 mixed up with the people from the west and from Kampong Chhnang,

17

1 but actually these people had already been working in the unit
2 before we came.

3 Q.Do you know that the majority of staff members from Division
4 703 were smashed at S-21?

5 A.I know that a lot of people from 703 were smashed, but we only
6 learned from one another. We did not witness the execution
7 because the chief of the unit would tell us that people from 703
8 have already been taken in and taken out.

9 Q.Do you know how many people from 703 were executed?

10 A.No, I don't know because I did not fully observe the numbers
11 of people who were killed.

12 Q.When you were told that all people from 703 have already been
13 brought in, did you seek any clarification from the person who
14 told you about this; why people from 703 were all arrested?

15 A.No, I did not seek any clarification from my colleague because
16 it was the rule at the location that we were not allowed to
17 communicate with one another.

18 [09.49.33]

19 Q.Yesterday, you indicated in the hearing that there was a small
20 incident in relation to the staff member of S-21 who left a scarf
21 near the window and then he left, and that the detainee took the
22 advantage of the opportunity to grab that scarf to attempt
23 suicide. But then you was quick to be there and that the attempt
24 was failed, and that you tried to help conceal the secrecy in
25 order to avoid any prosecution on that guard. Did you say that?

18

1 A.Of course, I did, yes.

2 Q.Did you intend to help the guard?

3 A.Yes, I did, because if I did not help to hide this incident
4 that guard could have been jailed or could have been refashioned
5 or re-educated.

6 Q.I would like to ask a question in relation to Huy. This
7 morning, you said something about Huy. Was it true that Huy
8 helped you when he sent you to the rice fields?

9 A.Yes, it is true. If Huy did not help me, I would be in big
10 trouble already.

11 Q.In relation to your work at S-21, to what extent were you
12 given the authority to operate within the vicinity of S-21?
13 [09.52.14]

14 A.Could you please repeat your question? I don't understand it.

15 Q.Thank you. I will try my best to simplify the question.

16 Regarding the power or authority you can exercise at S-21, did
17 the upper echelon or your superior delegate any kind of power to
18 you to operate to what -- to the extent at S-21?

19 A.No power or authority was ever be delegated to me, and I was
20 only assigned and sanctioned to guard the detainees and that's
21 all.

22 Q.I would like to move back a little bit and I would like to
23 apologize for skipping one question. I would like to also seek
24 clarification regarding the help of Huy, who tried to help you by
25 sending you to work at Prey Sar.

19

1 At that time Huy could help you, of course, but was it possible
2 to help the other people in general at S-21 at that time; for
3 example, by way of sending you to the field, as an example, as
4 what Huy did to you?

5 A.Huy helped me with that but I did not know whether it was
6 possible for him to help the others but, of course, he did help
7 me.

8 Q.Next question. I would like to put further questions in
9 relation to your rights of communication to the superior.
10 Did you have the rights to meet directly with superior or upper
11 echelon and to contact with them?

12 [09.55.01]

13 A.At that time, I was only delegated some kind of functions or
14 tasks and I was instructed by my chief of the team, that's all,
15 not from the other superiors.

16 Q.What kind of information could you obtain or did you have the
17 right to obtain from your chief of the unit? Were you able to
18 receive or access information in relation to politics or the
19 armed conflicts?

20 A.At that time I'm not sure whether I obtained any information
21 regarding these matters or I had the right to do so. I think I
22 didn't.

23 Q.Now, I'm talking about the freedom of movement. At that time,
24 you said you saw the accused wandering in the vicinity of the
25 location. So can you please tell the Court whether during that

20

1 time, when you worked as a staff at S-21, what was your freedom
2 of movement and what was the freedom of the accused of movement?
3 [09.57.03]

4 A. At that time, honestly, when Duch came, whether I was on guard
5 or off duty, I saw him because how could I not see him because I
6 was working there?

7 Q. I'm sorry to interrupt, but I would like to ask about your
8 rights of movement to walk within the S-21 and move about
9 elsewhere as opposed to the rights of movement of the accused.

10 A. The accused freedoms of movement was not known to me, but I am
11 sure that I am -- I was very well disciplined and I could not
12 move about easily. I was not allowed to do so, and I could only
13 move back to the kitchen and the place where I worked.

14 MS. TY SRINNA:

15 Thank you very much, Mr. Saom Met, on behalf of the civil party
16 lawyers and the civil parties. We are very grateful to your
17 assistance.

18 MR. PRESIDENT:

19 Civil party lawyers group 3, you take the floor.

20 BY MS. TRUSSES-NAPROUS:

21 Q. Good morning, Mr. Saom Met. I am Fabienne Trusses. I am the
22 lawyer for civil parties group number 3. I only have a few
23 questions to put to you.

24 [09.59.05]

25 You spoke to us about the conditions, which for you were

21

1 extremely harsh, conditions for prisoners who were in the special
2 unit which you were guarding. But the question that I would like
3 to ask you is, do you know what the conditions were for the other
4 prisoners who were in the other buildings?

5 A.I did not know what happened to the other people in other
6 buildings.

7 Q.Did you not discuss this with the other guards?

8 A.No, I didn't because the discipline was very strict. When we
9 were supposed to guard the detainees then our duty was to guard
10 the detainee, not anything else.

11 Q.Thank you, Mr. Saom Met. You also said in your statement that
12 Duch was responsible for the prisoners' entry and exit. You knew
13 this although you did not know exactly what his duties were; this
14 is what you stated. So how could you know this?

15 A.I knew it because of the group chief or the team's chief
16 during the meetings. During the meetings, we were told that
17 planning was coming from Brother Duch through Hor, Huy and Sre
18 and then to us.

19 Q.You also stated that you witnessed torture because when you
20 were on guard you looked through the skylight and saw what was
21 going on in the cells. You are also one of the people who
22 provided information not provided by other guards. This is in
23 particular with regard to some forms of torture inflicted on the
24 prisoners, such as using electric shocks on the genitals.

25 [10.03.01]

22

1 Can you confirm this statement, and can you give us further
2 detail as to what you saw when you witnessed these scenes? Could
3 you also tell us on how many occasions you were able to see what
4 was going on?

5 A.I would like to clearly state that what I saw and knew was
6 true and I did witness it at the time, and now I don't want to
7 repeat what I already said.

8 Q.Thank you. You have confirmed this once more. It is
9 important in my view. You are the only one who has provided some
10 of these clarifications.

11 Now, I would like to put to you a more personal question. What
12 did you feel when you learned that your brother had been
13 arrested?

14 A.Upon hearing the news that my brother was arrested, my feeling
15 of course was not stable. I was anxious and I did not focus much
16 on my work at the time, but Huy advised me to be strong and not
17 to say anything and that he would try to help me by concealing
18 that information. That was all.

19 Q.Thank you.

20 I would now like to turn to Prey Sar. Do you know whilst you
21 were at Prey Sar whether there were prisoners freed there?

22 A.When I went to stay at Prey Sar it was difficult for me to
23 clearly see which location was for the prisoners or which were
24 the prisons itself because my main focus at the time was to work
25 in the rice fields.

23

1 Q.Thank you, Mr. Saom Met. I have no further questions for you.

2 MR. PRESIDENT:

3 Next, I would like to give the floor to the defence counsel if
4 they have questions to be put to this witness. You may proceed.

5 [10.06.50]

6 MR. KAR SAVUTH:

7 Thank you, Mr. President. Good morning, Your Honour. Good
8 morning, ladies and gentlemen.

9 BY MR. KAR SAVUTH:

10 Q.Mr. Saom Met, you stated that Huy assisted you and if Huy were
11 to report about you then it would be the end of you. Is this
12 correct?

13 A.That is true.

14 Q.So regarding the arrest of S-21 staff, if the lower level
15 subordinates, for example the chiefs of platoons or companies
16 that did not report to Duch, then Duch would not know about those
17 arrests. Is this correct?

18 A.It's problematic if the lower level did not report to the
19 subordinate -- to the upper level, to Duch, then Duch would not
20 know. During each livelihood meeting we were criticized or we
21 had to self-criticize and, based on the results of those
22 criticisms and the qualities, then research would be made and
23 people would be arrested later on.

24 Q.You were a guard. At rooms where you guarded did you ever see
25 the display of the 10 rules of the Santebal?

24

1 A.I did not know about the Santebal rules. I have forgotten it.

2 It has been so many years already.

3 [10.08.46]

4 Of course there were strict rules regarding walking, standing,
5 sleeping, eating, everything. I just do not know how many of
6 those rules.

7 Q.Can you confirm again the 10 Santebal rules that I just said,
8 were they displayed in the interrogation room or on a wall
9 anywhere, for example "Rule 1: you had to answer straight to the
10 question asked and do not stray from it"; did you ever see such
11 display?

12 A. At that time I did not se anything on the wall. I only
13 learned the rules during the meetings but it was not written on
14 the wall. I'm not sure. Here I talk about myself. It might be
15 displayed somewhere else.

16 Q.D28/3 in the document 00163563 you told the investigators that
17 the prisoners were beaten to confess and if they did not confess
18 they would be beaten to death. Is this true?

19 A.My statement was true. Thank you.

20 Q.Did you ever see an interrogator torture a prisoner to death?

21 A.The interrogator did not beat the prisoner to death. Once the
22 interrogation was complete the prisoner would be taken out. Of
23 course they were tortured during the interrogation but they were
24 not dead.

25 Q.So your statement before the investigators that if a prisoner

25

1 did not confess the prisoner would be beaten or tortured to death
2 and now you clearly state to the Chamber that during the
3 interrogations a prisoner was not beaten to death.

4 [10.11.25]

5 So are you standing by your statement you just made before this
6 Chamber or the statement before the investigators?

7 A.At that time I made a statement to the investigators and I
8 stand by my statement. That was the opportunity for me to speak
9 and now I don't think I have that same opportunity before this
10 Chamber.

11 Q.So you do not stand by the statement you just made before this
12 Chamber and you stood by the statement before the investigators.
13 D28/3 with the ERN 0016353660 a prisoner was -- received the
14 electric shock and became unconscious but if a prisoner was
15 beaten then that prisoner would not become unconscious. Can you
16 explain to us the difference?

17 A.I would like to tell you clearly that when a rattan stick was
18 used then a prisoner was never unconscious but if a prisoner
19 received electric shock that prisoner would become unconscious.
20 That is all.

21 Q.You worked at S-21. Did you know the S-21 medics? If so,
22 were there any female medics or child medics at S-21?

23 A.Regarding the medics I only knew Try and he was male of course
24 and he frequently came to the special prison.

25 [10.13.39]

26

1 I did not see any female or child medic. There might be those
2 child or female medics inside the compound.

3 Q.You guarded S-21. Did you ever see Duch kill any prisoner
4 with his own hands?

5 A.I never saw him kill anyone.

6 Q.Thank you for your statement that you never saw Duch kill
7 anyone.

8 At S-21 did you know if there were any senior leaders above Duch
9 issued orders to Duch?

10 A.When I was just an ordinary combatant I would not know
11 anything about the senior people above Duch. I guarded a
12 prisoner inside the room and I would not know anything about any
13 senior people above Duch or their visits. I only saw Duch and
14 Chan at that office.

15 Q.You were a guard. Did you ever receive any direct order from
16 Duch?

17 A.My duty was not directly ordered or assigned by Duch. It was
18 assigned by my team chief during that period.

19 Q.Thank you for saying that you never received direct order from
20 Duch.

21 At the time that you stood guard at S-21, were you satisfied with
22 your guard duty?

23 A.I would like to tell you clearly that in my mind, I was not
24 satisfied with my work at all because people were arrested and
25 killed so inside my mind that was the truth, but outside I would

27

1 not display this feeling, otherwise I would be arrested.

2 [10.16.14]

3 Q.Thank you for saying that you was not satisfied with your
4 guard duty at S-21 as the rest of the other guards previously
5 testified before this Chamber.

6 Now, did you regret your guard duty as you did at S-21?

7 A.People who used to stay together and work together; of course,
8 there was regret because we could not understand if there was any
9 reason for their arrest and detention. If it is my understanding
10 that they would not or they should not be arrested, it's like
11 using a cow or an ox and then kills that cow or ox.

12 Q.Thank you for saying that you was not satisfied with your duty
13 at S-21.

14 My next question is if you were not satisfied with your work at
15 S-21 why did you not attempts to escape?

16 A.Fleeing, where you want me to flee? Outside, there were
17 walls. Inside, there were walls. Where do you want me to flee?
18 And if I were to successfully escape, then my parents, my
19 relatives at the Native village would be arrested and brought to
20 that prison. They would be killed; that's all.

21 Q.The staff or the guards who guarded S-21, can you tell us
22 whether they were not satisfied with their work and they stayed
23 there because they had nowhere to run to?

24 A.I could not speak on their behalf because at that time, nobody
25 trusted anybody. If we were to trust each other that would not

28

1 have happened.

2 [10.18.29]

3 MR. KAR SAVUTH:

4 Thank you, Mr. President. I do not have any question for this
5 witness and I would like to give the floor to my international
6 counsel.

7 MR. PRESIDENT:

8 The international defence counsel, you may proceed.

9 MS. CANIZARES:

10 Thank you, Mr. President, but the defence has no further
11 questions for this witness.

12 MR. PRESIDENT:

13 The Chamber would like now to give the opportunity to the accused
14 to make his observations regarding this witness testimony if the
15 accused wish to do so.

16 THE ACCUSED:

17 Mr. President, I would like to clarify that I have never known
18 this Comrade Met. During the confrontation arranged by the
19 Co-Investigating Judges, I knew Met was a younger brother of
20 Comrade Mein (phonetic) due to the physical appearance, and that
21 he was a member of the S-21 staff, a member of the special force
22 working outside. And when I saw the face of Met, I was shocked
23 and regretful that Mein (phonetic) and his wife, Peun (phonetic),
24 who died at S-21 and that I had a pity on Met who was demoted
25 from a guard at S-21 and was later transferred to worked in the

29

1 rice fields; that was my feeling for Comrade Met.

2 [10.21.04]

3 Second point; regarding the testimony of this Comrade Met, in
4 general, it is true; however, the point that I went to torture a
5 prisoner at Tuy's location, I would not deny it, but I would like
6 to make the point straight: in my role as the Chairman of S-21
7 and the serious crimes to my understanding, that is, the
8 political indoctrinations that I provided to those people, for
9 example, the 18 February 1976 document that I brought in the city
10 resistant forces and then eliminated their existing views and
11 indoctrinated them with the views I got from that document, so
12 with the view of the criminal intent of the CPK and that I had to
13 give them instructions that anyone who was arrested by the Party
14 had to be considered the enemy and that was the most serious
15 crimes that I committed and that I am responsible for the more
16 than 10,000 lives lost at S-21.

17 In addition to my acknowledgement, I also wrote what I thought
18 and that I wrote those documents to my superior and of course,
19 those documents were written by me and that was my crimes on the
20 people who were not yet decided to be arrested by Angkar and I
21 was the one who initiated. So these are the two focal points
22 that I would like to raise.

23 Thirdly, all the crimes committed at S-21, regardless of formal
24 torture used and regardless whether the special force used or
25 transported the prisoners to be executed somewhere else -- they

30

1 had to do it because of my instructions.

2 So I do not deny all these crimes; I accept them. However, in
3 whatever unit and in whatever society each person fulfilled his
4 or her task based on the assignment. A guard had to fulfil the
5 guard duty and could not do the interrogation job. And likewise,
6 the interrogator could not split his time to carry the guard
7 duty. And in the role of the leadership of S-21, I would not
8 have -- I could not spare my time to involve with those
9 interrogations even if I wanted to do so, and that is the general
10 principle.

11 [10.24.31]

12 I do not deny that the allegations that it was a serious crime
13 that I was alleged to beat a prisoner during an interrogation.
14 Of course, I went to the interrogation location when Brother Mam
15 Nai received his duty to summarize my -- the confessions that I
16 worked on. So I went to that location and he reserved a chair
17 for me. And at that time, Chao Seng was detained there and every
18 couple of months I went there to visit him.

19 At Pon's location, from my recollection, I went there on two
20 occasions after the interrogation of Tho Phuon (phonetic), who
21 was an engineer from Kampong Thom. After the interrogation was
22 completed and I saw the scars and marks on his body and Pon
23 requested me to meet him.

24 And why Khieu Samphan respectfully had his great deal of respect
25 and attitude to Pol Pot? Pon told me that Khieu Samphan was a

31

1 person living in a room and fear of Pol Pot. So Tho Phuon
2 (phonetic) did not give me any reason for that, but instead he
3 describes the process. So that was the first time I went to the
4 interrogation room of Comrade Pon.
5 On the second time, when Pon interrogated an English man who came
6 with a New Zealander -- that British -- I could not recall his
7 name. So that Briton came along with a New Zealander and Pon
8 told me that he was very humble and he behaved like a Cambodian.
9 [10.27.03]
10 And the New Zealander, Hamill, was there and when I went to see
11 him, yes, he was humble and docile. So that was the second
12 occasion I went to visit Pon's place.
13 I never went to Tuy's place. Of course I was aware of what was
14 going on and I knew that Tuy used violence on the prisoners, but
15 I did not simply react to anything happening at S-21. I think I
16 went once to Tuy's location when a secretary from Tuek Phos
17 (phonetic) district was arrested, named Chao Van (phonetic),
18 alias Kim (phonetic).
19 This Chao Van (phonetic) was a former resistant. He was two or
20 three years older than me. He was from the Daun Penh area. He
21 was a friend of Son Visoth (phonetic), alias Nikon (phonetic),
22 the younger brother of Son Sen. And when Chao Van (phonetic) was
23 arrested, my superior telephoned me from afar to play politics
24 with Chao Van (phonetic) in order for him to confess.
25 So I agreed to do so and, from my recollection, Chao Van even

32

1 wrote that I went to meet him and that he was waiting for me, in
2 his confession. But I don't want to talk about his confession
3 before this Chamber now, but I believe it was mentioned in his
4 confession.

5 Also, this Khoem -- Chao Van, alias Khoem. Khoem was the
6 revolutionary name of Peng. So Dam Kan was also a friend of Dam
7 Peng and they all used the same alias, Khoem. So I believe I
8 went once to Tuy's location, but in general I did not go.

9 [10.29.17]

10 With the President's leave, I would like a document to be
11 projected. That is Tuy's record with the ERN 00077153 on the
12 document regarding myself and Tuy.

13 MR. PRESIDENT:

14 The AV official, can you project the document with the ERN
15 00077153 on the screen?

16 The Court officer is now instructed to check with the AV Unit
17 whether the document can be projected.

18 THE ACCUSED:

19 Mr. President, I would like to read. This is the comment I
20 advised Tuy. I said this special group, including Pon, who was
21 the first person -- he did not write "Comrade Pon" but he used
22 "Brother Pon" instead. So this is how I assigned the task and I
23 did not go there. That's why, after the complaint of Tuy, then I
24 asked Pon to help. At any occasion, brothers from the upper went
25 to the location and the situation was chaotic. It was because of

33

1 the concept to serve the mass, the workers and the peasants and
2 that our standpoint was not yet strong, and I don't want to
3 continue anyway.

4 This document is the document of S-21 and it clarifies that I did
5 not go there, but I helped try to strengthen the spirit of Tuy,
6 but Tuy still was embedded with another concept that he relied on
7 Pon or me.

8 So I would like the AV Unit also be instructed to roll down to
9 another page, which is page 514, just the next page of course.
10 Just scroll down a little bit.

11 [10.33.25]

12 The second reason. So there were seven points. Sorry, the
13 seventh line, second reason, "And we lost the direction to serve
14 the people". So every time he saw the upper echelon or superior
15 came to the location, he just relied too much on them. So this
16 is how Tuy worked and I know for sure of how Saom Met expressed
17 in his statement about the cruelty, about the tortures Tuy would
18 used on the detainees, but I did not go there to Tuy's place.

19 And this is the document to prove that I did not go there,
20 although this is a document as an evidence to prove that I did
21 not visit the location of Tuy and I accept and I acknowledge that
22 Saom Met who was the combatant who had suffered a great deal as a
23 guard in the Special Unit and who later on was sent to S-21 for
24 re-education, and his Brother, Meng was arrested and executed,
25 and I really share the suffering and express my condolences to

34

1 his family.

2 MR. PRESIDENT:

3 The hearing of the testimony of Mr. Saom Met comes to an end.

4 The Chamber is very grateful to Mr. Saom Met for your attendance

5 to give your testimony before the Chamber, the Extraordinary

6 Chambers in the Courts of Cambodia, as scheduled.

7 The Chamber notes how very difficult this has been for you. It

8 is very difficult because you have faced several questions put by

9 the parties who have the right to put questions to you during

10 such proceedings, and the questions have already been put to you,

11 and as you already indicated in the session that your testimony

12 is not as fresh as it would have been before the office of

13 Co-Investigating Judges. However, the Chamber has noted that you

14 are doing your best to respond to all the questions put to you as

15 needed.

16 The Chamber has no further questions to be put to you and we

17 would like to let you go back home.

18 [10.36.51]

19 The Court officer is now instructed to make any necessary

20 arrangements and consult with the WESU Unit to make sure that Mr.

21 Saom Met is well taken back to his home safe and sound.

22 (Witness exits courtroom)

23 MR. PRESIDENT:

24 Since it is now time to take an adjournment we will take the

25 adjournment now and resume at 5 to 11.

35

1 THE GREFFIER:

2 All rise.

3 (Judges exit courtroom)

4 (Court recesses from 1037H to 1100H)

5 (Judges enter courtroom)

6 MR. PRESIDENT:

7 Please be seated. The Chamber is now back in session.

8 For our next proceedings, we will have the greffier read out the
9 testimonies or statements of those witnesses who are not
10 summonsed by the Chamber. Those statements are made before the
11 investigators of the Office of the Co-Investigating Judges.

12 The greffier, Duch Phary, you are now instructed to read the
13 records of interview of Makk Sithim. The document number is
14 D28/8 and next would be D54.

15 [11.02.55]

16 THE GREFFIER:

17 Document D28/8:

18 "This is the written record of interview of the witness Makk
19 Sithim, born in 1957. The record was made on the 30 November
20 2007 by the investigators of the Office of the Co-Investigating
21 Judges of the Extraordinary Chamber in the Courts of Cambodia.

22 Question-Answer:

23 Q.Please speak about your family prior to '75.

24 A.My family was well off and we had enough to eat.

25 Q.What were the reasons that led you to join the revolution?

36

1 A.After 17 April, I was still a child and did not know yet how
2 to put my pants on right. They had me carry rice at Veal Cha.
3 Then I joined the children's unit. Two months later, the
4 district secretary during the revolutionary era, Uong, took me to
5 the district for two nights and took me to Sala Lekh pram for two
6 nights. They took us in six Chinese trucks. The one who took us
7 was Chan Samreng.

8 After reaching Phnom Penh, they had me rice pick at Boeng Tumpun
9 for about five months until the end of '75.

10 [11.04.53]

11 Next, they had me go to Boeng Trabek where I cut trees; worked
12 in the rice fields in the dry season; planted vegetables; and
13 studied the Khmer language.

14 I studied and trained at Ta Khmau in '76. I studied military
15 strategy and planted vegetables. I don't remember the names of
16 the ones who taught me. I studied for eight months. I studied
17 disassembling weapons, throwing grenades and mine detecting. Then
18 the course ended. I don't remember who came for the closing
19 ceremony.

20 Next I went to Prey Sar to build a dam and grow turnips. I don't
21 remember who my leader was. I was there for three months.

22 Next I studied medicine for three months. I studied in front of
23 the movie theatre near Phsar Thmei. Dam was the instructor.

24 Q.Did you ever see Duch come to watch?

25 A.No.

37

1 [11.06.07]

2 Q.How did you study medicine?

3 A.We studied reading medication labels and medication to be
4 injected.

5 Q.Do you know the names of those who studied with you?

6 A.There was a certain Prum Sokh, a medic. After '79 he became
7 an aide of Duch. Now he is at Kbal Chhay. His place of birth is
8 here.

9 Q.Do you know if any other of the medics are still alive?

10 A.There is one named Dan, now at Thlong Popok sub-district,
11 Samaki Mean Chey district. He is crippled and had one leg
12 missing.

13 Q.Aside from him?

14 A.There was the medic Try, a Cham. He was an ordinary medic
15 like myself. Now he is still alive in Kampong Tralach district
16 west of Thnal Toting.

17 Medics Huor and Try, who were chairmen, were imprisoned for two
18 days when the Vietnamese came, but I don't know if Huor is still
19 alive.

20 Q.And then after studying medicine?

21 A.They had me go to Ta Khmau to study making medication and
22 stamping out pills. The one who assigned me to go there was Dam
23 and Dam was under the command of Duch. I studied there for eight
24 to nine months in '77. Dam was the instructor.

25 [11.08.10]

38

1 Q. Did you see Duch or the senior leaders come to watch?

2 A. No.

3 Q. And after those eight months?

4 A. Next I served the prisoners at Tuol Sleng until '79. I did
5 not know the one who took me there. There were 15 of us,
6 including the chairman and deputy chairman. There was another
7 one who was a medic with me named Tha but I do not know if he is
8 dead or alive.

9 Q. Do you know the reason they arrested Try?

10 A. I do not know the reason. As for Huor, the chairman of the
11 medical team, ordinarily he was the person who issued medicine
12 for me to dispense further. The medical unit where I worked was
13 in front of S-21.

14 Q. The prisoners you treated, what condition were they in?

15 A. After they had been interrogated some prisoners had open
16 wounds on their backs and some had their nails pulled out. I had
17 to treat them if they were important people. The interrogator
18 would bring them to me for treatment. The interrogator would
19 tell me, "Comrade, you must treat this one because I have not yet
20 finished interrogating him."

21 [11.10.14]

22 During treatment sometimes I saw prisoners die, one or two or
23 three in a day, and I was the one who buried them along the
24 buildings outside the prison walls.

25 Q. Did you ever go to treat prisoners outside the walls of S-21?

39

1 A.I treated the battalion chairmen and their wives.

2 Q.Did you ever go to treat prisoners while they were being
3 interrogated?

4 A.Never. The majority were placed on stretchers and brought
5 right to the site.

6 Q.Did you ever treat prisoners whose blood had been drawn?

7 A.I just treated patients in the three buildings. I never went
8 outside.

9 Q.Was there any sign that blood was being taken?

10 A.I treated patients whose blood had been drawn. There were
11 people whose blood had been drawn because the medic Huor, who was
12 with my team, told me. The prisoners whose blood had been drawn
13 were pale. I saw about 30 to 40 prisoners whose blood had been
14 taken.

15 [11.12.11]

16 Q.Where did they take the blood?

17 A.I do not know, but I saw bad blood bags thrown away near the
18 concrete house I lived in.

19 Q.Did Duch ever come to look at the place where you treated
20 patients?

21 A.I never saw him. I only saw him during afternoon meals.

22 Q.Did you know Duch was the prison chairman?

23 A.Duch was the chairman supervising the entire unit, including
24 the medic Try and the medic Huor as well.

25 Q.Did you ever meet Duch at the place you studied and did

40

1 self-criticism?

2 A.I never saw him. Only the chairman of the platoons and
3 companies gave instructions, and the medical chairman. The
4 medical chairman and the medical team met once weekly.

5 Q.Did you ever know the chairman of the defence team?

6 A.Hor was the chairman of the defence team. There was an
7 interrogation team but I did not know the team chairman. As for
8 the arrest team I did not know them, I just saw the vehicles
9 come.

10 [11.13.57]

11 Q.Did you ever treat Vietnamese?

12 A.I never treated any. I never even saw any. But as for
13 Chinese, yes.

14 Q.During treatment did you see children or pregnant women?

15 A.For the prisoners with wives and children they were not
16 shackled, they were placed in a large cell with the door tightly
17 shut.

18 Q.During treatment did you ever see Duch come to give orders?

19 A.I never saw Duch come to give orders.

20 Q.Did you ever treat anyone who had been in the countryside
21 with you or who had worked alongside you?

22 A.Yes, they were arrested just two or three days before '79
23 but I never treated them.

24 Q. Did you ever see prisoners whose blood had been drawn and
25 who died for lack of treatment?

41

1 A.I do not know because that was a different specialty.

2 Q.Through giving treatment what types of torture did you see?

3 A.I just saw prisoners who had been interrogated using
4 electric shocks. I knew this since the prisoners had told me. I
5 gave them medication, Vitamin 12 and Vitamin B.

6 [11.16.26]

7 Q.Did you think the medication and treatment were effective?

8 A.In general they were ineffective but if it was diarrhoea
9 some of that could be dealt with.

10 Q.Why do you think the Khmer Rouge did not have you use French
11 medication?

12 A.Because most of the French medication that remained had
13 expired and there was never any new medication coming in.

14 Q.During which period did you treat the greatest amount of
15 prisoners?

16 A.During the war before the Yuon attacked and came in.

17 Q.Was there anything else unusual which I did not ask about?

18 A.There was nothing unusual. I provided treatment and had to
19 provide them the treatment so that they would get well. But if
20 they did not get well they would take me away and kill me. That
21 is what the medical chairmen Try and Huor told me.

22 [11.17.51]

23 Q.Did any cadres come to give instructions two or three days
24 before the Vietnamese came?

25 A.No one gave instructions to anybody. We just scattered on

42

1 our own.

2 Q.Which year did you arrive back home?

3 A.Nearly one year later. It was the transplanting season when
4 I arrived.'

5 One copy of the written statement was provided to this
6 witness. The interview was completed and after it was read out
7 aloud the witness had no objections and agreed to sign or place
8 his thumbprint."

9 Document D54:

10 "This is the written record of confrontation done before the
11 Co-Investigating Judges of the Extraordinary Chambers in the
12 Courts of Cambodia dated 29 February 2008 at 9.20 a.m. With the
13 presence of defence counsel, Mr. Kar Savuth and Mr. François
14 Roux; the accused, Kaing Guek Eav alias Duch; the witnesses Him
15 Huy, Prak Khan, Suos Thy, Kung Phai, Mam Nai, Vann Nath, Makk
16 Sithim, Saom Met who were sworn in pursuant to the Internal Rules
17 of the Extraordinary Chambers in the Courts of Cambodia.

18 [11.19.42]

19 Confrontation: Questions by Co-Investigating Judges:

20 Q.Did you witness the mass execution sins in January 1979?

21 Witnesses Suos Thy, Prak Khan, Him Huy, Saom Met, Makk Sithim
22 and Mam Nai:

23 A.We were not aware of them.

24 Question by Co-Investigating Judge Marcel Lemonde to witness

25 Makk Sithim:

43

1 Q.Do you confirm your statements on 30 November 2007 regarding
2 the drawing of blood?

3 Response by Makk Sithim:

4 A.I was a medic at S-21 and I treated the sick. I did not
5 personally observe any blood drawing but I saw prisoners whose
6 blood had just been drawn and who were very pale. I also saw
7 unused blood bags under the staircase.

8 Questions by the Co-Investigating Judge Marcel Lemonde:

9 Q.Mr. Suos Thy, do you still stand by your statement made on
10 the 18th October 2007 regarding the drawing of blood of the
11 victims whose names were included in the list to be smashed?

12 Response by Suos Thy:

13 [11.21.54]

14 A.I confirmed my statements.

15 Response by the charged person:

16 First, I would like to ask questions to Makk Sithim. How many
17 blood bags did he see?

18 Response by Makk Sithim:

19 Maybe 30 or 40 bags but I do not remember exactly.

20 Question by Alex Bates:

21 Q.Does the charged person contest Prak Khan's statement made
22 on the 25th of September 2007 which stated that blood was taken
23 to be sent to 17 April Hospital and Monivong Hospital?

24 Response by the charged person:

25 A.If that sort of blood taking was carried out I do not think

44

1 that blood bags were sent to Monivong Hospital which was the
2 Division 703 hospital or to the 17 April Hospital, the state
3 hospital, since S-21 had its own Hospital 98 which was under Son
4 Sen's control.

5 [11.23.25]

6 Response by witness Prak Khan:

7 A.The doctors who practiced the drawing of blood gave me the
8 information. They told me they were sent to 17 April Hospital
9 and Monivong Hospital.

10 Response by witness Makk Sithim:

11 A.I did not know of blood bags being sent to hospital.
12 After having been read aloud and heard, the charged person, the
13 witnesses and the civil parties had no objections and agreed to
14 sign."

15 MR. PRESIDENT:

16 After hearing the written record of interviews and confrontations
17 of the witness Makk Sithim do the Co-Prosecutors want to have any
18 observations to make regarding the statements of this witness,
19 Makk Sithim?

20 MR. TAN SENARONG:

21 Thank you, Mr. President. The prosecution has no observations to
22 make regarding the statements of this witness.

23 MR. PRESIDENT:

24 The civil party counsel, do you have any observation to make
25 regarding the two statements read by the greffier?

45

1 MR. WERNER:

2 Civil party lawyers have no observation, Your Honour. Thank you.

3 MR PRESIDENT:

4 The defence counsel, do you have any observations to make
5 regarding the statements read by the greffier?

6 [11.25.55]

7 MR. KAR SAVUTH:

8 Thank you, Mr. President.

9 Regarding the statements, I observed that the medic at S-21 and
10 Makk Sithim, who was a medic at S-21 too, he confirmed clearly
11 that there were six medics only at S-21 and they were all male
12 and this is the observation by the defence counsel.

13 MR. PRESIDENT:

14 The international defence counsel, do you have any observation to
15 make in addition to the one made by your colleague?

16 MS. CANIZARES:

17 I have no extra observations to make in relation to the one that
18 was made by my colleague. Thank you, Mr. President.

19 MR. PRESIDENT:

20 The Chamber now gives the opportunity to the accused to make his
21 observations regarding the statements of the witness, Makk
22 Sithim. If you have any comments or observations to make, you
23 may proceed.

24 THE ACCUSED:

25 Mr. President, I would like to separate my observations into two

46

1 parts.

2 [11.27.48]

3 First, regarding the crime of drawing of blood at S-21; this
4 crime, as I clearly stated to the Chamber already, the person who
5 issued order was my superior, Son Sen, and it was to carry out
6 sins.

7 S-21 was under the supervision of Nat, however, it became more
8 frequent during my chairmanship -- and we already questions
9 regarding the total number of the prisoners whose blood had been
10 drawn during the testimony by Prak Khan -- and I said the total
11 number of the prisoners whose blood had been drawn totalled to
12 about 100.

13 And regarding the spoil blood as mentioned by Makk Sithim
14 surprised me; there were 30 to 40 bags of blood. I did not know
15 the reason for the spoilt of those blood. Besides that, I do not
16 have anything to say regarding the blood drawing.

17 And the second part, whether Makk Sithim was actually a member of
18 S-21, I am still undecided. It's hard for me to believe his
19 statement to let me believe that he was a member of S-21 because
20 his statement is confusing. He stated that he was born in 1957
21 and after the 17 April '75, he did not know how to put his pants
22 on, so it's contradicting.

23 And for the youth I requested from Kampong Chhnang, there were
24 only 40 to 50 of them. There were not up to 100 or so.

25 And the third point, he only knew a few people around him; for

47

1 the actual people from Kampong Chhnang, they would know each
2 other, but he did not know any of them or some other stuff at
3 S-21. So, in conclusion, I am still undecided to acknowledge
4 that Makk Sithim was a member at S-21.

5 [11.30.30]

6 Regarding the medic Try, as mentioned by Makk Sithim, he was not
7 a chairman of the medical unit. He was a Cham from Kampong Cham,
8 and the other Try was a former 703 Division person. He lived at
9 S'ang Prek Tauch in Koh Thom.

10 And this is my observation, Mr. President.

11 MR. PRESIDENT:

12 Next, Mrs. Se Kolvuthy, the greffier of the Trial Chamber, is now
13 instructed to read the written report of the interview of witness
14 Tay Teng, document D28/12. And the interrogators would be
15 substituted with the term "Question" and the short form of the
16 names of the responder should be also replaced by "Response" so
17 that it is more convenient for the parties to the proceedings to
18 be able to understand the document.

19 THE GREFFIER:

20 "Document D28/12. This is a written record of the interview of
21 Tay Teng, revolutionary name Dy Teng born in 1958. This record
22 was done on the 17th of January 2008 at 10.50 a.m. by the
23 investigator of the Co-Investigating Judges' Office.

24 Question and Answer:

25 "Q.Please briefly describe your personal history before 1970.

48

1 At which school did you study? After the 1970 coup, what did you
2 do?

3 [11.34.15]

4 A.When I was young, I studied at Koh Khsach Chunlea primary
5 school in Chong Koh village, Teuk Wil sub-district, S'ang
6 district, Kandal province. I studied up to grade 11 and when I
7 stopped, I stayed with my parents.

8 In 1973, I joined the Khmer Rouge army as my cousin, Ouk Tem, had
9 introduced me. I was in the unit for 12 years old in Division
10 12, with the duties to carry rice sacks to supply the front at
11 the field on National Road 2 near Kandal Stueng district.

12 Q.What did you do after the 17th of April 1975? In which unit
13 were you?

14 A.After the 17 April 1975, they had me work in the rice field
15 near Au Bek Ka-am. At that time, I was in Battalion 31 of
16 Division 12. After that, they had me stay at Chak Angre and farm
17 rice at Prek Samraong at Boeng Tumpun, and later at Steung Prek
18 Tnaot.

19 Around early 1978, they sent me to work at S-21 and the chairman
20 of the company, Nang, was the person who sent me there.

21 Q.What duties did they have you do at S-21? What is the name of
22 the Chairman of S-21?

23 A.They had me guard the outside of the S-21 Detention Office and
24 I was stationed on the east side, about 200 to 300 metres from
25 the prison buildings. The chairman of my team named Huy, Him

49

1 Huy. The Chairman of S-21 was Duch and the deputy was Hor.

2 Q.Can you explain the routines of your guard duties?

3 [11.36.00]

4 A.During the day they had me farm rice west of the Prek Chrey
5 pagoda near Prey Sar. At night they had us guard in two-hour
6 shifts until morning. During the day other teams were on guard
7 duty. My team stayed in a house east of sewage canal.

8 Q.Did Huy often hold meetings? What kind of meetings were they?

9 A.Once in a while they held an instructional meeting. They
10 instructed us to be vigilant and to guard prisoners, not to let
11 them escape. The team chairman who lived with me was named Try.

12 Q.Beside the guard duty there did the team chairman assign you
13 to do any other duties?

14 A.Beside guard duty and rice farming he did not assign me to do
15 any other work.

16 Q.Did you ever see trucks going in and coming out of Tuol Sleng
17 Prison?

18 A.I saw trucks, which were completely covered, coming in and
19 going out. Later on I learned that those trucks carried
20 prisoners. The incoming trucks transported prisoners to the
21 detention office. The outgoing trucks transported prisoners but
22 I did not know where the prisoners were transported to.

23 [11.37.54]

24 Q.Did you hear that they took people to be killed?

25 A.I knew that they held people in prison and later took them to

50

1 be killed but I did not know where they killed them.

2 Q.Did you ever see them arrest people and send them there?

3 A.I did not know where they arrested people. I just saw them
4 transport them inside.

5 Q.At S-21 were there any arrests of personnel and cadres?

6 A.I knew that there were arrests of people working there. I
7 cannot remember the names but there was no arrest in my team.

8 Q.Did you ever see Duch?

9 A.I saw him walk in. Sometimes he drove a motorbike but I did
10 not know where he went to or where he came from.

11 Q.Were you ever re-assigned to work in other units?

12 A.I was transferred to farm rice at Prey Sar because I was
13 implicated as my cousin, Ouch Tham (phonetic), who was the
14 chairman of the regiment in Division 703 was arrested.

15 [11.39.48]

16 Uk Savan and Uk Saroeun, who both were his siblings and were
17 medics at the hospital, were subsequently arrested. I got
18 information about Uk Tem's arrest in a political education
19 meeting where Duch announced it.

20 Q.Did you know that they took people to be killed at Choeng Ek?

21 Did you know how they killed them?

22 A.I knew that they took people to be killed at Choeng Ek
23 because I learnt it from my team's members but I did not know how
24 they tortured or killed them.

25 Q.While you were guarding S-21 which teams sent people to be

51

1 killed at Choeung Ek?

2 A.I did not know. Although I worked at S-21 the duties were
3 assigned differently.

4 Q.Did you know about the torture on prisoners? What kind of
5 tortures were there?

6 A.I heard prisoners scream out of pain at the houses outside the
7 prison compound where they interrogated prisoners and while I was
8 watering vegetables. I only knew that the prisoners were beaten
9 and that other prisoners received electrical shocks. That's all
10 I know.

11 [11.41.50]

12 Q.Did you ever see them walk prisoners to be interrogated? What
13 condition were the prisoners in?

14 A.I saw them walk prisoners with their hands handcuffed to their
15 backs and they were blindfolded. After the interrogation I saw
16 them bring the prisoners back but I did not know if the prisoners
17 had wounds or not, since I saw them from a distance and only
18 through quick glimpses.

19 Q.Do you know the names of interrogators?

20 A.I don't know because they were in a separate unit.

21 Q.Did they ever hold a general meeting for the entire office?

22 A.No, only section meetings.

23 Q.What did they have you do at Prey Sar? What types of people
24 were sent there and how many?

25 A.At Prey Sar they had us farm rice, build dykes and dig canals.

52

1 People who lived there were allegedly involved in moral issues
2 and political dissent as their relatives were Lon Nol's soldiers,
3 for instance. That place was a tempering site. There were about
4 200 people in total living there, both men and women. They were
5 divided into groups of 20 to 25.

6 [11.43.57]

7 Q.Who was the chairman of Prey Sar?

8 A.Huy was the chairman of Prey Sar.

9 Q.What were the work routines over there?

10 A.In the morning I worked from dawn till 12 noon and stopped for
11 lunch. After lunch I continued working until five or six in the
12 afternoon. After dinner they held instructional meetings for
13 each group, educating us to try and work hard. At night it was
14 strictly guarded. They did not have us work at night because
15 they were afraid we would escape.

16 Q.What was the food ration? How many meals per day?

17 A.The food was insufficient. Rice was mixed with banana stumps
18 and papaya stumps. There were two meals per day, at noon and in
19 the evening. Sometimes we had gruel for one meal and rice for
20 another.

21 Q.Was there any torture inflicted on the people at Prey Sar?

22 A.No, but they blamed those whose work was slow and the sick for
23 being lazy and they just threatened them. That's all.

24 Q.How long did you live at Prey Sar until Phnom Penh fell?

25 A.For about two months. Then Phnom Penh was liberated in 1979.

53

1 One copy of the written statement was provided to this witness.
2 After it was read aloud, the witness had no objections and agreed
3 to sign or place his thumbprint."

4 [11.46.20]

5 MR. PRESIDENT:

6 The Greffier is now instructed to read the second record, D50/3.

7 THE GREFFIER:

8 "Document D50/3. This is the written record of the interview of
9 Witness Tay Teng, revolutionary name Dy Teng, born in 1958. This
10 record was done on the 19th of February 2008 at 10 a.m. by the
11 investigator of the Co-Investigating Judges' Office of the
12 Extraordinary Chambers in the Courts of Cambodia.

13 Question and Answer:

14 Q.During which year did they send you from S-21 to go to stay at
15 Choeung Ek? How many people were sent with you and what were
16 their jobs?

17 A.I don't remember the year clearly. It was probably about
18 1978. They sent 10 people at that time. There was no-one else
19 at Choeung Ek, just my team. At that time, they had my team dig
20 pits. Each pit was a square of three metres on each side and
21 about two metres deep. The pits were dug during the daytime, dug
22 manually with hoes, and baskets to carry the dirt.

23 [11.48.07]

24 Q.Who instructed your team to dig the pits?

25 A.Huy instructed the digging of those pits. Only after we had

54

1 instructions to dig did my team begin to do it. Sometimes they
2 told us to dig two or three pits in a period of three or four
3 days. Each pit could be completely dug in about two or three
4 days, depending on the condition of the ground -- soft or hard.

5 Q.Please describe the transport of prisoners from S-21 to
6 Choeung Ek. What did they do to them before they killed them?

7 A.From what I saw, they transported prisoners from S-21 with
8 Srim as the driver and with Huy and his team coming along in the
9 trucks each time. The transport was at night at about 7 o'clock.
10 There were about 20 prisoners in each truck. When they arrived,
11 they let the prisoners down from the trucks and put them in a
12 room in a wooden house which had an electric generator inside.
13 Next, they led the prisoners one at a time to be killed at the
14 pits, which were about 100 metres from that house.

15 The team that led the prisoners to be killed was composed of Srim
16 and two or three others whose names I did not know. The team
17 along with the trucks that had transported the prisoners. As for
18 me and my team, we guarded and we counted the prisoners as they
19 were brought in and taken to be killed.

20 [11.50.18]

21 Q.Were the prisoners brought to Choeung Ek handcuffed and
22 blindfolded?

23 A.The prisoners were handcuffed and blindfolded since they left
24 Tuol Sleng.

25 Q.Can you please describe the killing methods which you saw at

55

1 that time?

2 A.First, they sat about one metre from the edge of the pit.

3 They had two or three sit beside one another and they used a
4 water pipe to strike the base of their necks. When the prisoners
5 fell over, they removed the handcuffs, then they also used knives
6 to finish killing them, but I don't know if they cut open their
7 bellies or cut their throats. I just saw that after the killings
8 they took away palm-leaf blades stained with blood to wash clean.
9 They used two kerosene lanterns near the pits for lights.

10 Q.Did the prisoners ever scream when they were being killed?

11 A.When they killed prisoners my team was on guard in the rear,
12 about 100 metres away, defending against prisoners fleeing and
13 escaping. I never heard prisoners scream. I just heard the
14 sounds of the falling blows, poof-poof.

15 Q.Your function was to be responsible for counting the prisoners
16 before they were taken to be killed. In order to know that the
17 prisoners had actually died you would have to be nearby to know
18 that, would you not? Can you clarify this point?

19 [11.52.31]

20 A.When they took the prisoners from the house, I stood at the
21 door and counted the number of prisoners at that time. After
22 they had been killed, they had my team hoe the dirt back to cover
23 up the pits.

24 Q.When your team covered the pits, did you see that those had
25 been killed had had their throats cut or their bellies cut open?

56

1 A.I did not see clearly because it was at night-time, but I
2 could see blood at the edges of the pits.

3 Q.How many bodies were in each pit? And each time your team
4 covered them what was the highest number of pits used?

5 A.Each pit had more than 10 bodies and the highest number of
6 pits was three. Each time they killed, ordinarily there were
7 just one or two pits.

8 Q.Were there children and women among the prisoners killed at
9 Choeung Ek?

10 A.There were no children, just men and women.

11 [11.54.07]

12 Q.Can you explain how in one pit there were only skulls of
13 children?

14 A.I do not know. I never saw child prisoners come there.

15 Q.At that time were there any prisoners of war; Thai, Vietnamese
16 and other foreigners?

17 A.There were none. There were only Cambodians.

18 Q.Did you ever see Duch at Choeung Ek?

19 A.No, I never saw him. I knew he was responsible for S-21 but I
20 did not know him clearly. Even he had gone to Choeung Ek, I
21 would not to have recognized him.

22 Q.Did you ever know anyone named Hor?

23 A.Yes, I knew him because he went to Choeung Ek twice.

24 Q.When he went to Choeung Ek did he give you instructions?

25 A.He never spoke or gave instructions directly to me. He came

57

1 to talk with Huy and Huy gave me instructions in turn and said to
2 be vigilant in guarding.

3 [11.55.43]

4 Q.Aside from Huy and Hor did any other leaders come to Choeung
5 Ek?

6 A.No, never.

7 Q.How many times a month did they transport prisoners to
8 Choeung Ek?

9 A.It varied; sometimes two or three times a month

10 Q.Were you and your team stationed at Choeung Ek until the
11 fall of Phnom Penh, or what?

12 A.No, I was moved to Prey Sar two months prior to January
13 1979, before the day Phnom Penh fell.

14 Q.Did you ever see Him Huy personally kill prisoners and were
15 you ever there when that happened? How do you understand this?

16 A.No, I never saw that.

17 Q.But Him Huy said that he killed prisoners at Choeung Ek.

18 A.No, I don't know about that. But if Him Huy said that, that
19 was up to him. As for me, I do not know. I swear that I'm
20 telling only the truth.

21 [11.57.16]

22 Q.What was Him Huy's attitude when you saw him?

23 A.He was fairly mean. He spoke loudly. When he spoke it was
24 frightening. We feared him but he was not a vicious person.

25 Q.Can you estimate the total number of grave pits at Choeung

58

1 Ek?

2 A.At estimate, there were only about 20 to 30 pits. I cannot
3 remember clearly and that was not recorded.

4 Q.When you first arrived at Choeung Ek did you recognize any
5 freshly dug pits there, dug before you had arrived?

6 A.I never saw any fresh grave pits from before. There were
7 only two or three Chinese graves remaining from earlier times.

8 Q.Had that place been a burial site before?

9 A.I don't know but I saw just three graves near one another.

10 Q.Among those in the team who lived with you at Choeung Ek can
11 you remember their names and where are they living?

12 A.I can only remember one, Chuun. Aside from him I have
13 forgotten them all. I don't know even Chuun is dead or alive and
14 I don't know what district he lived in.

15 [11.59.21]

16 Q.What were your feelings while you lived at Choeung Ek?

17 A.While I was there I was seriously worried. I did not
18 understand what would happen to me in the future. At that time
19 it was impossible not to obey them. It could be compared to
20 living with tigers.

21 Q.Among the prisoners killed at Choeung Ek did you ever
22 encounter anyone you had known from before?

23 A.I never met anyone I knew.'

24 The original or a copy of the written statement was provided to
25 this witness. This interview was completed and read out. The

59

1 witness had no objections and agreed to sign."

2 MR. PRESIDENT:

3 After having heard the statements read out by the Greffier in
4 relation to the statement of Tay Teng, both documents D28/12 and
5 D50/3, do the Co-Prosecutors wish to make any observation in
6 relation to the statements?

7 MR. TAN SENARONG:

8 The prosecution does not have any observations or comments to be
9 made regarding these two statements.

10 [12.01.10]

11 MR. PRESIDENT:

12 And the civil party counsel, do you have any observations to make
13 regarding the content of the two statements of witness Tay Teng
14 as read out by the Greffier?

15 MR. HONG KIMSUON:

16 Thank you, Mr. President. I have some observations regarding the
17 two statements.

18 It is noted that the statement of Tay Teng is clear that he was a
19 staff member of S-21 that he has heard, has seen and knew
20 regarding the prisoners who were seriously tortured before they
21 were executed. And, particularly, he and his team were sent to
22 work at the killing fields at Choeung Ek and that he dug pits and
23 buried the dead bodies. Also, he knew the method of the
24 execution of those prisoners.

25 So these testimonies are clear that the torture and execution

60

1 existed as stated in his statement. Thank you.

2 MR. PRESIDENT:

3 The defence counsel, do you have any observations to make
4 regarding the statements -- two statements as read out by the
5 Greffier?

6 MR. KAR SAVUTH:

7 Thank you, Mr. President.

8 [12.02.59]

9 I agree to the observations made by Mr. Hong Kimsuon that this
10 witness clearly stated in his statements, particularly this
11 witness also provided additional information that he said he
12 never saw the accused present at Choeng Ek.

13 MR. PRESIDENT:

14 The Chamber would like now to give the opportunity to the accused
15 to make his observations regarding the testimony of the witness,
16 Tay Teng, as read out by the Greffier.

17 I notice the presence of the international Co-Prosecutor. You
18 may proceed.

19 MR. AHMED:

20 Your Honours, I don't wish to intervene, but just for your
21 consideration, my learned friends on the defence may be requested
22 to clearly indicate whether they do not oppose the reading of
23 this statement and not calling the witness in this Court.

24 I am requesting this, Your Honour, in light of Rule 84(1) of the
25 Internal Rules, which clearly says that the accused has an

61

1 absolute right to summon a witness whom he did not have an
2 opportunity to examine during the pre-trial stage. In the light
3 of this Rule 84(1) I would request Your Honours may clearly
4 request an observation from the defence that they do not oppose
5 not calling this witness in the Court.

6 This is my respectful submission. Thank you.

7 MR. PRESIDENT:

8 I do not really understand your submission, Mr. International
9 Co-Prosecutor. Can you state again and make it understandable,
10 especially to make the Chairman of this Chamber understand the
11 intention of your submission? And you shall provide us the
12 grounds and the decisions for not summoning the witness, and
13 that decision relies solely on the discretion of the Chamber.

14 MR. AHMED:

15 Your Honours, I apologize if there was a lack of clarity in my
16 submission. My submission is this. I am not questioning, with
17 greatest respect, Your Honours' decision not to call this witness
18 in the Court. Because Your Honours are entertaining observations
19 from the parties I am most respectfully requesting this Chamber
20 to seek an observation from the defence that they do not oppose
21 the calling of this witness in the Court.

22 [12.06.13]

23 I am requesting that in the light of Rule 84(1), Your Honour.
24 Rule 84(1), if I may have the permission to read, says that, "The
25 accused shall have the absolute right to summon a witness against

62

1 him whom the accused had no opportunity to examine during the
2 pre-trial stage." Now, clearly the accused did not have an
3 opportunity to examine this witness at the pre-trial stage. The
4 accused is being asked to make an observation about this witness.
5 Our only respectful submission is for the purposes of clarity of
6 record and for the purposes that there is no subsequent challenge
7 under 84(1), the accused may be made to observe that he does not
8 oppose the calling of this witness -- not calling this witness in
9 the Court. I hope I have clarified. I shall be able to assist
10 Your Honours if there is still lack of clarity in my
11 observations.

12 MR. PRESIDENT:

13 Judge Lavergne, you may proceed.

14 JUDGE LAVERGNE:

15 Thank you, Mr. President. I believe that this question has
16 already been brought up on several occasions; the first time
17 during the Trial Management Meeting when we spoke about the
18 compilation of the witness list, and then we said that we were
19 considering taking out a certain number of witnesses from the
20 list, among whom the witness whose statement was just read out.
21 And upon that occasion the defence clearly stated that it agreed
22 to not have the witness appear in Court.

23 This does not mean that it did not refuse to make observations
24 about the statement and, again, these past days we've brought up
25 this question -- it was, I believe, last week and we again had

63

1 confirmation from the defence that it indeed decided not to bring
2 the witness to the Chamber. So I do not really understand what
3 is the exact meaning of the submission presented by the
4 Co-Prosecutors today.

5 [12.08.52]

6 If there is indeed waiving here, of course that should be done in
7 accordance with the rules, but I cannot imagine that these rules
8 were disregarded by the defence counsel.

9 MR. AHMED:

10 Your Honours, with that clarification I have no further
11 objection. Thank you.

12 MR. PRESIDENT:

13 The Chamber rejects the observations made by the international
14 Co-Prosecutor and this is the decision or the observations of the
15 defence counsel and they did not object the statements or the
16 decision made by the Chamber not to summon the witness, Tay Teng,
17 to present before this Chamber. And the defence counsel already
18 made their observation regarding the statements of this witness.
19 The accused is now given an opportunity to make his observation
20 on the statements and content of the witness, Tay Teng, as read
21 out by the Greffier. You take the floor.

22 THE ACCUSED:

23 Mr. President, before 7 January 1979 I never knew the face of Tay
24 Teng. When I met him it was when the Co-Investigating Judges
25 sent me to Choeung Ek for the reconstruction and that was the

64

1 time I knew Comrade Teng was a cousin of Comrade Tem and Saroeun.
2 These two were in the regiments and after their cousins were
3 arrested, Tay Teng was sent from the special force to station at
4 Choeung Ek. From my recollection, there were four of them and
5 they were responsible for digging the pits and bury the pits and
6 guard the ground.

7 [12.11.41]

8 Therefore, Tay Teng was indeed a member of S-21 staff. I do not
9 deny this and the content of his statements I agreed in
10 principle. This is my observation, Mr. President.

11 MR. PRESIDENT:

12 Now it is time for a lunch break. The Chamber will break for
13 lunch and it will resume this afternoon, starting from 1.30 p.m.
14 The scheduling for this afternoon's proceedings is to continue
15 reading the statements of the witnesses who are decided by the
16 Chamber not to provide testimony before this Chamber.

17 Security guards, take the accused back to the detention facility
18 and bring him back before 1.30 p.m. The hearing is adjourned.

19 THE GREFFIER:

20 All rise.

21 (Judges exit courtroom)

22 (Court recesses from 1213H to 1335H)

23 (Judges enter courtroom)

24 MR. PRESIDENT:

25 Please be seated. The Chamber is now back in session.

65

1 Next, the Greffier, Duch Phary, is instructed to read the
2 statement of Saom Som Ol, which is D78/6.

3 THE GREFFIER:

4 The document D78/6 --

5 MR. PRESIDENT:

6 I notice the presence of the international Co-Prosecutor.

7 [13.36.36]

8 You may proceed.

9 MR. DE WILDE D'ESTMAEL:

10 Thank you, Mr. President.

11 I think that there was also a plan to read Document D48/1 and D58
12 concerning Tay Teng. It does not appear to me that these
13 documents were read out. Will these documents be read later,
14 especially with regard to these paragraphs containing Meas
15 Pengkry? I would like the Chamber's enlightenment on this
16 matter.

17 MR. PRESIDENT:

18 The Chamber has already informed the parties and the public of
19 the proceedings of reading the statements of the witnesses whom
20 the Chamber has decided not to summon to appear before the
21 Chamber, yesterday, and that also includes the statements to be
22 read by the Greffier; that is, records of interviews, the written
23 records of confrontation which shall be the last statement to be
24 read for each particular witness.

25 So it is clear in the information, as I have informed all the

66

1 parties to the proceedings and the public as a whole yesterday
2 morning.

3 Mr. Duch Phary, you may continue.

4 [13.39.03]

5 THE GREFFIER:

6 "Document D78/6. This is the written record of interview of the
7 witness Saom Som Ol with the revolutionary name Phaon Sam, born
8 in 1957. This written record was made on the 1st April 2008 at
9 3.15 p.m. by the investigators of the Office of the
10 Co-Investigating Judges of the Extraordinary Chambers in the
11 Courts of Cambodia.

12 Q.When did you find out about Tuol Sleng, how, and at that
13 time what was your position?

14 A.I was a messenger of the Ministry of Foreign Affairs
15 starting from 1976. The messenger team leader was named Voeun.
16 I do not know whether he is dead or alive at the present time. I
17 was able to find out about the Office S-21 because my chief,
18 Voeun, who asked me to take a letter with the following words on
19 the back: 'To Comrade Duch, Chief of Office S-21'.

20 Duch's house was located outside the office fence in front of a
21 tall residence popularly known as Srah Srang. I gave the letter
22 to Duch personally. Chhen and Than registered the letter as
23 received, as well as the letter number.

24 Next, I carried a small letter on which Duch wrote, 'Have
25 received letter number'. I never took letters from Office S-21

67

1 to the Ministry of Foreign Affairs. I found out that Chhen was
2 the one who brought letters and documents to the Ministry of
3 Foreign Affairs. Such documents were brought by a CL motorcycle.
4 The documents were more than 20 centimetres high. Sometimes
5 there were few and sometimes there were many.

6 [13.41.28]

7 Occasionally, when I asked Chhen, he replied that he brought
8 such documents for Uncle to review them. Duch asked me not to
9 tell anyone else about bringing him letters. If I did, he would
10 tell Ieng Sary to have me arrested.

11 I saw Chhen bringing the documents to him about once per week.
12 Most of them were handwritten documents which were confessions of
13 prisoners. As far as I know, Chhen died on Kravanh Mountain in
14 1979 when he was fighting against the Vietnamese

15 After that I found out the staff of the Ministry of Foreign
16 Affairs had subsequently been arrested. A little while before
17 this in 1976 I knew about S-21 because when I was learning how to
18 make films at B-1 I saw Peng, who came from S-21, arrest people
19 living around me.

20 Q. Could you please tell us about the time you were working at
21 the Vietnamese border?

22 A. In 1977 I was sent to work at the border for about two
23 months. During that period I saw Ta Lvey's and Ta Nat's division
24 invade Vietnamese territory. I also saw the soldiers of that
25 division arrest some Vietnamese soldiers wearing blue uniforms.

68

1 [13.43.32]

2 There were also women and civilians but most of them were
3 soldiers. There were around 40 people, only a few of whom were
4 women. I knew the persons who took these prisoners of war to
5 Office S-21 because they were in Chhen's team. Their names were
6 Than, Peng and Hor. I found out that the soldiers of the
7 division always shot the captives of war during the night-time.
8 Only the high-ranking people were exempted. I knew this because
9 I found a telegram and I learned about the orders of the upper
10 echelon through a telegram from Phnom Penh.

11 I knew only that they were upper echelon but I did not know who
12 they were. Not so long after the order from above, the captives
13 of war were driven to S-21. They were driven in a Chinese truck
14 and a Land Rover with sign boards saying S-21 on the back.

15 Q. Did you ever see Duch participating in meetings with the upper
16 echelon?

17 A. In 1977 I saw Duch participate in a weekly meeting at B-1 with
18 Ieng Sary, Pol Pot, Son Sen, Nuon Chea and Ta Mok. Duch attended
19 meetings with the upper echelon about once a week until 1979.
20 Sometimes Duch only came to see Son Sen or Ta Mok and chiefs of
21 other zones. I knew this because I was downstairs and the
22 meetings were held upstairs. I always saw Duch holding document
23 folders which were the same as the documents that Chhen brought
24 by motorcycle. They were probably confessions.

25 [13.46.23]

69

1 Q.Do you still remember who in the staff of B-1 was arrested and
2 taken to Office S-21?

3 A.I still remember that Mith and Roeun, whose birthplace was
4 Takeo province, from Division 310 were arrested because their
5 leader had already been arrested.

6 Q.Do you think the leader of B-1 did not know or did not agree
7 with the arrest of B-1 staff?

8 A.I think that the leader of B-1 really knew about it because
9 documents relevant to an arrest were always sent to the leader to
10 get his comments a few days before the arrest was carried out,
11 and there were also some meetings, as I have already mentioned.

12 Q.What did you know regarding Duch's wedding?

13 A.I attended it. The participants were Son Sen, Nuon Chea and
14 Ieng Thirith. The wedding took place at Duch's home in front of
15 Srah Srang. So I think that Duch was an important person, since
16 there were many high-ranking people who attended his wedding, and
17 I think that they all knew about Office S-21 and about Duch's
18 work because Duch was an open about that as well.

19 I did not know about other prisons, since I was never allowed to
20 visit local -- visit my native home.

21 [13.48.36]

22 Q.Based on Duch's work, what did you think about his attitude?

23 A.I noticed that he was satisfied with his work because whenever
24 I met him he always smiled and he worked actively and sometimes
25 he asked me to return to my place early to avoid losing time in a

70

1 long conversation. I saw that most of the time he rode his CL
2 motorcycle which he sometimes allowed his messenger to ride, and
3 also he sometimes drove a Jeep.

4 One copy of the written record was provided to the witness.
5 After the written record was read out to the witness, the witness
6 agreed to sign."

7 MR. PRESIDENT:

8 Next, Mr. Duch Phary, you are instructed to read a statement of
9 another witness, Chey Sopheara, and this is just a brief summary
10 of his statement, D83/1.

11 THE GREFFIER:

12 "Document D83/1. This is the written record of the interview of
13 Chey Sopheara. Chey Sopheara is the deputy chairman of the
14 Directorate of Museums responsible for the Tuol Sleng Museum of
15 Genocide Crimes and Ministry of Culture and Fine Arts. In his
16 statement to the Office of the Co-Investigating Judges dated 25th
17 March 2008, document reference number D82/3, he has described how
18 documents including confessions, films and photographs found in
19 the compound of S-21 and its surrounding areas have been
20 collected, arranged and conserved."

21 [13.51.18]

22 MR. PRESIDENT:

23 After the two statements have been read out by the Greffier --
24 that is the statements of Saom Som Ol and the summary of the
25 statement of Chey Sopheara, do the Co-Prosecutors have any

71

1 observation to make regarding these two statements? All the
2 parties are reminded that these two documents are separate but
3 due to its brief appearance then both of them have been read at
4 the same time.

5 If the Co-Prosecutors have any comments to make, you take the
6 floor.

7 MR. TAN SENARONG:

8 Thank you, Mr. President. The prosecution does not have any
9 observation to make regarding these two statements.

10 MR. PRESIDENT:

11 The civil party lawyers, do you have any observations to make
12 regarding these two statements read out by the Greffier?

13 MR. WERNER:

14 Your Honours, civil party lawyers do not have any comment for
15 this witness. Thank you.

16 MR. PRESIDENT:

17 The defence counsel, do you have observations to make regarding
18 the content of the two statements as read out by the Greffier?

19 [13.53.19]

20 MR. KAR SAVUTH:

21 Mr. President, the defence counsel does not have any observation
22 to make regarding these two documents.

23 MR. PRESIDENT:

24 The Chamber now gives the opportunity to the accused to make his
25 observations regarding the two statements as read out by the

72

1 Greffier. You take the floor.

2 THE ACCUSED:

3 Mr. President, the summary of Mr. Chey Sopheara, I do not have
4 any comments to make. However, for the witness Chek Sam -- as
5 said by the accused -- or Saom Sm Ol or Phuon Sam Ol, I would
6 like to read the questions put by the Co-Investigating Judge,
7 Marcel Lemonde, to me in the document D47 as follows.

8 "Questions by the Co-Investigating Judges, Marcel Lemonde.

9 Q.You said you had no relationship with the senior leaders
10 besides Son Sen and Nuon Chea, but a witness named Chek Sam who
11 was a former messenger of the Ministry of Foreign Affairs who was
12 interviewed by DC-Cam with the reference 00054752 to 00054814, in
13 2002 on the 12th of July that you participated in the gathering
14 with Nuon Chea, Son Sen, Ieng Sary and Khieu Samphan and a
15 filming crew from China. Is that true? If so why these senior
16 leaders participated in your wedding?

17 A.I would like to say that this statement is not correct. Those
18 senior leaders were not present at my wedding on the 20th of
19 December 1975. Also, there was no Chinese filming crew on that
20 day. I did not know why Chek Sam mentioned that.

21 I think this person was not a messenger from the Ministry of
22 Foreign Affairs; it was likely that he was a member of S-21
23 staff. I made a written note on this point and I handed that
24 note to the Co-Investigating Judges as an annex to this record of
25 interview.

73

1 And I would like to read the written note that I gave to the
2 Co-Investigating Judges.

3 [13.57.07]

4 This document's reference is 00164353. I would like to read the
5 ERN number again, 00164353. Second topic, The Relationship
6 Between S-21 and the Central Committee:

7 "On the S-21 side there was only me, Duch, who was the Chairman,
8 who could report to the Central Committee, and on the Central
9 Committee it was only Son Sen, and above him, who was Nuon Chea,
10 who constantly supervised S-21 regarding the security matter."

11 Second paragraph:

12 "Chek Sam, I had an impression that he was a member of S-21
13 staff. He was one of the youths that I requested from Kampong
14 Chhnang on my wedding day. There was no Nuon Chea, Ieng Sary,
15 Khieu Samphan attending, and there were no Chinese film crew
16 making a movie on the day.

17 Addition, I got married on the 20 of December 1975 at the
18 military office of West Zone at Longvek barracks. Rom, my wife,
19 she was the chairwoman of the south wing office in that zone.

20 [13.58.58]

21 Number two, the dignitaries were San, the deputy secretary of the
22 West Military Committee, Ron, a member of the West Military
23 Committee, Nat, chairman secretary of S-21.

24 Three, the parents of the bride and the groom are my mother, my
25 godmother and a senior woman, an elder.

74

1 Four, the guests whom I knew, including Nuon Chea, Ieng Sary, Son
2 Sen, Khieu Samphan, they are Brother Mam Nai S-21, Comrade Vorn,
3 deputy chairman of military hospital West Zone, and It Masivorn,
4 the wife of Sou Samet.

5 Five, at that time there were a few black and white photographs
6 and probably Sreang was the one who took the photos. He was S-21
7 staff.

8 At 17 hours, Nat took me back to Phnom Penh and Nat called the
9 cadres of the company and platoons to attend in order to make
10 them familiar with Comrade Kun and my wife, because on the
11 wedding day they did not attend.

12 And we had a chicken gruel at House Number 2, and that House
13 Number 2 was the former house of Mey Samedy and I mentioned that
14 on the sketch of S-21 that I drew and it was ready only at 23 to
15 24 hours.

16 [14.00.55]

17 And even at that time, Soeung talked to Rom that he was busy.

18 And my request at the time were to and I did not even tell
19 anybody first, I only wanted a wedding for my couple because at
20 that time a lot of couples were married and, secondly, I wanted
21 my mother to stand up and give her best wishes to me and my wife.
22 These wishes were mine.

23 And this was done on the 19 February 2008 to the Co-Investigating
24 Judges.'

25 That is my response, Mr. President.

75

1 MR. PRESIDENT:

2 Next, Ms. Se Kolvuthy is now instructed to read another
3 statement, D48/1 and D52. Only the relevant part of the sections
4 are to be read according to the request by the defence counsel.

5 The Trial Chamber would like to inform the parties of the
6 proceeding and the public that previously the statements of the
7 witnesses before the Co-Investigating Judges already read,
8 especially document of Meas Pengkry, since we experienced some
9 kind of technical glitch that we failed to read the relevant
10 paragraphs, we are now in the process of reading those relevant
11 paragraphs.

12 [14.03.09]

13 The Greffier are now instructed to read the paragraphs before the
14 parties are given the opportunity to give their observation in
15 relation to these statements.

16 Please read only the relevant part in relation to the witness,
17 Meas Pengkry.

18 THE GREFFIER:

19 Document D48/1:

20 "This is the record of the reconstruction before the
21 Co-Investigating Judges of the Extraordinary Chambers in the
22 Courts of Cambodia on the 26th February 2008 at 8 a.m. at the
23 Killing Field of Choeung Ek in Kandal province.

24 Mr. Kaing Guek Eav, alias Duch, and his lawyers, Mr. Kar Savuth
25 and Mr. François Roux, who are present, witness Meas Pengkry, Him

76

1 Huy and Chuun Phal and Tay Teng were also present.

2 First paragraph:

3 During the call the charged person stated that he knew only Him
4 Huy among the four witnesses. Witness Meas Pengkry stated that
5 he has never met him but knew him by face.'

6 Paragraph two:

7 Meas Pengkry stated that he has returned there once last year for
8 a film with Him Huy. The letter indicated that he had returned
9 to the site several times, including in the eighties, at the
10 invitation of journalists and NGOs.

11 Paragraph 3.1:

12 Witness Meas Pengkry explained that initially he came to Choeung
13 Ek to deliver wood for building a wooden house. He brought the
14 wood, offloaded it and left. Subsequently he did the same with
15 prisoners. He used the same road which is still in place today
16 -- it was not paved then and was in a very poor condition -- and
17 entered Choeung Ek through the current entrance and parked his
18 truck close to where the flagpole now stands. He would leave
19 after the guards had received the prisoners.

20 [14.06.15]

21 He stated that he came to Choeung Ek only once or twice. The
22 reason is that after having an incident he fell asleep while
23 driving the truck. The truck rolled near the Wat Sleng. There
24 were no prisoners on board. He was sent to Prey Sar at Him Huy's
25 request to work in the rice field and no longer transported

77

1 prisoners to Choeung Ek after that. According to him the
2 vehicles had registration plates but he no longer remembers the
3 numbers."

4 Paragraph 4:

5 Witness Meas Pengkry pointed to the place where the shack was
6 stood and added that it was about four metres by eight metres in
7 size and was two storeys, ground floor and first floor.

8 Paragraph 5.4:

9 Meas Pengkry also stated that he did not see any children at
10 Choeung Ek.

11 After the re-enactment all the participants left the site without
12 incident at 12.15 p.m. An audio and video recording of
13 re-enactment was prepared and copies thereof were served to the
14 charged person. The original of the report was written in both
15 Khmer and French and was then translated into English.

16 Document D/52. It is the record of confrontation before the
17 Co-Investigating Judges of the Extraordinary Chambers in the
18 Courts of Cambodia on the 28th of February 2008 at 9.50 a.m.

19 [14.08.50]

20 Mr. Kar Savuth, Mr. François Roux, the accused Kaing Guek Eav,
21 alias Duch, witnesses Him Huy, Tay Teng, Chuun Phal, Meas
22 Pengkry, who already sworn according to the Internal Rules of the
23 Extraordinary Chambers in the Courts of Cambodia, were all
24 present.

25 The confrontation. Question by the Co-Investigating Judge Marcel

78

1 Lemonde:

2 Q.The day before yesterday you went to Choeung Ek with us for
3 the reconstruction. Do you confirm what you said while you were
4 there?

5 Witness Meas Pengkry responds:

6 A.Yes, I confirm.

7 Q.Among the people who were present, who did you know?

8 A.I only know Him Huy. I do not know Tay Teng but he might know
9 me because I was driving the trucks.

10 Q.Was it the first time that you came back to Choeung Ek since
11 1979?

12 A.I have already returned to be filmed. It was at night and Him
13 Huy was also present.

14 [14.10.32]

15 Q.What was the role of each of you at Choeung Ek?

16 A.I was a driver. The first time I went to Choeung Ek it was to
17 carry wood in order to build a house. Then I transported
18 prisoners in my truck twice, but this did not last because one
19 day I had an accident. There were only four persons on board --
20 Him Huy, two guards and me and I was assigned to Prey Sar to be
21 re-educated.

22 Regarding arrival conditions at Choeung Ek, the entrance was the
23 same as the current one but the road was much worse than today.

24 I parked the truck where there is now a flag and the prisoners
25 were unloaded from the truck to be taken to the wooden house. I

79

1 showed you the location of this house, which I believe was eight
2 metres long and four metres wide with two storeys.

3 It was in order to build this house that I carried the wood but I
4 do not remember the exact date. Him Huy instructed me to do so.
5 He was my superior and it was always him who gave me
6 instructions.

7 Q.When we went near the trees said to have been used to execute
8 children, each of you declared that he never witnessed such a
9 thing. Do you maintain this?

10 A.Me neither.

11 [14.12.59]

12 Q.Mr. Meas Pengkry, regarding the arrests carried out by S-21
13 personnel outside Phnom Penh, do you confirm that you transported
14 prisoners from Battambang to S-21 with Him Huy?

15 A.Yes, that is correct.

16 The original of the audio-visual recording was sealed before the
17 charged person and his lawyers and was signed by us, the
18 Greffiers, the charged person and his lawyers. A copy of the
19 original audio-visual recording was provided to the charged
20 person. Due to technical reasons it was not possible to give a
21 copy of the audio-visual recording to each of the persons taking
22 part in the confrontation, and we provided the witnesses and
23 civil parties with a copy of the written record.

24 At 5.05 p.m. we had a Greffier read aloud this written record of
25 confrontation as recorded. The written record having been read

80

1 aloud and heard, the charged person had no objections and agreed
2 to sign."

3 MR. PRESIDENT:

4 According to the records of the statements of Meas Pengkry,
5 D28/7, read last week by Madam Se Kolvuthy and that this is only
6 just a supplementary reading of the record of the confrontation
7 and re-enactment in relation to the statement by Meas Pengkry and
8 the statement were made before the Co-Investigating Judges.

9 Do the Co-Prosecutors wish to make any observations in relation
10 to this three documents that already read out?

11 MR. TAN SENARONG:

12 The prosecution has no observation in relation to the documents
13 read out.

14 MR. PRESIDENT:

15 The civil party lawyers, would you wish to make any comments in
16 relation to the three documents concerning Meas Pengkry?

17 MR. HONG KIMSUON:

18 Thank you, Mr. President. The civil party lawyers do not have
19 any observation.

20 [14.16.05]

21 MR. PRESIDENT:

22 The defence counsel, would you wish to make any observation in
23 relation to the statements of Meas Pengkry?

24 MR. KAR SAVUTH:

25 Thank you, Mr. President. We, the defence counsel, do not have

81

1 any observation either.

2 MR. PRESIDENT:

3 Now it is an opportunity for the accused to make his observation
4 in relation to the substance of the testimony of Meas Pengkry --
5 the three documents, the records on the interview and the
6 statement in which the records were made during the re-enactment
7 and confrontation. The floor is yours.

8 THE ACCUSED:

9 Mr. President, first of all I would like to clarify that before
10 the 7th of January 1979 I did not know Meas Pengkry. I met him
11 at Choeung Ek and he challenged me why I didn't recognize him and
12 I observed his attitude and that of Tay Teng. I looked at them
13 from top to toe and these testimonies of the three people were
14 very consistent. Him Huy, Tay Teng and Meas Pengkry made very
15 consistent testimonies, so I believe that they were staff members
16 of S-21 without any denial.

17 So in conclusion, it is my position to accept the testimony of
18 Meas Pengkry, so it is accepted in principle.

19 [14.18.03]

20 MR. PRESIDENT:

21 Next, Mrs. Se Kolvuthy is now instructed to read the record of
22 the interview of witness Uk Bunseng; D78/7.

23 THE GREFFIER:

24 "Document D78/7; this is the record of the interview of witness
25 Uk Bunseng, alias Seng, born on the 4th of April 1955. This

82

1 record was done on the 2nd of April 2008 at 10.05 a.m. by the
2 investigators of the Co-Investigating Judges Office of the
3 Extraordinary Chambers in the Court of Cambodia.

4 Question and answer:

5 Q.Did DC-Cam interview you in March 2003?

6 A.Yes.

7 Q.We will read the entire text of that 14th of March 2003
8 interview by Mr. Phan Sochea of DC-Cam summarized a number of
9 points and asked for your confirmation if you still accept all
10 that content.

11 In 1973 you were coerced into becoming a soldier and began
12 military and political training at Wat Chroy Sangke. You said
13 that you were afraid and did not dare participate in the war.

14 [14.20.40]

15 In late 1974 they drafted you back into the army and at that time
16 you attended a political indoctrination session which discussed
17 internal enemies, traitors and external enemies including Vietnam
18 and Thailand.

19 After Phnom Penh was brought under control and the people were
20 evacuated, Phnom Penh City became an uninhabited place and you
21 entered Phnom Penh with a large group from Sector 25. You lived
22 north of the Independence Monument in an area under the
23 responsibility of Nat who was chairman of the Division 12.

24 Your initial work was collecting materials like clothing to be
25 placed in warehouses. You were sent to Boeng Choeung Ek and went

83

1 to a place near Prey Sar two months later for political
2 indoctrination because you had a bad personal history and had
3 family relatives who had positions in the previous society.
4 You were trained and tempered at Boeng Choeung Ek by digging
5 canals and putting up dams. There was three teams there. Team
6 one was the easy group, team two was the moderately, difficult
7 group and team three was the heavy tempering group where some
8 were put in chains at night. You were in team three for two
9 weeks before you were sent to S-24.
10 S-24 was subordinate to S-21 and was located at Wat Kdol and
11 included the land from Prey Sar to Chaek village. Wat Kdol was
12 totally destroyed under the direction of Huy's group, which
13 reported to Duch.
14 [14.23.20]
15 At S-24 the work was divided into three levels: a land-clearing
16 team, a ploughing team and a team raising domestic animals.
17 Those who did not temper themselves well were sent to S-21 and
18 never returned.
19 You claimed that S-24 was a re-education site and S-21 was a
20 killing site. You were at S-24 until it fell in 1979. You
21 stated that those who had returned from the Kampong Chhnang
22 airfield work site were sent to S-21 and were all killed.
23 In 1978 you once went for political study at S-21, where you met
24 Duch. Duch gave one week of training at school outside S-21. In
25 those studies you saw a number of prisoners arrested and taken

84

1 away. You did not know where they were taken but later you were
2 told that those people had been sent to S-21 and smashed. Please
3 describe the conditions and what you encountered while you lived
4 at Boeng Choueng Ek?

5 A. After living at the Independent Monument for two months, they
6 removed me for tempering to Boeng Choueng Ek to a place located
7 east of the Choeung Ek killing fields. Before they removed me,
8 my squad leader in the 12th Division -- I don't remember the name
9 of the squad leader -- had me and all the soldiers make personal
10 histories. The squad leader reported to the platoon leader and
11 he reported to the division, and later the squad leader called
12 out from a paper the names of those who were to leave.

13 [14.26.00]

14 I was at Boeng Choueng Ek for about two months. Boeng Choueng Ek
15 was subordinate to S-21. I did not know who was directly in
16 charge at Boeng Choueng Ek. At that time, I heard that the
17 regiment reported monthly to Duch. At Boeng Choueng Ek, I was in
18 a battalion which had approximately 100 persons to be tempered,
19 all of whom had come from the 121 Division. Those who were being
20 tempered were divided into teams of about 30 peoples.

21 I frequently saw people arrested there. Those who came to make
22 the arrest came by truck from S-21, but I did not know where the
23 trucks parked because it was during the night. I learned of this
24 in 1979 when people who had worked at S-21 told me.

25 When they came to make arrests, they called out names for people

85

1 to come down out of their houses and they blindfolded them.

2 Those arrested and taken away never returned. I learned through
3 people who whispered to me that those people had been taken and
4 killed. Each time they arrested from two to four persons, about
5 nine or 10 in total.

6 At that location there were some people in the special tempering
7 unit where they were kept in leg chains at night because they had
8 gone around stealing food during the night. At Boeng Choueng Ek,
9 the people being tempered slept in buildings. The team leader
10 slept in front of the entrance to the buildings. People being
11 tempered could walk around the area of the houses, but could not
12 leave the designated area for fear they would be seen and
13 reported to upper echelon.

14 [14.28.36]

15 At Boeng Choueng Ek, the food was irregular. If the tempering
16 was strong, they ate just three scoops of gruel. If the
17 tempering was moderate, they might have rice to eat. Work began
18 at 3 a.m. and, including a meeting, continued until 11 a.m. when
19 there was a rest. Eating was done in alternating shifts.

20 Afternoon work began at 2 p.m. and ended at 5 p.m. Night work
21 began at seven until 12 midnight.

22 There were large meetings which primarily spoke about the
23 striving to work so there would be food to eat, and there were
24 small meetings in each team for criticism and self-criticism.

25 While I was there, a group from S-21 came to photograph and get

86

1 the personal histories of those being tempered. I saw my photo
2 at S-21 Prison in 1985.

3 Q.After Boeng Choueng Ek, were you sent anywhere else?

4 A.After Boeng Choueng Ek, they sent me to Wat Har to dig canals.

5 Q.Please describe the conditions and what you encountered at Wat
6 Har.

7 A.Wat Har was located adjacent to Prey Sar. I did not enter
8 Prey Sar but I knew that it was also a tempering site. The area
9 from Wat Har to Wat Kdol was subordinate to S-24, and S-24 was a
10 branch of S-21.

11 [14.30.52]

12 Huy was S-24 chairman. Huy's office was located between Wat Har
13 and Wat Kdol and between the living sites of the male and female
14 youth units. I will sketch the layout for you.

15 The sketch is attached with this record.

16 I saw Huy almost every day because he came to inspect this area
17 every day. I did not see Duch since I was busy being tempered.

18 There were many workers there, thousands. The people being

19 tempered and the soldiers who came from various groups dug

20 canals. They did not put the people being tempered in chains but

21 they monitored their activities. The work there was heavy and

22 there was insufficient food. I did not see them arrest people at

23 Wat Har but I heard that people had disappeared.

24 In 1978, I saw hundred soldiers come by truck from the East Zone.

25 They came many times, about 100 soldiers per truck. They stayed

87

1 at S-24 overnight. They were sent to S-21. I learned this
2 information through S 21 security cadres who told me when we fled
3 after the Vietnamese attacked Phnom Penh in 1979.

4 While they were staying at S-24, I met soldiers who were picking
5 sugar palms and those soldiers asked me where I would be sent
6 next. I answered that I did not know. Those soldiers told me
7 that they had come from the East Zone to draw up personal
8 histories.

9 [14.33.22]

10 Q.How did you know that Duch was Huy's superior?

11 A.I knew that Duch was Huy's superior because they announced it
12 during studies and meetings at S-21. Those who went to study
13 were unit leaders and model people. I saw Duch and Son Sen come
14 to teach and show about activities of internal enemies and
15 foreign countries.

16 Q.What was Huy's physical description?

17 A.Huy had a large build, tall, dark-complexioned, curly-haired
18 and had a moustache.

19 Q.Did you know Huy's wife?

20 A.I did not.

21 Q.Do you know if Huy is alive or if he died?

22 A.I heard that Huy was arrested, was sent to S-21 and was killed
23 there.

24 Q.Please describe what you saw when you were studying at S-21.

25 [14.34.46]

88

1 A.While studying at S-21, I saw them arrest prisoners and drag
2 them across the street to the buildings. All of them who were
3 blindfolded and had their arms tied behind their backs. It was
4 then that I learned Tuol Sleng was a prison because someone
5 attending with me explained it me.

6 Q.When did you first know Duch?

7 A.I knew Duch when I attended study meetings at S-21. I knew
8 him more clearly when I stayed with him in the Kravanh Mountains
9 in Pursat province after the fall in 1979.

10 Q.Please describe fleeing from S-24 after the Vietnamese
11 attacked into Phnom Peng.

12 [14.35.48]

13 A.When the Vietnamese came, S-21 security people came to tell
14 us to get ready to run because the Vietnamese were approaching.
15 I walked with them for three days before reaching Kampong Tralach
16 and went to Amleang and met Ta Mok in the forest. In the end, I
17 reached the Kravanh Mountains, the place where I met Duch.

18 Q.Please describe what you saw at the Kravanh Mountains.

19 A.Six prisoners, three females, three males and one child were
20 arrested by Duch's subordinates and taken for interrogation after
21 one prisoner made a noise imitating an animal cry similar to the
22 sound of the name of Pol Pot. Duch ordered the arrest and the
23 interrogation and said whether they answered or not to finish it.
24 I saw one prisoner tortured by stuffing a flaming torch in his
25 mouth and cutting his throat. Duch stayed nearby the torture

89

1 site and he heard the noises of the torture. As for other
2 prisoners, they were probably killed on the mountain.

3 Q.What was Duch's appearance and his character?

4 A.Duch had a small build. He was a pleasant and friendly
5 person but firm, and if Duch gave an order it had to be respected
6 and implemented. This was different from Huy who was a mean
7 person. I did not dare look Huy in the face.

8 [14.37.51]

9 Q.Other than Duch and Son Sen, did you know any other leaders?

10 A.Aside from Duch and Son Sen, I never knew or heard the names
11 of Ieng Sary, Khieu Samphan at all. I only heard the name Pol
12 Pot when I was sent to S-24.

13 Q.Do you know if any of your tempering group or any of the
14 other prisoners are still alive?

15 A.As for the youths who were being tempered, I know a person
16 named Dos who were tempered at S-24 like me and he is still
17 alive. Now he lives in Po sub-district, Koh Thom district,
18 Kandal province. And S-21 security cadre named Bo is still
19 alive. Now he lives near Damrei Romiel village on the Kampong
20 Speu - Kampot border.

21 Some members of the female units are still alive. I don't
22 remember their names and recognize their faces because this
23 occurred a very long time ago.

24 One copy of the written statement was provided to this witness
25 at 1700 hours on 2nd April 2008. After it was read aloud, the

90

1 witness had no objections and agreed to sign and place his
2 thumbprint."

3 [14.39.43]

4 MR. PRESIDENT:

5 After hearing the statement of Uk Bunseng as read out by the
6 greffier, do the Co-Prosecutors have any observation to make
7 regarding its content?

8 MR. DE WILDE D'ESTMAEL:

9 Thank you, Mr. President.

10 We think that the testimony is sufficiently clear and we have no
11 submissions in its regard. Thank you.

12 MR. PRESIDENT:

13 Civil party lawyers, do you have any observation to make
14 regarding the content of the statement of Uk Bunseng?

15 MR. WERNER:

16 Your Honour, the lawyers for civil parties have no comment on his
17 statement. Thank you.

18 MR. PRESIDENT:

19 The defence counsel, do you have observations to make regarding
20 the statement of the witness, Uk Bunseng?

21 MR. KAR SAVUTH:

22 Mr. President we, the defence counsel, have no objection to the
23 statement of Uk Bunseng. Thank you.

24 [14.41.16]

25 MR. PRESIDENT:

91

1 The Chamber now gives the opportunity to the accused to make his
2 observation regarding the statement of Uk Bunseng as read out by
3 the Greffier; that is D78/7. If you have, you take the floor.

4 THE ACCUSED:

5 Mr. President, I have never known Uk Bunseng and the documents
6 related to Uk Bunseng only emerged lately. I have not seen any
7 testimony which provides sufficient weight for me to make
8 judgement that Uk Bunseng was at the rice fields at Prey Sar.

9 At the same time, his testimony that he went to attend the
10 training and met Son Sen was likely to show that he was not there
11 because Son Sen, when he attended a conference in S-21 in 1977 on
12 the 14th of April, I did not gather any components of people who
13 were educated at S-21. Only the cadres were instructed to
14 attend.

15 Also, the second point which made me suspicious is the East
16 group. The soldiers from East group were collected and smashed
17 at S-21 and they came directly to S-21 without going to Prey Sar.
18 The testimony of Comrade Huy a few days ago really shed light on
19 this point.

20 And the third point regarding the torture and the interrogation
21 after 1979 at Kravanh Mountains were the matters which could
22 never be existed. At that time, there was no longer S-21.
23 Everybody fled for their lives. So both the boss and the
24 subordinates, they fled and they just tried to stay alive and not
25 starve to death.

92

1 [14.44.01]

2 Therefore, in conclusion, the points or the testimony which
3 caused me suspicion on this person, as I just stated to the
4 Chamber, that's all my observations at this point. Thank you.

5 MR. PRESIDENT:

6 Now it is time for a break. The Chamber will take 17 minutes
7 break and we resume at 3 p.m.

8 The hearing is now adjourned.

9 THE GREFFIER:

10 All rise.

11 (Judges exit courtroom)

12 (Court recesses from 1444H to 1506H)

13 (Judges enter courtroom)

14 MR. PRESIDENT:

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

16 We note that the international Co-Prosecutor would wish to make
17 any comment. You take the floor.

18 MR. DE WILDE D'ESTMAEL:

19 Thank you, Mr. President. I would like to get back to what I
20 just said previously, which I believe was not completely
21 translated, and I would like to make a request concerning Tay
22 Teng. The relevant paragraphs of the written record of the
23 transport on the site -- that is to say document D48/1 as well as
24 the relevant paragraphs of the written record of the
25 confrontation, which is indexed D52 -- well, I would like these

93

1 paragraphs to be read before the Court since they were not read
2 out this morning. Thank you very much.

3 [15.08.15]

4 MR. PRESIDENT:

5 What could have been the reason that you did not raise this
6 matter immediately when you were given the floor to make your own
7 observation in relation to the statement and that the request
8 only is made at this moment?

9 MR. DE WILDE D'ESTMAEL:

10 At the end of this morning's session the parties were asked to
11 provide comments on the two first documents and then the Court
12 adjourned for lunch, and we thought that the two other documents
13 would be read at the beginning of this afternoon's session and
14 then we would have the opportunity to present observations on the
15 relevant segments of these written records. Thank you.

16 MR. PRESIDENT:

17 After the record of Meas Pengkry's statement was read out then
18 the floor was given to the parties to make observations and that
19 there was a request that the Greffier was asked by the defence
20 counsel, or requested by the defence counsel to read the
21 statement. And by doing so, we can reduce the time to make
22 observation regarding one particular statement and that only
23 after the statements have already been read out that we can make
24 the conclusive comments in relation to the read-out statements.

25 [15.10.34]

94

1 So please be reminded that the process is followed like this
2 because we would like to make sure that the proceedings are
3 moving more expeditiously, but we accept your request and that
4 the Greffier is now instructed to read document D48/1 in relation
5 to the portion or paragraphs that related to the testimony of Tay
6 Teng. And then D52 and the related portions of Tay Teng are
7 advised to be read out also.

8 This morning the prosecutor raised this matter but we now give
9 the opportunity for the statement to be read out.

10 THE GREFFIER:

11 "Document D48/1. This is the record of the reconstruction
12 conducted before the Co-Investigating Judges of the Extraordinary
13 Chambers in the Court of Cambodia conducted on the 26th of
14 February 2008 at Choeung Ek, 15 kilometres to the southwest of
15 Phnom Penh in Kandal province.

16 There was the presence of Mr. Kaing Guek Eav and Mr. Kar Savuth
17 and François Roux and witnesses Meas Pengkry, Him Huy, Chuun Phal
18 and Tay Teng were also present.

19 Paragraph 1:

20 During the role call the charged person stated that he knew only
21 Him Huy among the four witnesses. Chuun Phal and Tay Teng stated
22 that they never knew the charged person.

23 [15.12.46]

24 Paragraph 2:

25 Witnesses Chuun Phal and Tay Teng stated that they were returning

95

1 to Choeung Ek site for the first time.

2 Paragraph 3.3:

3 Witness Tay Teng confirmed that he was assigned to guarding
4 prisoners and that he was present whenever they arrived.

5 Paragraph 4.2:

6 Witness Tay Teng was somewhat disoriented by the changed
7 surroundings but he did identify the area where the wooden shack
8 stood then. He stated that the generator was near the booth
9 which is still in place. According to him, the prisoners did not
10 stay in the house for very long before being executed. He
11 explained that he would have a list for recording those who
12 arrived and those to be sent away for execution, so as to make
13 sure that none of them was lost.

14 He estimated that at any given time there were anywhere between
15 20 to 30 prisoners but was not quite certain about this.

16 Paragraph 5.3:

17 Witness Tay Teng stated that he was having difficulty identifying
18 exact locations because the trees have since grown much taller.

19 Paragraph 5.4:

20 [15.14.30]Close to the location where skeletal remains of
21 children were found, the witnesses all stated that they never saw
22 children at Choeung Ek. Tay Teng, who indicated that he worked
23 at S-21 for five to six months in 1978 until the liberation,
24 remembers seeing women and men arriving but not children.

25 He added that the women and men were executed and buried at the

96

1 same place.

2 Paragraph 6.3:

3 Witness Tay Teng stated that he was not aware of the scene
4 described by Him Huy because he was inside the house. He
5 affirmed that he did not see Duch but only Comrade Hor. It may
6 very well be that Duch came to Choeung Ek without being seen by
7 him but he did not hear anyone say that he did.

8 Paragraph 7.7:

9 Tay Teng stated that he was assigned to go to Choeung Ek by Him
10 Huy, who instructed him, and that his task was to receive
11 incoming prisoners to dig pits and to bury the pits after the
12 prisoners were executed.

13 [15.16.19]

14 After having announced that the detainees were sent to the pits,
15 he said he was in the house and that he did not know much about
16 it. He said that the member of the unit was in charge of
17 execution and he accepted that he sometimes took charge of the
18 executions but he explained that this was not a habitual task.
19 After the re-enactment all the participants left the site without
20 incident at 12.15 p.m. without any incidents. An audio and video
21 recording of the re-enactment was prepared and copies thereof
22 were served to the charged person. The original of the report
23 was written in both Khmer and French and was then translated into
24 English."

25 "Document D52. This is the record of the confrontation before

97

1 the Co-Investigating Judges of the Extraordinary Chambers in the
2 Court of Cambodia on the 28th of February 2008 at 9.50 a.m.
3 The defence counsel, Mr. Kar Savuth and François Roux, the
4 accused Kaing Guek Eav, alias Duch, witnesses Him Huy, Tay Teng,
5 Chuun Phal, Meas Pengkry, who already sworn according to the
6 Internal Rule of the Extraordinary Chambers in the Court of
7 Cambodia, were present.

8 Confrontation:

9 [15.18.20]

10 Q.The day before yesterday you went to Choeung Ek together with
11 us to conduct the re-enactment. Do you still maintain or confirm
12 what you already stated earlier?

13 Witness Tay Teng:

14 A.Yes, I still confirm that.

15 Q.Among the people who were present here does any one of you
16 know anyone here?

17 A.I knew only Meas Pengkry and Him Huy. I'm not sure whether I
18 know Duch.

19 Q.Is this the first time that you are returning to Choeung Ek
20 since 1979?

21 Chuun Phal and Tay Teng:

22 A.Yes.

23 Q.What was your role at Choeung Ek?

24 Tay Teng:

25 A.It is true Huy was my chief.

98

1 [15.19.34]

2 Q.Mr. Tay Teng, you said that at Choeung Ek your group was in
3 charge of digging pits and executing prisoners, and you also took
4 part in the executions, although it was not very often. Do you
5 still confirm your statement?

6 A.I still confirm my statement the day before yesterday.

7 Q.When we reached the tree used for the execution of the
8 children, every one of you claimed that you never took part in
9 such execution of the children. So do you maintain this?

10 A.I never saw children either.

11 The original of the audio-visual recording was sealed before the
12 charged person and his lawyers and was signed by us, the
13 Greffiers, to Co-Prosecutors, the charged person and his lawyers.

14 A copy of the original audio-visual recording was provided to the
15 charged person. Due to technical reasons it was not possible to
16 give a copy of the audio-visual recording to each of the persons
17 taking part in the confrontation and we provided the witnesses
18 and civil parties with a copy of the written record.

19 At 5.05 p.m. we had the Greffier read aloud this written record
20 of confrontation as recorded. The written record having been
21 read aloud and heard, the charged person had no objections and
22 agreed to sign."

23 [15.21.45]

24 MR. PRESIDENT:

25 After having heard what has already been read out by the Greffier

99

1 in relation to the response of Tay Teng, do the Co-Prosecutors
2 wish to make any observation?

3 MR. DE WILDE D'ESTMAEL:

4 I only want to thank you for having given the order to read these
5 segments of the written record. We do not have any further
6 observations.

7 Thank you.

8 MR. PRESIDENT:

9 Civil party lawyer, Ms. Studzinsky, you take the floor.

10 MS. STUDZINSKY:

11 Thank you, Mr. President.

12 I have a request concerning the last document that was read out
13 and related to page 4 of this document where the answer of the
14 witness Tay Teng was read out. But to understand this answer,
15 the answer of Witness Him Huy should be read out as well because
16 the answer of Tay Teng refers directly to the answer by Witness
17 Him Huy. This is on page 4. And so it could be better
18 understood what the witness Tay Teng means. And therefore I
19 would like to request you to ask the Greffier also to read out
20 this answer by witness Him Huy starting with "Regarding my
21 specific role" and so on. It's, I would say, in the middle of
22 page 4. Thank you.

23 [15.23.59]

24 MR. PRESIDENT:

25 So on page 4 in which line? Could you please help the Court?

100

1 And how many lines would you wish the Court to ask the Greffier
2 to read out the related version? Because if it is not clear then
3 the decision will not be made precisely as well.

4 MS. STUDZINSKY:

5 At right, first -- with the English version, which is on page 4,
6 and from the bottom it is the sixth paragraph, answer by witness
7 Him Huy, and then in the English version starting with "Regarding
8 my specific role, I was the head of the unit."
9 To check this in Khmer I would need some time. Maybe the
10 Greffier is able to check it. Thank you.

11 MR. PRESIDENT:

12 If the Greffier of the Trial Chamber is now sure where to begin
13 with, then please read the portion as requested.

14 THE GREFFIER:

15 "Question by the Co-Investigating Judges:
16 What was the role of each of you at Choeung Ek?

17 [15.25.44]

18 Answer by witness Him Huy:

19 Regarding my specific role, I was the head of the unit in charge
20 of the transfer of prisoners from S-21 to Choeung Ek. Hor
21 designated our group to accomplish this task. Hor ordered me to
22 designate someone to meet and guard the prisoners at Choeung Ek.
23 Tay Teng's group was in charge of that. It was made up of eight
24 persons and had to dig graves and execute the prisoners."

25 Answer by witness Tay Teng:

101

1 That is correct. Brother Huy was my superior."

2 MR. PRESIDENT:

3 Is there any further remarks by the civil party lawyers after
4 your request has already been granted?

5 MS. STUDZINSKY:

6 No, there's no further observation from the civil party side.

7 MR. PRESIDENT:

8 The defence counsel, would you wish to make any observation in
9 relation to the additional reading of Tay Teng's statement and
10 also the additional portion in relation to the response to
11 Witness Him Huy? Would you wish to make such observation? Then
12 the floor is yours.

13 MR. KAR SAVUTH:

14 Thank you, Mr. President.

15 This morning I made my observation already that I agreed with Mr.
16 Hong Kimsuon that this witness had made accurate statement and
17 that he did not see the accused pay a visit to Choeung Ek. It
18 has been clear already that none of the witnesses saw the accused
19 go to Choeung Ek.

20 [15.28.00]

21 And that's all, Mr. President. I'm grateful.

22 MR. PRESIDENT:

23 The accused, would you wish to make any further observation in
24 relation to the additional statements in the record of the
25 confrontation and the re-enactment regarding Tay Teng?

102

1 THE ACCUSED:

2 Mr. President, I don't have any further observation at the
3 moment.

4 MR. PRESIDENT:

5 Next, Mr. Duch Phary is now instructed to read aloud the record
6 of the interview of Han Iem, document D28/5.

7 THE GREFFIER:

8 "Document D28/5. This is the written record of the interview of
9 Witness Han Iem alias Moeng born in 1953. This written record
10 was made on the 29th November 2007 at 8.10 a.m. by the
11 investigators of the Office of the Co-Investigating Judges of the
12 Extraordinary Chambers in the Courts of Cambodia.

13 "Q.Could you describe your background before 1975?

14 [15.30.10]

15 A.I would like to say that I was separated from my mother. I
16 joined the army in Regiment 112 of Division 703 in 1975 with Ta
17 Nat as commander. After the liberation of Phnom Penh in 1975 I
18 was in Regiment 112 and later a new regiment, Regiment 142, was
19 formed with Karin, alias Rith, as commander.

20 At that time they had me do rice production and I ploughed the
21 rice paddy at O'Bek Kha'am. They said that I failed to do a good
22 job and later they had me do cooking for them.

23 And three months later they had me prepare my biography in
24 Regiment 17 of Division 703, which was opposite the Monivong
25 Hospital. I spent three days for biography recording. I did not

103

1 know much about the person who recorded my biography.

2 Then they had me guard at the Preah Sisowath School; i.e., to
3 guard the senior cadres who were learning there, but I did not
4 know what they learned.

5 I was removed after spending one month there. They had me go to
6 guard at a prison outside. It was Dam Pheng prison next to Phsar
7 Thmei adjoining the fence of Monivong Hospital with small and big
8 cells and surrounded by iron bars.

9 [15.32.06]

10 During the five-year war, they wrote on the wall in fresh blood.
11 Dam Pheng is for resisters who were imprisoned. They painted a
12 bright red heart and the name Dam Pheng. Those were painted and
13 written on the outside surface. I did not see those with my eyes
14 but the people inside told me. I heard people saying that the
15 chief there was the same person, Duch.

16 I spent about three months there and it was about the 17th of
17 April 1975. I guarded there until 1976. Then the prison was
18 moved. They had me moved and the prisoners were all transferred
19 earlier. The prisoners were blindfolded and handcuffed when they
20 were transferred by trucks. In the next morning, after the
21 transfer of all prisoners, they had us all move.

22 When we arrived at Tuol Sleng we did not see those prisoners. We
23 wondered and asked ourselves if the prisoners disappeared. Then
24 the group chief said that, "You guards, just do your job as
25 guards."

104

1 Three days later -- it was in 1976 -- they brought in new
2 prisoners, handcuffed and blindfolded. They were soldiers,
3 co-operative villagers and Vietnamese. Some of the prisoners
4 spoke Vietnamese and they did not speak Khmer.

5 I guarded there for about one month. Sometimes I guarded inside
6 and sometimes outside of the fence. There were 12 guards in one
7 platoon and there were four guards in one group. My group chief
8 name Chamreoun and later he was arrested. And later the group
9 chief, Sok, was also arrested.

10 [15.34.21]

11 I did not know the reason for Chamreoun's arrest, but Chamreoun
12 said that when he was on duty he kept advising his subordinates
13 that, as a guard, we need to exercise our best effort to prevent
14 the prisoners from committing suicide.

15 Sok was a deputy group chief and later on he was promoted to be
16 group chief and later he was arrested at about 12 a.m. and I did
17 not know the reason for his arrest.

18 While I guarded inside when the new prisoners arrived, they asked
19 me, "Ta, do you have any free room?" If the room was available,
20 I was the one who took the prisoners to put them in the room,
21 untied the blindfold, shackled them up and then took off the
22 handcuffs. I observed some prisoners with a big build had both
23 legs shackled -- and told the prisoners to tell me when they
24 needed to urinate or defecate or when they were thirsty. There
25 were small cells on the first or ground floors.

105

1 On a daily basis there was a guard to take his shift at meal
2 times and when it was my turn I came back on duty. One shift was
3 in the morning and another in the afternoon. There were the same
4 shifts at night. I had to take two shifts, one in daytime and
5 one at night.

6 Q.How did they feed the prisoners?

7 A.They had the light prisoners cook the rice, raise the pigs or
8 repair car or trucks based on their skills.

9 [15.36.19]

10 Q.What about the prisoners inside?

11 A.They brought them two meals a day and there was one plate of
12 rice and one bowl of soup per meal. I did not know whether it
13 was enough because it was the set ration.

14 Q.And what about their health?

15 A.Some prisoners got cut on the back and deteriorated after the
16 interrogation. Some were dead in the cell after returning. Some
17 were emaciated. There were both male and female prisoners but I
18 never saw children in my place.

19 Q.Based on your observation, in what year did you see the most
20 prisoners arrive?

21 A.It was in 1977-1978. I saw that when I was guarding but I
22 never asked about anything. When it was time to bring out the
23 prisoners the outsiders handed me the key to unlock the door and
24 deliver the prisoners to them. I did not know whether they were
25 brought for interrogation or where was their destination.

106

1 [15.37.40]

2 Q.As you are illiterate, how did you remember the prisoners to
3 be brought away?

4 A.For instance, they told to take the prisoner from the small
5 cell or big cell. There was only one prisoner in one small cell
6 but there were more prisoners in the big cell, but no mistake was
7 made because the prisoner was taken based on his or her identity
8 number.

9 Q.Who was the interrogator you were working with the most often?

10 A.As the inside guard I did not know that. When they came to
11 take the prisoners they contacted the guards at the entrance and
12 those guards brought me the keys. The entrance guard named
13 Kheang. Later Kheang was also arrested under the allegation that
14 he had connection with Sok and Chamroeun.

15 Q.Were there many prisoners who were brought out and who never
16 returned?

17 A.There were many of those who never returned and most of them
18 were the emaciated prisoners. And there were also many new
19 prisoner arrivals.

20 Q.Was there any prisoner who died when he or she was shackled?

21 [15.39.00]

22 A.I saw the prisoners dying every day as a consequence of severe
23 injuries after the interrogation. Sometimes two prisoners died
24 per day. About one month after the arrest of Kheang they placed
25 me to guard outside of the prison fence. After spending one week

107

1 there I fell asleep on duty and my head leaned over onto the
2 barbed wire. Then my superior, Peng, arrived and pushed me
3 further into the barbed wire. He said that I was probably from
4 the same string as the enemy. I said to him that, "Brother, I am
5 very sleepy." Then he advised to come down and take a bath and
6 he guarded for me.

7 After having a bath I came to take up my duty and he said that I
8 should be careful and that if I continued to fall asleep I would
9 be in danger. The inside guard heard that and asked me, "What
10 happened, Ta?" I told him that Brother Peng arrived when I fell
11 asleep on duty. The inside guard said to, "Be careful with that,
12 Ta." Then I stopped talking to him because I were afraid that my
13 group chief would hear.

14 One week later I was arrested and cuffed, blindfolded, chained
15 and was the only inmate in one room in the central building, and
16 they had a small boy guard me. The one who arrested me was from
17 the arrest unit. His name is Huy. He was a subordinate who
18 acted under the orders from his upper echelon. They chained me
19 and I was not allowed to talk. I did not know the reason of my
20 arrest and they deprived me of rice and water for one week.

21 [15.41.24]

22 The young guard, who named Heng, alias Chhak and he was from
23 Kampong Chhnang from Rolea Pha'ea district, and he sneaked away
24 from his superior's presence and asked me if I was thirsty. I
25 told him, 'Nephew, please watch out for your personal safety.

108

1 Let me become a grandfather.'

2 Then he handed me a bowl of drinking water and then inserted a
3 piece of cloth into my cell. He had me drink the water dropping
4 from the cloth in order to leave no trace and he told me not to
5 tell anyone that he had given me drinking water. If they asked
6 me if I was thirsty and if they found out that he had given me
7 drinking water both of us would be killed.

8 Two days later Heng sneaked out nearby and brought me some rice
9 in a plastic bag. He told me to eat rice while lying down and I
10 also thanked that guard. The next morning they brought and asked
11 me if I knew about my mistake. I replied that I did not know
12 anything. The last few days I had fallen asleep on duty but it
13 was not on purpose because I was sleepy.

14 Tuy was the one who asked me and he was also arrested. 'Did you
15 know anything other than falling asleep?' he asked me. I replied
16 that I only knew how to guard and perform my duty when it was my
17 turn. I ate the rice when it was time for meals. They warned me
18 not to do that again and then I was released.

19 [15.43.23]

20 Q.Did you have any problem later on?

21 A.After that they had me guard outside of the zinc wall at all
22 times. I saw them walking the prisoners in during the night and
23 they were handcuffed and blindfolded. I saw that every month
24 with an unlimited number but I did not know where they were
25 brought to. I saw the big chief, Brother Hor and Huy at Prey

109

1 Sar, and Ta Duch was also there. Ta Duch was always there and
2 when the prisoners were brought out at night he told the truck
3 driver that we should know the number of prisoners. I heard Duch
4 telling that to the truck driver by own ears when I was guarding
5 outside of the prison.

6 Those big chiefs returned to their place after the truck left. I
7 saw Duch in a car accompany the truck transporting out the
8 prisoners. When the prisoners were brought in the Special Unit
9 walked them inside and delivered to the inside guard. The
10 members of the Special Unit including Huy Tauch with that group.
11 The prisoners were handcuffed and blindfolded when they were
12 walked inside.

13 There were young and old prisoners including women and men and I
14 did not see any foreign prisoner besides the Yuon prisoners were
15 in the Vietnamese Army uniform with cuffs -- they were handcuffed
16 -- and were blindfolded. Sometimes I saw three or five at a
17 time, but in total there were approximately hundreds of them. I
18 saw the interrogator brought the prisoners for interrogation and
19 some prisoners got injuries when they were brought in.

20 Q. Did you ever see a pregnant prisoner?

21 A. Yes, but I never saw children. When she was due to deliver,
22 she told the guard that she was about to give birth and then the
23 inside guard informed the outside guard who, in turn, called the
24 medic to get her for delivery. It was rather often that I saw a
25 female prisoner delivering a baby.

110

1 [15.45.03]

2 Q.Were female prisoners detained separately?

3 A.The female prisoners were detained separately in a big room.

4 They chained a pregnant prisoner by the ankle. A female prisoner
5 was shackled if she tried to create a problem with a guard.

6 Q.How did the prisoner take a bath, change their clothes or
7 defecate?

8 A.The guards, including myself, handed over the water hose to
9 the male prisoners so that they could take a bath, take off their
10 clothes and change their clothes by themselves without taking off
11 their shackles.

12 They had the prisoners defecate into the ammo cases in their
13 cells, and they had the light prisoners collect them once a day.

14 They took off the chains from the female prisoners and had them
15 walk to a separate room. They changed their clothes by

16 themselves. At that time, I kept my eye on them because I was

17 afraid that the prisoners would hang themselves and commit

18 suicide.

19 Q.Talking about organizational structure, what was Peng's title;

20 Peng who pushed your head?

21 A.Peng was in a regiment under Hor and Duch. Duch was a

22 chairman and Hor was deputy chairman. I did not know about the

23 backgrounds of Hor and Peng.

24 [15.47.50]

25 Q.You said that Huy was in the special unit. What was that

111

1 special unit?

2 A.The role of the Special Unit was to arrest. The Special Unit
3 also went out and arrested people from outside, that is, from the
4 provinces or co-operatives. Huy Tauch was in the Special Unit
5 but I did not know who other superiors were.

6 Q.At S-21, what was its division into units?

7 A.Unit 22 was the guards' unit. Unit 21 was the interrogators
8 unit, and then they created rice farming units, including Huy
9 Tauch who had a different numerical code, and I did not know
10 about anything besides this.

11 Q.When you were guarding inside did you ever see Duch walking
12 around and looking about?

13 A.I saw Duch walking around and looking but I never talked to
14 him. Duch met with Peng when a mistake was spotted.

15 [15.49.09]

16 Q.Did you ever see Duch at a different place?

17 A.I saw Duch twice at the education sessions, that is, when I
18 attended a political class. They taught us about our country and
19 about how to reconstruct our country into socialism, that is,
20 rice production shall be three to seven tonnes per hectare of
21 land, and as we all are workers we should work as hard as the
22 rice farmers.

23 They introduced a slogan which reads "Diminish the Enemy". Our
24 parents were also enemies and they were to be eliminated and only
25 the good people could be parents.

112

1 In the education session that I attended, I only saw Peng and
2 Duch, but other people attending at the sessions said that Pol
3 Pot, Khieu Samphan and Nuon Chea were also present and teaching.
4 I heard the students talking about that when they left their
5 class and when I was on my guarding duty. They displayed the
6 photos of Nuon Chea, Khieu Samphan and Pol Pot with captions
7 right below.

8 Q.Talking about management, did Duch have a good relationship
9 with Hor?

10 A.I did not know what happened. They arrested Huy Tauch and
11 later Hor was also arrested and taken out. I saw them walking
12 Hor for interrogation.

13 [15.50.58]

14 Q.Was the appointment of staff made by Duch or another person?

15 A.I did not know that. I just knew that he was a supervisor and
16 he never imposed any disciplinary action against me. Based on my
17 recollection, the rules at S-21 was that the guard's role is only
18 to guard; refrain from mingling with another person's business,
19 and refrain from talking to other people.

20 Q.Were there any disciplinary action against a guard for taking
21 a nap?

22 A.Yes, there were. They were arrested from every unit,
23 including the guard unit, the interrogator unit and the Special
24 Unit. There were many of them and they were taken to be detained
25 in the same prison.

113

1 Q.Did you ever see Duch inflicting torture?

2 A.I never saw that.

3 Q.Do you know any other former staff of S-21?

4 A.I saw Chan Samreng, who is still alive. In the last few years

5 I met him when I went to do a business in Tasda near the border.

6 He held a rather superior rank. He was with Ta Duch.

7 [15.52.33]

8 Pon was also arrested and detained in the same prison. He was

9 white and a rather short man. When they walked him, I knew his
10 face very well.

11 Medic Hor was arrested but I did not know whether medic Soeung
12 was arrested nor medic Dan is still alive.

13 There was Chhen, who was Duch's messenger, but I did not know
14 whether or not he is alive nor about his birth place. He was a
15 white and rather thin man.

16 Q.Where were you at the time when the Vietnamese troops were
17 entering?

18 A.It was not the time for my guard duty that day. We ran to the
19 west when we heard the gunshots and we spent two months to reach
20 Thailand, and we returned to our homeland thanks to the
21 repatriation before UNTAC election.

22 One copy of the written record was provided to this witness.

23 After being read aloud the witness had no objections and agreed
24 to sign."

25 MR. PRESIDENT:

114

1 After hearing the testimony of this witness, Iem Han, do the
2 Co-Prosecutors have any comments or observations to make?

3 [15.54.22]

4 MR. TAN SENARONG:

5 Mr. President, the prosecution does not have any observations to
6 make regarding this statement.

7 MR. PRESIDENT:

8 The civil party lawyers, do you have any observations to make
9 regarding the statement of Iem Han, as read out by the Greffier?

10 MR. HONG KIMSUON:

11 Thank you, Mr. President. The civil party lawyers do not have
12 any observations to make regarding this statement. Thank you.

13 MR. PRESIDENT:

14 The defence counsel, do you have any observations to make
15 regarding this statement?

16 MR. KAR SAVUTH:

17 Thank you, Mr. President. The defence counsel does not have any
18 comments or observations to make.

19 MR. PRESIDENT:

20 The Chamber now gives the opportunity to the accused to make his
21 observation regarding the content of the statement of witness Iem
22 Han as read out by the Greffier. The statement was provided to
23 the investigators of the Office of the Co-Investigating Judges,
24 document D28/5.

25 [15.55.57]

115

1 THE ACCUSED:

2 Mr. President, before I make my observation regarding Iem Han's
3 statement I would like to make correction to my word. The S-21
4 conference when Son Sen attended was held on the 27th, not the
5 14th, of April as I said this morning. And now I would like to
6 make my observations regarding the statement of Iem Han.

7 First, the person was from Preaek Ruessei and, from people I
8 asked, it was about two and a half kilometres from Ta Khmau. It
9 was in Svay Rolum quarter. So this person said he joined the
10 army. I had a suspicion then because at that time they would not
11 recruit the displaced people to be part of the army.

12 Secondly, I do not want to talk in details about the PJ Prison
13 because it was dismantled, but in testimony it's a bit peculiar.
14 The point is that this Iem Han, alias Moeng said he was arrested
15 and imprisoned with the order from the upper echelon -- that is,
16 from me -- because of falling asleep during guarding duty and
17 that later on he also said he was released, and that was my third
18 observation of his testimony.

19 He also said Comrade Tuy, an interrogation cadre of mine, was
20 arrested and Hor, my deputy, was also arrested. And Pon, the
21 interrogator whom I trusted the most, was also arrested.

22 In conclusion, the testimony of Iem Han was similar to the
23 testimony of KW-31. It made me suspicious that this person is
24 not a member of the S-21 staff and this is the conclusion of my
25 observations, Mr. President.

116

1 [15.58.55]

2 (Deliberation between Judges)

3 MR. PRESIDENT:

4 The time is now 4 p.m. and the reading of statements needs at
5 least half an hour, up to an hour, in addition to the
6 observations by the parties to the proceedings and we only have
7 15 minutes for this afternoon's session, so it's not going to be
8 worthwhile to read another statement. The Chamber therefore
9 decides to adjourn this afternoon's proceeding and it will resume
10 tomorrow morning, starting at 9 a.m.

11 Tomorrow also the Chamber will hear a testimony of witness KW-29
12 and for the remaining time the Chamber will have the statements
13 or the records of the interviews of those witnesses whom were
14 decided not to be summonsed by the Chamber to be read. So it's
15 likely the statements will be read out in the afternoon session.
16 Security guards, take the accused back to the detention facility
17 and bring him back before 9 a.m.

18 The hearing is now adjourned.

19 THE GREFFIER:

20 All rise.

21 (Judges exit courtroom)

22 (Court adjourns at 1601H)

23

24

25