



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia

Chambres Extraordinaires au sein des Tribunaux Cambodgiens

ព្រះរាជាណាចក្រកម្ពុជា
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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

17 June 2009, 0904H

Trial Day 30

Before the Judges:

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
JUDGE CARTWRIGHT	English
JUDGE LAVERGNE	French
MR. ROUX	French
MS. SE KOLVUTHY	Khmer
MR. SMITH	English
THE ACCUSED	Khmer
THE PRESIDENT (NIL NONN, Presiding)	Khmer
JUDGE THOU MONY	Khmer
JUDGE YA SOKHAN	Khmer

1

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

2 (Judges enter courtroom)

3 [09.04.30]

4 MR. PRESIDENT:

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

6 We note your presence, Mr. Co-Prosecutor.

7 MR. SMITH:

8 Good morning, Mr. President. Good morning, Your Honours. Good
9 morning, counsel.

10 Your Honours, I would just like to bring to your attention that
11 this morning the prosecution has passed around a booklet. It
12 relates to the Rule 92 submission to put before the Chamber under
13 87(2); a series of photographs that relates to the functioning of
14 Choeung Ek, the functioning of S-21, and the gravesite at Choeung
15 Ek. It's 158 photographs. We advised Your Honours of that on
16 the 5th of May.

17 So a booklet has been produced; these documents are on the case
18 file. I would just ask Your Honours if it would be possible for
19 the prosecution, at some point in time after the finishing of
20 your questioning of the accused on Choeung Ek or after the
21 prosecution's questioning or whenever you think it's appropriate,
22 if we could formally put these photographs to Your Honours under
23 87(2) and 87(3).

24 Also, at that time, what we would like to do is also formally put
25 the documents referred to in the prosecution notice of E53, which

2

1 was filed last month, relating to the physical layout of S-21. A
2 booklet has already been provided in that regard and some
3 photographs have been used to date, but the full amount of
4 photographs don't formally appear to be in the record.

5 So I would ask that for completeness, the prosecution be able to
6 put to the Chamber those documents, and perhaps briefly show the
7 public the nature of the photographs in accordance with the trial
8 management guideline that Your Honours have given in relation to
9 a very brief summary of those documents.

10 And, thirdly, we would like to take that opportunity to also put
11 before the Chamber the revised prisoner list and the annexes.

12 As you know, Your Honour, there's 51 annexes that relate to the
13 different categories of people at S-21 and the time periods in
14 which they were present at S-21. Some of those annexes have been
15 referred to specifically by Your Honours but a great number of
16 them still haven't been referred to, and it's not the
17 prosecution's intention to put each annex to the accused, of
18 course, but I mean the defence, of course, can make any
19 observation about those annexes at that time.

20 [09.08.22]

21 I would suggest that the formal putting the documents to Your
22 Honours, the three sets of documents -- I would suggest that
23 would take about 20 to 30 minutes in accordance with the more
24 abbreviated guideline as stated by you. We can do it in an even
25 shorter format than that but, for the purposes of the public, I

3

1 think those documents could be dealt with within about 20 or so
2 minutes, but we're in Your Honours' hands as to when the
3 appropriate time to do that.

4 The only reason why I raise it now is that as we're moving from
5 the functioning of S-21 to Choeung Ek to other parts of the case
6 and the witnesses, I think it would be appropriate that this
7 evidence be made clear and placed on the case file or the --
8 they're on the case file, but be placed on the list of evidence
9 that Your Honours can refer to at this point in time. Thank you.
10 (Deliberation between Judges)

11 MR. PRESIDENT:

12 Thank you, Mr. Co-Prosecutor, for raising the matter.
13 The Chamber has obtained the photos which the Co-Prosecutor
14 intends to present during the sessions. The Chamber would like
15 to also hear from other parties to the proceeding whether they
16 would like to object -- or is there any objection concerning the
17 attempt to present these photos in the sessions?
18 If there is no objection, the Chamber --

19 [09.11.56]

20 MR. ROUX:

21 Mr. President, Your Honours, I would respectfully like to call
22 the attention of the Chamber to the fact that the Co-Prosecutors
23 Office hurried to the point that it forgot about one of our
24 fundamental rules, which is that it is not at all allowed to give
25 the name of witnesses who are protected witnesses, and it is

4

1 absolutely forbidden also to show their pictures, their photos,
2 whereas in this booklet there are names and photos for a number
3 of witnesses who are yet to be summoned.

4 I would like to ask the Co-Prosecutors to exercise deeper
5 caution. Thank you.

6 MR. PRESIDENT:

7 The Co-Prosecutor, you take the floor.

8 JUDGE LAVERGNE:

9 To clarify the position of the defence, Mr. Roux, are you telling
10 us that you have no objection as to principle but you have an
11 objection as to the timing -- the time at which these documents
12 would appear?

13 MR. ROUX:

14 I have just heard that the Co-Prosecutors were asking for us to
15 be able to comment today, in public, these documents from the
16 file, and I'm saying that we can't.

17 [09.13.39]

18 JUDGE LAVERGNE:

19 You're saying that we cannot use the photos where we have
20 protected witnesses, as well as their names. What about the
21 other documents? Do you have objections regarding the other
22 documents?

23 MR. ROUX:

24 No, I have no objection regarding the other documents.

25 MR. SMITH:

5

1 Thank you, Your Honours. Just a brief point.

2 I was just making an application to be able to have some time to
3 present the documents. The prosecution hasn't mentioned one
4 witness's name in the application this morning and of course we
5 take the defence's point, but if there's any presentation of the
6 photographs, we must be considerate of witness protection issues,
7 but nothing like that has happened this morning.

8 MR. PRESIDENT:

9 Thank you.

10 So there is no objection -- any specific objection so the Chamber
11 considers that the booklet of the photos the Co-Prosecutors
12 attempt to present to the public are allowed after the
13 questioning regarding the functioning of S-21 and Choeung Ek, and
14 in due course today, we will see when time fits appropriately for
15 such a presentation of the photos; maybe by the end of the
16 session or we may find any other appropriate time after the
17 finish of the discussion on the functioning of S-21 and Choeung
18 Ek to show these photos.

19 Judge Lavergne, you take the floor.

20 [19.15.48]

21 JUDGE LAVERGNE:

22 So I think the only reservation from the Chamber side would be
23 that documents that would mention names or any kind of
24 information in relation to protected witnesses or civil parties
25 should not be disclosed now as long as the protective measures

6

1 are in place and applicable.

2 MR. PRESIDENT:

3 The security guard, please bring the accused to the dock.

4 During today's session, we are discussing on the fact concerning

5 the killing which took place at S-21, now called Tuol Sleng

6 Prison, and the surrounding areas, and the authority to order any

7 execution and the executions that took place at Choeung Ek. So

8 these are the main facts at issue today.

9 BY MR. PRESIDENT:

10 Q.Mr. Kaing Guek Eav, were there 12,380 prisoners killed at S-21

11 during the period from this until the 6th of January 1979? Is it

12 fair that I say this number of people were killed at S-21?

13 A.Your Honour, regarding the numbers of victims who died in that

14 location, the number I never precisely state, but I think the

15 number could even exceed that number.

16 Q.The location where the S-21 Committee selected for killing

17 those people, where was it -- I mean the killing and the burial

18 site?

19 A.Mr. President, there are three main sites. One was at the

20 psychiatric hospital in the Ta Khmau. We exhumed the bones and

21 we burned the bones so there was nothing left.

22 [09.20.21]

23 The second site was the area surrounding to the S-21 in Phnom

24 Penh which is also known as the Tuol Sleng prison.

25 And the third site was at the killing fields at Choeung Ek.

7

1 So from what I can recall, there are three main sites.

2 Q.During the process of killing, which was known as smash at the
3 time, who made such decision to smash the prisoners who were
4 arrested and sent to S-21?

5 A.Decisions to smash were sent by those who had the authority to
6 smash as stated in a document dated the 13th of March 1976. At
7 S-21, it was by the General Staff. So the people who were
8 decided to be smashed by the General Staff, the S-21 had to
9 implement that decision and cannot release them. And for the
10 functioning of S-21 or even from the operation of the 703
11 Division prison, the subordinates made the decision in order not
12 to have a backlog of the workload.

13 [09.22.24]

14 However, when I became the Deputy and later became the Chairman
15 of S-21, the people who made decision on the backlog was by
16 Comrade Hor; however, there was one matter as Comrade Hor smashed
17 a person who was still under the interrogation. So later on
18 then, he had to abide by my orders; that is, they cannot be
19 smashed until the interrogation to completed.

20 So there are two processes. One, those who made a decision to
21 send them and it was decided by the General Staff on behalf of
22 the Central Committee. And the second part regarding the
23 overload number was done by the S-21 Committee.

24 I do not try to deny my involvement in the crimes, but this is
25 the reality. It was the responsibility of the S-21 Committee,

8

1 and the process actually done, it was the prison of the Division
2 703.

3 Q. In the office of the S-21 compound in Phnom Penh, were any
4 killings take place and buried within the compound of S-21?

5 A. Within the compound of S-21 -- which I think we refer to the
6 Ponhea Yat College as was shown when we went for the re-enactment
7 -- I think, yes, the dead bodies, especially children, were
8 buried within the compound.

9 And also at the surrounding area outside the compound, I think
10 it's on the Street 613 near the Mohamon Trey Pagoda, yes, there
11 were burial sites and to the north it was not beyond the 310.

12 MR. PRESIDENT:

13 Now, we are on the facts of the operations and the killing
14 surrounding the S-21 and at S-21. So if any Judges of the Bench
15 has questions to be posed to the accused regarding their
16 particular portion of the fact, the floor is yours.

17 [9.25.27]

18 I notice Judge Thou Mony. You take the floor.

19 JUDGE THOU MONY:

20 Thank you, Mr. President.

21 BY JUDGE THOU MONY:

22 Q. The accused, as you have stated, the killing and burial sites,
23 there are three of them. One is at Ta Khmau prison. Second was
24 the surrounding locations and within the compound of S-21; and,
25 three, it is at the genocidal field at Choeng Ek.

9

1 Can you explain to us what types of prisoners were killed inside
2 S-21 or at the areas surrounding S-21?

3 A.Your Honour, the people who were killed inside the S-21
4 compound and the surrounding areas were numerous. I can say, in
5 total, after the killings and the burials at the Ta Khmau Prison,
6 the unit killed and buried the corpses to the west and inside the
7 compound of the Ponhea Yat college.

8 I would like to tell a story that I told Your Honours before. I
9 was ordered to inspect the killing of two important prisoners,
10 that is Norng Soun and Chhouk Neou, alias Chhouk. I already
11 reported to Your Honours and I would like to elaborate further on
12 this incident.

13 At that time, the Standing Committee ordered me to inspect at
14 5.00 a.m. at the location west of Ponhea Yat college. When
15 Chhouk Neou and Norng Soun were killed, they used a knife to stab
16 on the veins of the neck. So important prisoners and ordinary
17 prisoners were killed. That was at the time when Ta Khmau prison
18 was not used and at that time the Choeung Ek location was not yet
19 selected.

20 This is my response to you, Your Honour.

21 [9.28.41]

22 Q.Can you clarify that during the times the S-21 was located at
23 the National Police Headquarters, the PJ, where was the killing
24 of the prisoners done and what happened to the bodies?

25 A.Your Honour, I was not there by myself, but I can provide my

10

1 presumption.

2 At PJ, they did not kill or bury the prisoners there because they
3 saw there was solid -- I believe that they were killed at the Ta
4 Khmau and PJ was just a detention centre for interrogation. This
5 is my analysis, Your Honour.

6 Q.As you stated previously, those people who were arrested and
7 brought to S-21 were interrogated, and after the confessions were
8 extracted, they would be taken to be killed. You also stated
9 that the general order was done from the upper echelon.
10 So those people who were arrested and sent to S-21 would not be
11 released. I want to clarify that after they were interrogated
12 and their confessions were extracted, I want to know who ordered
13 those prisoners to be killed or smashed?

14 A.Your Honour, there are two phases of this matter.

15 The first phase, that is before the incident that a prisoner was
16 killed, before the confession was completed, it was done by
17 Comrade Hor in order not to overburden the workload, and at that
18 time, the detainees were only in reasonable number.
19 After that incident of Seun Sary, alias Brav and the confession
20 was cut off, he was warned by the superior, and that was the time
21 that anybody who was interrogated and finished, then Comrade Hor
22 would come to me and report it to me. I acknowledged that the
23 interrogation was complete and it was the order from the superior
24 that they would be only taken only after the confessions were
25 extracted. So there are two important phases. However, in the

11

1 second phase, there are some exceptions.

2 [09.32.13]

3 For example, as in the list of 159/1.10, the superior sent people
4 en masse and ordered the S-21 to execute, to implement the
5 decision. At that time, Comrade Hor was there and I was there
6 too. Comrade Hor used a word at that time that he used to
7 remember but I modified his word. So it shows that when they
8 were brought en masse, there was still sometimes a
9 misunderstanding of wording, but whatever it was we had to
10 implement the decision of the upper echelon.

11 And, as I said earlier, when Comrade Hor was not present, the
12 upper echelon would ask me to bring the list to them and then
13 they would make a decision as whom -- which prisoners would be
14 taken out.

15 On another occasion when Comrade Hor was not present, Phoeung
16 would take charge. In the end, for the east, for the people from
17 the east, it was straight. They were brought in and they were
18 taken out and there were about 300 of them.

19 [9.33.44]

20 So, in conclusion, in the second phase, there were some
21 exceptions as I just reported, however, the decision had to be
22 made by the S-21 Committee in order to implement the party's
23 political lines; that is, the enemy had to be smashed.

24 Q.Thank you. Can you clarify, after receiving an order to smash
25 the prisoners whose confessions already were extracted, which

12

1 unit was responsible for that?

2 A.Your Honour, the unit -- there was only one unit responsible
3 for this. That is the special unit. And as for the three or
4 four people who were stationed at Choeung Ek, that was just a
5 small part of the special unit. That is my response, Your
6 Honour.

7 Q.How did they execute the prisoners? I meant what method was
8 used in killing the prisoners?

9 A.Your Honour, the method of stabbing to the neck of the
10 prisoners was later changed to the clubbing of the prisoners, but
11 I did not know when it happened, when the change took place.
12 Comrade Huy talked about the clubbing on the neck of the
13 prisoners but I was not sure when the change took place. This is
14 my response, Your Honour.

15 [09.35.56]

16 Q.Were there any other methods of killing the prisoners?

17 A.Your Honour, besides stabbing on the neck and clubbing, there
18 was only a method of blood drawing and in another case that a
19 couple of prisoners were taken for medical experiments for
20 anatomy purposes.

21 Q.Did you ever teach the method of killing of prisoners to S-21
22 staff?

23 A.Your Honour, I did not teach. Let me just say I -- in the
24 Khmer saying -- I do not need to teach crocodiles how to swim,
25 because the crocodiles already know how to swim.

13

1 Q.In S-21 the prisoners who died during the time they were
2 tortured during the interrogations, were there such cases?

3 A.Yes, there were.

4 Q.How often it happened?

5 A.Your Honour, I could not grasp the exact number. I was
6 reported occasionally and in one incident that I already reported
7 yesterday to the Chamber I would ask the person to write the
8 confession and I would report it to the upper echelon. And in
9 another case Khoem Pho who violated the torture regulation as he
10 used a shoe to kick the ribs of the prisoner and the prisoner
11 died before the confession was completed, and in another case
12 that was shown in the photo, that a prisoner died because he was
13 suffocated by the plastic bag, and the actual incident that I saw
14 was in the case of Ping Kim Sie because he was a rather important
15 prisoner as well.

16 [09.38.59]

17 This is my response to you, Your Honour.

18 Q.In S-21 was there a method of starving prisoners until they
19 died?

20 A.Your Honour, frankly speaking, I could not grasp the matter
21 and I was not reported on this matter. However, there might be a
22 possibility, yes.

23 Q.Besides these methods, through study it revealed that the
24 testimonies of witnesses proved that staff at S-21 used the
25 insects, the poisonous insects, to bite the detainees until they

14

1 died. Was there any incidents like that?

2 A.Your Honour, I would say that it is none.

3 Q.Did you take part in killing the detainees directly and
4 personally?

5 A.Your Honour, I never involved in killing any detainee.

6 Q.Had you seen the killing of any prisoners with your own eyes?

7 A.I saw once, for sure, as I already told Your Honours, at 5
8 a.m. when Chey Suon and Suos Neou, alias Chhuuk, were being
9 executed. At Choeung Ek I tried to avoid from seeing such
10 killing and I turned my back to such execution.

11 [09.41.41]

12 Q.Can you confirm, after the killings were shifted to be taking
13 place at Choeung Ek, were there any executions taking place at
14 S-21 still?

15 A.At the beginning I thought that the executions would have
16 already been shifted to S-21 and that there would not be any more
17 killings at S-21 or the surrounding areas, but through the
18 confrontation I can see that there had still been further
19 executions of children who -- that took place at S-21 and were at
20 the surrounding areas.

21 Q.Besides the children were there any prisoners still being
22 executed at S-21 then?

23 A.I'm not quite sure. It is possible that people who got
24 seriously sick and died and people whose blood was drained until
25 they died would have been buried there.

15

1 Q.What about the detainees you perceived as the key detainees
2 like Kuy Thuon, Vorn Vet or Hu Nim and other key prisoners?
3 Where were these people executed and how were they killed?

4 A.Your Honour, the key people or detainees that had been taken
5 well care of by the superior, after these people were executed
6 photos had to be taken. So to prove that the person died, these
7 detainees had some stabs into their throats and their pictures
8 were taken. And these people were executed in the daytime when
9 there were very few people, and they were killed somewhere near
10 Mao Tse Tung Boulevard and I don't remember the street number.
11 It was Mohamon Trey Road, as it was known earlier.

12 And the photos had to be taken and to prove the severity and that
13 the detainees surely died. Then their throat had to be slit.

14 Q.How many other detainees who were executed and their photos
15 were taken?

16 A.Your Honour, besides the key detainees, no other detainees
17 were executed and their photo was taken. Any photograph had to
18 be ordered by the superior before they could be taken.

19 Q.You said when the location of the execution was switched to
20 Choeung Ek, you said that they are still killing at S-21,
21 especially the killing of children. Can you please be more
22 specific; how were these children killed?

23 [9.45.40]

24 A.Your Honour, how children were killed, we're not quite sure.
25 I don't know for sure, but there was a case that I frankly accept

16

1 that it did exist, when a child was arrested and his legs were
2 held and his head were banged against a tree to die.

3 I think it was possible that the children would have been smashed
4 against the tree trunks, but I still contest the fact that -- the
5 alleged fact that children would have been thrown from the upper
6 levels of the building down.

7 Q.You also stated that the key detainees had to have their
8 pictures taken, and to prove their death that the detainee's
9 throat had to be slit. Can you tell us whether other detainees
10 were killed by way of stabbing into their throat or by this kind
11 of practice?

12 A.I think stabbing was part of the show to the upper echelon
13 when a photo of the dead detainee had to be taken. Other
14 detainees would not be experiencing the same thing.

15 Q.You reportedly stated that the people who had to be arrested
16 and sent to S-21 were generally interrogated, and the purpose of
17 the establishment of S-21 was to obtain confessions.

18 Can you tell us whether the people who were arrested and sent to
19 S-21 were all interrogated before they were taken away to be
20 killed or was there any other story?

21 A.Your Honour, the purpose was different from that. For
22 example, the East Zone people who were sent in December 1978 were
23 never interrogated and, according to the order from Uncle Nuon,
24 they had to be smashed right away.

25 [9.48.52]

17

1 And Division 9, 20 people who were sent to S-21 on the 23rd of
2 November 1977, S-21 took them away immediately in order to
3 respect the order that they had to be taken away before the 2nd
4 of December 1977. So when the detainees were sent en masse and
5 some detainees were not of any significance that they had to be
6 taken away without any interrogations.

7 So that's why these three categories of prisoners were a
8 different case from the general manoeuvre taking place at the
9 S-21 concerning the interrogation before they were taken away to
10 be killed.

11 Q.Can you also confirm to us whether people who were arrested
12 and sent to S-21, in some cases had been arrested through the
13 complications in the confessions by the other people, and those
14 people were arrested and then tortured and then their confessions
15 were obtained in which -- in those confessions there were more
16 implications and that led to further arrests and more people,
17 including the wives or children of the implicated people, would
18 be arrested. And those people later on were smashed.

19 Were these people interrogated as well?

20 A.Some people were important, although they were women, but they
21 were important women interested by the superior, like the wife of
22 Vorn Vet. I made people interrogate her as advised. The wife of
23 Cheng On also was interrogated.

24 [9.51.04]

25 However, the other female detainees, although they were the wives

18

1 of the implicated people, they were not sent along with their
2 husband; for example, in the case of the wife of Kâng Chap alias
3 Sae who was not sent to S-21 but separately sent to other
4 location and smashed.

5 Q.I think it is rather repetitious to state this again, however,
6 it is important to say that people who were arrested and sent to
7 S-21 and interrogated had to be smashed, obviously; that's what
8 you said. However, we observed that there are still survivors
9 who were not smashed after they were interrogated.

10 What can you tell us about this?

11 A.Your Honour, the people who were interrogated but were not
12 smashed could be classified into two categories.

13 The first one were those who regarded by the superior as the
14 prisoners who were spared from being smashed. There were six of
15 them. The people who were artists, and Dy Phon the dentist, and
16 the other people were spared also to assist the work at S-21,
17 maybe 15 people including the previous six people I mentioned.

18 These people were used and I still managed them.

19 I waited for the order from the superior to send them to be
20 smashed, appropriately upon receiving any order.

21 [9.53.17]

22 So I can say that still some people survived and spared from
23 being smashed. Maybe there are about 15 people, people who had
24 been used temporarily at S-21. I see Mr. Chum Mey here in the
25 Court. He is one of among the other. That's all.

19

1 Q.Did you have the right to make any decision to spare any
2 detainee from being smashed and that the detainee should be used
3 to serve S-21?

4 A.Your Honour, at S-21, and probably at other security offices
5 across the country, the committee of the office could make a
6 decision to keep someone for helping the work at the office.
7 However, when we maintained them, we kept them to use them to
8 help in our offices, we were liable for the life and death of
9 those people, so we would be accountable for anything that
10 happened by way of keeping those people alive and use them at our
11 location.

12 Q.If I am not mistaken, the people who have survived were not
13 spared from being smashed, but they were left to stay alive so
14 that they could assist the work of S-21. When times came, they
15 would have been smashed too. Do I understand you correctly then?

16 A.It is true, Your Honour.

17 Q.You already stated clearly that after the 7 January 1979 and
18 when S-21 was discovered, they found some dead bodies of the
19 detainees, and these people were killed while being shackled.
20 Could you say anything about when these detainees were killed and
21 who ordered the killing?

22 [09.56.21]

23 A.Your Honour, when we left S-21 at 2 p.m. in the afternoon on
24 the 7 of January 1979, there were four dead combatants from --
25 the interrogator, Comrade Nan, upon ordered from the Committee,

20

1 had to smash those four detainees while they were still in their
2 beds. There was a separate room where the detainee were lying on
3 that single bed and they were smashed.

4 Q.Can you tell us the methods of killing detainees at S-21?
5 Were there any classification of executions to be inflicted on
6 the ordinary detainees or the foreign detainees who were
7 immigrants, for example?

8 A.Thank you, Your Honour. I did not classify them, but I
9 received the order from the superior that the four westerners had
10 to be smashed and burned to ash. It was the very absolute order
11 from the superior.

12 JUDGE THOU MONY:

13 Thank you, Mr. President. I do not have further questions at the
14 moment.

15 MR. PRESIDENT:

16 Judges of the Bench, any of you have any questions to be put to
17 the accused?

18 Judge Cartwright, you take the floor.

19 [09.58.57]

20 BY JUDGE CARTWRIGHT:

21 Thank you, Mr. President.

22 Q.Kaing Guek Eav, you have spoken of authority being given for
23 executions by the S-21 Committee. Can you tell me who was on
24 that Committee?

25 A.In the S-21 Committee there were only three persons. One,

21

1 myself; two, Comrade Hor -- his alternate name, Khoem Vak, and,
2 number three, Comrade Huy. Among the three of us, Non Huy, had
3 an exclusive task at Prey Sar.

4 This is my response to you, Your Honour.

5 Q.And apart from ordering executions, did this Committee have
6 other work to do?

7 A.The most important task of the Committee was exclusive
8 according to the phases of the operation. At S-21 in Phnom Penh,
9 which is now known as Tuol Sleng, the main task of the Committee
10 was to detain the people who were sent by the Standing Committee
11 in order to interrogate, to get the confessions, and to smash
12 them.

13 And in order for this main task to be successful, then they also
14 had other duties; for example, either special unit and a unit to
15 receive the prisoners and a unit to transport the prisoners to
16 Choeung Ek and the guards to prevent the prisoners from escaping.

17 So these are the duties of the S-21 staff assigned by the S-21
18 Committee in Phnom Penh.

19 This is my response to you, Your Honour.

20 [10.01.49]

21 Q.How frequently did this Committee meet?

22 A.Your Honour, the S-21 Committee -- the two of us -- sometimes
23 met two or three times a day depending on the requirement of the
24 operation. As for the person in Prey Sar, if I wanted to know
25 about their work, then I would ask the phone operator to call

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1 Comrade Huy for him to come and meet me in Phnom Penh.

2 Q.Did you keep notes of your decisions as a Committee?

3 A.Could you explain to me further what it means by keeping notes
4 as a member of the S-21 Committee?

5 Q.When the Committee made a decision, for example, to execute a
6 group of prisoners did you, as the Chairman of S-21, keep a note
7 that you had made that decision?

8 [10.03.45]

9 A.Your Honour, the minute of the meeting was never done. This
10 is the common practice that we conducted among the three of us.
11 Whatever decision we made, it was not even in writing. If I
12 wanted to order my subordinates, I had to order through Comrade
13 Hor in Phnom Penh. And if I wanted to order at Serei, I would
14 order Comrade Hor to order Comrade Huy to order the subordinates,
15 but there was no record of the orders or the decisions. However,
16 when I used Brother Mam Nai as my assistant, then I would write
17 my order on the paper because he was not a member of the
18 Committee so he cannot order other staff to implement my order.
19 So that was the common practice and there was no minute of the
20 S-21 Committee. There were only orders that I gave to my
21 assistant to implement my orders.

22 Q.You have described how after an incident when Hor had a
23 prisoner executed before he confessed, that all orders for
24 executions had to come to you first so that you could satisfy
25 yourself that the confession had been completed as best as it

23

1 could. Is that correct?

2 A.Your Honour, that is correct. Hor always reported to me when
3 the interrogation was completed.

4 [10.06.07]

5 Q.So, in effect, you ordered the execution of more than 12,000
6 people. Is that correct?

7 A.Your Honour, I would like to go back a bit. I would not deny
8 the killing and the responsibility but, in principle, the line
9 from the upper echelon for S-21 had to be implemented. So my
10 response is in the implementation of the Party's political lines
11 on these more than 12,000 people was done under my authority.

12 Q.The S-21 Committee had a broad range of responsibilities as
13 you have described. This means, does it not, that you knew
14 clearly on a day to day basis exactly what was happening at S-21?
15 Is that correct?

16 A.Your Honour, that is correct.

17 Q.You have said that at first Hor, in order not to overburden
18 the workload, directed the killings. What do you mean by
19 "overburden the workload"? It's probably a translation issue but
20 I just want to understand what you are saying.

21 A.Your Honour, I would like to go back to what I said, although
22 I would repeat it.

23 The people who were sent to S-21, S-21 had to manage in order to
24 smash them and not to let any one of them escape; in order not to
25 have too many prisoners because there might be a possibility that

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1 they might protest or they might shout, or then we would spend
2 more food on them. So in the name of the person who conducted
3 daily operations, he decided to take some prisoners out so it's
4 not going to be crowded. That's what I meant when I referred to
5 that phrase, Your Honour.

6 [10.09.10]

7 Q.Thank you. You have spoken of some children being buried
8 within the compound. Would these be the very young children who
9 came with their mothers; perhaps babies or children under the age
10 of five?

11 A.Your Honour, I did not see them directly but there are
12 possibilities that there might be children under the age of five,
13 and for those who aged about five might have been sent to Choeung
14 Ek.

15 Q.You have disputed that a child was thrown from a landing of a
16 stairway and killed in that manner. Why do you dispute this?

17 A.Your Honour, they were not thrown -- the person was not thrown
18 through a staircase. The child was thrown from the upper floor
19 into the open field on the ground.

20 I objected to it because, in principle, the killing of the
21 prisoners should be secret and not allowed other prisoners to
22 know. So if a person was thrown from the roof or from the third
23 floor then it was against the instruction, and if it was against
24 the instruction then I would be reported, and for such violation
25 I would not spare the person who violated it. I would remove the

25

1 person. That's why I disputed that this did not exist.

2 Q.How did all the children, the very young children who came
3 with their mothers, die?

4 [10.11.38]

5 A.Your Honour, let me conclude it in one word: they were killed.
6 They did not die because of starvation or lack of food, but they
7 were killed and, as I said, sometimes the babies were smashed.
8 They were thrown against the trees or something at Choeung Ek but
9 in Phnom Penh probably they were killed quietly in the same way
10 as the adult prisoners were killed. This is just my analysis
11 because I did not see the incidents personally. So the children
12 who came with their parents would be smashed as directed by the
13 upper echelon.

14 Q.And, in particular, very young children were separated from
15 their parents immediately on arriving at S-21. Is that correct?

16 A.Your Honour, that is correct. They would not be able to stay
17 with their parents for long. The longest was one day.

18 Q.And because you did not trouble yourself with how the children
19 were killed, you do not know how these many young children died.

20 Is that correct?

21 A.Your Honour, that is correct. I did not know the exact
22 number. I knew it was an offence but I would not know the
23 number.

24 Q.You have emphasized that you did not know the details of the
25 torture and the details of the killings. In fact, you avoided

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1 participating and kept away from torture sessions and from places
2 where people were being killed. Is that correct?

3 A.Your Honour, that is correct.

4 [10.14.08]

5 Q.So the methods by which people were killed is something that
6 you do not know very much about. Is that true?

7 A.Your Honour, I did not know clearly but, in general, in
8 principle, it was my responsibility, but because I did not see it
9 personally I cannot say clearly on this matter.

10 Q.I wonder then how you can say that no poisonous insects were
11 used. Why are you so sure about that?

12 A.Your Honour, because it was not my order or the order from the
13 upper echelon to torture in such method or to kill in such
14 method.

15 [10.15.16]

16 Q.Can you tell me if you know whether there were many women,
17 pregnant women, who were detained at S-21?

18 A.Your Honour, I did not know or grasp this information.

19 Q.Do you know then if any were obliged to give birth while they
20 were at S-21?

21 A.I did not know about this. Actually, Nuon Chea's niece, Lai
22 Tara alias Than entered S-21 and she delivered a baby during the
23 time that we fled together. That was one case that I can recall.
24 So delivering baby within the compound of S-21 would not occur
25 from my recollection.

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1 This is my response, Your Honour.

2 Q.Yesterday, you spoke of approximately 100 people, prisoners
3 dying from the drawing of blood from them. Can you tell me when
4 this decision to start drawing the blood from prisoners started?

5 A.Your Honour, on this matter, as I reported yesterday, it was
6 the implementation from the practice from the Nat's time. And
7 yesterday I also emphasized that it might have completed when the
8 98 Hospital screened Comrade Try, the Chairman -- the committee
9 member of the 98 Hospital and later on Comrade Tai was also
10 removed. And I think the practice was finished at that time.

11 [10.17.48]

12 Q.Were you ever ordered by the upper echelon to begin the
13 drawing of blood from prisoners and, if so, were you ever ordered
14 to stop that practice?

15 A.Your Honour, the order to draw blood, as I stated just then,
16 was from the upper echelon and the duration -- the time it
17 started when I became the Deputy and later on I ordered the
18 subordinates, not only ordering them, but I selected people as
19 ordered by the upper echelon not to use the blood to defuse the
20 combatants because of the concerns of viruses. So I had my name
21 and signature signed on that order.

22 Although during the investigation I did not see the documents, I
23 could estimate that the total number of the victims were roughly
24 100. So it was finished after the screening of Comrade Try.

25 Q.Thank you. You mentioned that four westerners were -- you

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1 were ordered to have them killed by burning by the upper echelon.
2 Two days ago, we looked at a longer list of westerners. If the
3 Trial Chamber eventually is satisfied that there were more than
4 four westerners at S-21, would it be correct that all of them
5 were killed in the same way?

6 A.Your Honour, when I was the Chairman and also Deputy Chairman
7 of S-21, I never saw any westerners more than the four people I
8 stated.

9 And regarding these four westerners, they came into Cambodia two
10 times separately. Each time there were two people and they were
11 smashed. The four westerners were not burned alive. They were
12 executed and their dead bodies were burned to ash.

13 [10.21.16]

14 Q.Where were they executed?

15 A.They were executed to the east. I think I can be corrected,
16 east of Street 163 and then to the north of Mao Tse Tung
17 Boulevard. There were small ponds and small trees in those
18 areas.

19 Q.On the list of foreigners that we reviewed the other day,
20 there were many more from other countries; for example, from
21 Thailand. How were all the other foreigners executed?

22 A.Your Honour, the other foreigners, including the Thais,
23 Laotians and other foreigners, were executed the same way as the
24 ordinary Cambodian detainees were smashed. And Pol Pot -- not
25 Uncle Nuon personally -- actually ordered them to be burned, and

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1 we had to burn them as stated by Nuon Chea except one Briton and
2 the family of Hamill who were executed and burned to ash. But
3 other detainees who were foreigners, I cannot remember them. I
4 remember Hamill's family because I read the applications by the
5 civil parties.

6 Q.When was the decision made to start the killings at Choeung
7 Ek?

8 A.Your Honour, when detainees were sent to Choeung Ek was
9 decided by us. Of course, when people were sent to S-21 they
10 would have been considered that already, so we had to do that in
11 April 1976 probably.

12 [10.24.14]

13 Q.And I believe that was a recommendation that you made to the
14 upper echelon. Is that correct?

15 A.After I selected Choeung Ek then I only informed to the upper
16 echelon. I did not propose to them initially.

17 Q.And what was the reason for your decision to have the killings
18 done at Choeung Ek?

19 A.Your Honour, I was afraid of epidemic. That's why, if we
20 killed people and buried them at S-21, and now is known as Tuol
21 Sleng Prison, then it would be problematic because more and more
22 people would be kept or buried here at the location and we could
23 not avoid epidemic; that's why we chose Choeung Ek. And I
24 reported to the superior about this.

25 JUDGE CARTWRIGHT:

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1 Mr. President, I have no further questions at this time.

2 [10.26.13]

3 BY MR. PRESIDENT:

4 Q. Was there any actual procedure to take any detainee to be
5 killed?

6 A. Mr. President, at that time we called it the activity line.

7 It was the activity of the S 21 Committee to answer to the
8 request made by the Party. So whatever decision was made, the
9 Committee was liable for such decision; for example, when people
10 had to be executed at Choeung Ek then we had to make such a
11 decision to make sure that the process was smooth. And the
12 Committee of S-21 tried its best to make sure that the prison
13 would not be overcrowded with detainees and that detainees had to
14 be taken away to be executed. And we conducted our activity in
15 accordance with the Party's line for sure.

16 Q. The reason we are asking about the specific procedure is
17 because we would like to know, for example, when any particular
18 detainee had to be removed and smashed, would there be a
19 necessity to record or to write down any piece of letter so that
20 the letter could be sent to the superior before the superior
21 could annotate, and then the letter would be sent to you to order
22 such a thing? Because managing such many people would not be
23 easy without communication by writing.

24 A. Your Honour, there were two stages in organizing this. First,
25 before Seun Sary, alias Brav, was smashed, at that time Comrade

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1 Hor presented me a piece of letter. He said that this person was
2 already interrogated. And then I said, "Okay, since he was
3 already interrogated then just take him away." So I did not
4 really annotate on that piece of paper; I just told him verbally.
5 So whenever detainees were interrogated and the interrogation
6 completed, then he would come and report to me and I would just
7 give him a signal that the detainee would be able now to be taken
8 away and smashed.

9 [10.29.35]

10 Q. When you became the Chairman and after the incidents regarding
11 this last person you mentioned, that he was killed before he
12 confessed, so the right to decide who would be taken away was
13 vested with you, so how could you make such a decision?

14 A. Mr. President, after this incident the principle advised by
15 the superior was clear that any detainee had to be interrogated
16 and that he shall not die before he confessed. So it was an
17 obligation, after all, that whether anyone had to be taken away
18 or smashed still maintained that it was under the responsibility
19 of Comrade Hor. And he had his subordinates and, for example, if
20 his subordinates already noted any detainee who already
21 interrogated then he would annotate in red or other kind of ink
22 to communicate with him. And I did not really take part much in
23 that because they had to maintain the principle not to lose any
24 confession. And when they presented any piece of paper to me I
25 rarely signed on those papers.

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1 Q.We noticed that in some documents you annotated as "smash" or
2 "leave them to be interrogated further". Like, for example, the
3 four had to be left for further interrogation and smash the rest.
4 So I think it is part of the annotation you made on the list. I
5 can interpret that, for example, when there were a lot of
6 detainees to be taken away then you would probably have to make
7 such annotation. And this case would be different when there was
8 fewer detainees that you may not need to annotate like that.

9 [10.32.34]

10 A.So far as I remember, the list was from S-24, Prey Sar.
11 Comrade Hor reported on the incidents of these people to me, so
12 he wrote "the Contemptible Sokh". Sokh was the secretary of the
13 city before 1975 who was assigned to work at Prey Sar. And these
14 people were ordered by my superior to take them to Prey Sar. And
15 Mae Lon, the father in law of Comrade Sokh, also was sent there.
16 I asked my superior for advice then I annotated that the rest had
17 to be smashed, leaving the four to be interrogated. But these
18 people were those at Prey Sar, S-24, not those people at S-21.
19 So regarding Comrade Sokh and Mae Lon, my superior made it clear
20 that before they were smashed I had to annotate and inform him,
21 so that's why I did so.

22 Q.In the case file there are some testimonies in which they
23 reveal that in some meetings you advised to the executioners that
24 they had -- they should not smash or club the person to the back
25 of the neck because, doing so, the detainee would not die. Then

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1 they had to be slit to their throat to finish off. So can you
2 elaborate further on this?

3 A.Your Honour, I don't remember but with your permission I would
4 like to also ask whether this testimony appears in Brother Mam
5 Nai's notebook or in other testimony. If it is in Brother Mam
6 Nai's notebook of course I must have taught them so. Could you
7 just please refer the document with ER number, then I will be
8 well-informed.

9 Q.The document is in the indictment. I think the testimony is
10 taken from the witness, so witnesses would be summoned, and since
11 we preserve the right to not disclose their identity so we would
12 not reveal them now, but the testimony is there inside the case
13 file. We just would like to ask you whether you recall that
14 event. However, we still have other sessions in which you can
15 confront the witnesses.

16 [10.36.30]

17 A.I don't remember it. And I still maintain my position that I
18 never taught crocodiles how to swim.

19 Q.When detainees were taken away from S-21 to be killed in the
20 surrounding areas near Tuol Sleng, when were they taken away?
21 Because you said that the two key people were killed at about 5
22 a.m. So were other detainees killed during night-time or during
23 the day?

24 A.I did not witness it. I can conclude that -- if I am allowed
25 to do so -- all detainees, the majority of them, were executed at

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1 night.

2 Q.Are you aware of the mass graves and the individual graves,
3 for example? Were there any preparations in place before people
4 were taken away to be killed?

5 A.Your Honour, preparations were in place but I don't know what
6 happened in Phnom Penh, but the graves would have been dug before
7 detainees were sent to the location. I remember that there was a
8 group of people who would be ready to dig the graves. I met Toy
9 Teng. There were four of them who were stationed at the location
10 to dig the graves and to also cover the graves with dirt or soil.
11 So in conclusion, whether the graves are in Phnom Penh or in
12 Choeung Ek, they were prepared or made ready in advance.

13 [10.39.25]

14 Q.Did you classify those people who would be assigned to dig the
15 graves or those who would be assigned to execute detainees? Were
16 these people assigned separately or were they assigned just the
17 same thing?

18 A.From what I can recall, and from asking Comrade Hor, those
19 people who dug the graves, they only knew how to dig the graves
20 and cover the graves. That was their duty at Choeung Ek, day and
21 night.

22 Q.I'm asking about the situation at the surrounding areas around
23 S-21, and I want to separate these from the Choeung Ek location.

24 A.Your Honour, the killing of people in Phnom Penh, a pit was --
25 a small pit was dug which could accommodate about three people

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1 and they were done by the special unit.

2 Q.According to the documents and the records of exhumation,
3 there were some mass graves with 28 bodies inside and there were
4 some other graves with the bodies of 10, 12 or 18 bodies, and the
5 biggest one was the one with the 28 bodies. This is according to
6 the records of exhumations which were done after 1979 and we
7 still could see the bones at Tuol Sleng. Those bones were from
8 such exhumations.

9 Are you still maintaining that the maximum people in one pit was
10 only three?

11 A.Your Honour, I give myself in to the documents to the evidence
12 if the evidence -- such exists.

13 [10.42.07]

14 Q.My last question before the break.

15 Were there cases which required the executioners to order the
16 prisoners who were to be executed to dig the pits by themselves
17 before they were executed?

18 A.Mr. President, I did not know about this but I myself, I do
19 not believe it, or probably I only believe it to a maximum of 5
20 percent.

21 MR. PRESIDENT:

22 Now it is time for a break. The Chamber will adjourn for 20
23 minutes until 11 a.m. when the Chamber will resume.

24 (Judges exit courtroom)

25 (Court recesses from 1042H to 1105H)

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1 (Judges enter the courtroom)

2 MR. PRESIDENT:

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

4 BY MR. PRESIDENT:

5 Q.Can you tell the Chamber about the people who were taken and

6 killed and buried in the mass grave, as I stated before the

7 break? What was the process of taking those prisoners for the

8 killing? How were they done? Were they transported?

9 Because this is about the location surrounding S-21 and not about

10 the transporting of the prisoners to Choeung Ek so it means they

11 were taken from the Tuol Sleng prison to the killing locations

12 surrounding Tuol Sleng.

13 A.Mr. President, I do not know clearly but I can conclude that

14 because this is a criminal act that had been done by us, so I can

15 make a presumption, although it may not be 100 percent.

16 [11.07.46]

17 Usually for such killing the prisoners were blindfolded and at

18 one time probably there were only three prisoners. Once these

19 three prisoners were killed, smashed, then they would come for

20 more prisoners and taking two or three at a time up to 28

21 prisoners per day. So that was the process, in order to avoid

22 them from being escaped and from breaking secrecy.

23 Q.Regarding the killing of the four westerners, Judge Thou Mony

24 and Judge Cartwright already questioned you on this matter. I

25 would like a clarification on this matter because there are

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1 contradictory views. So I have the following questions.

2 You said you did not believe that the westerners were burned to
3 ashes alive. So in that case, did you order your subordinate to
4 kill the westerners and what was exactly your order?

5 A.Mr. President, I still remember the words that Uncle Nuon told
6 me. He said, for the long-nose people they had to be smashed and
7 they had to be photographed. You have to remember, we do not
8 spare -- we do not have to have their bones in exchange for a
9 bulldozer. So that's what he told me.

10 So when I returned home and when Comrade Hor came to meet me, he
11 told me I do not call them the long-nose group, but I call them
12 the French, that the Angkar decided to remove them and that they
13 had to be burned to ash, their corpse had to be burned to ash and
14 nothing would remain. And I emphasized on this point.

15 [11.10.31]

16 It was the order from the upper echelon and I ordered my
17 subordinates to remove and smash them by burning them to ash.

18 Q.Did you receive a report or did you supervise the operation of
19 that killing?

20 A.No, I did not supervise that killing. Comrade Hor led that
21 operation by himself. For such special circumstance, Comrade Hor
22 would be there on the spot to inspect.

23 Q.You have already acknowledged the killing of the prisoners by
24 blood drawing until the bodies were drained and they died. I do
25 not want to emphasize on that but I would like to know the number

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1 of prisoners who died in such a way. And in the agreed fact,
2 there is also one fact mentioned in paragraph 259. It states:
3 "At least 1,000 people who were called in this way, that is by
4 blood drawing, and there were 20 or 30 of them whose blood were
5 drawn each day."

6 So the figure was that at least 1,000 people died in this way.
7 And yesterday and this morning you still said there was only
8 about 100 prisoners who died that way. Are you still maintaining
9 your position or can you elaborate on this matter?

10 A.Mr. President, I would like to provide my observation. The
11 testimony mentioned in the agreed fact, I rejected it because it
12 was a simple calculation that 20 or 30 people whose blood was
13 drawn each day died and they calculate each per month and per
14 year.

15 [11.13.22]

16 As for me, the number that I said, there might be a little bit
17 more or less than 100 and I'm sure there is still a surviving
18 document as evidence on this matter. This is my testimony, Your
19 Honour. I do not recognize the 1,000 figure or the regular 20 to
20 30 people per day. And I only maintain that they were sent to
21 Hospital 98.

22 Q.In the same paragraph in point C, one day at S-21 there were
23 Blood of approximately 30 to 40 bags at S-21. Can you elaborate
24 further on this matter?

25 A.Mr. President, the blood which was drawn would be delivered,

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1 and there was no time at all that there would be many bags, like
2 30 to 40 bags left at S-21. And I knew, before the blood drawing,
3 they just checked the blood group -- A, B, O or AB -- but they
4 did not check for any other signs. So I said again, the blood
5 was not left at S-21 up to 30 or 40 bags.

6 Q.Also in the same paragrah, in (g) there was a place for
7 reserving blood called Sra Srong, to the east of Tuol Sleng
8 prison. Is this statement correct?

9 A.Mr. President, the word Sra Srong was not used to pinpoint any
10 particular location attached to which unit or organisation of Pol
11 Pot. So the name was already apparent that it was not a name of
12 a location, and as for blood preservation, it was even untrue,
13 because nobody could do it without me asking for approval from
14 the upper echelon. Only with the approval from the upper echelon
15 it could be done because it requires technical knowledge and
16 tools.

17 So I reject that, there is not blood preservation at S-21.

18 Q.Thank you. Now let me move on to the fact regarding Choeung
19 Ek. However, before we go into that fact, I have a question.
20 When the prisoners were led from the detention room to the
21 killing site surrounding S-21, what words or pretext was used by
22 those who took them so that the prisoner were not aware that they
23 would be taken out and killed?

24 A. Mr. President, during the Khmer Rouge regime, the taking away
25 and killed or the arrest was under a pretext or they were lied.

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1 Commonly, they were told they would move to a new house. But
2 this is just for the comfort of emotion, because in fact their
3 arms were tied, they were blindfolded, so there was no
4 possibility for them to escape. The only thing was that they
5 were told this so that they would not shout or make any noise.
6 So there had to be a form of lie or pretext of moving to a new
7 location.

8 Q.Regarding the selection of Choeung Ek as a killing site, and
9 Judge Cartwright already questioned you regarding some matters on
10 the selection of Choeung Ek as a killing site and who made such a
11 decision. The question is, after the decision was made to pick
12 that location, and before the actual operation, did you and the
13 security forces of S-21, go there and organise the location, and
14 how was the process done before the actual operation start?

15 A.Mr. President, frankly speaking, these tasks were assigned to
16 other people to do. After the agreement to select Choeung Ek, I
17 had to report to my superior, and the superior agreed, and
18 Comrade Hor did his work based on the principle of secrecy in
19 order to prepare the smash not to be revealed. So the metal zinc
20 plate were used to surround the location, and for the people who
21 were there to look after the graves, and for the people who were
22 transported there to be killed, and I saw that house where they
23 stay.

24 So that was the operation. Four people stationed there, in order
25 to dig the pits to protect and to cover the pits after the

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1 killing was done. This is my response, Your Honour.

2 Q. Were there any fence installed, or there were any guarding
3 house, and that there is any sign to prove that the location was
4 under control by S-21 so that the other units were well-informed
5 that they should not intrude the location?

6 A.The location belonged to perhaps Division 502. When we
7 decided to choose the location, actually we made the request to
8 the Division to relieve that location to us and then we built the
9 fence, and then we built a hut covered with corrugated metal.

10 MR. PRESIDENT:

11 Thank you. Do other Judges of the Bench wish to put further
12 questions to the accused concerning Choeung Ek? Judge Ya Sokhan,
13 you take the floor.

14 JUDGE YA SOKHAN:

15 Thank you, Mr. President.

16 BY JUDGE YA SOKHAN:

17 Q.Do you still remember that the detainees who were taken to
18 Choeung Ek to be executed, how many were there?

19 A.Your Honour, I don't remember the exact figures, but among the
20 12,380 detainees, or something, including more than 160 or
21 something, they were all smashed at Choeung Ek, and then some of
22 them were smashed at Ta Khmau, and very few people were smashed
23 in Phnom Penh in particular.

24 Q. Was there any indication or classification of detainees who
25 would be smashed at Choeung Ek or at S-21 in Phnom Penh?

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1 A.Your Honour, if we talk about classification, I think
2 detainees was classified in time sequence. For example, at the
3 beginning S-21 and the former police office of Division 703, I
4 mean the cadres from the Division were smashed at Ta Khmau
5 prison, and later on they were killed and buried surrounding the
6 Ponhea Yat high school, and last they were smashed at Choeung Ek.
7 And the people who were -- the children below five years of age,
8 and people who died of blood drawing and died of disease were
9 buried in Phnom Penh. I think this is how the corpse of the
10 detainees were classified and buried, so far as I remember.

11 Q.You chose Choeung Ek as the burial site that is far from Phnom
12 Penh. Did you advise your subordinates on how to take the
13 detainees to be smashed at Choeung Ek?

14 A.Your Honour, I did not instruct subordinates on how to
15 transport detainees, because I believed that it was a part of the
16 work they had done before, the crimes they had already been used
17 to committing. By saying so, I did not really point my finger to
18 them but I did not really instruct them to do -- to transfer the
19 detainees. They did their job based on their knowledge of the
20 work.

21 [11.25.49]

22 Q.When detainees were determined to be taken to Choeung Ek, did
23 you tell people at Choeung Ek to be ready and prepared?

24 A.Your Honour, the people who stationed at Choeung Ek could be
25 informed perhaps because they were in the same special unit, so

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1 those people would be ready to open the gate's door to allow the
2 people from Phnom Penh to get in, and they were also in charge of
3 digging up the graves and also cover them. I think probably they
4 would not be informed in advance.

5 Q.Was there any special force that transported detainees to
6 Choeung Ek by trucks, and that before any detainees were uploaded
7 on the trucks they would be told that they would be moving to
8 their new home? Was that a practice?

9 A.Your Honour, the misleading pretext was a pretext across the
10 country and it did exist at S-21.

11 Q.Were there any guards who would guard the detainees while
12 they're being transferred on the trucks?

13 A.There were four people: one driver, two guards guarding the
14 detainees, and one -- another guard guarding at the back of the
15 truck.

16 Q.Were the detainees who were being transferred on the trucks
17 blindfolded, handcuffed?

18 [11.28.34]

19 A.Your Honour, detainees had to be tied. Their hands had to be
20 tied to their backs and they had to be blindfolded, but I'm not
21 quite sure if they were also shackled to their legs.

22 Q.Was there a case when the detainees were sent to Choeung Ek
23 and immediately upon arriving at the location they were put into
24 a small hut?

25 A.It is true that the detainees had to be kept in that hut after

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1 they were unloaded from the trucks and they still remained
2 blindfolded and they were tied to their backs.

3 Q.When exactly were the detainees sent to Choeung Ek; during the
4 daytime or at night?

5 A.I can conclude that most of detainees were sent at night.

6 Q.When the detainees were put in that wooden house or hut were
7 there any generators turned on?

8 A.Your Honour, I went to Choeung Ek once. I did not see any
9 generator. I saw torches, the lights from the torches in that
10 location. So in conclusion, I don't believe there was any
11 generator at Choeung Ek.

12 Q.When detainees were removed from the wooden hut were they told
13 that they would be moving to a new home?

14 [11.31.05]

15 A.I believe that they did use such a lie or pretext. It could
16 not be avoided.

17 Q.Was there anyone to record or register detainees' names when
18 they were being sent to the pits?

19 A.I believe there were people who recorded the people's names,
20 although I did not fully grasp the process, but I believe there
21 was someone who recorded their names.

22 Q.Were the prisoners made to kneel down while they were still
23 handcuffed, while they were still being blindfolded, and that
24 they were beaten with a blow to the back of the neck and then
25 that person fell into the pit before their handcuffs were

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1 removed? Was there a case?

2 A.It is true, Your Honour, and according to the testimony of Huy
3 in Rithy Panh's movie, he did mention about this when the
4 prisoner was falling into the pits and then after that he would
5 remove the handcuffs from the prisoners.

6 Q.Do you still remember that when you chose Choeung Ek as the
7 place for execution how many detainees were sent to the location,
8 and each time how many people were sent?

9 A.Your Honour, I don't remember.

10 [11.33.58]

11 Q.You have not answered to my question yet. When the prisoners
12 were beaten, what kind of tools were used to beat them?

13 A.Your Honour, I'm not sure but at Amleang they use the bamboo
14 stick to beat the prisoners. At S-21, I already said earlier
15 that Nat, at the beginning, was so proud of killing prisoners by
16 slitting their throats. And later, on testimony from Huy, the
17 prisoner were beaten with an axel.

18 Q.Were all torturing devices brought from S-21 or were there
19 improvised equipments ready in place at Choeung Ek?

20 [11.35.08]

21 A.Your Honour, I think I come to my conclusion again that those
22 tools would have been maintained at Choeung Ek ready for use.

23 Q.Do you remember that Son Sen and Nuon Chea ordered you to
24 implement the executions in a large scale; for example, en masse?

25 So how often did that happen?

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1 A.Your Honour, I told the Court earlier that there would be in
2 three occasions and I talked to our Co-Investigating Judges and
3 now regarding document D159. Then there were four occasions when
4 people were executed en masse.

5 Q.Do you remember, when was the first time people were smashed
6 en masse and then the following dates?

7 A.First, it took place on the early of 1977. When Kuy Thuon was
8 arrested he implicated other people and the north -- former North
9 Zone cadres and cadres in Phnom Penh and the Central Area Zone
10 were arrested and sent to S-21. So with the influx of too many
11 people like this, we had to make sure that the premises were not
12 too overcrowded.

13 And this event happened after the confession of Kuy Thuon. I
14 think it was on the 31st of December -- sorry, maybe on the 1st
15 or 31st of December 1976. So by the end of 1976, early 1977, was
16 the time when people were arrested en masse and sent -- taken
17 away en masse.

18 And second occasion, it was regarding the people from Division
19 920. There were 100 of them who were sent in and they remained
20 for 10 days.

21 [11.38.32]

22 I would like to also tell the Court that Division 920 were the
23 former cadres of old North Zone because they had committed other
24 activities that they were arrested en masse, and that S-21 was
25 ordered to take them away immediately.

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1 I think there have been five times, so far as I recall. On the
2 third occasion, it was in 1977 in April before the West Zone
3 cadres were arrested more -- a lot of people were taken away en
4 masse. I think -- it's so confusing again for me. I think the
5 first time was in early 1977; number two when the cadres from
6 Division 920, the 100 of them, and then in April 1978 before Chou
7 Chet, alias Si, was arrested, and in the fourth when the
8 Northwest cadres were arrested and, last, there were more cadres
9 sent in and taken away.

10 So all together there were five occasions in which detainees were
11 sent away en masse.

12 Q.Can you recall for the first time how many prisoners and what
13 types of prisoners were they? Were they former Lon Nol's
14 officers?

15 A.Your Honour, in January 1977 there were only very few Lon Nol
16 government officers. So if they were included in the en masse
17 killings, there would be only a few of them. That was the first
18 time.

19 Q.Can you recall the total number of those for the first time en
20 masse killing?

21 A.I cannot recall the number, however, I can estimate there
22 would be at least 100.

23 Q.What about the second time?

24 A.For the second time I think there were 100 people exactly, as
25 stated in one of the documents.

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1 [11.42.15]

2 Q.And a third time which was in December '78, how many?

3 A.I think the one did in December '78 it was the fifth time, and
4 the third round was probably in February '77, and there were
5 roughly 100 of them.

6 Q.And the third time?

7 A.The first time was in February '77. The second time was in
8 November '77, and the third time it was roughly in February. I
9 think I am confused now. I am not sure which is the second or
10 the third time. I think there were 140 or 150 of them in either
11 the second or the third time.

12 In January or February '78, which was the third time and the
13 fourth time, it was in April '78 and, finally, the fifth time it
14 was in December '78. So I might get mixed up with dates.

15 However the en masse was done in these five occasions. There
16 could be another occasion which I cannot recall.

17 Q.The one in March, was it those people who were brought from
18 the East Zone?

19 A.The people who were brought from the east were totalling in
20 about 300 plus, but I'm not sure on the month; it could be in
21 October or November '78.

22 Q.What about the second or the third day of January 1979; how
23 many prisoners were smashed?

24 A.On these days all the remaining prisoners were ordered to be
25 smashed. There were four remaining for interrogation and there

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1 were other 15 people who assisted in delivering the service to
2 the office, so in total there were remaining 19 prisoners.

3 [11.46.05]

4 Q.In the large-scale operation, the prisoners were killed en
5 masse and, as is stated, the people who were stationed there did
6 not receive information in advance. Were the pits sufficient for
7 those en masse killing?

8 A.Your Honour, during the large-scale operation like that, when
9 they were transferred from Phnom Penh then they would have to dig
10 more pits. In principle, they did not have to smash them in one
11 day but they had to smash them all.

12 This is my response to you, Your Honour.

13 Q.For a large-scale operation, how many days did it take to
14 complete the operation?

15 A.Your Honour, I cannot say in general, but the documents that
16 we have in our hands, that is the document 159/1.10, the actual
17 order was the 26th of October '77. These 100 people were -- and
18 had been smashed until the second or the third day of next month.
19 So that was from the 26th until the 1st, the 2nd, so it took six
20 days to smash these 100 people.

21 Q.So if the operation was done consecutively like this, were the
22 prisoners transported during the daytime?

23 A.If there was any transportation during the daytime, probably
24 only a few of them would be transported. This was done in order
25 to preserve secrecy.

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1 [11.48.30]

2 Q.Were additional forces added to those existing forces for such
3 large-scale killing?

4 A.Your Honour, yes, it's possible. Maybe some guards were
5 selected to add to the existing special unit forces.

6 Q.Can you clarify whether you personally went to Choeung Ek and,
7 if so, how many times and when and with whom? And was it during
8 the killing of the prisoners?

9 A.Your Honour, I went to Choeung Ek once with the instruction
10 from my superior; the reason was that. I actually hesitated to
11 go, but for his instruction I had to go. So during the entire
12 operation of S-21 I went to inspect Choeung Ek for one time, and
13 in Phnom Penh I personally saw the operation one time.

14 This is my response. I only went for one time to Choeung Ek.

15 Q.You said that you were instructed by your superior for you to
16 go to Choeung Ek. What was the purpose?

17 A.Let me elaborate further on this.

18 It was just a game of boredom by Pol Pot. They were careful --
19 we can say that way -- so out of the blue Pol Pot ordered Son Sen
20 to inspect S-21, and I was ordered to prepare in advance. When
21 he came he did not do anything. He wore a scarf on his head and
22 he stood at the gate -- at the entrance to S-21. And when he
23 stepped out of the vehicle I and Comrade Hor was there to greet
24 him. When he came out of the vehicle he looked here and there,
25 and he said that Brother Pol wanted to come by himself. So that

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1 was the words by Son Sen. And then he said, "Okay, I have to
2 go," so he left. So that was one example of the visit.

3 [11.51.57]

4 In another instance he urged me to go and watch the killing of
5 the prisoners at S-21 -- the killing of Suos Neou, alias Chhouk,
6 and Chey Suon. So there was the second incident.

7 And for the third incident he ordered the dead body of Ly Phel to
8 be photographed. He had been dead for three days but he had to
9 be exhumed and photographed.

10 So in conclusion, either Pol Pot or Son Sen did not trust Nat or
11 the Division 703. That's why he ordered it to be done that way.
12 Or probably they play a game of boredom or maybe they were too
13 over-cautious or they did not trust the elements of the Division
14 703 who were still working with me. This is based on my analysis
15 of the situation at the time.

16 MR. PRESIDENT:

17 I notice the presence of the defence counsel. You can take the
18 floor.

19 MR. ROUX:

20 Thank you, Mr. President.

21 It's just concerning a translation issue from the French version.
22 I am afraid that we have lost something in the translation. In
23 the French version it was said that Pol Pot came to inspect S-21
24 and I do not believe that that's what you said.

25 MR. PRESIDENT:

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1 Thank you, the defence counsel.

2 [11.53.56]

3 I would like to remind the interpreters to try your best to avoid
4 the loss in meaning or probably it's a misunderstanding. If the
5 question is too fast and it could not be interpreted, please
6 inform me so that I can remind the speaker to slow down so that
7 there is sufficient possibility to listen and to interrupt
8 appropriately.

9 Judge Ya Sokhan, you can continue.

10 BY JUDGE YA SOKHAN:

11 Q.When you went to Choeung Ek, did you go and inspect the pits?

12 A.Your Honour, on the matter that I went to Choeung Ek, I only
13 went there once just for the sake of it. It's like Son Sen when
14 he came to S-21, he came for a quick, short visit just for the
15 sake of it.

16 Let me reiterate that I went to Choeung Ek only for one time. I
17 did not go there and sit at the pit nor watch the pit. I only
18 went there for a very short time. It was in the same way as Son
19 Sen came for a quick visit to S-21. So I only had a quick trip
20 to Choeung Ek.

21 [11.56.24]

22 Q.Son Sen ordered you to go to Choeung Ek in order to inspect
23 and, as you just said, you went there very quickly. How could
24 you explain this regarding the order of your superior?

25 A.Your Honour, regarding the trip to Choeung Ek, I went there

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1 for a very short time. I did not look at the pits. I did not go
2 and look into the house where the prisoners were kept before they
3 would be taken and killed because the purpose was not to allow
4 the 703 Group to release any prisoner.
5 Therefore, I thought there were 365 days in a year, if I went
6 there 10 times a year, or it means 10 days in a year, then they
7 would still have a possibility to release any prisoner if they so
8 wished. So if they wanted to release any prisoner even if I went
9 there 10 days per year, I would not be able to stop them, but I
10 believe they worked and they strived to work because they wanted
11 to live so there was no need for me to go and inspect their work.
12 So I only went there for a short time just to compliment the
13 work, and when I came back the superior did not even question me
14 about it. If he asked me, I would be ready to tell him about how
15 people were shackled and how the fence was installed surrounding
16 the location. So these were the two cover stories I would
17 prepare to respond to my question if he would wish to ask me so.
18 [12.00.43]
19 I learned about the fence surrounding the location, so when I
20 left the truck I could see the fence like what I thought. And
21 the shackles or the handcuffs were not seen because I did not see
22 them, but I asked about this information from Comrade Hor who
23 knew about them. If he asked me whether I would like to see
24 them, I would tell him that I witnessed them while they were
25 walked by the guards, but I only turned my back to the detainees.

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1 In principle, I knew that at that location one detainee was sent
2 in at a time. After the first one was smashed, then the other
3 one would be taken out; so one person at a time.

4 So these were the cover stories I would be prepared to respond to
5 my boss or my superior's questions if he would wish to ask me.

6 Q.Do you know how many pits or graves at Choeung Ek there were?

7 A.Your Honour, I don't know about it.

8 Q.Have you been told by the people who stationed at that
9 location about it?

10 A.I think when it comes to my authority I could even question
11 them regarding that matter but I did not even ask them anything
12 about the pits. I did not need to ask the people stationed
13 there, I just asked Comrade Hor I would get the answers, but I
14 never asked.

15 JUDGE YO SOKHAN:

16 I do not have further questions at the moment. Thank you, Mr.
17 President.

18 [12.03.38]

19 MR. PRESIDENT:

20 It is time to take an adjournment for lunch. So I would like to
21 also know whether other judges would like to put further
22 questions to the accused before lunch break.

23 Judge Lavergne, you take the floor.

24 JUDGE LAVERGNE:

25 Mr. President, I think it's better to take the lunch break now.

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1 However, it would be a good idea perhaps to seek clarification
2 now from the Co-Prosecutors regarding their request as expressed
3 this morning. You have filed a booklet including a number of
4 photos and, if I understood you correctly, you wish that these
5 photos should be produced and shown in the hearing and you wish
6 perhaps to use some of these either during the questioning of the
7 accused or for presentation to the Chamber in a more general way.
8 I think you have referred to a 25 minute presentation. Did I
9 understand you correctly?

10 MR. SMITH:

11 Thank you, Your Honour.

12 We are in Your Honour's hands about the length of time of the
13 presentation but the prosecution wanted to make sure that the
14 three filings in relation to Rule 92 that relates to the two
15 booklets, one booklet has been referred to in court already.
16 That's the physical layout of S-21 and that booklet is number
17 E53.1 to E53.24. The photographs referred to in that booklet,
18 the prosecution want to make sure that they have been put before
19 the Chamber properly in accordance with the direction given last
20 Thursday.

21 [12.05.44]

22 The second point is the booklet in relation to Choeung Ek, the
23 photographic booklet and the photographs contained in there
24 relating to the functioning of S-21, that's the photographs
25 showing the corpses and the torture equipment, the clothing and

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1 other evidence in support of the crimes, we wanted to make sure
2 that that booklet is also properly before the Court pursuant to
3 87(2) and (3). And that filing is E63.1 to E63.158.
4 And the third point the prosecution would like to make sure
5 occurs is that the revised prisoner list and the supporting
6 annexes, the 51 supporting annexes that describe the number of
7 detainees at S-21 and the type of detainees that were there as
8 well as the timing of the detainees' arrest and executions is
9 properly before the Chamber. And that document is E68.1 to
10 E68.51.
11 Your Honours, the prosecution are aware that a few of those
12 annexes have been referred to in the hearing so they would be
13 subsequently on file but a large number of them are not and we
14 would like to make sure that they are, similarly in relation to
15 photographs. Some photographs have been referred to by Mr.
16 President but there is another series that haven't and we would
17 like to be able to use that with the witnesses as they come,
18 obviously with the accused but quite independently of that they
19 themselves are proof of evidence, proof of the crimes that have
20 been discussed in any event, particularly in relation to
21 knowledge of the accused, reliability of witnesses and other
22 matters.
23 [12.07.50]
24 So regardless of whether we wanted to put particular photos to
25 the witnesses or annexes, we would like them to be taken into

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1 account in any event. That was the main concern of the
2 prosecution.

3 As far as the public seeing various annexes or photographs, we
4 could do that now or, alternatively, that could be done
5 throughout the process. So we are in Your Honours' hands in
6 relation to that.

7 JUDGE LAVERGNE:

8 So if I understood you correctly, you wish to know whether the
9 documents as you have just described them, including their
10 annexes, whether they are sufficiently summarized and presented
11 to be admissible as being properly before the Court in accordance
12 with the Internal Rules?

13 MR. SMITH:

14 That's correct, Your Honour.

15 We feel that in relation to the guidelines put forward by Judge
16 Cartwright on Thursday that documents now can be appropriately
17 identified without being fully read out in Court and without
18 being summarized in Court but at least identified with a document
19 number, the ERN numbers and the title of the document. So in a
20 sense, our presentation would be limited to that so that at least
21 the public has an understanding of the evidence but as far as the
22 parties are concerned, well, so the parties have notice as well.

23 I mean, obviously, a lot of this documentation is photographs and
24 by themselves don't have a full description but it would just be
25 a very brief presentation to meet the standard that Your Honours

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1 have set for admission under 87(2) and 87(3).

2 [12.09.57]

3 JUDGE LAVERGNE:

4 So the only objection that has been raised by the defence has
5 nothing to do with the identification of documents but had
6 something to do with the fact that some of the documents could
7 contain something that would be contrary to protective measures
8 applicable to certain witnesses.

9 So I don't think the defence has any problem with the
10 identification of documents that the Co-Prosecutors want to have
11 included in the debate.

12 MR. ROUX

13 In response to your question, Your Honour, a priori, I say there
14 is no difficulty. However, if the Chamber will give us enough
15 time -- that's to say over the lunch break -- for us to check
16 through this, I think this might be more equitable and fair.

17 Thank you.

18 [12.10.56]

19 MR. PRESIDENT:

20 Thank you.

21 I think it is time to take an adjournment for lunch. So we will
22 adjourn until 1.30 p.m. The security guards please take the
23 accused to the waiting room and bring him in at 1.30.

24 (Judges exit courtroom)

25 (Court recesses from 1211H to 1334H)

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1 (Judges enter courtroom)

2 MR. PRESIDENT:

3 Please be seated. The Court is now in session.

4 Before we proceed to the questions to the accused, I would like
5 to ask the defence counsel regarding the documents, the booklet
6 of photos, and the list of the victims, as proposed this morning
7 by the Co-Prosecutor, whether the defence counsel would like to
8 make any observation regarding this matter.

9 MR. ROUX:

10 Thank you, Mr. President. We have looked quickly at these
11 documents and the defence would therefore like, once again, to
12 have it clearly specified that these documents are only excerpts;
13 excerpts that have been selected by the Co-Prosecutors and, on
14 the other hand, some of these documents are also comments;
15 comments that have been made by the Co-Prosecutors. I am
16 thinking, in particular, about the annex to the revised prisoners
17 list where the prosecutors are engaging in a certain amount of
18 analysis; analysis that is proper to them.

19 [13.37.09]

20 So, therefore, these documents are not currently in the
21 Co-Investigating Judges' file, so there should be no confusion
22 about this. So, therefore, I would like it to be specified each
23 time that when we're dealing here with documents that have been
24 discussed before the Co-Investigating Judges, well, that should
25 be considered as one thing, but when we're dealing about analysis

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1 that has been done by the Co-Prosecutors, well, that is something
2 that is proper to them but this has not been heard adversarially.
3 So these are the two observations I would like to make.
4 And now to answer this point. The defence would like, through an
5 oral motion, to ask the Chamber to please accept considering that
6 index D45.1 of the Investigation File is included in the
7 proceeding. This is the expert report from the photographers
8 that was established upon the request of the Co-Investigating
9 Judges; an expert report from which the Co-Prosecutors have only
10 extracted certain photographs.
11 So, therefore, the defence is requesting that the totality of the
12 album be included in the proceedings and in order to preserve our
13 beautiful forests, so to say, the defence does not believe that
14 it is necessary to make tens and tens of xerox copies of these
15 albums. This album is already included in the file so,
16 therefore, we will not make any photocopies and, therefore, we're
17 asking you to please consider that this file is included in the
18 proceedings.
19 And the same for the re-enactment report which was done and --
20 the re-enactment which was conducted in Choeung Ek as well as at
21 Tuol Sleng. It is index D48.1, as well as all of the annexes.
22 [13.40.15]
23 And here again in the documents that have been included by the
24 Co-Prosecutors, only a few photographs of this re-enactment have
25 been included and the defence, therefore, would like to have the

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1 totality of the document included in the proceedings, together
2 with its annexes. So, therefore, I am speaking about D48.1 and
3 annexes. This is the report on the re-enactment at Choeung Ek.
4 D48.2 with the annexes -- this is the report on the re enactment
5 at Tuol Sleng.

6 And, finally, the defence would like to also include in the case
7 the video recording of these re-enactments; that is to say the
8 re-enactment at Choeung Ek and the re-enactment at Tuol Sleng,
9 and this video recording was done upon request of the
10 Co-Investigating Judges and it is included in the case file, and
11 the defence would like to indicate, therefore, that while they
12 will be asking questions to the accused, it will present to the
13 Chamber three minutes of this video recording, and the defence
14 would like to specify that during these three minutes there are,
15 of course, no witnesses in this footage; only the accused
16 himself.

17 These are my observations. Thank you, Mr. President.

18 MR. PRESIDENT:

19 The floor is yours, the Co-Prosecutor.

20 [13.42.36]

21 MR. SMITH:

22 Thank you, Your Honours, and thank you, Mr. President.

23 Just in response to my friend's remarks, it's absolutely correct;
24 the prisoner list annexes are excerpts from the revised prisoner
25 list, and that's D68.1.

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1 Secondly, the revised prisoner list is based on a prisoner list
2 that was placed on the case file, the Co-Investigating Judges'
3 case file, about one year ago. And the only reason why a revised
4 prisoner list has been put before Your Honours is because on
5 reviewing the combined prisoner list, the accused saw that there
6 were some duplicate names and, as a result of that and as a
7 result of a parallel review by the Co-Prosecutors, that revised
8 prisoner list was put forward to the Court recently to more
9 accurately reflect the number of prisoners at S-21.

10 Initially, the prisoner list, or the combined prisoners list
11 which was filed, I believe, in March last year, which was on the
12 case file, had 12,380 prisoners on it as being executed at S 21.
13 The new revised list, it was found that there were 107 names that
14 were doubles, duplicate names, which may well have arisen out of
15 a translation problem but, in any event, there were double names
16 and now on that list itself so there is 12,273 prisoners as a
17 minimum number of people been killed at S-21. Of course, Your
18 Honours have heard evidence that many people at S-21 didn't make
19 that list; that certainly, as a list of people on record, that is
20 put forward as an accurate list.

21 As far as analysis is concerned, these lists were prepared by the
22 Documentation Centre of Cambodia. Your Honour has seen from the
23 case file that they prepared two main lists and they were joined
24 together by the Co-Prosecutors. The Co-Prosecutor has done
25 nothing more than joined the list together and then filtered and

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1 sorted the names, the date of entry, the types of prisoners to
2 come up with the other 50 annexes.

3 As far as my friend's application to put forward the other
4 documents on the case file, obviously we wholly support that.

5 Thank you.

6 MR. PRESIDENT:

7 Judge Lavergne, you take the floor.

8 [13.45.29]

9 JUDGE LAVERGNE:

10 Well, if I've understood correctly what the parties have said
11 concerning the problem that was raised this morning, which was
12 limited to the identification of the documents, I believe,
13 concerning this issue, well, there are no specific observations
14 to make concerning the identification of the documents that can
15 be produced during these hearings, or are there?

16 MR. ROUX:

17 Maybe, but I did not have the time to check with my colleague,
18 but there might be an indexing error with number 71.

19 Well, these documents are indexed D86-15. I believe that there
20 was a mistake. I think it might be necessary for the
21 Co-Prosecutors to check this again. I do not think that this is
22 the right numbering.

23 JUDGE LAVERGNE:

24 Aside from this verification, there are no other issues, are
25 there? Okay.

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1 (Deliberation between Judges)

2 [13.47.15]

3 MR. PRESIDENT:

4 After hearing the request from the Co-Prosecutor and the defence
5 counsels, including their observations, and there is no objection
6 and actually the Co-Prosecutor supported the request by the
7 defence counsel, therefore the Chamber accepts that the documents
8 are put before the Chamber.

9 Next, to start our proceedings on the fact I would like to
10 inquire with the Judges of the Bench if you have any questions to
11 be put to the accused regarding the killing.

12 The floor is yours, Judge Lavergne.

13 BY JUDGE LAVERGNE:

14 Q.I would like to go back a bit to the decision-making process
15 prior to the executions. You said that it was up to the S-21
16 Committee to implement the decisions that were taken by the
17 higher echelon, and you explained, if I understood correctly,
18 that these executions and the conditions of these executions, or
19 the names of the people who were executed, were subject to
20 discussion within the committee. And, when you were chairman,
21 when you were the Chairman of S-21, this committee included,
22 beyond yourself, Hor and Huy; Huy Sre, yes.

23 So I would like to know what was being discussed exactly. Were
24 there names being discussed? Where the locations being
25 discussed, where these executions were supposed to take place?

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1 What was exactly decided in this committee?

2 A.Your Honour, Comrade Huy was separate. He did not participate
3 in the decision-making of removing people from Phnom Pehn to
4 Cheoung Ek, as Comrade Hor and I in Phnom Pehn managed this
5 process. I had the real authority of overall in charge. I do
6 not deny to all these tasks; they were the criminal acts.
7 However, in the implementation they did whatever they could in
8 order not to make the prison overcrowded. That was their
9 management. That is for the first place.

10 [13.51.32]

11 For the second place, that is after one prisoner died and their
12 confession was cut off, this affair was under the real authority
13 of Comrade Hor, and he had to make sure and report it to me that
14 those people were interrogated and their confessions were
15 complete. Therefore, it is the matter that Hor and I had to
16 resolve, and not to interfere with the people who were being
17 interrogated.

18 Q.First of all, when you say it was a discussion within the
19 committee, in fact it was essentially a discussion between you
20 and Hor. But was it the discussion on the equal footing, or was
21 it a conversation between a subordinate and his chief?

22 A.For general affairs Comrade Hor was my subordinate. I was his
23 superior. However, in the affair of smashing the prisoners I was
24 still the chairman and I was still a person who made the
25 decision. Whatever I did in order to ensure for the both of us

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1 that the prisoners were completely interrogated, that was the
2 framework. So when they reported that the interrogation was
3 complete, then they would be removed.

4 That was my response. So that was the practice and the framework
5 for that, your Honour.

6 Q. So can we then say that Hor would suggest names, names of
7 prisoners who were going to be executed, and that it was you who
8 took the final decision?

9 A. We could say it that way, yes.

10 Q. We will backtrack a bit in time and revisit the period when
11 Nat was the Chairman of S-21. I imagine that back then there
12 was also a committee, wasn't there? And were these issues of
13 execution also discussed within the committee or not, and were
14 you part of the committee back then?

15 A. Your Honour, during that time, on the matter of receiving the
16 prisoners, the smashing of the prisoners, fell within the
17 authority of Nat who alone would make the decision.

18 [13.55.51]

19 As for Comrade Hor, he would implement the decision made by him.
20 The implementer was actually the person who proposed a plan for
21 approval. It was like Comrade Hor made a proposal to me. As for
22 myself, initially, when I entered I was assigned to teach the
23 interrogators the interrogation method. Secondly, later I was
24 asked to make reports to the upper echelon.

25 In reporting to the upper echelon what I was asked to report, I

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1 would just report on that matter. That was the situation that I
2 understood at the time. I did what I was asked. And now,
3 according to the surviving documents, he established a
4 secretariat of his own. Sometimes he called it Office 03. So
5 it's called M-03, and it was also known as M-21. The Deputy was
6 not allowed to manage this M-21 office.

7 I would like to present a document, E5/2.2 with the page of ERN
8 00227572. I wrote a letter to request for clarification to M-21
9 office and I annotated on a confession dated the 7th of December
10 '75. So this is going to show that the M-21 office was not
11 managed by the Deputy Chairman.

12 So during the time that I was the Deputy Chairman, my tasks
13 besides teaching the interrogators the interrogation method and
14 preparing the documents to report to the upper echelon whatever
15 documents that I was asked to report, I would report only on
16 those documents.

17 [14.00.43]

18 So in conclusion, when I was a Deputy they did not allow me know
19 some of their secret activities. This is my response, Your
20 Honour.

21 Q. Could one also say that there was a lack of trust between
22 yourself and Nat, and perhaps also some measure of competition
23 for power?

24 A. I think Your Honours have already been informed about this
25 because there were thousands of people at that location. There

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1 were more than 2,000 people who belonged to them and I had only
2 about 20 people under my control. So this problem did happen.
3 They tried to compete the Deputy Chairmen. They would like to
4 make sure that the work of the deputy chief is less important.
5 That's all.

6 Q.Now I have a few questions on the issue of staff in charge of
7 executions.

8 Who was entrusted with the job of selecting that staff? How were
9 they called? What was their name, their job title? Were they
10 executioners, specialists of execution? Did they have a name?

11 A.Your Honour, at that time, they used the language of the
12 Communist which would be referred to as the Special Force, the
13 special team or unit.

14 They had six different roles, as I already mentioned. Among the
15 six roles, there was a role in which they were entitled as the
16 executioner. The executioner -- not only the special unit were
17 executioners, I who controlled the unit would be called the same.
18 I would like to emphasize that the special unit had one special
19 role that they earned the title as the executioners, however, the
20 unit alone was not just responsible for all the crimes. I am the
21 father of such unit, I may say. So if anyone failed to implement
22 any task, then I would report on the matter to the superior.

23 That's all, Your Honour.

24 [14.06.51]

25 Q.In terms of a quantitative assessment, could you give us an

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1 idea of the number of staff in that special unit? Could you also
2 please tell us whether such staff came chiefly from M-13, chiefly
3 from Amleang, or chiefly from Division 703 or other such forces?
4 I'm not asking for names, I'm asking for figures and an
5 assessment.

6 A.Your Honour, during the war before the 17th of April 1975,
7 this special unit was the most important unit. They fought
8 directly with the enemies. Sometimes one combatant was fighting
9 against twelve enemies. Comrade Hor was the former -- from the
10 battalion of the special unit. He was the former secretary of
11 the battalion, the special unit.

12 The special unit was transferred to S-21 and with the entire
13 company -- the platoon, the entire platoon. So these groups
14 comprised of the whole platoon which was transferred from that
15 location to S-21.

16 So there were about more than 30 people in total. These people
17 received the tasks as the executioners. There was no people from
18 M-13 nor any children from Kampong Chhnang -- I mean the children
19 from Kampong Chhnang -- involved, and there was none of the
20 people in the city who would be involved in the unit.

21 That's all, Your Honour.

22 Q.So I seem to understand that you're referring to something
23 that looks like an elite corps, the more exceptional soldiers.
24 However, were they merely soldiers, fighters, or did they have
25 prior experience in the field of executions?

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1 I shall be referring here to something that was stated when you
2 were interviewed by the Co-Investigating Judges at D21 of the
3 case file, more specifically page 7 in French.

4 [14.11.58]

5 Here you are asked a question here about the way in which people
6 were smashed, and the question was as follows:

7 "For each smashing there were several people. Were they put in a
8 pit? Were they blindfolded or not blindfolded before the
9 execution," et cetera.

10 "At each smashing several people were put in the pit. This had
11 been in existence since M-13. The blindfolding and handcuffing I
12 don't know exactly, but I presume that the eyes were blindfolded
13 and the arms attached behind the back -- tied up behind the back
14 because the special unit had substantial experience in this
15 respect and had had that experience for a long time."

16 So what do you mean by "a lot of experience and for a long period
17 of time"? What is meant by these phrases?

18 A.Your Honour, the term "with long term of experience" means
19 that they used to arrest people. They were skilful in arresting
20 people without any counter-attack from the people they arrested.
21 They used to kill people. The people they killed never fought --
22 never been able to fight back before they were killed, and those
23 died.

24 So this experience has been passed down from even the time when
25 there was a war and after the 17th of April 1975. They killed

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1 people who were not armed, so this experience was obvious for
2 them to be able to skilfully kill people. So since the
3 establishment of Division 703 the police at this division were
4 used to such killing already. That's all, Your Honour.

5 Q.This great amount of experience of theirs, would you say that
6 it had to do with the fact that these executioners were also
7 people who did not ask any questions? They just executed. They
8 implemented the orders to execute.

9 [14.16.27]

10 Or did you ever find that there may have been difficulties?
11 Would there have been issues with some of these people's
12 conscience creating a problem?

13 A.Your Honour, I don't believe that they did not have any
14 conscience or remorse. I believe that they had such feeling. I
15 am aware of that and understand that. My superior was also aware
16 of it. I can say this because there was a case to support it.
17 But I would like to end now. I think everyone was ashamed or was
18 conscious and remorseful regarding that.

19 Q.Do you know whether any of those executioners had been
20 involved in executions throughout the life of S-21 or were there
21 rotations and vacancies of positions being filled? And who
22 decided about who would be recruited?

23 A.Your Honour, the more recruitment could happen because I
24 removed some of the special unit to work as the interrogation
25 team. So in principle they had been informed already that the

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1 new recruitments were referred to people who had good biography,
2 people who had significantly taken part in the revolutionary
3 movement. We had trust in them.

4 So in conclusion, I cannot remember how many times people were
5 recruited, but in principle people were actually recruited.

6 That's all, Your Honour.

7 Q. Some people have been recruited and some people were active in
8 that kind of position throughout the whole lifetime of S-21. Is
9 that so?

10 [14.20.36]

11 A. There were quite a number of people who carried out the
12 executions throughout the life of S-21.

13 Q. Earlier on you told us that to be recruited as a member of
14 this special unit you had to have a good biography; your
15 commitment to the revolution had to be faultless. Did you also
16 have to be a person who could keep secrets, maintain
17 confidentiality? And did you possibly double-check whether these
18 people were keeping the secret or the level of secrecy properly?

19 A. Your Honour, people who could maintain confidentiality were
20 the interrogators, but the special unit people had of course to
21 maintain confidentiality.

22 Q. So executions were never the subject of discussions within the
23 staff of S-21. Was it forbidden to talk about them amongst the
24 staff of S-21?

25 A. People who were tasked to take people away to be killed had no

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1 right to contest. They had to implement the task.

2 Q.No, this I understand. They could not challenge the order to
3 execute somebody, but were they allowed to talk about it amongst
4 themselves? Amongst colleagues, amongst staff members, was it
5 allowed for people of that staff to talk amongst themselves about
6 executions?

7 [14.23.57]

8 A.Your Honour, among the special unit people they discussed
9 among themselves.

10 They discussed about the techniques in execution. They discussed
11 about how people would be transferred or transported. They
12 discussed about how people would be arrested. Although the
13 arrests were very few, but they still had it in their discussion,
14 especially the topic regarding how to guard -- to defend the
15 location from any attack from the outsider. It was part of the
16 discussion. And they also discussed about how to control any
17 riots inside the compound and how to control it.

18 So these were on top of the self-criticism sessions or tasks.

19 Q.When we were talking about interrogators, I don't remember
20 whether this question was put to you, but I do seem to have read
21 somewhere in the case file that telephone communication by
22 interrogators -- such telephone talks were recorded. Is this
23 correct? And if they were recorded what were they recorded for,
24 these telephone talks?

25 A.I already contested such allegation. It did not exist, and I

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1 still maintain my position.

2 [14.27.30]

3 Q.Amongst the special unit executioners, were there ever any of
4 them who were sanctioned or disciplined for having done a poor
5 job or refusing to do their job?

6 A.Your Honour, to my knowledge no special units people were
7 detained at S-21 because they were sanctioned for their poor job.
8 However, the interrogators -- when they were transferred to the
9 interrogating teams then they would be arrested or detained for
10 the reason -- the mistake they made during the interrogation.
11 That's all, Your Honour.

12 Q.Did you have regular contact with the special unit? Did you
13 share meals with them? Did you meet with them every day? Did
14 you talk to them on a regular basis?

15 A.Your Honour, we had a communal eating house that we had to eat
16 together. At my table there were just a few people -- 7 to 8 or
17 6 to 8 people. As I remember, there were Brother Mam Nai,
18 Comrade Hor -- who sometimes came, sometimes didn't -- and
19 Comrade Pon, and when my wife paid me a visit to the house then
20 she would share a meal at that table. So I never had meals with
21 the special unit people.

22 When I ordered anything to the special unit people, I never did
23 it directly; I had to do it through Comrade Hor. The secretary
24 of this special platoon and unit never came close to me. In the
25 committee of that unit, there was another person who was even

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1 closer to me than him. It was the deputy secretary of that
2 platoon, the special platoon, but there was no secrecy he shared
3 with me. It was just the routine communication between the
4 superior and subordinates. That's all, Your Honour.

5 [14.32.46]

6 Q.Can you, therefore, say that you never personally sought to
7 have discussions with these executioners; that is to say, trying
8 to understand how they were doing their job or if they had any
9 specific issues? You never tried to understand this or to
10 understand the relations that you could have had with (microphone
11 not activated).

12 A.Your Honour, that is correct.

13 Q.Were they afraid of you?

14 A.That is true. They were afraid of me.

15 Q.Now, let's get back to the execution methods.

16 In what I read earlier on, reference is made to M-13 but,
17 however, based on what I understood today, well, were the same
18 methods being used at M-13 and at S-21or were different methods
19 being used?

20 A.Your Honour, when we talked about the method, we talked
21 whatever we could do in order to make the person dead. When we
22 talked in that capacity, initially there was a difference between
23 M-13 and S-21. The difference was that at M-13 the prisoners
24 were clubbed with a bamboo stick to the base of the neck, and at
25 S-21 Nat satisfied with the stabbing to the base of the throat,

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1 so they stabbed into the big vein at the throat. And later on I
2 heard Comrade Huy talk during his filming with Rithy Panh that
3 the method of killing was the same as the one that was practised
4 at M-13. So that was the difference; however, the conclusion was
5 whatever they did in order to make the person dead.

6 And the method that was not used at M-13 but was used at S-21 was
7 that after the prisoners were smashed, they were photographed.
8 And then the photos would be sent to the upper echelon as
9 evidence.

10 [14.37.08]

11 And another difference was regarding the four westerners. They
12 were smashed and their bodies had to be burned to ash. However,
13 their photos were not taken. After they were smashed, that was
14 it.

15 This is my response, Your Honour.

16 Q.Well, in a certain way for you, could you say that the method
17 that was used was something that you were indifferent to and that
18 the only thing that mattered to you was the result; that is to
19 say that the person was indeed dead, or was it important for you,
20 however, to know how the person would die?

21 A.Your Honour, what you said is correct. I never thought of the
22 method that they practised. Whatever they did, just make sure
23 that the prisoners were smashed.

24 This is my response, Your Honour.

25 Q.You saw photographs of the people who had been executed, and

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1 on some of these photographs you can indeed see that the bodies
2 have traces of blows or of cuts at the level of the jugular. Or
3 did you also see photos with bodies carrying traces -- where it
4 was clear that the stomach had been opened -- had been cut open?
5 Have you seen pictures of bodies whose stomach had been opened?
6 [14.39.35]

7 A.Yes, I saw them. The majority of the case, their throats were
8 slashed. However, in some particular instances -- the photos of
9 Vorn Vet, Chhay Kim Huor and Nat -- their throats were slashed;
10 in addition, they were disembowelled. From what I can recall,
11 only these three people had their stomach opened, and the photos
12 were sent to the upper echelon. I was quiet and the superior was
13 quiet too. So from -- I recall there were only these three
14 people who had that incident.

15 Q.If you were shocked did you ask why this had been carried out
16 in this way?

17 A.I did not ask. I only concluded that, in order to make sure
18 -- because the Division 703 was under the full supervision of Nat
19 -- any order for the top-most echelon to believe -- to believe
20 that for the remaining elements of the Division 703 at S-21, that
21 their stomachs were cut open and shown in the photos. And before
22 the 17 April '75, Vorn Vet were the superior of Nat and
23 controlled Nat. So both Nat and Vorn Vet were disembowelled and
24 Chhay Kim Huor was also disembowelled.

25 This is my response, Your Honour.

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1 MR. PRESIDENT:

2 It is now time for a break. The Chamber will adjourn for 20
3 minutes until 3 p.m. when the Chamber will resume.

4 (Judges exit courtroom)

5 (Court recesses from 1442H to 1504H)

6 (Judges enter courtroom)

7 MR. PRESIDENT:

8 Please be seated. The Chamber is in session.

9 Before the adjournment, Judge Lavergne was putting questions to
10 the accused, so I would like him to proceed with further
11 questions.

12 BY JUDGE LAVERGNE:

13 Q. During these proceedings, you have stated that corpses of
14 executed prisoners were either buried around S-21 or in S-21, or
15 in Choeung Ek. Now, during the investigation phase, there was an
16 investigation in the area amongst the people who are residents
17 around what is now the Tuol Sleng Museum.

18 One of the persons interviewed -- and please look at D49.7.

19 D49.7 is where you can find this person's interview. I need not
20 give the name of this person but I would simply like to read an
21 excerpt from what this person said. This person explains that
22 this person returned in the early 1980s to this area to go back
23 and find the house that was this person's -- the house where this
24 person was born.

25 So this person went back, along with the family, found that the

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1 whole area had fences but that the parental house had not
2 changed. There were banana trees planted around the house. The
3 house had three parts, three segments. In the central part, none
4 of the furniture has been moved. It had just aged somewhat.

5 And this person also says the following:

6 "This house had been used to store ashes. The base people told
7 me that these ashes were human ashes that were used as
8 fertilizer."

9 This is in the case file. Can you tell us whether you have read
10 this particular interview? Do you have any comments on this?
11 Corpses were burnt and is it true that ashes from human bodies
12 were thus used as fertilizer?

13 A.Your Honour, I have never read this document. If I can
14 conclude, I may say that at that time no detainee was burned,
15 except the four westerners which we received from the -- the
16 order from the superior to burn them to ashes, so we did not burn
17 any other detainees. I, therefore, cannot elaborate further.

18 [15.09.10]

19 Q.But there were other corpses than the corpses of those four
20 foreigners that were burnt to ashes. You have mentioned that
21 certain corpses from Ta Khmau (microphone not activated).

22 A.I did not order that the corpses in Ta Khmau be burnt to
23 ashes. I did not order them to be burned to ashes. I never
24 thought or had any idea why the ashes of the corpses were ever
25 used as the fertilizer. I don't believe that the corpses in Ta

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1 Khmau were used as the fertilizer anyway.

2 Q. Another question on a different topic now.

3 The transport between S-21 to Choeung Ek -- from S-21 to Choeung
4 Ek -- do you confirm that these transfers took place chiefly at
5 night? And were you ever personally present when the trucks left
6 or did you personally ever check and control the departures of
7 these trucks?

8 A. I never checked or controlled when the trucks left or when
9 they came in.

10 Q. So you don't really know whether they took place at night or
11 in the daytime?

12 A. When I checked at Choeung Ek, I was asked to go there at
13 night. That's why I concluded that the detainees were
14 transported at night, and I believed that when the operation took
15 place at night the confidentiality would be well maintained.

16 [15.13.02]

17 Q. Another question, and I'm now talking about the photos. If I
18 understood correctly what you said, the photos were produced
19 exclusively when there was a request for this from the upper
20 echelon. Is this correct?

21 A. Your Honour, the key people ordered by the superior to take
22 the photographs of those people and that the photographs had to
23 be sent to the superior. For other photos of detainees -- for
24 example, there was a case when I went to Tuol Sleng Genocidal
25 Museum, there was a photo shown to me who died and was left on

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1 the corridor. Before he was taken out, his photo was taken. The
2 Co-Investigating Judges asked why this person -- his picture was
3 taken like that. Then Comrade Tai, the person who knew the
4 story, told the Co-Investigating Judges that the picture was
5 taken to prove that the person died, obviously.

6 So people who died at Tuol Sleng, especially people who were not
7 key detainees, their photos were taken only to prove that they
8 perished. The photos proved that the implementers of the task
9 would not release them. They did die.

10 MR. ROUX:

11 I think there has been a problem once again with translation.
12 I've heard for the persons who were not important, pictures were
13 taken, but it's exactly the opposite that is true. So this needs
14 to be corrected on the transcript.

15 [15.16.34]

16 BY JUDGE LAVERGNE:

17 Q. So what exactly did you say, once again? Was it applicable to
18 the important people or to the not important people, or for both?
19 Please explain.

20 A. I would like to emphasize this matter as follows.

21 First, the key persons who the upper echelon would order that
22 their photos be taken; after the photos were developed, then they
23 would be sent to the upper echelon.

24 Number two, people who are not very important but they died in
25 S-21, the guards had to take their photos to prove to show to the

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1 Chairman of S-21 that the people already died, they were not
2 released, in order to prove that they were faithful that they did
3 not release any detainee and that the Angkar should be well
4 informed. That's all, Your Honour.

5 Q. So would you say that a majority of detainees, of prisoners,
6 were photographed, or a minority? Was it an exceptional gesture
7 or was it for a majority of detainees?

8 A. Your Honour, the photos with name tags on them, the photos
9 with numbers on their chest, according to my instruction, had to
10 be -- the detainees had to be taken photograph -- so every one of
11 them.

12 But regarding some key detainees, their photos were taken but not
13 with the name tag attached to their chest. So far as I remember,
14 Kuy Thuon was not taken -- the photograph of Kuy Thuon was not
15 taken while he had the name tag attached to his chest like the
16 others. That's all, Your Honour.

17 [15.20.49]

18 Q. But according to you, the pictures of the corpses -- are we
19 referring to hundreds of photos, thousands of photos? And did
20 you scrutinize each one of these photos?

21 A. Your Honour, the photos that were to be sent to the upper
22 echelon, I examined each one of them. As for the photos of the
23 corpses at S-21, I never looked at those photos.

24 Q. All those photos -- were they not all supposed to be sent up
25 to the upper echelon?

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1 A. The photos of the less important prisoners taken at S-21 were
2 not meant for me to be sent to the upper echelon. They were
3 taken in order to protect themselves when asked by the upper
4 echelon.
5 For instance, a photo of teacher Doem Saroeun -- if she died
6 because of sickness, her photo would be taken. And later on, if
7 Angkar recognized that somebody else was Doem Saroeun, then
8 Angkar would question me. If Angkar questioned me, then I would
9 question my subordinate whether they had a photo and a serial
10 number of Doem Saroeun, correct whether Doem Sarouen was released
11 or not.
12 So after I asked the subordinates, and if the subordinates had
13 the photo to show me that she is dead -- so if my subordinates
14 show me the evidence, the photo of the late Doem Saroeun,
15 therefore this is just to protect themselves. Nobody dared to
16 release anyone.
17 So in conclusion, some photos were not sent to the upper echelon
18 and I myself did not see those photos. The photographs were
19 taken in order to protect themselves if they were asked by the
20 upper echelon.
21 And I would like to clarify that the story of -- the example that
22 I provided in the case of teacher Doem Saroeun was just an
23 example. I did not mean that there was a photo of her dead body.
24 [15.25.33]
25 Q. I have another question concerning the end period of S-21.

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1 You explained that towards the end of S-21 you were told to
2 conduct mass executions. Were these mass executions in line with
3 objectives similar to those of earlier executions? You said
4 that, chiefly, mass executions were implemented to avoid
5 overcrowding in the prison, where you then would have had
6 sanitary problems, food ration problems, as well as security
7 problems because you had to avoid the risk of people escaping.
8 But when, closer to the final days of S-21 in '78, end of 1978
9 and initial days of '79, that last mass execution, would you say
10 that it was ordered for the same reasons as earlier executions or
11 for different reasons?

12 A. Your Honour, at the final stage, on the 2nd and the 3rd of
13 January 1979, the killing was for a different purpose, and the
14 purpose was to have no prisoners remaining at S-21 because the
15 upper echelon seemed to think that they were benefited by the
16 Vietnamese.

17 And at that time Uncle Nuon called me for work assignment and he
18 said, "Comrade Duch, you have to remove all the prisoners to
19 Cheoung Ek." I asked him immediately, "What about the Vietnamese
20 whom we kept to interrogate for radio broadcasts?" And he
21 replied that all the prisoners had to be removed. And he also
22 said later on we could, of course, get more Vietnamese prisoners
23 of war.

24 That's why I said for those four or eight people I would like to
25 keep them for interrogation. The YO-8 group, I would like to

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1 keep them for interrogation. The unit was called YO-8. It's the
2 short form for Y-8. So the four YO-8 combatants which were
3 arrested I would -- I proposed to keep them for interrogation.
4 He said he agreed but then I had to be responsible if any mishaps
5 happened.

6 [15.30.24]

7 And after that I still could not think that the Vietnamese were
8 approaching the city. I thought the prisoners were removed in
9 order to have more place for the new coming prisoners. Therefore
10 I was afraid, or maybe probably it was -- it's going to be my
11 turn, so I felt exhausted, uncomfortable, and I couldn't work,
12 and I just kept sleeping.

13 So in conclusion, the -- I raise these details is to show that
14 the purpose that the upper echelon to remove the remaining
15 prisoners was not in order to leave room for the new-coming
16 prisoners, as it happened before. However, I personally thought
17 the existing prisoners were removed in order to make room to
18 accommodate the new-coming prisoners.

19 So therefore my understanding at the time was wrong from the --
20 it was not the reality of what happened. This is my response,
21 your honour.

22 Q.I believe that there is a contradiction in what you just said
23 because you said at the beginning of your answer that, according
24 to you, the higher echelon thought, or it seemed that it thought
25 that it could be defeated by the Vietnamese. And, however, you

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1 say that you didn't understand that, or that you hadn't
2 understood that at that moment. So you even suggested to keep
3 four Vietnamese prisoners of war -- or five.
4 A.I proposed to keep four combatants from the Y-8 unit or YO-8
5 unit for interrogation. This Y-8 unit was the group who shot the
6 foreigners when Elizabeth Becker and Richard Dudman were in
7 Cambodia -- Richard Dudman -- when they visited Cambodia, so they
8 were not the soldiers of Vietnam and there were not eight of
9 them. They were the soldiers who defended the Ministry of
10 Defence. They were the people who shot and assassinated the
11 British journalist, Richard Dudman, who visited Cambodia at the
12 time. So this is my clarification. That's why I propose to keep
13 them, in order to interrogate them.

14 Q.At any moment in your conversation with Nuon Chea, did he tell
15 you that you had to get prepared to evacuate Phnom Penh and to,
16 therefore, eventually get rid of any traces? Was this ever
17 brought up in the conversation that you had with him, or could
18 you just imagine that Nuon Chea was considering such a collapse?

19 A.Your Honour, Nuon Chea and Pol Pot who were in Phnom Penh,
20 they only took the protective preparatory measure at the time.
21 Both Nuon Chea and Pol Pot did not believe that the Vietnamese
22 troops would reach Phnom Penh so early, and the evidence was the
23 surviving documents at the Office 870; they were untouched.
24 Both Nuon Chea, Pol Pot and Khieu Samphan fled hastily when
25 Vietnam entered the city. That was the situation that I learned

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1 at a later stage and that was what happened.

2 [15.37.18]

3 Q. So you are told that there should be no longer any prisoners
4 remaining at S-21. So according to you, you thought that other
5 prisoners were going to arrive and that things were going to
6 continue but, however, you were told to leave S-21 and you gave
7 the order to execute the four soldiers from Group Y8. You gave
8 that order, didn't you, or was it someone -- or was this order
9 given from somebody from above?

10 A. Mr. President, the order to smash the four combatants from Y-8
11 unit was the order from the upper echelon for us to resolve the
12 matter by ourselves when we have problems. So I handed the issue
13 and the responsibility to Comrade Hor, and once the Vietnamese
14 troops reached Phnom Penh the order was still in existence and
15 they implemented the order. That's all, Your Honour.

16 Q. So we know that certain people have survived, and was the
17 particular situation of the survivors -- was this the object of a
18 discussion between you and your superiors? Were there any
19 specific reasons to not execute these people or was it just a
20 result of a certain haste and that there was no decision taken
21 regarding them? What exactly happened? Why are these people
22 still alive?

23 A. Your Honour, when Uncle Nuon ordered S-21 to empty the
24 premises, I did not think of the people I kept to serve S-21, the
25 nine people. I did not think of the people I kept to serve me or

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1 S-21; no, I didn't. I never thought of that. That's why I did
2 not ask him for confirmation. When Hor removed them, then some
3 people whom we trust were left. Among them there were five of
4 them who were decided by the upper echelon that they should not
5 be killed.

6 [15.42.08]

7 Apart from them, there were other people that I kept in the
8 framework of S-21 to be used at the location. So when the
9 Vietnamese troops approached us, then I just fled and left them
10 behind. So the reason that I left, leaving these people behind
11 and these people still survive until now.

12 Q.So if I have understood correctly, it is only because of the
13 escape and the resulting participation that these people were not
14 executed. It was not due to a decision that you had thought
15 about and that would stem from some kind of specific clemency
16 coming from you?

17 A.I did not have any actually mercy or thought of it. I just
18 fled immediately without even thinking about this in mind.

19 Q.You also said, if I'm not mistaken, that the higher echelon
20 had decided that there were five people who were not to be
21 killed? Is that what you said?

22 Well, if this is the case, could you tell us why these people
23 were not to be executed, according to the upper echelon?

24 A.These five people were the artists, the sculptors that Pol Pot
25 would like to keep in order to build a memorial monument on the

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1 top of Wat Phnom, and that's why he made such a decision to spare
2 their life in order to keep them to build such monument.

3 Q.So during the last days here, well, it seems that you said
4 that you had no desire to visit the detention centre and that you
5 wanted neither to hear nor to see the prisoners while they were
6 being interrogated and tortured. I also believe that we
7 understood that you had no desire to see the prisoners being
8 executed and to see the locations where they were executed and to
9 get to know the execution methods and to know the places where
10 they were buried except, however, if you were obliged and if you
11 had received an order from a superior who obliged you to "check
12 on the situation".

13 [15.47.07]

14 Is this what we are supposed to understand?

15 A.Your Honour, your understanding is correct.

16 Q.So therefore, this lack of desire, was it to protect yourself
17 or were you trying to shield yourself from a reality that you
18 could find disturbing or to avoid ending up in uncomfortable
19 situations?

20 A.It is also true, Your Honour, as I also mentioned earlier,
21 that I betrayed my friends only to survive myself, to further see
22 the sunlight.

23 Q.For you the prisoners at S-21, did they still have any kind of
24 human reality for you? Was your job just executing simple
25 mathematical operations such as additions and subtractions, or

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1 was it simply to make sure, to guarantee the quality of the
2 confessions? Was that all your work was about?

3 A. In short, it could be seen that I had been quite involved in
4 the confessions. It is true. I tried my best, days and nights,
5 without feeling exhausted. However, during that time I tried to
6 avoid seeing the place that could affect my emotion. I knew that
7 there were criminal acts but there was a feeling to comfort
8 myself. The government is accountable in the eyes of history. I
9 was the police and in my capacity as the police I had to fulfil
10 my task.

11 [15.51.00]

12 I was terrified, shocked and moved, but there was the feeling,
13 the small feeling deep inside me, that kept me moving on.

14 However, if I look at the current situation and, having seen the
15 annotations on those confessions, I have observed that it has a
16 more criminal nature than the special unit who took people to be
17 smashed at Choeung Ek.

18 This special unit who took the prisoners to be smashed at Choeung
19 Ek, they only executed the people who perceived as dead and who
20 had been ordered by the superior to smash them. But for me, I
21 had a pen. I annotated on the confessions and on documents to
22 report to the superior.

23 Although I tried to be very objective in annotating on such
24 documents, the upper echelon would only resort to trust on the
25 annotations so that more arrests would be made from the

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1 documents. This is the fact that I am accountable for the crimes
2 committed at S-21 and that I am responsible, even more
3 responsible -- for only annotating on the documents -- than those
4 who really took the prisoners to be smashed at Choeng Ek.
5 Meanwhile, the documents concerning the political -- the Party's
6 line that I used to teach people, that document has more criminal
7 nature than my annotations on the documents or the confessions.
8 Why? Because the Party line that was circulated really put
9 pressure on the people who were trained or educated, and made
10 them become more criminal or cruel.
11 So, in conclusion, if you look now to the picture I was taken
12 during that time, it seems like I was rather proud at that time
13 for maintaining the class stand firmly, but if I look at it now
14 and analyze it, I would say that it is a shame. It is shocking
15 and it is very shameful for having such a picture to represent
16 that I had killed more than 12,000 people. So I am accountable
17 for all the crimes committed at S-21 at the same time I was a
18 member of the Party. I am moved for the fact that more than 1
19 million of Cambodian population had been killed. I am
20 emotionally responsible for the more than 1 million people who
21 were killed and I am responsible for this act forever.
22 I would like to end it now, Your Honour.

23 JUDGE LAVERGNE:

24 I do not have any further questions, Mr. President. Thank you.

25 [15.57.25]

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1 MR. PRESIDENT:

2 Is there any Judges of the Bench who would wish to put further
3 questions to the accused?

4 I still need some clarifications on a few points.

5 BY MR. PRESIDENT:

6 Q.Could you please clarify on the number of people who stationed
7 at Choeung Ek? How many were they and what were their main
8 functions or roles?

9 A.Mr. President, there were four people as I remember. I don't
10 remember their names, but I remember one person clearly, Toy
11 Teng, who was the man who dig or dug the graves or pits, and when
12 people left, he had to cover the pits and he had to make sure
13 that people from outside could not be allowed in, so his main
14 role was that.

15 Q.Number two, can you tell me whether the pits -- the size of
16 the mass graves were discussed or advised by you to the people
17 there; for example, how big the graves would be dug and so on?

18 A.Mr. President, I did not explain or instruct in details like
19 that.

20 Q.What about the prisoner of war -- the Vietnamese prisoners of
21 war -- were they killed in Phnom Penh or at Choeung Ek?

22 A.I'm not sure, but I think most likely they were killed at
23 Choeung Ek because there were people ready to transport them to
24 Choeung Ek.

25 [16.00.16]

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1 Q.You said the key people -- who were they referred to and what
2 qualification that made you classify them as key people or were
3 there any other people as important as those detainees you called
4 important?

5 A.I would like to respond in two words. Number one, the key
6 people were referred to people in the Party and in the CPK during
7 that time.

8 Number two, no other person higher than Suos Sophan, and Suos
9 Sophan had to be interrogated thoroughly, and later on Vorn Vet,
10 who was the sixth member of the Central Party Committee.

11 Q.What about Mr. Huot Sombat, Ho Nim, Chao Seng ? There were
12 some cases with the names including Huot Sombat, Ho Nim, Chao
13 Seng, Phung Ton, whom you talked about and referred to as your
14 teacher and he was also a Dean at Royal University of Phnom Penh.
15 Also, the Ambassador of the Democratic Kampuchea to Laos, Mak
16 Touch alias Kem, and there was also an Ambassador of the DK to
17 Vietnam who were killed there.

18 Did you consider them to be important? And where was the
19 location when they were killed; in Phnom Penh or at Choeung Ek?

20 A.Your Honour, I would like to separate the two matters. The
21 individuals who were the members of the National United Front for
22 Salvation and the members of the DK government; they were called
23 the intellectuals. I did not value them as important, so the
24 interrogation process was not as thorough as Huot Sombat or Y
25 Sokunthy because I did not pay much attention to their

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1 confessions and that was what happened. And where they were
2 smashed, I could not understand, but I believe they were taken to
3 Choeung Ek.

4 [16.03.55]

5 And for the people like the inside Party rank, the members, Sieng
6 An, although he's an Ambassador, he used to be a veteran in the
7 revolution. And Touch alias Kem and Yous Thol; they were the
8 people inside the party, so the interrogation had to be more
9 emphasized than those whom I just mentioned. These people might
10 have been taken and killed at Choeung Ek.

11 As for the Professor Phung Ton, I did not know of his fate, but
12 there might be a surviving document. And the haste interrogation
13 was a preliminary investigation by Brother Mam Nai, and he was
14 interrogated by Brother Mam Nai, and he was not tortured.

15 However, later on he died because of his sickness and the lack of
16 food. If he died at the security office in Phnom Pehn, then the
17 body will be buried in Phnom Pehn, but I would not be able to say
18 exactly about the location of the burial.

19 [16.05.34]

20 However, for this individual, whom I regret, is that I respected
21 him as I respected Chao Seng or Roat Kut. If I knew, I would
22 provide the support the best that I could as I provided the
23 support to Chao Seng and Roat Kut, even if at a later stage I had
24 to smash him according to the order because that was the
25 procedure. But at least I would feel relief that I could have

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1 supported him. And this is frank, this is from the bottom of my
2 heart.

3 I did not betray the soul of my teacher. I would ask for the
4 forgiveness from the soul of my teacher. I didn't know about his
5 fate at the time. If I knew, I would have supported him, as I
6 have supported Chao Seng and Roat Kut. And that is the reality.
7 So for this particular individual, I suspect his body was still
8 within the compound of the security office in Phnom Penh.

9 MR. PRESIDENT:

10 Judge Cartwright, do you have any questions to be posed to the
11 Accused?

12 I noticed the presence of the Co-Prosecutor. The floor is yours.

13 MR. SMITH:

14 Thank you, Mr. President. I don't, of course, propose to put any
15 questions to the accused today, the prosecution doesn't, however,
16 there seems to be just a small amount of confusion about whether
17 or not the revised prisoner lists and the annexes have been put
18 before the Chamber. And that's E68.1 to E68.51. I would just
19 ask if you could confirm my belief that they have been put before
20 the Chamber?

21 Also, E53.1 to E53.24, which is the layout of S-21, that
22 photographic book, the first one that was produced. And that has
23 been properly put before the Chamber.

24 And I see some nods from the Judges, so I assume that is the
25 case.

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1 [16.08.17]

2 JUDGE CARTWRIGHT:

3 Yes, thank you, Mr. President.

4 Yes, Mr. Smith, the Chamber does confirm that the documents that

5 you specified this morning and two of which you have just

6 repeated, are put before the Chamber in terms of the guidelines

7 issued and in terms of Rule 87. And, of course, the same applies

8 for the documents specified by the defence earlier this

9 afternoon.

10 I just want to take this opportunity of ensuring that you do not

11 intend to put before the Chamber now any photographs or any other

12 documents, but that you will be reserving those items to use

13 during your questioning of the accused or through other

14 witnesses. Is that the situation?

15 MR. SMITH:

16 That's correct, Your Honour or, alternatively, at any other time,

17 perhaps in the closing address.

18 JUDGE CARTWRIGHT:

19 Yes, that is as the Chamber understood the position, but we

20 simply wanted to clarify that now.

21 So I believe that we have dealt with your request made earlier

22 today and that there are no further matters in relation to your

23 documents that we need to attend to.

24 MR. SMITH:

25 Thank you, your Honour, there's no further matter.

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1 [16.10.08]

2 MR. PRESIDENT:

3 Because of the questioning of the facts, now the Chamber has
4 reached its hearing time for today. We will adjourn and we will
5 resume on the Monday the 22nd of June 2009 from 9 a.m.

6 During the proceedings from Monday, 22nd of June 2009, the
7 proceeding would initiate by the Co-Prosecutor, the lawyers for
8 the civil parties, to put questions to the accused regarding the
9 operation of S-21 and Choeung Ek. And I would like to invite all
10 the parties to participate in the proceedings.

11 Security officer, take the accused back to the detention facility
12 and bring him back on Monday the 22nd of June 2009 before 9 a.m.

13 (Judges exit courtroom)

14 (Court adjourns at 1613H)

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